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## CITY OF EMERYVILLE

### ACTION MINUTES

#### City Council

Members:

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

Amended

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Tuesday, September 5, 2017

7:16 PM

Council Chambers

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#### 1. CALL TO ORDER AND COUNCIL MEMBER OATH AND SONG

The meeting was called to order at 7:54 p.m.

#### 2. ROLL CALL

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

#### 3. APPROVAL OF FINAL AGENDA

A motion was made by Council Member Martinez, seconded by Vice Mayor Bauters, to approve the Final Agenda as amended to add an Urgency Item as Item 12.5. The motion carried by the following vote:

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

#### 4. SPECIAL ORDERS OF THE DAY

- 4.1. [ID-2017-526](#) Proclamation Of The City Council Of The City Of Emeryville Recognizing September 2017 As Childhood Cancer Awareness Month In Emeryville.

Attachments: [Proclamation](#)

Mayor Donahue read the proclamation aloud.

- 4.2. [ID-2017-560](#) Proclamation Of The City Council Of The City Of Emeryville Proclaiming The Week of October 14, 2017 As Bethune/Height Recognition Program Week In Emeryville.

Attachments: [Proclamation](#)

Mayor Donahue read the proclamation aloud.

Patricia Daniels from the Washington, D.C. Chapter of the National Council of Negro Women, Inc. accepted the proclamation.

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

City Clerk Hartz reported on current and upcoming vacancies on the Community Advisory Committees.

## **6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS**

Council Member Martinez announced upcoming September 16 California coastal clean up day at 2333 Powell Street, across from the Watergate Market. She also reported that there are two local churches utilizing the facilities at ECCL currently.

Vice Mayor Bauters announced the Alameda County Fire Department school supply donations will remain at City Hall until September 14. He provided an update on the TMA's effort to collect late payments, stating that they had secured \$42K from EUSD, cleared issues with PGE and other large properties, and were putting payment plans in place.

Council Member Patz reported that he had visited the fire stations and that many school supplies had been donated.

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

1. Brian Donahue spoke regarding his news blog, the Tattler, stating that he reported on City Hall and the School District.
2. Nasir Azimi spoke in favor of the proposed cannabis regulations.
3. Adlai Kareem, property owner for San Pablo properties, related to ECAP, requested a fair offer from the City and a review of the appraisal.

## **8. CITY MANAGER'S REPORT**

There was no report given.

## **9. EX PARTE COMMUNICATIONS**

Council Member Martinez reported meeting with representatives from the California Retailers Association, the Center for Popular Democracy (CPD), and Alliance of Californians for Community Empowerment (ACCE).

Council Member Medina and Mayor Donahue both reported having met with representatives from the California Retailers Association and ACCE.

Vice Mayor Bauters reported having met with representatives from California Retailers Association, and receiving emails from ACCE, EBASE and CPD.

Council Member Patz reported having met with representatives from EBASE and ACCE, and receiving emails from California Retailers Association.

## 10. CONSENT ITEMS

### *Approval of the Consent Agenda*

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

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

- 10.1. [ID-2017-548](#) Warrants. (Susan Hsieh)

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

A motion was made to approve this Other Item.

- 10.2. [ID-2017-523](#) Action Minutes of the July 25, 2017 City Council Special Study Session Meeting. (Sheri Hartz)

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

A motion was made to approve this Minutes.

- 10.3. [ID-2017-525](#) Action Minutes of the July 25, 2017 Emeryville City Council Meeting. (Sheri Hartz)

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

A motion was made to approve the Minutes.

- 10.4. [ID-2017-492](#) Accepting The Annual Street Rehabilitation Project EPW 105-16 (CIP #15240027) (Andrew Clough / Michael Roberts)

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

A motion was made to approve this Item.

- 10.4.1. [ID-2017-493](#) Resolution Of The City Council Of The City Of Emeryville Accepting The Annual Street Rehabilitation Project EPW 105-16 (CIP #15240027) As Complete And Authorizing The City Engineer To File A Notice Of Completion With The Alameda County Clerk.

