

RESOLUTION NO. 24-142

Resolution Of The City Council Of The City Of Emeryville Censuring And Imposing Sanctions On Council Member Kalimah Priforce

WHEREAS, all members of the City Council of the City of Emeryville have sworn an oath to uphold the laws and constitution of the United States of America and the State of California, and these laws include, but are not limited to, the Ralph M. Brown Act, the Political Reform Act of 1974, the City of Emeryville Municipal Code, the City of Emeryville's Code of Ethics and Conduct for Elected and Appointed City Officials ("Code of Ethics"), and other laws pertaining to conflict of interest, election campaigns, financial disclosures, and other open processes of government; and

WHEREAS, the City Council wishes to maintain the trust, faith, and confidence of the residents and businesses within the City of Emeryville, and the reputation of the City of Emeryville outside of the city, and condemns actions by city officials that persistently violate the law or the Code of Ethics; and

WHEREAS, the law sets minimum standards for the ethical behavior of elected officials, and officials are under an obligation to avoid the appearance of impropriety, and to that end, the City Council adopted a Code of Ethics with the goal of encoding standards that are higher than what was minimally required under the law; and

WHEREAS, the Ralph M. Brown Act, California Government Code Section 54950 *et seq*, governs the activities of elected officials; and

WHEREAS, the Ralph M. Brown Act expresses a strong statement in favor of open meetings and narrowly prescribes situations where the City Council and Successor Agency may meet in closed session with its legal counsel, management, and necessary support staff and consultants to avoid revealing confidential information that may prejudice the legal or negotiating position of the City or Agency or compromise the privacy interests of employees; and

WHEREAS, on several occasions the City Council has expressed its concern both publicly and privately to Council Member Priforce regarding the disclosure of confidential information in violation of the Ralph M. Brown Act, which improper and illegal disclosures potentially prejudice or threaten the legal or negotiation position of the City and Agency, and compromise the privacy interests of City employees; and

WHEREAS, on one such occasion in October 2024, Council Member Priforce, as well as members of the public who claimed to have had conversations with Council Member Priforce, admitted publicly that he disclosed confidential discussions from a closed session meeting held on October 8, 2024, related to the City Council's closed session meeting regarding the hiring of a new City Manager; and

WHEREAS, Council Member Priforce again referenced discussions from the October 8, 2024 closed session meeting concerning the hiring of a new City Manager at the November 19, 2024 City Council meeting during open session; and

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WHEREAS, the Political Reform Act of 1974, California Government Code Section 81000 *et seq*, governs the activities of elected officials and expresses a strong statement in favor of full and truthful disclosure of campaign receipts and expenditures in a timely manner; and

WHEREAS, Council Member Priforce has failed to materially comply with the Political Reform Act of 1974 on numerous occasions, by failing to file Form 460 Campaign Statements for the reporting periods of January 1, 2023 through June 30, 2023, July 1, 2023 through December 31, 2023, and January 1, 2024 through June 30, 2024, and has only filed one document that does not reflect any designated reporting period, is not timely by more than a year, does not comply with mandated disclosures or public transparency laws, and has failed to comply with repeated requests from the City Clerk's Office to come into compliance and in fact has been referred by the City Clerk's Office to the Fair Political Practices Commission for his violation of mandated financial disclosure laws; and

WHEREAS, because of his failure to properly file the required forms and disclosures, Council Member Priforce is the subject of an open investigation into his material failure to abide by transparency and financial disclosure laws, under FPPC Commission-Initiated Complaint in Case Number 2023-00785, and may be fined by the Fair Political Practices Commission for these various violations; and

WHEREAS, despite withholding his financial disclosures from the City and the public, Council Member Priforce listed his candidate controlled campaign committee as the financing source on multiple websites, digital advertisements, mail pieces, door hangers, and other campaign signs and materials for 2024 Emeryville City Council candidates Mia Esperanza Brown and Calvin Dillahunty, in which Calvin Dillahunty reported that he would raise and spend less than \$2,000 in a calendar year by filing Fair Political Practices Commission Form 470 and Mia Esperanza Brown filed a late Fair Political Practices Commission Form 460 acknowledging that she would raise and spend more than \$2,000 in a calendar year in connection with her campaign for office, but neither of these candidates reported in-kind contributions for all of these campaign materials listed as being funded in whole or part by Council Member Priforce, and for which he has not reported contributions to, in accordance with law; and

WHEREAS, Council Member Priforce engaged in a campaign of disinformation during the 2024 General Election, falsely claiming that he was a candidate for Mayor of Emeryville, appearing on mail pieces and other advertisements as an "endorsed candidate" for the office of Mayor, an office for which there is no election and does not appear on the ballot, leading to members of the public contacting city officials requesting information about the matter, wasting public resources; and

