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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

--AMENDED--

Tuesday, July 9, 2019

7:16 PM

Council Chambers

1. CALL TO ORDER

The meeting was called to order at 7:28 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 Mayor Medina, seconded by Council Member Martinez, to approve the Final Agenda, pulling Items 10.8, 10.9 and 10.12 from the Consent Calendar for separate consideration, moving Item 12.4 to the beginning of the Action Items and adding the adjournment in memory of Eric J. Mikel. The motion carried by the following vote:

Ayes: 5 - Mayor 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 City Clerk announced current vacancies and stated that the due date for application submission was Monday, August 5, 2019.

6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS / REPORTS ON MEETING ATTENDANCE

Council Member Martinez reported on her attendance of the recent East Bay Community Energy meeting, and announced several

contracts that had been signed. Council Member Donahue reported that he and Mayor Medina had attended Governor Newsom's recent visit to the Estrella Vista project, which highlighted affordable housing accomplished through partnerships between agencies. Council Member Bauters reported that he and the Mayor had attended the opening of a cabin community in Oakland, where the intention was to provide people with access to housing and social services.

7. CITY MANAGER'S REPORT

There was no report given.

8. EX PARTE COMMUNICATIONS

Each of the Council Members disclosed having received the emails that were a part of the public record, as well as contact from the Alameda Labor Council and Ron Freund.

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

1. A speaker commented on Council Member Donahue's reference to pre-fab housing, stating that the companies who construct the units do not pay prevailing wage. He added that profanity was now acceptable at Council meetings, due to the precedent set by a Council Member cursing at a recent meeting, and spoke in opposition of another traffic count being conducted.
2. Andre Carpiaux spoke regarding Items 10.12 and 10.13, protesting the expense of the two contracts involved.

10. CONSENT ITEMS

Approval of the Consent Agenda

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

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

- 10.1. [ID-2019-322](#) Warrants. (Susan Hsieh)

A motion was made to accept this Informational Report.

- 10.2. [ID-2019-327](#) Action Minutes of the June 18, 2019 Emeryville City Council / Management of Emeryville Services Authority Special Closed Session Special Meeting. (Sheri Hartz)

A motion was made to approve the Minutes.

- 10.3. [ID-2019-329](#) Action Minutes of the June 18, 2019 Emeryville City Council

Special Meeting. (Sheri Hartz)

A motion was made to approve the Minutes.

- 10.4. [ID-2019-326](#) Action Minutes of the June 18, 2019 Emeryville City Council Regular Meeting. (Sheri Hartz)

A motion was made to approve the Minutes.

- 10.5. [ID-2019-319](#) Resolution Of The City Council Of The City Of Emeryville Approving And Consenting To A Memorandum Of Understanding Between the Management Of Emeryville Services Authority And The Emeryville Association Of Confidential, Administrative, Managerial And Professional (CAMP) Employees With A Term Effective July 1, 2019 Through June 30, 2022. (Lisa Lopez)
(In Conjunction with Management of Emeryville Services Authority Regular Meeting Agenda Item 7.1)

A motion was made to approve this Resolution.

Enactment No: 19-89

- 10.6. [ID-2019-320](#) Resolution Of The City Council Of The City Of Emeryville Approving A Memorandum Of Understanding Between The Emeryville City Council And The Emeryville Police Officers' Association With A Term Effective July 1, 2019 Through June 30, 2022

A motion was made to approve this Resolution.

Enactment No: 19-90

- 10.7. [ID-2019-288](#) Resolution Of The City Council Of The City Of Emeryville Adopting The 2019 Housing Affordability Table Pursuant To The Affordable Housing Program (Article 4 Of Chapter 5 Of The Planning Regulations). (Charles S. Bryant / Chadrick Smalley)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 19-91

- 10.8. [ID-2019-346](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Professional Services Contract With The Labor Compliance Managers To Provide Assistance With Enforcement And Administration Of City Labor Standards For An Amount Not To Exceed \$317,305 Per Year For Fiscal Years 2019-20, 2020-21, And 2021-22, For A Total Contract Amount Not To Exceed \$951,915. (Charles S. Bryant / Chadrick Smalley / April Shabazz)

This item was pulled for separate consideration by Mayor Medina.

