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CITY OF EMERYVILLE

ACTION MINUTES

City Council

Members:

Mayor John J. Bauters
Vice Mayor Courtney Welch
Council Member Ally Medina
Council Member David Mourra
Council Member Kalimah A. Priforce

--AMENDED--

Tuesday, December 20, 2022

7:16 PM

Teleconference

1. CALL TO ORDER

The meeting convened via teleconference at 7:19 p.m. and the Mayor read aloud a statement announcing that the meeting was being conducted by teleconference pursuant to the extension of Brown Act waivers provided for under Assembly Bill 361, as would subsequent meetings so long as the City Council could make findings that it was necessary in order to protect public safety and the Governor's declared emergency remained in effect.

2. ROLL CALL

Present: 5 - Mayor John J. Bauters
Vice Mayor Courtney Welch
Council Member Ally Medina
Council Member David Mourra
Council Member Kalimah A. Priforce

3. APPROVAL OF FINAL AGENDA

A motion was made by Vice Mayor Welch, seconded by Council Member Medina, to approve the final agenda. The motion carried by the following vote:

Ayes: 5 - Mayor Bauters, Vice Mayor Welch, Council Member Medina, Council Member Mourra, and Council Member Priforce

4. SPECIAL ORDERS OF THE DAY

Mayor Bauters thanked Rebecca Sermeno, Kim Burrows, the Community Services staff, and Police staff for their work at the Holiday Parade. He also thanked Christina Spacco for her efforts with the One Warm Coat drive which provided coats to people in need.

5. ANNOUNCEMENT OF COMMISSION / COMMITTEE VACANCIES

There was no report.

6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS / REPORTS ON MEETING ATTENDANCE

Council Member Medina announced that the AC Transit Corridor Project will break ground in 2025.

7. CITY MANAGER'S REPORT

Interim City Manager Adam Politzer announced that Rebecca Sermeno has been appointed Community Services Director effective January 3, 2023, that the top 6 Finance Director candidates will be interviewed tomorrow, that City Manager Paul Buddenhagen's first day will be January 17, 2023, and wished everyone a happy and healthy New Year.

8. EX PARTE COMMUNICATIONS

Mayor Bauters, Vice Mayor Welch, and Council Member Medina reported that they all received email regarding item 11.1. Mayor Bauters will recuse himself on item 11.1 as he resides within 1,000 feet of the project.

9. PUBLIC COMMENT FOR CONSENT AGENDA / ITEMS NOT ON THE AGENDA

There were no public comments.

10. CONSENT ITEMS

Approval of the Consent Agenda

A motion was made by Council Member Medina, seconded by Vice Mayor Welch, to approve the Consent Agenda. The motion carried by the following vote:

Ayes: 5 - Mayor Bauters, Vice Mayor Welch, Council Member Medina, Council Member Mourra, and Council Member Priforce

10.1. [ID-2022-663](#) Warrants. (Bill Zenoni)

Attachments: [Staff Report City](#)
[Wire Transfers City](#)
[Check Register City](#)

A motion was made to accept this Informational Report.

10.2. [ID-2022-681](#) Action Minutes Of The December 12, 2022, Special City Council Meeting I. (April Richardson)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

10.3. [ID-2022-682](#) Action Minutes Of The December 12, 2022, Special City Council

Meeting II. (April Richardson)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.4.** [ID-2022-677](#) Resolution Of The City Council Of The City Of Emeryville Amending The Regular Meeting Schedule Of The Budget And Governance Committee; And Amending The FY2022-23 Local Roster Of Boards, Commissions And Committees Accordingly. (April Richardson / Lorrayne Leong)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Exhibit A - Budget and Governance Committee Roster](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 22-172

- 10.5.** [ID-2022-661](#) Resolution Of The City Council Of The City Of Emeryville Approving The Emeryville Transportation Management Association (ETMA) 2023 Budget And Setting Compensation To The ETMA To Operate The Emery Go-Round Shuttle Service During The 2023 Calendar Year Under The Terms Of The Service Agreement For An Amount Not To Exceed \$4,373,552; And Authorizing Payment From The Emeryville Property Based Business Improvement District (PBID) Fund 805; And Authorizing An Additional \$634,164 From The Emeryville Property Based Business Improvement District (PBID) Fund 805 To Cover The General Benefit Contribution. (Bill Zenoni / Monica Centeno)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[ETMA 2023 Budget](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 22-173

