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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

Tuesday, September 19, 2017

7:16 PM

Council Chambers

1. CALL TO ORDER AND COUNCIL MEMBER OATH AND SONG

The meeting was called to order at 7:40 p.m. In lieu of reciting the Council Oath and song, the City Council began the meeting with a moment of silence for the victims of Hurricane Maria in St. Croix.

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 Patz, seconded by Council Member Medina, to approve the Final 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

3. APPROVAL OF FINAL AGENDA

A motion was made by Vice Mayor Bauters, seconded by Council Member Medina, to reconsider the Approval of the Final Agenda, and to reorder the agenda to hear Item 12.4 immediately following 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

4. SPECIAL ORDERS OF THE DAY

There were no Special Orders listed.

5. ANNOUNCEMENT OF COMMISSION / COMMITTEE VACANCIES

City Clerk Sheri Hartz reported on current and upcoming vacancies on the City's community advisory committees.

2. ROLL CALL

6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS

Mayor Scott Donahue reported that he would be working to have the City qualify for a California Energy Commission grant for a micro grid of regenerative power.

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

1. Andre Carpiaux objected to Agenda Item 10.8.
2. Brian Donahue spoke regarding his request for the City to fly a Black Lives Matter flag at City Hall.

8. CITY MANAGER'S REPORT

There was no report given.

9. EX PARTE COMMUNICATIONS

Vice Mayor John Bauters reported having met with Tim Bacon from the Public Market regarding Agenda Item 11.1.

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, pulling Item 10.8 for separate consideration. 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-2017-572](#) Warrants. (Susan Hsieh)

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

A motion was made to accept this Informational Report.

- 10.2. [ID-2017-564](#) Action Minutes of the September 5, 2017 City Council Special

Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.3.** [ID-2017-565](#) Action Minutes of the September 5, 2017 City Council Special Study Session Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.4.** [ID-2017-567](#) Action Minutes of the September 5, 2017 Emeryville City Council Regular Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.5.** [ID-2017-553](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into An Agreement By And Between The County Of Alameda And The City Of Emeryville For The Purpose Of Carrying Out The Community Development Block Grant Program For Fiscal Year 2017-18 (Charles S. Bryant / Chadrick Smalley / Catherine Firpo)

Attachments: [Staff Report](#)

[Resolution](#)

[Exhibit A – CDBG Agreement for FY 2017-18](#)

[APPROVED Resolution No. 17-143](#)

A motion was made to approve this Resolution.

Enactment No: 17-143

- 10.6.** [ID-2017-554](#) Resolution Of The City Council Of The City Of Emeryville Determining That Public Convenience Or Necessity Would Be Served By The Issuance Of A License By The Department Of Alcoholic Beverage Control To New Seasons Market LLC At 6201 Shellmound Street, Emeryville, California (Charles S. Bryant / Navarre Oaks)

Attachments: [Staff Report](#)

[Resolution](#)

[APPROVED Resolution No. 17-144](#)

A motion was made to approve this Resolution.

Enactment No: 17-144

- 10.7. [ID-2017-555](#) Second 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](#)

[APPROVED Ordinance No. 17-009](#)

A motion was made to approve this Ordinance.

Enactment No: 17-009

- 10.8. [ID-2017-570](#) Resolution Of The City Council Of The City Of Emeryville In Support Of Citizens For East Shore Parks Resilient Shoreline Program To Raise Awareness About Sea-Level Rise And Establish Resilient Shoreline Solutions To Protect Against The Destruction Of Sea-Level Rise (Sheri Hartz)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Request Letter](#)

[APPROVED Resolution No. 17-145](#)

Mayor Scott Donahue requested to pull this item in respect to a citizen request for further discussion.

PUBLIC COMMENT

1. Andre Carpiaux objected, stating there was no good science to support the concept of sea level rise.
2. Louise Engel, spoke regarding sea level rise, stating that she agreed with scientists who warn about preparing for it.
3. Rene Terlet spoke in support of the item.

A motion was made by Council Member Martinez, seconded by Council Member Medina, to approve 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: 17-145

- 10.9. [ID-2017-571](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The Acceptance Of The City's Apportionment of Alameda County's 2017 E.J. Byrne Justice Assistance Grant (JAG) In The Amount Of \$9,761.25 And Appropriating Said

Amount To Grant Fund 254. (Jennifer Tejada)

Attachments: [Staff Report](#)

[Resolution](#)

[APPROVED Resolution No. 17-146](#)

A motion was made to approve this Resolution.

Enactment No: 17-146

11. PUBLIC HEARINGS

- 11.1. [ID-2017-561](#) Revocation Or Modification Of Public Market Noise Waiver (Charles S. Bryant / Miroo Desai)

Attachments: [Staff Report](#)

[Public Comment.Krafchick_Marcelline](#)

[Attachment 1 - Resolution No. 17-128](#)

[Attachment 2 - Letter to applicant dated August 29, 2017](#)

[Attachment 3 - Response email from applicant dated August 29, 2017](#)

Senior Planner Miroo Desai gave the staff presentation and responded to Council questions. Tim Bacon, representing the Public Marketplace, also responded to Council questions.