Council Member Bauters requested that the contract be approved for two fiscal years (19/20 and 20/21) instead of three and received majority support for that change. City Manager Daniel suggested that a report be presented in the fall to update Council and explain the enforcement actions taken and the scope of work.

A motion was made by Council Member Bauters, seconded by Mayor Medina, to approve this Resolution, amended to reflect award of the contract for Fiscal Years 19/20 and 20/21 only. The motion carried by the following vote:

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

Enactment No: Resolution No. 19-92

- 10.9.** [ID-2019-304](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute The First Amendment To The '8 To Go' Paratransit Shuttle Service Agreement With The Emeryville Transportation Management Association In The Amount Of \$204,300. (Pedro Jimenez / Brad Helfenberger)

This item was pulled by Mayor Medina to be continued to the Council meeting of July 23, 2019.

A motion was made by Mayor Medina, seconded by Council Member Bauters, to continue this item to the City Council meeting of July 23, 2019. The motion carried by the following vote:

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

Enactment No:

- 10.10.** [ID-2019-306](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute Contract #CSPP-9008 With The State Department Of Education, Office Of Child Development, For Fiscal Year 2019-2020 In The Amount of \$179,627 And Appropriate Said Funds When Received To Account 230-53600. (Pedro Jimenez)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 19-93

- 10.11.** [ID-2019-307](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager Enter Into a Sub Use Agreement With the East Bay German International School (EBGIS) For Real Property Located At 1070 41st, Street, Formally Known As The Anna Yates School, For Temporary Use by The Emeryville Child

Development Center (E CDC) For A Period of Four Months In the amount not to Exceed Twenty Thousand Dollars (\$20,000); And to Sign All Relevant and Necessary Documents pertaining to the Sub Use Agreement. (Pedro Jimenez)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 19-94

- 10.12. [ID-2019-310](#)** Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A Professional Services Contract With West Coast Code Consultants, Inc., In An Amount Not To Exceed \$900,000 For Public Works Construction Inspection Services Required For Various Capital Improvement Projects, C3 Plan Check And Inspection Services And Encroachment Permit Inspections For Fiscal Years 2019/20 and 2020/21. (Andrew Clough / Daraja Wagner)

This item was pulled by Council Member Bauters for separate consideration and to allow the Council Member to respond to questions posed by Andre Carpiaux during public comment.

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

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

Enactment No: Resolution No. 19-95

- 10.13. [ID-2019-313](#)** Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A First Amendment To The Professional Services Agreement With Coastland Civil Engineering, Inc. Extending The Contract To September 30, 2020 With An Additional \$50,000 For A Total Contract Amount Not To Exceed \$295,548 For City Engineering Services, Capital Projects Delivery Support, And Construction Management Services. (Andrew Clough / Daraja Wagner)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 19-96

- 10.14. [ID-2019-250](#)** Resolution Of The City Council Of The City of Emeryville Re-Allocating In Fiscal Year 2019/2020 An Amount Of \$151,000 From Fund #471 (CIP No. 15475023) And \$160,000 From Fund #475 (CIP No. 15475023) To CIP No. 19254005; And Authorizing The City Manager To Enter Into A Contract With Ghilotti Bros., Inc. In An Amount Not To Exceed \$542,000 For The Construction Of ATP Greenway Crossing Improvements At 65th Street, 66th Street,

And 67th Street, Project No. EPW-18106, CIP No. 19254005.
(Andrew Clough / Ryan O'Connell)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 19-97

- 10.15.** [ID-2019-309](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A Maintenance Contract With Rubicon Enterprises Inc., dba Rubicon Landscape In An Amount Not To Exceed \$226,225 For City-Wide Landscape Maintenance For Fiscal Year 2019/20. (Andrew Clough / Daraja Wagner)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 19-98

- 10.16.** [ID-2019-267](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Grant Recipient Contract With Emeryville Citizens Assistance Program In The Amount Of \$74,000 To Support Food And Clothing Distribution To Persons Experiencing Homelessness And Those Near-Homelessness For Fiscal Year 2019-20. (Charles S. Bryant / Chadrick Smalley / Emi Thériault)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 19-99

- 10.17.** [ID-2019-317](#) An Ordinance Of The City Council Of The City Of Emeryville Amending Sections 8-26.01 and Sections 8-26.03 Of The Emeryville Municipal Code To Include Certain Demolition Waste Containing Polychlorinated Biphenyls (PCBs); CEQA Determination: Exempt Pursuant to CEQA Guideline Sections 15061(b)(3) And 15307. (Andrew Clough / Nancy Humphrey)

A motion was made to approve this Ordinance.

