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## CITY OF EMERYVILLE

### ACTION MINUTES

#### City Council

Members:

Mayor Ally Medina  
Vice Mayor Christian R. Patz  
Council Member John J. Bauters  
Council Member Scott Donahue  
Council Member Dianne Martinez

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Tuesday, May 7, 2019

7:16 PM

Council Chambers

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#### 1. CALL TO ORDER

The meeting was called to order at 7:18 p.m.

#### 2. ROLL CALL

**Present:** 5 - Mayor Ally Medina  
Vice Mayor Christian R. Patz  
Council Member John J. Bauters  
Council Member Scott Donahue  
Council Member Dianne Martinez

#### 3. APPROVAL OF FINAL AGENDA

**A motion was made by Council Member Bauters, seconded by Vice Mayor Patz, to approve the Final Agenda. The motion carried by the following vote:**

**Ayes:** 5 - Mayor Ally Medina, Vice Mayor Patz, Council Member Bauters, Council Member Donahue, and Council Member Martinez

#### 4. SPECIAL ORDERS OF THE DAY

There were no Special Orders listed.

#### 5. ANNOUNCEMENT OF COMMISSION / COMMITTEE VACANCIES

The Deputy City Clerk announced upcoming annual term expirations for committee and commission appointments and provided the application deadline.

#### 6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS / REPORTS ON MEETING ATTENDANCE

Council Member Bauters thanked ACTC staff for coming to the April 24th San Pablo Corridor meeting and reported that he had traveled as a delegate on behalf of ACTC to Washington D.C. where he attended meetings with members of congress, and representatives from the

White House, and Department of Transportation.

Council Member Donahue reported on his attendance of a tour of various homes hosted by 350.org that featured futuristic sustainable homes.

Mayor Medina reported on her attendance of the Special B/PAC walking tour meeting and thanked Member Scheureman for arranging the tour.

## 7. CITY MANAGER'S REPORT

City Manager Daniel recognized the Community Services Department for the recent successful Community Expo where approximately 2,000 people were in attendance. She also thanked the Council for adjourning the meeting in memory of Eleanor Letchaw.

## 8. EX PARTE COMMUNICATIONS

Council Member Bauters reported having had meetings with approximately six restaurant and small business owners regarding Item 12.3. Mayor Medina stated she had received several emails from small business owners and restaurants, and Vice Mayor Patz noted the same contacts.

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

1. Jake L. spoke regarding education, crime, and guns, and stated that he supported teaching students how to use guns.
2. A speaker made statements regarding the proposed Onni Development Project.

Council Member Martinez made brief remarks in response to the last speaker, stating that his comments were not true.

## 10. CONSENT ITEMS

### *Approval of the Consent Agenda*

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

**Ayes:** 5 - Mayor Ally Medina, Vice Mayor Patz, Council Member Bauters, Council Member Donahue, and Council Member Martinez

- 10.1. [ID-2019-186](#) Warrants. (Susan Hsieh)

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

**A motion was made to accept this Informational Report.**

- 10.2. [ID-2019-172](#) Action Minutes of the April 16, 2019 Emeryville City Council Closed Session Special Meeting. (Sheri Hartz)

**Attachments:** [Action Minutes](#)

**A motion was made to approve the Minutes.**

- 10.3. [ID-2019-174](#) Action Minutes of the April 16, 2019 Emeryville City Council Regular Meeting. (Sheri Hartz)

**Attachments:** [Action Minutes](#)

**A motion was made to approve the Minutes.**

- 10.4. [ID-2019-179](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A Fifth Amendment To The Professional Services Agreement For Audit Services With Lance, Soll & Lunghard, LLP, Increasing The Services Agreement Amount By \$114,140 To An Amount Not To Exceed \$1,106,593 For The Fiscal Year 2018-2019 Audit. (Susan Hsieh)

**Attachments:** [Staff Report](#)

[Draft Resolution](#)

[Fifth Amendment to the Professional Services Agreement](#)

[APPROVED Resolution No. 19-44](#)

**A motion was made to accept this Resolution.**

Enactment No: Resolution No. 19-44

- 10.5. [ID-2019-183](#) Resolution Of The City Council Of The City Of Emeryville Designating Authorized Signers (Or Their Successors) On City Bank Accounts. (Susan Hsieh)

**Attachments:** [Staff Report](#)

[Draft Resolution](#)

[APPROVED Resolution No. 19-45](#)

**A motion was made to accept this Resolution.**

Enactment No: Resolution No. 19-45

- 10.6. [ID-2019-149](#) Resolution of The City Council of The City of Emeryville Authorizing The City Manager To Execute the First Amendment to the Animal Control Services Agreement With the City of Piedmont to Reinstate the Agreement For The Provision Of Animal Control Services For An Amount Not To Exceed \$102,033.13 Per Year For Fiscal Year 2018-19 and To Extend Animal Control Services

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For Fiscal Year 2019-20 In An Amount Not To Exceed \$106,594.13. (Jennifer Tejada / Oliver Collins)