Public Hearing Open: 8:38 p.m.

1. Andre Carpiaux spoke regarding a bias against the working man and the noise associated with work.
2. Nathaniel Centeno spoke regarding prior practices with regard to noise complaints.
3. Brian Donahue displayed the stop work order that had been issued on this project, stating that had never happened since the ordinance was adopted.

Public Hearing Closed: 8:45 p.m.

- 11.1.1. [ID-2017-562](#) Resolution Of The City Council Of The City Of Emeryville Revoking A Waiver From The Noise Ordinance (Resolution No. 17-128) Granted By The City Council On July 25, 2017 To AG-CCRP Public Market, L.P. For Construction Work On All Saturdays Between July 29, 2017 And November 11, 2017 At the Public Market For Streetscape Work; CEQA Determination: Exempt Pursuant to CEQA Guideline Section 15061(b)(3)

Attachments: [Resolution to Revoke Noise Waiver](#)

[APPROVED Resolution No. 17-147](#)

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

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

Noes: 1 - Mayor Donahue

Enactment No: 17-147

- 11.1.2.** [ID-2017-563](#) Resolution Of The City Council Of The City Of Emeryville Modifying Conditions of Approval Of A Waiver From The Noise Ordinance (Resolution 17-128) Granted By The City Council On July 25, 2017 To AG-CCRP Public Market, L.P. For Construction Work On All Saturdays Between July 29, 2017 And November 11, 2017 At the Public Market For Streetscape Work; CEQA Determination: Exempt Pursuant to CEQA Guideline Section 15061(b)(3)

Attachments: [Resolution](#)

No action was taken on this Resolution.

- 11.2.** [ID-2017-578](#) Adoption Of The Budget For The City Of Emeryville For The 2017-18 And 2018-19 Fiscal Years (FY), Appropriation Of Funds From The FY 2016-17 General Fund Unassigned Fund Balance, And The Adoption Of The Appropriations Limit For The 2017-18 Fiscal Year (Susan Hsieh)

Attachments: [Staff Report](#)

[Budget FY2017-18 and 2018-19](#)

Finance Manager Susan Hsieh gave a staff presentation and responded to Council questions.

Public Hearing Open: 8:52 p.m.

Miroo Desai, SEIU Chapter President, spoke regarding the membership and stated that they will be monitoring Council's expectations.

Public Hearing Closed: 8:53 p.m.

- 11.2.1.** [ID-2017-579](#) Resolution Of The City Council Of The City Of Emeryville Adopting The Budget For The City Of Emeryville For The 2017-18 And 2018-19 Fiscal Years (FY) And Appropriating Funds From The FY 2016-17 General Fund Unassigned Fund Balance. (Susan Hsieh)

Attachments: [1. Resolution](#)
[2. Appendix A - City of Emeryville Budget Philosophy](#)
[3. Appendix B - General Fund & Economic Uncertainty Reserve Policy](#)
[4. Appendix C - Reserve Policy Residual Property Tax](#)
[5. Appendix D - FY 16-17 Proposed Transfers](#)
[6. Appendix E - Citywide Expenditures](#)
[7. Appendix F - Capital Project List](#)
[APPROVED Resolution No. 17-148](#)

A motion was made by Vice Mayor Bauters, seconded by Council Member Patz, to approve 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: 17-148

- 11.2.2.** [ID-2017-580](#) Resolution Of The City Council Of The City Of Emeryville Adopting The Appropriations Limit For The 2017-18 Fiscal Year At \$105,081,337 (Susan Hsieh)

Attachments: [Resolution](#)
[Appendix A - Gann Limit Calculation FY 17-18](#)
[APPROVED Resolution No. 17-149](#)

A motion was made by Vice Mayor Bauters, seconded by Council Member Martinez, to approve 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: 17-149

- 11.3.** [ID-2017-556](#) Introduction And First Reading Of An Ordinance Of The City Council Of The City Of Emeryville Amending The Planning Regulations In Title 9 Of The Emeryville Municipal Code Regarding Accessory Dwelling Units (Continued From May 2, 2017 City Council Meeting) (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(b)(3) (Charles S. Bryant / Diana Keena)

Attachments: [Staff Report](#)
[Attachment 1 - Accessory Dwelling Units Study](#)
[Attachment 2 - May 2, 2017 Staff Report](#)
[Ordinance](#)

Associate Planner Diana Keena gave the staff report and responded

to Council questions.

Public Hearing Open: 9:04 p.m.

No testimony was given.

Public Hearing Closed: 9:07 p.m.

A motion was made by Vice Mayor Bauters, seconded by Council Member Patz, 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 Vice Mayor Bauters, seconded by Council Member Patz, to approve as amended 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. ACTION ITEMS

- 12.1. [ID-2017-389](#) Introduction And First Reading Of An Ordinance Of The City Of Emeryville Amending Section 5-37.04 Of Chapter 37 Of Title 5 Of The Emeryville Municipal Code, "Minimum Wage, Paid Sick Leave, And Other Employment Standards"; CEQA Determination: Exempt Pursuant To CEQA Guideline 15061(b)(3) And 15378(b)(3)

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

There was no staff presentation requested.

