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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

Tuesday, September 1, 2020

7:16 PM

Teleconference

1. CALL TO ORDER

The meeting was called to order at 7:42 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 Mayor Patz, seconded by Council Member Bauters, to approve the Final Agenda, and moving Item 13.1 to be heard in advance of Item 11.1. 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

- 4.1. [ID-2020-404](#) Proclamation: Recognizing Joseph C. Melancon's Lifetime Of Service To The Emeryville Community

Attachments: [Proclamation](#)

Mayor Patz read the proclamation aloud, expressing appreciation for Mr. Melancon's years of service to the Emeryville community.

5. ANNOUNCEMENT OF COMMISSION / COMMITTEE VACANCIES

The City Clerk announced that there was one vacancy for a Business Representative on the Budget Advisory Committee and encouraged qualified candidates to apply.

6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS / REPORTS ON MEETING ATTENDANCE

Council Member Donahue reported that he had attended the League of California Cities East Bay Division meeting, where a speaker from UC Berkeley had presented a talk on racism. Council Member Bauters announced that Mayor Patz would be receiving the Solidarity Award at the upcoming Oakland Pride event. Council Member Medina reported on her attendance of the recent Gilman Fields meeting. Mayor Patz stated that, while he was not attending the Federal conference calls, he was reading the meeting notes.

7. CITY MANAGER'S REPORT

There was no report given.

8. EX PARTE COMMUNICATIONS

Council Member Bauters reported having had discussions with residents from Loop 22 regarding Item 11.2. Mayor Patz disclosed the same contact and additionally that he had spoken with the applicant.

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

A speaker spoke regarding the Sherwin Williams project, stating that the workers are in violation of the County's Public Health order, and that calls to complain have gone unanswered.

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. 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-2020-400](#) Warrants. (Bill Zenoni)

Attachments: [Staff Report](#)

[Wire Transfers](#)

[Check Register](#)

A motion was made to accept this Informational Report.

- 10.2. [ID-2020-369](#) Action Minutes of the July 21, 2020 Emeryville City Council Special Study Session. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.3. [ID-2020-366](#) Action Minutes of the July 21, 2020 Special Closed Session (City Council / Management of Emeryville Services Authority). (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.4. [ID-2020-368](#) Action Minutes of the July 21, 2020 Emeryville City Council Regular Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.5. [ID-2020-406](#) Action Minutes of the August 19, 2020 Emeryville City Council Special Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.6. [ID-2020-396](#) Resolution Of The City Council Of The City Of Emeryville Approving And Accepting The Side Letter Of Agreement Between The Management Of Emeryville Services Authority And SEIU Regarding Calculation And Payment Of Dispatch Staff Overtime During COVID-19 Emergency Schedule Implementation (Trish Raver)

In Conjunction with Management of Emeryville Services Authority Special Meeting Agenda Item 6.1

Attachments: [Staff Report](#)

[Draft Council Resolution](#)

[MESA SEIU Side Letter Agreement](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 20-88

- 10.7. [ID-2020-378](#) Resolution Of The City Council Of The City Of Emeryville Approving The 2020 Amendment Of The City Of Emeryville Conflict Of Interest Code. (Sheri Hartz)

Attachments: [Staff Report](#)
[Draft Resolution](#)
[Appendix A](#)
[Appendix B](#)
[Appendix C](#)
[Form 804.pdf](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 20-89

- 10.8. [ID-2020-393](#)** Resolution Of The City Council Of The City of Emeryville Authorizing The City Manager To Enter Into A Contract With Interstate Grading and Paving, Inc. In An Amount Of \$1,201,746.30; And Authorizing The City Manager To Approve Payments Of Possible Additional Costs As Contingency Expenditures Up To \$100,000, All For The Construction Of The Annual Street Rehabilitation And Preventive Maintenance Project Fiscal Year 2019/2020, Project No. EPW-19101 (CIP No. 17240005). (Mary Grace Houlihan / Ryan O'Connell)

Attachments: [Staff Report](#)
[Draft Resolution](#)
[Construction Contract \(Draft\)](#)
[Exhibit A - Project Area Map](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 20-90

- 10.9. [ID-2020-376](#)** Resolution of the City Council of the City of Emeryville Accepting the 40th Street/San Pablo/Avenue Median Rehabilitation Project, EPW Project 18-105 (CIP No. 16475033) as Complete and Authorizing the City Engineer to file a Notice of Completion with the Alameda County Clerk's to CIP Project No. 16475033 and Appropriating the Remaining Project Balance of \$166,376 to the General Capital Improvement Fund (Fund 475)

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

A motion was made to approve this Resolution.

