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## CITY OF EMERYVILLE

### ACTION MINUTES

#### City Council

Members:

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

--AMENDED--

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Tuesday, April 7, 2020

7:16 PM

Teleconference Meeting

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#### 1. CALL TO ORDER

The meeting convened via teleconference at 7:21 p.m. The Mayor read aloud a statement announcing that the meeting was being conducted by teleconference pursuant to the Brown Act waivers provided for under the Governor's Executive Order in response to the COVID-19 State of Emergency.

#### 2. ROLL CALL

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

#### 3. APPROVAL OF FINAL AGENDA

A motion was made by Council Member Bauters, seconded by Council Member Donahue, to approve the Final Agenda, with Item 10.5 being pulled for separate consideration by Council Member Bauters and Item 10.8 being pulled by Council Member Donahue. The motion carried by the following vote:

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

#### 4. SPECIAL ORDERS OF THE DAY

There were no Special Orders listed.

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

The City Clerk announced the timeframe for the upcoming annual recruitment to appoint applicants to community advisory body seats.

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

Vice Mayor Martinez reported on her virtual attendance of the East Bay Community Energy meeting where a decision was made to redirect funds that could not be spent as originally intended to local business development and gave the information on how to apply. Mayor Patz thanked Congresswoman Barbara Lee for her recent call to see if she could offer assistance to Emeryville during the public health crisis and also stated appreciation for the call received from Senator Nancy Skinner and Assemblymember Buffy Wicks, who also offered their assistance.

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

City Manager Daniel expressed her appreciation to City staff for their good work under the current challenging circumstances.

## **8. EX PARTE COMMUNICATIONS**

Council Member Bauters disclosed communications with approximately six Emeryville residents, with Centro Legal de la Raza and with the East Bay Community Law Center on Item 10.5; with Bike East Bay on Item 11.2; with staff from Destination Home on Items 12.1 and 12.2 and the State Senate on Item 12.3.

Council Member Donahue stated he had received multiple emails on items 10.5 and 12.1, as did Vice Mayor Martinez. Council Member Medina reported those same emails, as well as conversations with City of San Jose staff regarding Item 12.1 and Berkeley staff regarding Item 12.2. Mayor Patz disclosed having had resident contacts.

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

1. Brian Donahue, through a comment submitted via online speaker comment card, stated that Item 10.3 was an example of the Council making decisions in order to benefit business.

2. Delgertsogt Ts, through a comment submitted via online speaker comment card, commented that as an Uber driver not currently driving, they were concerned about rent amounts.

## **10. CONSENT ITEMS**

### ***Approval of the Consent Agenda***

**A motion was made by Council Member Donahue, seconded by Council Member Medina, to approve the Consent Agenda,**

excluding Items 10.5 and 10.8 which were pulled for separate consideration. The motion carried by the following vote:

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

- 10.1. [ID-2020-130](#) Action Minutes of the March 19, 2020 City of Emeryville City Council Special Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

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

- 10.2. [ID-2020-097](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Purchase Two 2020 Westward Industries GO-4 EV Model Parking Utility Vehicles, In An Amount Not To Exceed \$116,434.86, From Municipal Maintenance Equipment, Inc. (Chief Jennifer Tejada)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[GO-4 EV Quote From MME](#)

[GO-4 EV Quote From H&E Las Vegas](#)

[GO-4 EV Quote From H&E Phoenix](#)

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

Enactment No: Resolution No. 20-25

- 10.3. [ID-2020-121](#) Direction to Prepare Modifications To The Planning Regulations Regarding Buffer Distances From Parks And Greenways For Retail Cannabis Sales, And Zoning Districts In Which Cannabis Manufacturing Is Allowed. (Charles S. Bryant)

Attachments: [Staff Report](#)

**A motion was made to approve this Informational Item.**

- 10.4. [ID-2020-108](#) Ordinance Of The City Council Of The City Of Emeryville To Modify Sections of Chapter 28 of Title 5 of the Emeryville Municipal Code, "Cannabis"; CEQA Determination: Exempt Pursuant to CEQA Guideline Section 15061(b)(3). (Michael Guina / Andrea Visveshwara)