**Attachments:** [Resolution](#)

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

Enactment No: 17-131

- 10.4.2. [ID-2017-494](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A First Amendment To The Contract With J.A. Gonsalves & Son Construction Inc. Increasing The Contract Amount By \$54,614.51 To An Amount Not To Exceed \$517,173.61

**Attachments:** [Resolution](#)

[Contract - 1st Amendment](#)

[JAG Agreement](#)

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

Enactment No: 17-132

- 10.5. [ID-2017-532](#) Resolution Of The City Council Of The City Of Emeryville To Reject All Bids And To Approve Revised Scope Of Work For The Annual Street Rehabilitation And Preventive Maintenance Project Fiscal Year 2017/2018, Project No. EPW 17-104 (CIP No. 17240005) (Andrew Clough / Ryan O'Connell)

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

[Resolution](#)

[Exhibit A](#)

[Exhibit B](#)

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

Enactment No: 17-133

- 10.6. [ID-2017-528](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute Contract #CSPP-7008 With The State Department Of Education, Office Of Child Development, For Fiscal Year 2017-2018 In The Amount Of \$150,572 And Appropriate Said Funds When Received To Account 230-53600 (Pedro Jimenez)

**Attachments:** [Staff Report](#)  
[Resolution](#)  
[State Contract](#)

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

Enactment No: 17-134

- 10.7. [ID-2017-527](#) Adopting Regulations To Govern The Issuance Of Dispensary/Retailer Permits To Cannabis Businesses (Michael Guina / Andrea Visveshwara)

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

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

- 10.7.1. [ID-2017-551](#) Resolution Of The City Council Of The City Of Emeryville Adopting Regulations To Govern The Issuance Of Dispensary/Retailer Permits To Cannabis Businesses.

**Attachments:** [Resolution](#)  
[Exhibit A - Rating Sheet](#)

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

Enactment No: 17-135

- 10.7.2. [ID-2017-552](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Issue A Request For Qualifications For A Dispensary/Retail Permit For A Storefront Dispensary.

**Attachments:** [Resolution](#)  
[Attachment - RFQ](#)

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

Enactment No: 17-136

- 10.8. [ID-2017-535](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Professional Services Agreement With Community Design + Architecture For An Amount Not To Exceed \$176,270 For Preparation Of The 40th And San Pablo Transit Hub Concept Design, And Appropriating \$38,270 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 / Diana Keena)

**Attachments:** [Staff Report](#)  
[Resolution](#)  
[Exhibit A - Professional Services Agreement](#)

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

Enactment No: 17-137

- 10.9.**     [ID-2017-536](#)     Resolution Of The City Council Of The City Of Emeryville Approving The Agreement On Affordable Units With ASN Emeryville LLC, And Authorizing The City Manager To Enter Into Said Agreement On Behalf Of The City Of Emeryville, For The Incorporation Of One Below Market Rate Unit For Very Low Income Households Within The Artistry Rental Project At 6401 Shellmound Street (Charles S. Bryant / Chadrick Smalley / Catherine Firpo)

**Attachments:** [Staff Report](#)  
[Resolution](#)  
[Exhibit A - Affordable Housing Agreement](#)

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

Enactment No: 17-138

- 10.10.**   [ID-2017-539](#)     Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Professional Services Agreement With CDM Smith For The Emeryville Parking Management Plan Update For An Amount Not To Exceed \$173,253 And Reallocating \$100,000 From The General Capital Fund (Fund 475) Budgeted For The North Hollis Paid Parking And Transportation Demand Management Project (CIP No. T-07) In Fiscal Year 2018-2019 To The Same Project In Fiscal Year 2017-2018 (Charles S. Bryant / Chadrick Smalley / Amber Evans)

**Attachments:** [Staff Report](#)  
[Resolution](#)  
[Professional Services Agreement](#)

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

Enactment No: 17-139

- 10.11.**   [ID-2017-530](#)     Resolution Of The City Council Of The City Of Emeryville Accepting Transfer Of Governmental Use Properties Known As Greenway @ Parcel D, Greenway @ 59th Street, Emery Station Greenway Plaza, 48th Street Community Garden, Art & Cultural Center And Glashaus Public Parking From The City Of Emeryville As Successor Agency To The Emeryville Redevelopment Agency Pursuant To The Long Range Property Management Plan.

