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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, October 6, 2020

7:16 PM

Teleconference

1. CALL TO ORDER

The meeting convened via teleconference at 7:17 p.m. In advance of this meeting, 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 Donahue, seconded by Council Member Medina, to approve the Final 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

4. SPECIAL ORDERS OF THE DAY

There were no Special Orders listed.

5. ANNOUNCEMENT OF COMMISSION / COMMITTEE VACANCIES

No announcement was made.

6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS / REPORTS ON MEETING ATTENDANCE

Mayor Patz reported that the recent Celebration of the Arts event, held virtually this year, had been a great success and thanked everyone for

their efforts. He added that Ron Lytle, freelance writer, composer and Resident Musical Playwright with East Bay Children's Theater, would be receiving a commendation for his leadership in the arts in Alameda County.

7. CITY MANAGER'S REPORT

City Manager Daniel also reported on the successful Celebration of the Arts event, with special thanks given to U.S. Digital Response for taking it online, and to staff members Chad Smalley, Emi Theriault and Amber Evans for their support. She concluded by announcing that new Finance Director Brad Farmer would start work for the City on November 30.

8. EX PARTE COMMUNICATIONS

Council Member Bauters reported having had communications with the applicants regarding Item 11.1.

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

Adrienne Robinson spoke regarding Police Dispatch schedule changes and issues that will need to be discussed at a future meeting.

10. CONSENT ITEMS

Approval of the Consent Agenda

A motion was made by Council Member Medina, seconded by Mayor Patz, 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-2020-456](#) Warrants. (Bill Zenoni)

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

A motion was made to accept this Informational Report.

10.2. [ID-2020-439](#) Action Minutes of September 15, 2020 Special Closed Session (City Council / City of Emeryville as Successor Agency to the Emeryville Redevelopment Agency). (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

10.3. [ID-2020-441](#) Action Minutes of September 15, 2020 Emeryville City Council Special Study Session. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.4. [ID-2020-442](#) Action Minutes of September 15, 2020 Emeryville City Council Regular Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.5. [ID-2020-443](#) 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 \$75,282 To Support Food And Clothing Distribution To Persons Experiencing Homelessness And Those Near-Homelessness For Fiscal Year 2020-2021 (Charles S. Bryant / Chadrick Smalley / Emi Thériault)

Attachments: [Staff Report](#)

[Attachment 1 - ECAP Annual Report FY 19-20](#)

[Attachment 2 - ECAP Grant Application FY 20-21](#)

[Draft Resolution](#)

[Exhibit A - Grant Recipient Contract](#)

[APPROVED Resolution No. 20-103](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 20-103

- 10.6. [ID-2020-451](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A Three (3) Year Maintenance Contract In The Amount Of \$69,189.00 With Pestmaster Services, Incorporated For Citywide Integrated Pest Management Services At Various City Owned Buildings For Fiscal Years 2020/21, 2021/22, And 2022/23, And Authorizing The City Manager To Execute Up To Two (2) Additional One-year Extensions Not To Exceed \$53,439.00, Contingent Upon The City Council Appropriating Funds For The Applicable Fiscal Year, For A Total Contract Value Not To Exceed \$122,628.00. (Mary Grace Houlihan / Joseph Aguilera)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Citywide Integrated Pest Management Services Contract](#)

[APPROVED Resolution No. 20-104](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 20-104

- 10.7. [ID-2020-450](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To File An Application For ACTC COVID-19 Rapid Response Bicycle And Pedestrian Grant Program Funding For The Shared Doyle Street Quick-Build Project. (Mary Grace Houlihan / Ryan O'Connell)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Project Area Map](#)

[Draft Grant Application](#)

[APPROVED Resolution No. 20-105](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 20-105

11. PUBLIC HEARINGS

- 11.1. [ID-2020-444](#) 47th Street Homes, 1034-1042 47th Street (UPDR18-002) (Continued from September 15, 2020) (Charles S. Bryant / Navarre Oaks)

Attachments: [Staff Report](#)

[Staff Report from September 15, 2020](#)

[Attachment 1 - Applicant Statement 05-04-20](#)

[Attachment 2 - Site Photographs and Locations](#)

[Attachment 3 - 47th Street Housing Conditions Photos](#)

[Attachment 4 - Tree Inventory & Assessment 06-04-20](#)

[Attachment 5 - City Arborist Peer Review 06-03-20](#)

[Attachment 6 - Correspondence to Planning Commission 06-25-20](#)

[Attachment 7 - Applicant Response Letter 08-25-20](#)

[Attachment 8 - Plans Dated 06-25-20](#)

[Late Correspondence - Charles J. Higley](#)

Vice Mayor Martinez recused herself from consideration of this item due to the proximity of her residence to the project, and left the virtual dais.