- 10.6.** [ID-2022-660](#) Resolution Of The City Council Of The City Of Emeryville Approving Expenditure Of \$45,068 Of The ECCL Capital Reserve Funds For The Installation Of Security Gate Control Upgrades. (Rebecca Sermen)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Convergent & Emeryville School District Final](#)

[Capital Reserve Exp and Rev and Balance](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 22-174

- 10.7. [ID-2022-634](#) Resolution Of The City Council Of The City Of Emeryville Determining That Public Convenience Or Necessity Would Be Served By The Issuance Of A License By The Department Of Alcoholic Beverage Control To Prizefighter Bottle Shop At 1320 67th Street, Emeryville, California. (Charles S. Bryant / Miroo Desai)

Attachments: [Staff Report](#)[Draft Resolution](#)**A motion was made to approve this Resolution.**

Enactment No: Reso No. 22-175

- 10.8. [ID-2022-639](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A First Amendment To The Professional Services Contract With PlaceWorks, Inc. To Prepare The 2023-2031 Housing Element In An Amount Of \$14,000 To Cover Expanded Services For A Total Amount Not To Exceed \$185,837 And Appropriating \$14,000 From The General Plan Maintenance Fund Balance (Fund 225) To Account 80050, Professional Services, In The Fund 225 General Plan Maintenance Budget. (Charles S. Bryant / Navarre Oaks)

Attachments: [Staff Report](#)[PlaceWorks Professional Services Contract](#)[Draft Resolution](#)[Exhibit A - First Amendment to Professional Services Contract](#)**A motion was made to approve this Resolution.**

Enactment No: Reso No. 22-176

- 10.9. [ID-2022-603](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Fifth Amendment To The Professional Services Agreement With Coastland Civil Engineering, Inc. For City Engineering & Inspection Services, Capital Projects Delivery Support, And Construction Management Services To Extend the Termination Date To September 30, 2023, And To Increase The Contract Amount By An Additional \$241,479 For A Total Contract Amount Not To Exceed \$1,159,627; Allocating \$164,725 (Fund 242) From CIP Project No. 17240005, \$11,742 (Fund 475) From CIP Project No. 18475009, And \$65,012 (Fund 101-4070) For Reimbursable Project Tasks. (Mohamed Alaoui)

Attachments: [Staff Report](#)[Coastland Initial 6.6.2018](#)[Coastland Amendment 1](#)[Coastland Amendment 2](#)[Coastland Amendment 3](#)[Coastland Amendment 4](#)[Draft Resolution](#)[Professional Services Contract Amendment](#)**A motion was made to approve this Resolution.**

Enactment No: Reso No. 22-177

10.10. [ID-2022-654](#)

Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A Third Amendment To The Professional Services Contract With MNS Engineers, Inc., To Revise The Work Scope, And To Increase The Total Compensation Amount By \$130,000, For A Not To Exceed Amount Of \$2,839,236.00, For Construction Management Services For The South Bayfront Bridge/Horton Landing Park Project, EPW 17-112 (CIP # 16475006 And 17237003). (Mohamed Alaoui / Michael Roberts)

Attachments: [Staff Report](#)[Professional Services Agreement](#)[Professional Services Contract - 1st Amendment](#)[Professional Services Contract - 2nd Amendment](#)[Draft Resolution](#)[PSC 3rd Amendment](#)**A motion was made to approve this Resolution.**

Enactment No: Reso No. 22-178

10.11. [ID-2022-655](#)

Resolution Of The City Council Of The City of Emeryville Authorizing The City Manager To Enter Into A First Amendment To The Contract With Brannon Corporation, Inc. To Increase The Total Compensation Amount By \$53,239 For A Total Not To Exceed Amount Of \$874,039; For The Point Emery Shoreline Protection Project, Project No. EPW-18101 (CIP No. 16475021)

Attachments: [Staff Report](#)[Attachment 1 - Initial Contract Brannon Corp](#)[Draft Resolution](#)[Exhibit A - Construction 1st Amendment](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 22-179