(Michael Guina)  
(In Conjunction With Successor Agency Agenda Item 6.3.)

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

[Resolution](#)

[Grant Deed Transferring Governmental Use Properties to City](#)

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

Enactment No: 17-140

- 10.12.** [ID-2017-546](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Second Amendment To The First Responders Advanced Life Support (FRALS) Agreement With The County Of Alameda That Governs The Provision Of Advanced Life Support Medical Services. (Cindy Montero)

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

[Resolution](#)

[Second Amendment FRALS Contract](#)

[First Amendment to Agreement](#)

[EMS First Responder Svcs Agmt](#)

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

Enactment No: 17-141

## 11. PUBLIC HEARINGS

There were no Public Hearings listed.

## 12. ACTION ITEMS

- 12.1.** [ID-2017-545](#) Resolution Of The City Council Of The City Of Emeryville Adopting Regulations Pursuant To Section 5-39.09(a) Of The Emeryville Municipal Code To Implement Fair Workweek Employment Standards (Charles S. Bryant / Chadrick Smalley / April Shabazz)

**Attachments:** [Staff Report](#)  
[Resolution](#)  
[Exhibit A - Regulations](#)  
[Attachment 1 - Redlined Legislative Draft of Regulations](#)  
[Attachment 2 - Written Comments Received](#)  
[Attachment 3 - Comments from Forums](#)  
[PUBLIC COMMENT: Betsy Cooley, Resident](#)  
[PUBLIC COMMENT: EBASE](#)  
[PUBLIC COMMENT: Calif. Retailers Association](#)

Management Analyst April Shabazz gave the staff presentation and, along with Assistant City Attorney Visveshwara, responded to Council Member questions.

#### PUBLIC COMMENT

1. Angie Manetti, California Retailers Association, spoke regarding the regulations, stating that they clarify some of the provisions in the ordinance and made requests for modifications.
2. Prince, ACCE, spoke in support of the regulations and changes that have been made over time, but stated there were problems with the section on predictability pay and asked that it be deleted.
3. Cecille, a Barnes & Noble employee, spoke regarding the changes in scheduling that have taken place and stated that her co-workers didn't know their rights.
4. Kelby Peeler, ACCE Organizer, spoke regarding question #3, regarding employees volunteering to go home early, stating that clarifying language needs to be added to Option F.
5. Lily Wong, Center for Popular Democracy, stated agreement with most of the recommendations that eliminate loopholes, but stated that losing predictability pay in the case of disciplinary actions was not true to the intent of the ordinance.
6. Nick, an H & M employee, had questions about the enforcement process.

The Council discussed and provided direction, and staff asked to return following a recess to summarize what they had heard.

At 9:45 p.m., Council took a brief recess and reconvened at 9:53 p.m.

Assistant City Attorney Visveshwara recapped the Council's requests and amendments.

A representative from Mills College requested direction from the Council on revisions to the roll out.

No action was taken on the resolution. The item was continued to the October 3, 2017, City Council meeting.

- 12.2. [ID-2017-537](#) Resolution Of The City Council Of The City Of Emeryville Approving The Release Of A Request For Proposals For A Pilot Mural Project To Be Installed Along The Emeryville Greenway Between Powell Street And Stanford Avenue (Charles S. Bryant / Chadrick Smalley / Emi Thériault)

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

[Resolution](#)

[Exhibit A - RFP and Attachment 1, Application Form](#)

[Exhibit A - Attachment 2, Context Photos-Viewpoints](#)

[Exhibit A - Attachment 3, Broken Rack Remodel Plans](#)

Economic Development Coordinator Emi Theriault gave the staff presentation and responded to Council questions.

Council gave direction to staff that the mural shall exist and be maintained for a minimum of five years.