Attachments: [Staff Report](#)

[Legislative Draft](#)

[Proposed Ordinance](#)

**A motion was made to accept the second reading and adoption of this Ordinance.**

Enactment No: Ordinance No. 20-004

- 10.6. [ID-2020-123](#) Resolution Of The City Council Of The City Of Emeryville Declaring The Results Of The Emeryville Consolidated Special Municipal Election Held On Tuesday, March 3, 2020, As To The Election For And Against Measure F. (Sheri Hartz / Lorraine Leong)

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

[Draft Resolution](#)

[Exhibit A: Certificate of Election Results](#)

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

Enactment No: Resolution No. 20-26

- 10.7. [ID-2020-109](#) New Transactions and Use Tax Agreement Package. (Sheri Hartz)

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

[Certification of Vote](#)

- 10.7.1 [ID-2020-110](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute Agreements With The California Department Of Tax And Fee Administration For Implementation Of A Local Transactions And Use Tax. (Sheri Hartz / Susan Hsieh)

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

[Exhibit A: City Preparatory Agreement](#)

[Exhibit B: City Administration Agreement](#)

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

Enactment No: Resolution No. 20-27

- 10.7.2 [ID-2020-111](#) Resolution Authorizing the Examination of Transactions (Sales) and Use Tax Records. (Sheri Hartz / Susan Hsieh)

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

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

Enactment No: Resolution No. 20-28

- 10.5. [ID-2020-120](#) An Ordinance Of The City Council Of The City Of Emeryville Enacting A Temporary Moratorium On Residential and Commercial Evictions Due to Nonpayment Of Rent And Residential Foreclosures Initiated by Homeowner's Associations Where The Failure To Pay Rent Or Assessments Results From Income Loss Due To The Novel Coronavirus (COVID-19) Pandemic; CEQA Determination: Exempt Pursuant to California Public Resources Code Section 21080(b)(4)

and State CEQA Guidelines 15269(c) and 15061(b)(3). (Michael Guina)

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

[Attachment: Staff Report from March 19, 2020](#)

[Draft Ordinance](#)

[Late Correspondence - Bria Hunter](#)

[Late Correspondence - Taurean Bryant](#)

[Late Correspondence - Nicole Florentino](#)

[Late Correspondence - Arnold Leitner](#)

[Late Correspondence - Marc Janowitz](#)

[Late Correspondence - Mélodie Kinet](#)

[Late Correspondence - East Bay Community Law Center - Shallyn Wells](#)

[Late Correspondence - East Bay Community Law Center - Sabyl Landrum](#)

[Late Correspondence - East Bay Community Law Center - Carmen Jovel](#)

Council discussed this item, which had been pulled for separate consideration by Council Member Bauters.

**PUBLIC COMMENT:**

1. Shallyn Wells, through a comment submitted via online speaker comment card, stated concerns that many Emeryville tenants would still be left unprotected by this ordinance and requested that it be amended to apply to all evictions, not just evictions for non-payment of rent.

2. Marc S. Janowitz, through a comment submitted via online speaker comment card, spoke in support of approval of Item 10.5, but stated that it doesn't go far enough in protecting those being evicted from impacts from COVID-19, which goes beyond just those evicted for non-payment of rent.

Mr. Bauters proposed amendments to the draft ordinance, which were substantive enough to require that this action be considered as a new first reading, with the second reading and adoption to be held at the next regular City Council meeting.

**A motion was made by Council Member Bauters, seconded by Mayor Patz, to approve a new first reading this Ordinance as amended. The motion carried by the following vote:**

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

Enactment No: ORD 20-001

- 10.8.** [ID-2020-126](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into An Amendment To The Consulting Services Agreement For Sales Tax Audit Services With MuniServices, LLC. (Susan Hsieh)

**Attachments:** [Staff Report](#)  
[Original Consulting Services Agreement](#)  
[Draft Resolution](#)  
[Consulting Services Agreement Amendment](#)

Council discussed this item, which had been pulled for separate consideration by Council Member Donahue.