Assistant Planner Navarre Oaks gave the staff presentation. Mark Rhoades, speaking on behalf of the applicant, made further comments and both speakers responded to Council Member questions.

PUBLIC HEARING OPEN: 7:35 p.m.

1. Jahleel Griffith-Stout spoke in opposition to the project
2. Dana Westmoreland, (online comment read aloud by City Clerk), spoke in opposition to the project being approved.
3. Brian Donahue spoke against the project because it did not include affordability and stated that the Council had the ability to vote no.
4. Jorge Lopez spoke in opposition to project approval, citing the impact it would have on the neighborhood.

Following the testimony given thus far in the Public Hearing, a recess was taken to allow the applicant to consider a request for revisions to the Conditions of Approval made by Council Member Bauters.

Recess: 8:04 p.m. - 8:15 p.m.

Upon reconvening, Mr. Rhoades stated on behalf of the applicant that they would be amendable to considering the Council's proposed amendment.

A motion was made by Council Member Bauters, seconded by Mayor Patz, to table action on this matter to later in the meeting, following consideration of Items 12.1 and 12.2 on the agenda, to allow Council Member Bauters time to craft proposed language amending the Conditions of Approval. The motion carried by the following vote:

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

Recused: 1 - Vice Mayor Martinez

12. ACTION ITEMS

- 12.1.** [ID-2020-395](#) Resolution Of The City Council Of The City Of Emeryville Denying Bid Protest Submitted By FBD Vanguard Construction, Inc. And Waiving Variance In Bid Submitted By Burch Construction Company, Authorizing The City Manager To Enter Into A Contract With Burch Construction Company In An Amount Not To Exceed \$155,375.00; And Authorizing The City Manager To Approve Payments Of Possible Additional Costs As Contingency Expenditures Up To \$20,000, All For The Construction Of The San Pablo Avenue Midblock Crosswalk Project, Project No. EPW-19103 (CIP No. 18221006). (Mary Grace Houlihan / Michael Roberts)

Attachments: [Staff Report](#)
[Draft Resolution](#)
[Exhibit A - Project Area Map](#)
[Public Bid Construction Contract](#)
[Exhibit B: Insurance Requirements](#)
[Bid Protest Letter : Vanguard Construction](#)
[APPROVED Resolution No. 20-107](#)

Council waived staff's presentation on this item and there were no questions asked.

PUBLIC COMMENT

1. Brian Donahue made no comment during his allotted three minute time period.

A motion was made by Vice Mayor Martinez, 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. 20-107

- 12.2.** [ID-2020-429](#) Report To The City Council Of The City Of Emeryville Of Actions Taken By The Bicycle/Pedestrian Advisory Committee For Council Consideration. (Mary Grace Houlihan / Nancy Humphrey)

Attachments: [Staff Report](#)
[BPAC Presentation on Potential COVID Response Actions](#)
[Motion Tracking Matrix Q2](#)
[BPAC Recommendations COVID Response Actions](#)
[Late Information: Updated Matrix List Staff Report](#)
[Late Information: Updated Motion Tracking Matrix Q2](#)

Environmental Programs Supervisor Nancy Humphrey gave the staff presentation and responded to Council Member questions.

PUBLIC COMMENT

1. Jordan Wax spoke regarding the most recent BPAC meeting, where the Powell/Christie intersection was again deemed as a high priority and stated that better wayfinding/welcoming signage should be installed.

