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## CITY OF EMERYVILLE

### ACTION MINUTES

#### Special Closed Session

Members:

Mayor Dianne Martinez  
Vice Mayor Scott Donahue  
Council Member John J. Bauters  
Council Member Ally Medina  
Council Member (Vacant)

City Council / Successor Agency / Management of Emeryville  
Services Authority

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Tuesday, July 20, 2021

4:00 PM

Teleconference

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#### 1. CALL TO ORDER

The meeting convened via teleconference at 4:01 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:** 4 - Mayor Dianne Martinez  
Vice Mayor Scott Donahue  
Council Member John J. Bauters  
Council Member Ally Medina

#### 3. EX PARTE COMMUNICATIONS

Mayor Martinez stated that she had conferred with the Vice Mayor regarding the matter listed under Item 7.1.1.

#### 4. PUBLIC COMMENT (on Closed Session Items)

There were no comments made.

#### 5. CLOSED SESSION - CITY OF EMERYVILLE AS SUCCESSOR AGENCY TO THE EMERYVILLE REDEVELOPMENT AGENCY

##### 5.1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Pursuant to Government Code Section 54956.9(d)(1):

5.1.1. [ID-2021-371](#) The Successor Agency to the Former Emeryville Redevelopment Agency and the City of Emeryville v. Swagelok Company, et. al., U.S.D.C., Case No. 17-CV-00308-WHO

There was no reportable action on this matter.

- 5.1.2. [ID-2021-372](#) **Successor Agency to the Redevelopment Agency of the City of Emeryville v. California Department of Finance, et. al. -**  
Sacramento County Superior Court, Case No. 34-2019-80003149  
Third District Court of Appeal, Case No. C091999  
There was no reportable action on this matter.

## 6. CLOSED SESSION - CITY OF EMERYVILLE

### 6.1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Pursuant to Government Code Section 54956.9(d)(1):

- 6.1.1. [ID-2021-373](#) **In the Matter of Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012,** 9th Circuit Court of Appeals, Appeal No. 20-72749; WT Docket No. 19-250; RM-11849.

There was no reportable action on this matter.

- 6.1.2. [ID-2021-374](#) **Raq Bey v. Jared Malec, Kevin Goodman, Ronald Shepherd, Dino Cristiani, Andrew Yu**  
Alameda County Superior Court Case No. RG18897580  
9th Circuit Court of Appeals Case No. 20-16177

There was no reportable action on this matter.

- 6.1.3. [ID-2021-375](#) **Kortz v. CA Department of Transportation**  
Alameda County Superior Court Case No. RG17-849272  
There was no reportable action on this matter.

- 6.1.4. [ID-2021-376](#) **The Successor Agency to the Former Emeryville Redevelopment Agency and the City of Emeryville v. Swagelok Company, et. al.,** U.S.D.C., Case No. 17-CV-00308-WHO

There was no reportable action on this matter.

- 6.1.5. [ID-2021-377](#) **Carpiaux v. City of Emeryville,** U.S.D.C., Case No. C21-01285-JSC

There was no reportable action on this matter.

- 6.1.6. [ID-2021-378](#) **Jon Reed, Laura Berry, Frank Eugene Moore III, Gabriel Smithson, and Where Do We Go Berkeley v. City of Emeryville, et al.,** U.S.D.C., Case No. 21-cv-2781-YGR

There was no reportable action on this matter.

**6.1.7. [ID-2021-379](#) Welch v. Safe Harbor Marinas, LLC, et al.**

Alameda Superior Court Case No. HG21101262

A motion was made by Council Member Bauters, seconded by Mayor Martinez, to authorize the City Attorney to defend this lawsuit. The motion carried by the following vote:

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

**6.2. CONFERENCE WITH REAL PROPERTY NEGOTIATOR, pursuant to Government Code Section 54956.8****6.2.1. [ID-2021-380](#) Property: 1500 Park Avenue, #322, Emeryville, CA (APN 049-1035-097)**

**Agency Negotiators:** Christine Daniel, City Manager; Andrea Visveshwara, Interim City Attorney.

**Negotiating Parties:** City of Emeryville, Rob Arias, Jr.

**Under Negotiations:** Direction regarding price and terms of real estate negotiations.

There was no reportable action on this matter which is related to Item 10.7 on the regular meeting agenda.

**7. CLOSED SESSION - CITY OF EMERYVILLE / MANAGEMENT OF EMERYVILLE SERVICES AUTHORITY****7.1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION, pursuant to Government Code Section 54957:****7.1.1. [ID-2021-381](#) Title: City Manager**

Mayor Martinez stated that there was no reportable action on this matter.

**8. REPORTING OUT OF CLOSED SESSION**

Interim City Attorney Visveshwara reported out on Closed Session as shown above, with the exception of Item 7.1.1, upon which matter Mayor Martinez gave the report.

**9. ADJOURNMENT**

The meeting adjourned at 5:12 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