**Attachments:** [Staff Report](#)

[Draft Resolution](#)

[Animal Control Services Agreement FY18/20](#)

[APPROVED Resolution No. 19-46](#)

**A motion was made to approve this Resolution.**

Enactment No: Resolution No. 19-46

- 10.7.** [ID-2019-185](#) Resolution Of The City Council Of The City Of Emeryville Appropriating \$126,933.14 From The General Capital Fund (Fund 475) To The Fiscal Year 2018-2019 Budget For The Safe Routes To Schools - 43rd, 45th, And 47th Streets Project (CIP #PB-04, Project Number 12254009) And Reimbursing \$3,625.00 To The Measure B Streets And Roads Fund (Fund 240) And \$123,308.14 To The Grant Fund (Fund 254). (Charles S. Bryant / Chadrick Smalley / Amber Evans)

**Attachments:** [Staff Report](#)

[Draft Resolution](#)

[APPROVED Resolution No. 19-47](#)

**A motion was made to approve this Resolution.**

Enactment No: Resolution No. 19-47

- 10.8.** [ID-2019-182](#) Consideration Of Transportation Committee Recommendation For Approval Of Approval Of Curb Color Change Request on 53rd Street. (Andrew Clough / Daraja Wagner)

**Attachments:** [Staff Report](#)

[Exhibit A - ECCL Green Zone](#)

**A motion was made to accept this Informational Report.**

## **11. PUBLIC HEARINGS**

- 11.1.** [ID-2019-166](#) Introduction And First Reading Of An Ordinance Of The City Council Of The City Of Emeryville Amending The Planning Regulations To Allow The Research and Development Use Type In The Mixed Use With Residential Zone (CEQA Status: General Plan EIR Certified by City Council on October 13, 2009). (Charles S. Bryant / Navarre Oaks)

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

Assistant Planner Navarre Oaks provided the staff presentation and responded to Council questions.

PUBLIC HEARING OPEN: 7:38 PM

A speaker commented that Council should look back at the Original General Plan that was passed in 2005.

PUBLIC HEARING CLOSED: 7:40 PM

**A motion was made by Vice Mayor Patz, seconded by Council Member Martinez, to read the Ordinance by title only. The motion carried by the following vote:**

**Ayes:** 5 - Mayor Ally Medina, Vice Mayor Patz, Council Member Bauters, Council Member Donahue, and Council Member Martinez

**A motion was made by Vice Mayor Patz, seconded by Council Member Martinez, to approve the first reading and introduction of the Ordinance. The motion carried by the following vote:**

**Ayes:** 5 - Mayor Ally Medina, Vice Mayor Patz, Council Member Bauters, Council Member Donahue, and Council Member Martinez

## 12. ACTION ITEMS

- 12.1. [ID-2019-171](#) Consideration Of Transportation Committee Recommendation For Request For Approval Of Red Zone Across From 4045 Horton Street. (Andrew Clough / Daraja Wagner)

**Attachments:** [Staff Report](#)  
[Exhibit A - Red Curb Request on Horton Street](#)

Public Works Director Andrew Clough gave the staff presentation and responded to Council Member questions. Applicant David Himy was present to respond to questions as well, stating that the red curb would make his location more accessible for for large commercial trucks, and therefore, more attractive to potential tenants.

PUBLIC COMMENT

1. Mr. Himy stated that he had been unable to rent the warehouse for seven years and asked the Council to consider adding the red curb.
2. Jake L. commented that red curbs were meant for emergency purposes only and opposed the addition of the red curb as requested.

Council Member Bauters presented photos of the area and stated his concern that accomodating trucks at this particular location would be hazardous for bicyclists. He suggested designating a yellow zone instead. Council discussion ensued.

**A motion was made by Vice Mayor Patz to approve this Other Item, but failed due to lack of second.**

**A motion was made by Council Member Bauters, seconded by Council Member Martinez, to deny the request. The motion carried by the following vote:**

**Ayes:** 4 - Mayor Ally Medina, Council Member Bauters, Council Member Donahue, and Council Member Martinez

**Noes:** 1 - Vice Mayor Patz

- 12.2.** [ID-2019-189](#) Discussion Regarding The City's Five-Year Capital Improvement Program For FY 2019-2024. ( Susan Hsieh / Andrew Clough / Charles S. Bryant / Chad Smalley)

**Attachments:** [Staff Report](#)

[Draft Capital Improvement Program](#)

Director Clough opened the staff presentation, then introduced Finance Manager Susan Hsieh who presented the financial slides. City Attorney Guina stated that there would be a correction to page 16 in the final version of the document. City Manager Daniel stated that the CIP document as presented was the Proposed version and that comments and feedback were being sought. She added that the Final version would be considered for adoption on June 4th and also noted that the Use of Funds Balance Reserves for the South Bayfront Bridge would not necessarily be in the proposed CIP as it was dependent on Council's pending approval of the project at the May 21st meeting.