Enactment No: Ordinance No. 19-008

11. PUBLIC HEARINGS

- 11.1.** [ID-2019-290](#) Introduction And First Reading Of An Ordinance Of The City Council Of The City Of Emeryville Amending The Planning Regulations To Modify The Tower Separation Requirements In Article 2 Of Chapter 4 Of Title 9 Of The Emeryville Municipal Code (CEQA Status: General Plan EIR Certified By City Council On October 13, 2009). (Charles S. Bryant)

Community Development Director Charles Bryant gave the staff presentation and responded to Council Member questions.

PUBLIC HEARING OPEN: 7:57 p.m.

1. Tim Frank representing the Center for Sustainable Neighborhoods, stated that they had no objections to the change in principal, but had concerns about the Onni project, which this change was conceived to address.
2. Fran Quittel commented on the proposed amendment, stating that this amendment should be considered at a later date, and opposed reducing the space between large towers.
3. A speaker noted that the previous two speakers were referring to the Onni project, and that the General Plan should not be changed in deference to any specific development project.
4. Ruth Major asked whether Ron Freund's letter would be read aloud and was told that it would.
5. Andre Carpiaux spoke in opposition to the City's building practices.
6. A speaker asked whether a building shaped like an arch would count as one or two buildings.
7. Council Member Martinez read a statement into the record from Ron Freund, which stated that this action was not needed at this time, and was being proposed specifically to help the Onni project.

PUBLIC HEARING CLOSED: 8:08 p.m.

A motion was made to read the Ordinance by title only. The motion carried by the following vote:

Ayes: 5 - Mayor 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 Bauters, to approve the first reading and introduction of this Ordinance. The motion carried by the following vote:

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

12. ACTION ITEMS

- 12.4. [ID-2019-348](#) Resolution Of The City Council Of The City Of Emeryville Accepting Certification Of The Results Of A Full Check Of Signatures On A Referendum Petition As Performed By The Alameda County Registrar Of Voters Using Official Voter Registration Records. (Sheri Hartz)
City Manager Christine Daniel gave the staff report and responded to Council questions.

PUBLIC COMMENT:

1. Saabir Locket spoke in support of the referendum
2. Andrea Mullarky, SEIU 1021 member leader, spoke in support of the referendum.
3. Saru Janaraman, Restaurant Opportunity Center United, spoke in support of the referendum.
4. Divya Sundar, EBASE, spoke in support of the referendum.
5. Cynthia Landry, SEIU 1021 Board Member spoke in support of the referendum.
6. Ka Ching Ho spoke in favor of the referendum.
7. Alex Chuang, Chinese Progressive Association, spoke in support of the referendum.
8. Marilyn Boucher, Broken Rack owner, spoke in favor of putting the matter before the voters.
9. Ruth Major stated that she had requests from people interested in signing the petition even after the deadline had passed.
10. A speaker stated that the workers did not attend the Council meeting because they were too tired, and spoke against a standalone election.

A motion was made by Council Member Bauters, seconded by Council Member Martinez, to approve this Resolution. The motion carried by the following vote:

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

Enactment No: 19-102

12.4.1 [ID-2019-349](#)

An Ordinance Of The City Council Of The City Of Emeryville Repealing Ordinance No. 19-007 Regarding Amendments To Chapter 37 Of Title 5 Of The City Of Emeryville Municipal Code, "Minimum Wage, Paid Sick Leave, And Other Employment Standards"; CEQA

Determination: Exempt Pursuant To State CEQA Guidelines Sections 15324 And 15061(b)(3). (Sheri Hartz)

A motion was made by Mayor Medina, seconded by Council Member Bauters, to continue consideration of this Ordinance to the Council meeting of July 23, 2019. The motion carried by the following vote:

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

Abstain: 1 - Vice Mayor Patz

12.4.2 [ID-2019-350](#)

Resolution Of The City Council Of The City Of Emeryville Ordering The Submission To The Qualified Electors Of The City Of Emeryville A Measure To Vote On A Referendum Submitted Against Ordinance No. 19-007, An Amendment To Chapter 37 Of Title 5 Of The Emeryville