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

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

Enactment No: 17-142

- 12.3. [ID-2017-538](#) Introduction And First Reading Of An Ordinance Of The City Council Of The City Of Emeryville Adding Chapter 25 To Title 8 Of The Emeryville Municipal Code Relating To An Expedited, Streamlined Permitting Process For Electric Vehicle Charging Stations (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(b)(3) (Charles S. Bryant / Victor R. Gonzales)

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

[Ordinance](#)

[Attachment 2 - Checklist](#)

Planning Director Bryant gave the staff report and responded to Council questions.

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

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

**A motion was made by Council Member 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 Donahue, Vice Mayor Bauters, Council Member Martinez, Council Member Medina, and Council Member Patz

**12.4. [ID-2017-540](#)** Consideration Of League Of California Cities Annual Conference Resolutions Packet (Sheri Hartz)

**Attachments:** [Staff Report](#)  
[2017 Annual Conference Resolutions Packet](#)

City Clerk Hartz gave a brief introduction of the item.

Vice Mayor Bauters read prepared comments on Resolution #1, and recommended that Council Member Medina as delegate vote no at the Conference.

Regarding Resolution #2, Council Member Martinez recommended that Council Member Medina discuss it with colleagues at the Conference and make her own determination.

**12.5 ID-2017-616** Letter Of Opposition To SB 649 (Hueso) Wireless Telecommunications Facilities. (Council Member Dianne Martinez / Sheri Hartz)

Council Member Martinez introduced the item and received majority support for the letter of opposition to be sent.

## **13. COMMUNICATION AND REPORTS**

### **13.1. Department Heads**

**13.1.1. [ID-2017-533](#)** Planning Director's report on Planning Commission actions at the August 24, 2017 meeting:

(a) Mobilitie Cellular Facilities - Consideration of two Conditional Use Permit and Design Review applications for wireless telecommunications facilities on two existing City street light poles in the public right of way.\*

1. Mobilitie @ Powell Street - On the south side of Powell Street adjacent to 5795 Christie Avenue. (Near the southwest corner of Powell Street and Christie Avenue).

2. Mobilitie @ Christie Avenue - On the north side of 64th Street adjacent to 6425 Christie Avenue. (Near the northeast corner of 64th and Lacoste Streets).

(b) Avalon Public Market Signs - Consideration of a Major Sign Permit for Avalon Public Market signs for the residential project currently under construction on "Parcel D" at 6301 Shellmound Street. (Continued from June 22, 2017 meeting.)\*

(c) Art.com Signs - Consideration of a Major Sign Permit to modify the existing "Art.com" high-rise identification sign at 2100 Powell Street by removing the multi-color LED "light pucks" from the existing channel letters and adding white acrylic letter faces to be internally illuminated with new white LED modules.\*

\* 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 August 24, 2017 Planning Commission meeting can be viewed online at <http://ca-emeryville.civicplus.com/Archive.aspx?AMID=43&Type=Recent>

### **13.2. Council Members Reporting on Meetings Attended**

Vice Mayor Bauters reported on the Healthy Homes Lead Poisoning JPA, indicating that there had been a recent increase in lead poisoning of children attributed to imported jewelry and medicines, and added that HUD had approved new regulations for the remediation of lead in public housing.

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

Mayor Donahue requested that the resolution on the Resilient Shoreline Program be placed on the September 19, 2017, City Council agenda.

Council Member Martinez requested 1) an update the to Master Fee Schedule to look at small cell tower fees and local best practices; 2) giving staff the authority to look for funds for a recognition lunch for lunch monitors and custodial staff at ECCL to thank them for educating kids regarding the waste stream; and 3) that staff compose a letter to our representatives a bill to freeze the formation of more CCAs.

Council Member Medina requested that staff place items on the next month's agendas to 1) find a source of funding for bike racks for local

businesses; and 2) install flexible bollards on Horton Street and on Hollis Street at 53rd Street, in both directions.

Vice Mayor Bauters agreed with the bollard installation idea, asked for a study session on projects in the CIP available to apply for ACTC funding; and requested a placeholder item on the next agenda to request participation in AARP's age-friendly community program.

## **15. ADJOURNMENT**

The meeting was adjourned at 11:02 p.m.

DRAFT