- 10.12. [ID-2022-674](#) Removing Criminal Penalties From The Emeryville Municipal Code; CEQA Determination - Not A Project Under CEQA Guidelines 15378(B)(5): (John Kennedy / Christie Crowl)

Attachments: [Staff Report](#)[Attachment 1 - December 12, 2022 Staff Report](#)

- 10.12. [ID-2022-675](#) Second Reading And Adoption Of An Ordinance Of The City Council Of The City Of Emeryville Repealing And Replacing Sections 1-2.01 (D), (E) And (F) Of Chapter 2 Of Title 1 ("Penalty Provisions") For Violations Of The Emeryville Municipal Code

1.

Attachments: [Draft Ordinance \(Penalty Provisions\)](#)**A motion was made to approve this Ordinance.**

Enactment No: Ord No. 22-015

- 10.12. [ID-2022-676](#) Second Reading And Adoption Of An Ordinance Of The City Council Of The City Of Emeryville Repealing Chapter 6 Of Title 5 ("Criminal Records: Security"), Chapter 7 Of Title 5 ("Fortunetelling"), Chapter 12 Of Title 5 ("Minors"), And Chapter 15 Of Title 5 ("Patrol Services") In Their Entirety

2.

Attachments: [Draft Ordinance \(Criminal Records\)](#)**A motion was made to approve this Ordinance.**

Enactment No: Ord No. 22-016

11. PUBLIC HEARINGS

- 11.1. [ID-2022-635](#) BioMed Realty Noise Waiver Request: (Charles S. Bryant / Miroo Desai)

Attachments: [Staff Report](#)[Attachment 1 - Applicant Request Letter](#)

The Mayor recused himself for this item because he lives within 1,000 feet of the project and announced that the applicant had withdrawn their application. Mayor Bauters exited the meeting and Vice Mayor Welch opened the Public Hearing.

Public Hearing Opened: 7:35 p.m.

1. Sharon Wilchar submitted a written comment supporting staff's recommendation to deny the noise waiver.

Public Hearing Closed: 7:38 p.m.

There was no action on this item as the applicant withdrew their request for a noise waiver prior to the meeting.

- 11.1.1. [ID-2022-637](#) Resolution Of The City Council Of The City Of Emeryville Denying A Waiver From The Noise Ordinance To BioMed Realty For Early Morning Work On All Mondays Between January 9, 2023 and May 22, 2023 From 5:00 A.M. To 7:00 A.M. At 4555 Horton Street (Garage Building 14 of BioMed Project) (APN: 49-1544-1-4) (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15270(a))

Attachments: [Draft Resolution](#)

There was no action taken on this item.

- 11.1.2. [ID-2022-638](#) Resolution Of The City Council Of The City Of Emeryville Approving A Waiver From The Noise Ordinance To BioMed Realty For Early Morning Work On All Mondays Between January 9, 2023 and May 22, 2023 From 5:00 A.M. To 7:00 A.M. At 4555 Horton Street (Garage Building 14 Of BIOMED Project) And Designating Conditions Of Approval (APN: 49-1544-1-4) (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(b)(3))

Attachments: [Draft Resolution](#)

There was no action taken on this item.

12. ACTION ITEMS

- 12.1. [ID-2022-672](#) Consideration of Travel Authorization for Mayor Bauters, Vice Mayor Welch, and Council Members Mourra and Priforce. (April Richardson)

Attachments: [Staff Report](#)

[Attachment A - Council Travel Policy](#)

A motion was made by Vice Mayor Welch, seconded by Council Member Medina, to approve the travel authorization. The motion carried by the following vote:

Ayes: 5 - Mayor Bauters, Vice Mayor Welch, Council Member Medina, Council Member Mourra, and Council Member Priforce

- 12.2. [ID-2022-608](#) Discussion On Timing For Return To In-Person City Council Meetings And Council Direction On Use Of Technology For Virtual Public Participation. (April Richardson)

Attachments: [Staff Report](#)

The Council discussed the item and approved staff's recommendation to return to in-person meetings on February 7, 2023, in a hybrid (in-person/Zoom) format.