Municipal Code, "Minimum Wage, Paid Sick Leave, and Other Employment Standards". (Sheri Hartz)

A motion was made by Mayor Medina, seconded by Council Member Bauters, to continue consideration of this Ordinance to the Council meeting of July 23, 2019. The motion carried by the following vote:

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

Abstain: 1 - Vice Mayor Patz

- 12.1.** [ID-2019-272](#) Presentation by PG&E Concerning the Community Wildfire Safety and Public Safety Power Shut Off Programs. (Christine Daniel)
Tom Guarino, PG&E, gave the presentation and responded to Council Member questions. He suggested that a letter be drafted from the City to PG&E that included the City's requests and suggestions. It was agreed that the City Manager would draft and send the letter on behalf of the City.

- 12.2.** [ID-2019-291](#) Resolution Of The City Council Of The City Of Emeryville Approving The 40th And San Pablo Bus Hub Project Conceptual Design Memorandum (CEQA Status: Exempt Pursuant To State CEQA Guidelines Sections 15301(c) and 15061(b)(3)). (Charles S. Bryant / Diana Keena)
Associate Planner Diana Keena gave the staff presentation and responded to Council Member questions. Deepak Sohane and Thomas Kronemeyer, CD+A, and Ron Ramos, Fehr + Peers, assisted with the presentation and also responded to questions.

PUBLIC COMMENT

Ryan Lau, Alameda County Transit, spoke in support of the conceptual design and the associated bicycle and pedestrian improvements.

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

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

Enactment No: Resolution No. 19-100

A motion was made by Council Member Bauters, seconded by Mayor Medina, to consider the following modifications to the conceptual design:

1. Add a physical island on the northwest corner of Adeline and 40th Streets in the southbound direction to provide protection on the right side of the southbound bike lane.

2. Direct staff to research the possibility of putting a bike scramble at

the intersection of 40th and Adeline Street.

3. Remove the word "potential" for all the curb extensions at the side streets between San Pablo Avenue and the 40th Street/Shellmound Street bridge and making those curb extensions part of the improvements.

4. Examine the Horton and 40th Street intersection, in particular the northwest corner, for where bike signal activation would occur and also the flow of northbound bicycle traffic across 40th Street to avoid conflicts with bicycles waiting in the westbound bicycle lane and conflicts with vehicles.

5. Add signage in the middle curb to be inserted at Hubbard and 40th Street to further identify that there is no left turn allowed.

6. Move the bicycle box at the intersection between the Bay Trail, the IKEA entrance and Shellmound Street off onto the sidewalk area on the southwest side of that intersection to have bikes queue onto the Greenway itself

7. Ensure that the distance along the inside of each protected bicycle island is long enough to accommodate an extra cyclist or a bicycle with a trailer behind it.

8. Examine the proper location and placement for bike lockers at the 40th and San Pablo Bus and Transit hub to accommodate bike storage on the north side of the intersection.

The motion carried by the following vote:

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

Enactment No: Resolution No. 19-100

- 12.3. [ID-2019-252](#) Resolution Of The City Council Of The City Of Emeryville Approving and Adopting the City of Emeryville Green Infrastructure Plan; CEQA Determination: Exempt Pursuant to CEQA Guidelines 15307 and 15308. (Andrew Clough / Oliver Abbitt)
Council waived staff's presentation on this item.

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

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

Enactment No: 19-101

13. DEPARTMENT HEAD REPORTS

- 13.1. [ID-2019-298](#) Planning Director's report on Planning Commission actions at the June 27, 2019 meeting:

Note: The June 27, 2019 Planning Commission meeting was

cancelled. The next meeting will be on July 25, 2019. No appealable items are scheduled for the July 25, 2019 meeting.

14. FUTURE AGENDA ITEM REQUESTS FROM COUNCIL MEMBERS

Vice Mayor Patz requested and received majority support for an update to be presented on the City's plan for the upcoming census and making sure everyone is counted.

Council Member Donahue requested that a method be examined to give points to future development projects for the speed with which development can be accomplished. The City Manager suggested that this topic be folded into the upcoming study session on project labor agreements.

15. ADJOURNMENT

The meeting was adjourned at 10:41 p.m. in memory of Eric J. Mikel.

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**

DRAFT