WHEREAS, such disregard for the laws of financial transparency and accountability by Council Member Priforce are an embarrassment to the City Council and reflect poor

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judgment and his consistent unwillingness to be transparent or accountable for fiscal matters; and

WHEREAS, the Code of Ethics was unanimously adopted by the Emeryville City Council on September 26, 2023 and governs the conduct of Council Members, committee, and commission members within the city; and

WHEREAS, Section A, Paragraph 3 of the Code of Ethics outlines the requirements for maintaining professional and personal conduct, and reads in part that “Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other Members, the public, and staff”; and

WHEREAS, Section B of the Code of Ethics outlines the conduct of Members in relation to meeting procedures, the public, and one another, and includes, but is not limited to, respecting the role of the chair [Paragraph 1(c)], being respectful and welcoming of members of the public at hearings [Paragraph 2(a)], and respecting the role of board, committee, and commission members by limiting engagement in their meetings to asking questions [Paragraphs 4(a-c)]; and

WHEREAS, Council Member Priforce has on many occasions, attacked members of the public, called them names and made false statements about them, and attended resident advisory committees to admonish them for expressing views that are different from his own, has inappropriately accused residents seeking appointment to city committees of being biased, has baselessly accused his colleagues and the City of being corrupt, and has leveled personal attacks without provocation or justification in a persistent manner against members of the City Council; and

WHEREAS, the Code of Ethics provides for sanctions of Members who repeatedly engage in violations of the Code, and requires all Members of the City Council, as well as the local boards, commissions, and committees to sign and attest that they have received and agree to abide by the Code of Ethics, and furthermore that a Member of the City Council may request an agenda item to discuss any other Member’s non-compliance with the Code of Ethics and upon a majority vote of support by the Council, agenda said request; and

WHEREAS, despite his many public statements calling for a Code of Ethics, and public statements falsely accusing other Council Members and City staff of corruption and illegal behavior, Council Member Priforce is the only Member who has not signed the attestation that he will abide by the Code of Ethics, despite voting in favor of the Code’s adoption; and

WHEREAS, violations of the Ralph M. Brown Act, the Political Reform Act of 1974, the Emeryville Municipal Code, and the Code of Ethics all provide for civil or criminal penalties, and thus adherence to these laws is a serious matter, now, therefore be it

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RESOLVED, that the City Council of the City of Emeryville hereby finds that Council Member Priforce has violated the laws and regulations governing his activities as a member of the office of the City Council on numerous occasions, that these violations are not limited to an isolated incident, but instead reflect a pattern of unacceptable conduct and poor judgment that has placed the City Council and City staff in untenable positions and brought embarrassment and disrepute to the City of Emeryville and the City Council of the City of Emeryville; and, be it further

RESOLVED, that the City Council of the City of Emeryville has grown tired of Council Member Priforce's pattern of violating laws related to transparency, accountability, confidentiality and decency, often claiming victimhood to escape responsibility for his own actions; and, be it further

RESOLVED, that the City Council of the City of Emeryville hereby: censures Council Member Priforce for these actions; invites him to reaffirm his oath of office and commitment to govern his activities as an elected official in the City of Emeryville in full compliance with the Ralph M. Brown Act, the Political Reform Act of 1974, and all laws of the State of California and the City of Emeryville, and sign his attestation that he will abide by the Code of Ethics; and encourages Council Member Priforce to publicly apologize to the people of the City of Emeryville; and, be it further

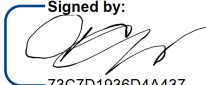
RESOLVED, that the City Council of the City of Emeryville hereby sanctions Council Member Priforce by: removing him of all current local committee and regional board appointments; precluding him for serving in any such capacities for a period of one year from the date of adoption of this resolution; and prohibiting him from any authorized travel and attendance at conferences or events at the City's expense for a period of one year from the date of adoption of this resolution; and, be it further

RESOLVED, that the City Council of the City of Emeryville hereby directs the City Clerk to mail a copy of this Resolution to every address in the City of Emeryville.

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ADOPTED, by the City Council of the City of Emeryville at a special meeting held Tuesday, December 3, 2024, by the following vote:

AYES:	<u>4</u>	Mayor Welch, Vice Mayor Mourra and Council Members Bauters and Kaur
NOES:	<u>1</u>	Council Member Priforce
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	


Signed by:

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 MAYOR

ATTEST:
 DocuSigned by:

 9AF9F67CE0284D8...

 CITY CLERK

APPROVED AS TO FORM:
 DocuSigned by:

 2C934D02DB55467...

 CITY ATTORNEY