



Emeryville City Hall  
1333 Park Avenue  
Emeryville, CA 94608  
(510) 596-4300 phone  
(510) 450-7831 fax  
[www.emeryville.org](http://www.emeryville.org)

## CITY OF EMERYVILLE

### ACTION MINUTES

#### City Council

Members:

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

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Tuesday, March 20, 2018

7:16 PM

Council Chambers

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#### 1. CALL TO ORDER

The meeting called to order at 7:29 p.m.

#### 2. ROLL CALL

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

#### 3. APPROVAL OF FINAL AGENDA

**A motion was made by Council Member Martinez, seconded by Council Member Donahue, to approve the Final Agenda. The motion carried by the following vote:**

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

#### 4. SPECIAL ORDERS OF THE DAY

- 4.1. [ID-2018-158](#) Proclamation Of The City Council Of The City Of Emeryville Proclaiming March As American Red Cross Month In Emeryville. (Sheri Hartz)

**Attachments:** [Proclamation](#)

Present to receive the proclamation and make brief remarks on behalf of the American Red Cross were Sheri Aylesworth from the Alameda County Leadership Council and Madeleine Biskintaoui from Disaster Services.

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

City Clerk Hartz announced the current vacancies and upcoming appointment to the Housing Committee.

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

Mayor Bauters announced the availability of the AC Alert system to subscribers, reported on his recent visit to the Kala Art Studio in Berkeley and stated that he had recently attended birthday events for Era Vae Sanders and Evelyn Benjamin on their 100th birthdays.

**7. CITY MANAGER'S REPORT**

There was no report given.

**8. EX PARTE COMMUNICATIONS**

Council Member Donahue reported that he had met with community members regarding the potential removal of street trees on Horton Street, to be discussed under Item 13.1. Mayor Bauters reported on a communication regarding Item 12.2.

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

1. Ken Bukowski spoke about transportation issues and requested that the Council not support Regional Measure 3.
2. Brian Donahue stated his objection to having been asked to move from the staff table to audience seating, and spoke in opposition to the removal of street trees on Horton Street.

**10. CONSENT ITEMS*****Approval of the Consent Agenda***

**A motion was made by Vice Mayor Medina, seconded by Council Member Martinez, to approve the Consent Agenda. The motion carried by the following vote:**

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

- 10.1.**     [ID-2018-165](#)     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-2018-173](#)     Action Minutes of the March 6, 2018 Emeryville City Council/Management of Emeryville Services Authority Special Closed Session Meeting. (Sheri Hartz)

**Attachments:** [Action Minutes](#)

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

- 10.3.**     [ID-2018-174](#)     Action Minutes of the March 6, 2018 Emeryville City Council Special Study Session Meeting. (Sheri Hartz)

**Attachments:** [Action Minutes](#)

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

- 10.4.**     [ID-2018-176](#)     Action Minutes of the March 6, 2018 Emeryville City Council Meeting. (Sheri Hartz)

**Attachments:** [Action Minutes](#)

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

- 10.5.**     [ID-2018-151](#)     Resolution Of The City Council Of The City Of Emeryville Approving The 2017 General Plan Annual Progress Report And Authorizing Submittal To The Governor's Office Of Planning And Research And To The California Department Of Housing And Community Development. (Charles S. Bryant / Diana Keena)

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

[Residential Site Inventory Update](#)

[Draft Resolution](#)

[2017 General Plan Annual Progress Report](#)

[APPROVED Resolution No. 18-28](#)

This item was pulled from the Consent Calendar for separate consideration.

**A motion was made by Council Member Donahue with amendment by Mayor Bauters, and seconded by Council Member Martinez, to approve this Resolution, and to direct staff to study ongoing sources of funding for affordable housing and to undertake additional planning. The motion carried by the following vote:**

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

Enactment No: 18-28

## 11. PUBLIC HEARINGS

- 11.1. [ID-2018-141](#) Resolution Of The City Council Of The City Of Emeryville Confirming the Public Works Director's Report And Authorizing Costs Incurred by the City of Emeryville In the Matter of the Appeal From Notice and Order of Intention to Demolish Property Owned by Andre Carpiaux, 1264 Ocean Avenue, Emeryville CA (APN 049-1469-008), Case No. ADBC 15-001 To Be Charged As A Special Assessment In the Amount of \$50,145.75 Against the Property; And Directing the City Manager To Take Related Actions. (Michael Guina / Andrea Visveshwara)

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

[Proposed Resolution](#)

[Public Works Director's Report](#)

[APPROVED Resolution No. 18-29](#)

City Attorney Michael Guina gave the staff presentation and responded to Council questions on this matter continued from February 20, 2018.

PUBLIC HEARING OPEN: 8:01 p.m.

1. Patrick Carpiaux, Mr. Carpiaux's son, spoke on his behalf, asking that the lien be waived, and stating that he was going to take over the property.
2. Michael, Carpiaux family advisor, spoke in opposition to the lien being assessed.
3. Donald Schwartz, Andre Carpiaux's attorney, spoke in opposition to the lien being assessed on the property.
4. Brian Donahue opposed the action against Mr. Carpiaux.

PUBLIC HEARING CLOSED: 8:12 p.m.

Council Member Donahue proposed that the Council allow 60 additional days before deciding the matter, which did not receive majority support.

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

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

**Noes:** 1 - Council Member Donahue

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Enactment No: 18-29

**11.2.**     [ID-2018-156](#)   Sport Fishing Agreement. (Andrew Clough)

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

Council waived the staff presentation. There was no Public Testimony given during the hearing.