Public Comment:

1. SEIU submitted a written comment stating that hybrid should be the standard for all public meetings.

- 12.3.** [ID-2022-658](#) Resolution Of The City Council Of The City Of Emeryville Adopting The City Council Regular Meeting Calendar For February 2023 Through January 2024. (April Richardson / Lorrayne Leong)
(In Conjunction With Successor Agency Item 7.1)

Attachments: [Staff Report](#)

[Attachment A - 2023 City of Emeryville Observed Holidays](#)

[Draft Resolution \(City Council\)](#)

[Exhibit A - 2023 City Council/Successor Agency Regular Meeting Calendar](#)

The Mayor made a correction to the title of the item changing the meeting calendar dates from February 2022 to 2023 and from January 2023 to 2024.

A motion was made by Vice Mayor Welch, seconded by Mayor Bauters, to approve this Resolution. The motion carried by the following vote:

Ayes: 5 - Mayor Bauters, Vice Mayor Welch, Council Member Medina, Council Member Mourra, and Council Member Priforce

Enactment No: Reso No. 22-180

- 12.4.** [ID-2022-646](#) Resolution Of The City Council Of The City Of Emeryville Appointing Standby Officers For City Council Member Succession In The Event Of A Declared Emergency For Calendar Year 2023. (April Richardson / Lorrayne Leong)

Attachments: [Staff Report](#)

[Attachment A - 2022 City Council Standby Officers Roster](#)

[Attachment B - Government Code Sections 8635-8644](#)

[Draft Resolution](#)

[Exhibit A - 2023 Standby Officers Roster](#)

A motion was made by Council Member Medina, seconded by Vice Mayor Welch, to approve this Resolution. The motion carried by the following vote:

Ayes: 5 - Mayor Bauters, Vice Mayor Welch, Council Member Medina, Council Member Mourra, and Council Member Priforce

Enactment No: Reso No. 22-181

- 12.5. [ID-2022-652](#) Resolution Of The City Council Of The City Of Emeryville Making Required Findings To Allow The Continuation Of Remotely Held Meetings Of The City Council, Pursuant To AB 361. (April Richardson)
(In Conjunction With MESA Agenda Item 6.1 And Successor Agency Agenda Item 7.2)

Attachments: [Staff Report](#)
[Draft Resolution](#)

A motion was made by Vice Mayor Welch, seconded by Council Member Medina, to approve this Resolution. The motion carried by the following vote:

Ayes: 5 - Mayor Bauters, Vice Mayor Welch, Council Member Medina, Council Member Mourra, and Council Member Priforce

Enactment No: Reso No. 22-182

13. DEPARTMENT HEAD REPORTS

- 13.1. [ID-2022-636](#) Planning Director's report on Planning Commission actions at the December 8, 2022 meeting:

(a) Prizefighter Bottle Shop. Consideration of a Major Conditional Use Permit to allow retail sale of beer, wine and spirits ("Liquor Sales") in a 1,025 square foot space within an existing building located at 1320 67th Street.*

(b) Housing Element of the General Plan. Consideration of a recommendation to the City Council to adopt the 2023-2031 Housing Element of the General Plan.

(c) Active Transportation Plan. Study session on the Public Review Draft of the Active Transportation Plan.

(d) Bay Center Life Science Project. A second study session to review a proposal to construct a new six story, 96-foot-tall building accommodating 210,000 square feet of Research and Development space and a new 505-space parking garage at 6475 Christie Avenue.

* Item subject to "call for review" (i.e. appeal) by motion of the City Council pursuant to Section 9-7.1406 of the Planning Regulations.

The packet for the December 8, 2022 Planning Commission meeting can be viewed online at <http://ca-emeryville.civicplus.com/Archive.aspx?>

AMID=43&Type=Recent>

Community Development Director Charles Bryant gave a brief report on the Planning Commission.

14. FUTURE AGENDA ITEM REQUESTS FROM COUNCIL MEMBERS

Council Member Medina announced her resignation from the Council effective mid-January. She will submit her resignation to the Mayor and City Manager in writing. The Mayor requested and received majority support for an item on the January 17, 2023, agenda on the options and process for filling a Council seat vacancy.

15. ADJOURNMENT

The meeting adjourned at 8:22 p.m.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Emeryville City Council.

/s/ April Richardson, CMC
City Clerk