2. Brian Donahue referred to the Mayor's camera being off and asked to be allowed three minutes uninterrupted.

A motion was made by Council Member Medina, seconded by Mayor Patz, to forward the recommendations as follows: Items 1,3,5 and 19 to be considered as part of the Active Transportation Plan update; Items 4, 10-13 and 20 referred to the Public Works/Transportation Committee and Items 6-9 referred to the Public Safety Committee. Further, the Council directed that future reports include estimates of recommendation costs and staff time, and that Item 4.2 be forwarded to the City Clerk to be considered at the time of Committee/Commission recruitment. 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: 19-09

- 11.1. [ID-2020-444](#) 47th Street Homes, 1034-1042 47th Street (UPDR18-002) (Continued from September 15, 2020) (Charles S. Bryant / Navarre Oaks)

Attachments: [Staff Report](#)

[Staff Report from September 15, 2020](#)

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[Attachment 8 - Plans Dated 06-25-20](#)

[Late Correspondence - Charles J. Higley](#)

Council returned to consideration of Item 11.1 with Council Member Bauters sharing his proposed amendment to the Conditions of Approval.

PUBLIC HEARING CLOSED: 8:55 p.m.

- [ID-2020-445](#) Resolution Of The City Council Of The City Of Emeryville Approving A Conditional Use Permit And Design Review Permit For "47th Street Homes", To Demolish Four Existing Single-Unit Homes And Replace Them With Three Duplexes On One Parcel At 1034-1042 47th Street (APN: 49-1175-8-3) (CEQA Determination: Exempt Pursuant To CEQA Guidelines Sections 15303(b) and 15061(b)(3))

Attachments: [Draft Resolution](#)

[Exhibit A - Conditions of Approval](#)

[APPROVED Resolution No. 20-106](#)

A motion was made by Council Member Bauters, seconded by Council Member Medina, to approve the Resolution with the Conditions of Approval amended to add section II.B.6, as follows:

Applicant-Proffered Regulatory Agreement for Deed-Restricted Unit. Before the issuance of a demolition permit, the applicant shall enter into a regulatory agreement with the city for the provision of one (1) deed-restricted, two-bedroom unit, for a period of twenty (20) years, on LLA Parcel 1 of APN 49-1175-8-3, as it appears in the application at the time of approval. The regulatory agreement is to be recorded against the property. A rental unit restricted by the regulatory agreement shall be available to a low-income or very low-income household, as defined using the Area Median Income (AMI) limits and standards set forth by the City of Emeryville's Housing Affordability Table. An ownership unit restricted by the regulatory agreement shall be available to a moderate-income or low-income household, as defined using the Area Median Income (AMI) limits and standards set forth by the City of Emeryville's Housing Affordability Table. The city manager is authorized to negotiate and execute any and all additional provisions of the regulatory agreement that are in furtherance of and consistent with this provision. This provision was offered by the applicant and accepted by the city council at the public hearing approving the accompanying resolution.

The motion carried by the following vote:

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

Recused: 1 - Vice Mayor Martinez

Enactment No: Resolution No. 20-106

13. DEPARTMENT HEAD REPORTS

13.1. [ID-2020-447](#) Planning Director's report on Planning Commission actions at the September 24, 2020 meeting:

- (a) San Pablo Affordable Apartments. Second study session to review a proposal for redevelopment of a 0.39 acre site at 3600 San Pablo Avenue with a 7-story, 90-unit, 100% affordable housing project with a minimum of 3,600 square feet of ground floor commercial space for the Emeryville Citizens' Assistance Program (ECAP). The applicant proposes that the project be processed under SB 35, which mandates ministerial approval (i.e. staff level), and AB 1763, which specifies no density limit for projects within one-half mile of transit.

The packet for the September 24, 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

Vice Mayor Martinez requested and received majority support to add a discussion to the next regular Council meeting agenda on East Bay Community Energy's proposal to discontinue offering its Brilliant 100 product.

Council Member Bauters requested and received majority support to discuss at a future date the outcome of an upcoming Healthy Homes Board decision on the impact to tenants of fumigating rental properties with termiticides. He also requested and received majority support to add an item before the end of the year to discuss accelerating the subject of the demolition of homes related to displacement of vulnerable populations when developing the objective housing standards.

15. ADJOURNMENT

The meeting adjourned at 9:09 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