PUBLIC COMMENT

There were no comments made.

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

- 12.2.** [ID-2017-531](#) Introduction And First Reading Of An Ordinance Of The City Council Of The City Of Emeryville Adding Chapter 26 Construction And Demolition Waste Requirements, To Title 8 Of The Emeryville Municipal Code; And Amending Section 1-2.01(f) Of Chapter 2 Of Title 1 Of The Emeryville Municipal Code Regarding Violations: CEQA Determination: Exempt Pursuant to CEQA Guidelines 15061(b)(3) and 15378(b)(3). (Andrew Clough / Nancy Humphrey)

Attachments: [Staff Report](#)
[Cover Letter Re: Ordinance Chapter Correction](#)
[Ordinance](#)

Public Works Director Andrew Clough gave the staff report and responded to Council questions.

PUBLIC COMMENT

There were no comments heard.

A motion was made by Vice Mayor Bauters, seconded by Council Member Medina, 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 Medina, seconded by Council Member Martinez, to approve the first reading and introduction of the Ordinance as amended. The motion carried by the following vote:

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

- 12.3.** [ID-2017-557](#) Resolution Of The City Council Of The City Of Emeryville Approving The Release Of A Request For Qualifications For A Public Art Installation At The Emeryville Marina (Charles S. Bryant / Chadrick Smalley / Amber Evans)

Attachments: [Staff Report](#)
[Resolution](#)
[Exhibit A - Request for Qualifications](#)
[APPROVED Resolution No. 17-150](#)

Community Development Coordinator Amber Evans gave the staff report and responded to Council questions.

PUBLIC COMMENT

There were no comments made.

COUNCIL DISCUSSION

A motion was made by Mayor Donahue, seconded by Council Member Martinez, to approve 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: 17-150

- 12.4.** [ID-2017-568](#) Resolution Of The City Council Of The City Of Emeryville Appointing _____ As Business Representative To Serve On The Budget Advisory Committee For A Term Effective Immediately And Ending June 30, 2019; And Amending The FY2017-18 Local Roster Of Boards, Commissions And Committees Accordingly. (Sheri Hartz / Lorryne Leong)

Attachments: [Staff Report](#)

[Resolution](#)

[Applicant: Nathaniel Centeno](#)

[Applicant: Louise Engel](#)

[Applicant: John T. Van Geffen](#)

[APPROVED Resolution No. 17-151](#)

Applicants Centeno, Engel and Van Geffen provided their personal statements and responded to questions from the Council.

PUBLIC COMMENT

1. Betsy Cooley spoke in support of applicant Centeno.
2. Andre Carpiaux spoke regarding the transit access to the Bay Bridge, which took business away from Emeryville.
3. Brian Donahue made note of the Council's decision to move this item ahead, which he stated was used in a political manner.

A motion was made by Council Member Patz, seconded by Council Member Martinez, to approve the appointment of Nathaniel Centeno by 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: 17-151

- 12.5. [ID-2017-577](#) Resolution Of The City Council Of The City Of Emeryville Authorize Staff To Enroll Emeryville In The American Association of Retired Person (AARP) Network Of Age-Friendly Communities (Pedro Jimenez)

Attachments: [Staff Report](#)
[Resolution](#)
[AARP-NAFC-Member-Application](#)
[APPROVED Resolution No. 17-152](#)

Community Services Director Pedro Jimenez gave a brief staff report.

PUBLIC COMMENT

Rene Terlet objected to the resolution, stating that he was working on a better project.

A motion was made by Council Member Martinez, seconded by Vice Mayor Bauters, to approve 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: 17-152

13. COMMUNICATION AND REPORTS

13.1. Department Heads

There were no reports given.

13.2. Council Members Reporting on Meetings Attended

Council Member Medina reported on the Annual League of California Cities Conference, stating she had attended many useful sessions, including those on homelessness issues and others. She stated that she had voted no on both League resolutions.

Vice Mayor Bauters reported his attendance of the ACTC Projects Planning Fiscal Committee, stating that the Ashby interchange received approval for its environmental phase and contract award. He also attended the Alameda County Board of Supervisors health care meeting, where implementation of Measure A1 and how it will intersect with state and city roles was discussed.

Council Member Martinez attended the meeting of the Fire Advisory Commission, and reported that a report on the standards of coverage

will be received at an upcoming Council meeting.

14. FUTURE AGENDA ITEM REQUESTS FROM COUNCIL MEMBERS

Council Member Martinez requested a future item to discuss limits on how much councilmembers may be featured on media/broadcasts/video publicity and received majority support for the item to come forward.

Mayor Donahue requested and received support to put the CEC micro grid grant on the October 3rd agenda.

15. ADJOURNMENT

The meeting was adjourned at 10:06 p.m. in memory of the victims of the Mexico City earthquake. At this time, the Council returned to the recessed Closed Session.

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