#### PUBLIC COMMENT

1. Jake L. inquired if funds would be available to add a crosswalk near the Shellmound Street over Hollis.

Council Member discussion ensued, with support of funding the South Bayfront Bridge project being expressed, as well as interest in finding ways to develop new parks, including the Mayor's suggestion for "pop-up" parks as a separate CIP project.

- 12.3.** [ID-2019-168](#) Business Conditions Survey Results. (Charles S. Bryant / Chadrick Smalley / April Shabazz)

**Attachments:** [Staff Report](#)[Attachment 1 - Inventory of Local Minimum Wage Ordinances](#)[Attachment 2 - Business Conditions Survey Report](#)[Late Correspondence - Rudy's Can't Fail Cafe](#)[Late Correspondence - George Almeida](#)

Management Analyst April Shabazz began the staff presentation to Council and then turned it over to Sharon DeCosta from Mills College who presented the study findings.

To Mayor Medina's question as to why the questionnaire was directed exclusively to owners and not workers, Economic Development Manager Chadrick Smalley responded that it would be difficult to reach workers in a cost effective way.

**PUBLIC COMMENT**

1. A speaker echoed Mayor's sentiment that workers should be surveyed.
2. Bill Reuters stated that three more years of data would be needed to see the impact of the measure, and that the restaurant industry was most affected.
3. Marilyn Boucher, owner of The Broken Rack, stated that her business was primarily impacted by the Minimum Wage Ordinance which she felt was hurting her business, and that the original intent of the business conditions survey was to assess the impacts.
4. Doug Smith, Rudy's Can't Fail Cafe, seconded everything from the previous speaker.
5. Nicole, an Emeryville resident, stated that the ordinance had changed her consumer behavior.
6. A speaker stated concerns about businesses not paying a living wage.
7. Lenny Farrell suggested that Council adopt rent control within the City.

Council discussion ensued on whether it would be feasible to pause enactment of the minimum wage, for the small independent food service sector only, to allow more time to study the impacts on that business type. Various strategies were discussed as to how to schedule approval of an ordinance amendment to become effective prior to the July 1 deadline. At length, it was decided to place a first reading on the May 21, 2019 agenda, and also an item to add a regular meeting to the Council's meeting schedule on Wednesday, May 29, 2019 to accommodate the second reading.

**A motion was made by Council Member Bauters, seconded by**

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**Council Member Donahue, to bring an ordinance amendment to the May 21, 2019 agenda, and to consider taking action on May 21, 2019 to add a meeting the the Council's regular meeting schedule on Wednesday, May 29, 2019. The motion carried by the following vote:**

**Ayes:** 4 - Mayor Ally Medina, Council Member Bauters, Council Member Donahue, and Council Member Martinez

**Noes:** 1 - Vice Mayor Patz

### 13. DEPARTMENT HEAD REPORTS

13.1. [ID-2019-165](#) Planning Director's report on Planning Commission actions at the April 25, 2019 meeting:

- (a) Reconsideration of Marketplace Redevelopment Project, "Parcel B". Reconsideration of a new Final Development Plan (FDP) for "Parcel B" of the Marketplace Redevelopment Project Planned Unit Development (PUD04-12) and rescinding of Final Development Plan FDP15-001 that was approved by the Planning Commission on June 23, 2016. The previously approved FDP included 26,000 square feet of retail space and 300 parking spaces. The proposed FDP includes 14,000 square feet of retail space, 150,000 square feet of office/lab space, and 565 parking spaces. (Project previously approved by Planning Commission on January 24, 2019, appealed to City Council on February 8, 2019, and remanded to Planning Commission by City Council on March 19, 2019.)\*
- (b) Duplex Conversion. Consideration of a Conditional Use Permit and Design Review application to modify an existing single unit building at 1291 55th Street into two units.\*
- (c) Capital Improvement Program. Review of the proposed Five-Year Capital Improvement Program for Fiscal Years 2019-20 through 2023-24, for consistency with the Emeryville General Plan pursuant to California Government Code Section 65403(c).\*\*

\* 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.

\*\* CIP scheduled for City Council discussion on May 7, 2019.

The packet for the April 25, 2019 Planning Commission meeting can be viewed online at <http://ca-emeryville.civicplus.com/Archive.aspx?>



[AMID=43&Type=Recent>](#)

Community Development Director Charles Bryant reported on the Planning Commission's actions at its April 25, 2019 meeting. He also noted that there would be a community bike ride in conjunction with the City's May 9th Bike to Work Day events.

**14. FUTURE AGENDA ITEM REQUESTS FROM COUNCIL MEMBERS**

Council Member Bauters requested and received support to add an item to the June 4, 2019 agenda to consider sending a letter of support to AC Transit.

**15. ADJOURNMENT**

The meeting adjourned at 10:15 p.m. in memory of Eleanor J. Letchaw.

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

/Sheri Hartz/

Sheri Hartz, City Clerk