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

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

Enactment No: Resolution No. 20-29

## 11. PUBLIC HEARINGS

- 11.1.** [ID-2020-114](#) 3706 San Pablo Avenue Affordable Housing Project (Charles S. Bryant / Chadrick Smalley / Valerie Bernardo)

Public Hearing In Accordance With The Tax And Equity Fiscal Responsibility Act ("TEFRA") In Connection With The Proposed Issuance Of Revenue Bonds By The California Municipal Finance Authority ("CMFA"), A Joint Exercise Of Powers Authority And Public Entity Of The State Of California, In An Aggregate Amount Not To Exceed \$50,000,000, For The Development Of Affordable Housing At 3706 San Pablo Avenue, Emeryville, California ("Project")

Resolution Of The City Council Of The City Of Emeryville Approving The Issuance Of Revenue Bonds By The California Municipal Finance Authority To Finance An 87-Unit Affordable Multifamily Rental Housing Facility For The Benefit Of 3706 San Pablo Emeryville, L.P., And Certain Other Matters Relating Thereto

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

Economic Development and Housing Manager Chad Smalley gave the staff presentation and responded to Council Member questions.

PUBLIC HEARING OPEN: 8:20 p.m.

There was no testimony given.

PUBLIC HEARING CLOSED: 8:21 p.m.

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

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

Enactment No: Resolution No. 20-30

- 11.2.** [ID-2020-102](#) Ordinance Of The City Council Of The City Of Emeryville Amending Article 4 Of Chapter 4 Of The Planning Regulations To Eliminate The Minimum Parking Requirements And To Make Other Related Modifications To The Planning Regulations (CEQA Determination: Environmental Impact Report For General Plan Certified By The City Council On October 13, 2009) (Charles S. Bryant)

**Attachments:** [Staff Report](#)  
[Proposed Ordinance](#)  
[Exhibit A - Planning Regulations Amendments](#)

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

PUBLIC HEARING OPEN: 8:39 p.m.

There was no testimony given.

PUBLIC HEARING CLOSED: 8:39 p.m.

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

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

**A motion was made by Council Member Medina, seconded by Council Member Donahue, to approve the first reading and introduction of this Ordinance. The motion carried by the following vote:**

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

- 11.3. [ID-2020-103](#) Ordinance Of The City Council Of The City Of Emeryville Amending The Planning Regulations In Title 9 And The Building Regulations In Title 8 Of The Emeryville Municipal Code Regarding Accessory Dwelling Units And Junior Accessory Dwelling Units (CEQA Status: Exempt Pursuant To Public Resources Code Section 21080.17). (Charles S. Bryant / Diana Keena)

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

[Attachment 1 - Table of Current and New Requirements](#)

[Proposed Ordinance](#)

Associate Planner Diana Keena gave the staff presentation and responded to Council Member questions.

PUBLIC HEARING OPEN: 8:53 p.m.

Kiran Shenoy, through a comment submitted via online speaker comment card, stated that the draft ordinance conflicted with state law in several aspects, and enumerated those citations.

PUBLIC HEARING CLOSED: 8:56 p.m.

**A motion was made by Council Member Bauters, seconded by Mayor Patz, to table this item until the end of the meeting, in light of the public testimony received, and to allow staff to review that information. The motion carried by the following vote:**

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

Upon further consideration of the new information received, it was determined that this item should be continued to a future City Council meeting.

**A motion was made by Council Member Bauters, seconded by Mayor Patz, to continue consideration of this Ordinance to a future agenda. The motion carried by the following vote:**

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

## 12. ACTION ITEMS

- 12.1. [ID-2020-128](#) An Ordinance Of The City Council Of The City Of Emeryville Amending Chapter 40 Of Title 5 Of The Emeryville Municipal Code "Residential Landlord and Tenant Relations" To Provide A Repayment Plan For Rent In Arrears To Tenants Impacted By COVID-19 Emergency; CEQA Determination: Exempt Pursuant to California Public Resources Code Section 21080(b)(4) and State CEQA Guidelines



15269(c) and 15061(b)(3). (Michael Guina, Andrea Visveshwara)

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

Assistant City Attorney Andrea Visveshwara gave the staff presentation and responded to Council Member questions.