Enactment No: Resolution No. 20-91

- 10.10. [ID-2020-392](#)** Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Purchase Three Marked Ford Explorer Police Enforcement Vehicles, In A Total Amount Not To Exceed \$117,352.91, From Folsom Lake Ford and the necessary emergency patrol vehicle

equipment from Pursuit North, at an estimated amount of \$42,079.01
And to Appropriate Said Funds from Fund 660 (Chief Schreeder /
Andrew Cassianos)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Price Quote: Folsom Ford Patrol Bid 2021](#)

[Price Quote: Folsom Ford K-9 Bid 2021](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 20-92

- 10.11. [ID-2020-389](#)** Resolution of the City Council Of The City Of Emeryville Authorizing the City Manager to Accept A Grant Award on Behalf of the Police Department, From the California Office of Traffic Safety, Selective Traffic Enforcement Program (STEP) in the amount of \$46,000 For Funds Related to Improving Traffic, Bicycle, and Pedestrian Safety Within the City And That The Funds Be Deposited And Appropriated into Grant Fund 254 (Robert Schreeder / Oliver Collins)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Grant Application](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 20-93

- 10.12. [ID-2020-390](#)** Resolution of the City Council Of The City Of Emeryville Authorizing the City Manager to Accept A Grant Award on Behalf of the Police Department, From the Federal DOJ, Bureau of Justice Assistance in the amount of \$32,903 For Funds Related to Responding to the Corona Virus Pandemic Within the City And That The Funds Be Deposited And Appropriated into Grant Fund 254 (Robert Schreeder / Oliver Collins)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Grant Application](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 20-94

- 10.13. [ID-2020-394](#)** Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Second Amendment To The Professional Services Agreement With Rio Grande Pacific

Technology (Formerly Known As CTC, Inc.), For An Additional Amount Not To Exceed \$170,000 For Quiet Zone Safety Engineering Measures, For A Total Contract Amount Not To Exceed \$589,611.49 And Approving Assignment Of the Contract From CTC, Inc to Rio Grande Pacific Tech. (Mary Grace Houlihan / Ryan O'Connell)

Attachments: [Staff Report](#)

[Attachment A - Original Contract.pdf](#)

[Attachment B - 1st Amendment PSC](#)

[Draft Resolution](#)

[Professional Services Contract 2nd Amendment \(Riotech\)](#)

[Exhibit A-2 Scope of Work \(2nd Amendment\)](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 20-95

13. DEPARTMENT HEAD REPORTS

13.1. [ID-2020-388](#) Planning Director's report on Planning Commission actions at the August 27, 2020 meeting:

- (a) Emeryville Center for the Arts. Consideration of a Conditional Use Permit and Design Review permit for an adaptive reuse proposal that will involve renovation of an existing, 30,000 square foot vacant building at 4060 Hollis Street to accommodate an arts and cultural center, and determination of conformity with the General Plan. The project will involve removal of 6 street trees on Hollis Street and 4 trees on 40th Street.*
- (b) BMR Emeryville Center of Innovation. A third Study Session to review a proposal for a Final Development Plan to construct four new multi-tenant research and development buildings and a supporting parking garage as part of implementation of the Emeryville Life Sciences Center Planned Unit Development/Preliminary Development Plan (PUD/PDP), also referred to as the "Chiron PUD/PDP" (PUD 93-2), that was approved by the City Council on August 15, 1995.

* 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 27, 2020 Planning Commission meeting
c a n b e v i e w e d o n l i n e a t

<http://ca-emeryville.civicplus.com/Archive.aspx?AMID=43&Type=Recent>

11. PUBLIC HEARINGS

- 11.1. [ID-2020-391](#) Emeryville Art Center Project: (Charles S. Bryant / Chadrick Smalley / Emi Thériault)

Attachments: [Staff Report](#)

Economic Development and Housing Manager Chad Smalley gave the staff presentation and responded to Council Member questions. David Dial and Max Radin, Orton Development, Inc., were also present to answer questions.

PUBLIC HEARING OPENED: 8:30 PM

A speaker stated that a successful cafe was crucial to the success of the project, and that assurances should be made in writing that one will be located there.