Council Member Bauters proposed amendments to the Ordinance and Regulations, and received majority support.

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

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

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

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

- 12.2.** [ID-2020-129](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Professional Services Contract To Implement The COVID-19 Emergency Rental Assistance Program For A Total Contract Amount Not To Exceed \$400,000, Appropriating \$400,000 From The Disaster Fund (Fund No. 277) To The Fiscal Year 2019-2020 Budget, And Directing A Donation Of \$31,500 From East Bay Community Energy To The Program Provider And Accepting And Directing Future Donations To The Program Provider (Charles S. Bryant / Chadrick Smalley / Valerie Bernardo)

**Attachments:** [Staff Report](#)  
[Draft Resolution](#)  
[Exhibit A - Program Guidelines](#)  
[Late Correspondence - East Bay Community Law Center - Shallyn Wells](#)  
[Late Correspondence - East Bay Community Law Center - Sabyl Landrum](#)  
[Late Correspondence - East Bay Community Law Center - Carmen Jovel](#)

Valerie Bernardo gave the staff presentation and responded to Council Member questions.

PUBLIC COMMENT:

Shallyn Wells, through a comment submitted via online speaker comment card, requested that the program guidelines be amended to not exclude Section 8 tenants, to include individuals who were not current on all rent due prior to March 19, 2020, and should not force tenants to bear the difference between “Actual Rent” and “Maximum Affordable Rent.”

Council discussion ensued, and direction was given for staff to implement Option 2A and Option 1B.

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

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

Enactment No: 19-01

- 12.3. [ID-2020-124](#)** Council Direction On Whether To Send Request Letters To Governor Newsom And Insurance Commissioner Lara Regarding Accommodations During the Corona Virus/COVID-19 Public Health Crisis.

**Attachments:** [Staff Report](#)  
[Draft Letter to Governor Newsom](#)  
[Draft Letter to Commissioner Lara](#)

Council waived presentation and gave staff direction to send the letter to Commissioner Lara as drafted but to not send the letter to Governor Newsom.

**A motion was made by Council Member Medina, seconded by Vice Mayor Martinez, to approve as amended this Other Item. The motion carried by the following vote:**

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

- 12.4. [ID-2020-125](#)** Council Discussion On Potential Ballot Measures For The November 2020 Election

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

**A motion was made by Council Member Medina, seconded by Council Member Donahue, to continue this item to a future City Council agenda. The motion carried by the following vote:**

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

### 13. DEPARTMENT HEAD REPORTS

- 13.1. [ID-2020-101](#) Planning Director's report on Planning Commission actions at the March 26, 2020 meeting:

Due to health and safety concerns regarding the current COVID-19 pandemic, the March 26, 2020 Planning Commission meeting was cancelled. All items have been rescheduled for the April 23, 2020 Planning Commission meeting.

The cancellation notice for the March 26, 2020 Planning Commission meeting can be viewed online at <http://ca-emeryville.civicplus.com/Archive.aspx?AMID=43&Type=Recent>

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

Council Member Bauters requested and received majority support for an urgency ordinance to come back on the April 21, 2020 agenda as a companion to the eviction moratorium ordinance in Item 10.5. He also requested an Action Item for April 21, 2020 to amend the definition of exempted landlords in the ordinance.

Council Member Donahue requested and received majority support to refer an item to the Budget and Governance Committee related to business license tax. He further requested an item related to elevator safety concerns and the potential for disease transfer.

Council Member Medina requested and received majority support for a future item to consider methods to potentially open streets to pedestrian use and create larger public spaces. She also requested that the pedestrian push buttons at traffic light intersections be deactivated to avoid virus transfer and the City Manager advised that this action was already underway.

Vice Mayor Martinez requested that an informational item be added to discuss Waste Management's response to the City's recent letter regarding proposed changes to handling of recycling. The City Manager advised that this item was planned for the April 21, 2020 agenda.

### 15. ADJOURNMENT

The meeting adjourned at 10:21 p.m.

**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