PUBLIC HEARING CLOSED: 8:32 PM

- 11.1.1 [ID-2020-381](#) An Ordinance Of The City Council Of The City Of Emeryville Approving And Authorizing The City Manager To Enter Into And Execute A Lease Disposition And Development Agreement Between The City Of Emeryville And 4060 Hollis, LLC And Related Ground Lease For The Development And Operation Of An Art Center At 4060 Hollis Street, Emeryville, California (APN 049-0618-004) And Authorizing The City Manager To Take Action To Effectuate The Lease Disposition and Development Agreement And Related Ground Lease (CEQA Status: Exempt Pursuant To State CEQA Guidelines Sections 15301 and 15332)

Attachments: [Draft Ordinance](#)

[Exhibit A - Lease Disposition and Development Agreement](#)

A motion was made by Council Member Bauters, seconded by Council Member Medina, to read the 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 Vice Mayor Martinez, seconded by Council Member Medina, to approve 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

- 11.1.2** [ID-2020-383](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Professional Services Contract With Macks Craic DBA Mack5 For Construction Monitoring Of The Emeryville Art Center Project In An Amount Not To Exceed \$144,000

Attachments: [Draft Resolution](#)

[Exhibit A - Professional Services Contract](#)

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. 20-96

- 11.2.** [ID-2020-382](#) An Ordinance Of The City Council Of The City Of Emeryville Amending Article 2 Of Chapter 3 And Article 22 Of Chapter 5 Of The Planning Regulations At Title 9 Of The Emeryville Municipal Code To Allow Cannabis Manufacturing Businesses In Additional Zoning Districts And To Allow Reduced Distances Between Cannabis Sales Activities And Parks, Greenways And Other Sensitive Uses (CEQA Status: Exempt Pursuant To State CEQA Guidelines Sections 15332 And 15061(b)(3)) (Charles S. Bryant / Miroo Desai)

Attachments: [Staff Report](#)

[Proposed Ordinance](#)

Senior Planner Miroo Desai gave the staff presentation and responded to Council Member questions.

PUBLIC HEARING OPENED: 8:45 PM

A speaker stated that the cannabis regulations are capricious and should be abolished.

PUBLIC HEARING CLOSED: 8:49 PM

A motion was made by Council Member Medina, seconded by Council Member Donahue, 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 Mayor Patz, seconded by Vice Mayor Martinez, to approve the first reading 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. ACTION ITEMS

- 12.1.** [ID-2020-380](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Submit Applications To The California Department Of Transportation (Caltrans) And The Metropolitan Transportation Commission (MTC) For An Active Transportation Program Grant In The Amount Of \$13,915,000 For The Bicycle And Pedestrian Portions Of The 40th And San Pablo Bus Hub Project. (Charles S. Bryant / Diana Keena)

Attachments: [Staff Report](#)

[Attachment 1 - Layout Plan](#)

[Draft Resolution](#)

[Exhibit A - Grant Application](#)

[Exhibit B - Commission on Aging Letter of Support](#)

[Exhibit C - BPAC Letter of Support](#)

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

PUBLIC COMMENT

1. A speaker stated that debate should not be held during the clarifying questions portion of the discussion, and asked Ms. Keena whether the bicycle and vehicle separation over the bridge was concrete k-rail.

A motion was made by Council Member Bauters, seconded by Council Member Medina, to approve the Resolution as amended to direct staff to apply for the grant but on the condition that, within three business days, staff research the question of whether the City could make design changes following the application and provide that answer to the Council in writing. If not, staff is directed to apply for design funding 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

Enactment No: Resolution No. 20-97

- 12.2.** [ID-2020-377](#) Ordinance Of The City Council Of The City Of Emeryville Amending Emeryville Municipal Code Section 4-.9.01 To Expand The Scope Of The Transportation Committee To Consolidate The Transportation Committee With The Public Works Committee Created By Resolution No. 95-131; CEQA Determination: Exempt Pursuant to CEQA Guideline 15061(b)(3)

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

Council waived staff's presentation on this item.

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

14. FUTURE AGENDA ITEM REQUESTS FROM COUNCIL MEMBERS

Council Member Donahue requested and received majority support that, in light of the recent electrical storms and fires, the Sustainability Committee provide an update to Council on progress made on the Climate Action Plan 2030. Council Member Medina asked that the Transportation Committee discuss enforcement of bike lane blocking and also review BPAC's bike parking standards. Majority support was received on both requests.

Vice Mayor Martinez asked and received support that EDAC discuss delivery service fees in September and that a report be brought to the Council in October.

15. ADJOURNMENT

The meeting adjourned at 9:47 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**