**11.2.1**    [ID-2018-159](#)   Resolution Of The City Council Of The City Of Emeryville Approving The Amended And Restated Sport Fishing Concessions Agreement Between The City Of Emeryville And Andrew Guilano And Authorizing The City Manager To Execute The Agreement.

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

[Sport Fishing Agreement](#)

[APPROVED Resolution No. 18-30](#)

PUBLIC HEARING OPEN: 8:21 p.m.

No public testimony was given.

PUBLIC HEARING CLOSED: 8:21 p.m.

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

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

Enactment No: 18-30

**11.2.2**    [ID-2018-160](#)   Resolution Of The City Council Of The City Of Emeryville Approving The Second Amendment To The Second Amended And Restated Agreement Of Ground Lease By And Between The City Of Emeryville And Safe Harbor Marinas Emeryville, LLC And Authorizing The City Manager To Execute The Agreement.

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

[Lease Amendment](#)

[APPROVED Resolution No. 18-31](#)

PUBLIC HEARING OPEN: 8:22 p.m.

No public testimony was given.

PUBLIC HEARING CLOSED: 8:22 p.m.

**A motion was made by Council Member Martinez, seconded by**

**Council Member Patz, to approve this Resolution. The motion carried by the following vote:**

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

Enactment No: 18-31

## 12. ACTION ITEMS

- 12.1.**     [ID-2018-152](#)     Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute Conceptual Design Proposal Contracts For The Marina Public Art Project With Ilan Averbuch, Pete Beeman, Matthew Geller, And Ned Kahn, With Each Artist To Be Paid \$3,000 As A Stipend For The Submitted Proposal And Up To \$4,000 For Travel Costs For Each Artist Based Outside The Bay Area. (Charles S. Bryant / Chadrick Smalley / Amber Evans)

**Attachments:** [Staff Report](#)  
[Draft Resolution](#)  
[Ilan Averbuch Conceptual Design Proposal Contract](#)  
[Pete Beeman Conceptual Design Proposal Contract](#)  
[Matthew Geller Conceptual Design Proposal Contract](#)  
[Ned Kahn Conceptual Design Proposal Contract](#)  
[APPROVED Resolution No. 18-32](#)

Community and Economic Development Coordinator Amber Evans gave the staff presentation and responded to Council questions. The Council noted its desire to see more women artists and those representing diverse segments of the community being given opportunities in the future.

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

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

Enactment No: 18-32

- 12.2.**     [ID-2018-155](#)     Resolution Of The City Council Of The City Of Emeryville Urging The United States Congress To Enact A Revenue-Neutral Carbon Tax. (Andrew Clough / Nancy Humphrey)

**Attachments:** [Staff Report](#)  
[Draft Resolution](#)  
[APPROVED Resolution No. 18-33](#)

Acting Director Clough gave the staff presentation and responded to

Council questions.

1. Rebecca Nako spoke regarding climate change and its potential effects on Emeryville, and urged approval of the resolution.
2. Alan Keefner, Citizen's Climate Lobby member, spoke in support of the resolution.
3. Larry Sullivan also spoke in support of the resolution and urged approval.

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

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

Enactment No: 18-33

- 12.3.**     [ID-2018-167](#)     East Bay Community Energy Product Choice.     (Andrew Clough / Nancy Humphrey)

**Attachments:** [Staff Report](#)  
[Study Findings](#)  
[Late Correspondence \(March 13, 2018\)](#)  
[Late Correspondence \(March 20, 2018\)](#)

Environmental Programs Analyst Nancy Humphrey gave the staff report and responded to Council questions.

#### PUBLIC COMMENT

1. Jennifer West supported approval of the resolutions.
2. Todd Taylor supported Council's choice on this topic.

Dan Lieberman, East Bay Community Energy, responded to Council questions.

Following comments, Council discussion ensued, with Council Member Martinez expressing concerns over designating Brilliant 100 as the default electricity product for commercial, industrial and institutional accounts in Emeryville.

- 12.3.1**     [ID-2018-169](#)     Resolution Of The City Council Of The City Of Emeryville Requesting East Bay Community Energy Enroll All City Of Emeryville Municipal Accounts In Brilliant 100 (100% Greenhouse Gas Free) As The Default Electricity Product.

**Attachments:** [Draft Resolution](#)  
[APPROVED Resolution No. 18-34](#)

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

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

Enactment No: 18-34

- 12.3.2**     [ID-2018-170](#)     Resolution Of The City Council Of The City Of Emeryville Requesting East Bay Community Energy Enroll All City Of Emeryville Commercial, Industrial, and Institutional Accounts In Brilliant 100 (100% Greenhouse Gas Free) As The Default Electricity Product.

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

**A motion was made by Vice Mayor Medina, seconded by Mayor Bauters, to approve this Resolution. The motion failed by the following vote:**

**Ayes:** 2 - Mayor Bauters, and Vice Mayor Medina

**Noes:** 3 - Council Member Donahue, Council Member Martinez, and Council Member Patz

### **13. DEPARTMENT HEAD REPORTS**

- 13.1.**     [ID-2018-140](#)     Planning Director's report on Planning Commission actions at the special meeting of March 15, 2018:

(a) Emery Go-Round Temporary Fleet Parking - Consideration of a two-year Conditional Use Permit to use approximately three-fourths of the Novartis "Rifkin Lot" at 4555 Horton Street to park Emery Go-Round buses and employee cars.\*

(b) Sherwin Williams PUD Amendment - Consideration of an amendment to the Sherwin Williams Planned Unit Development/Preliminary Development Plan (PUD/PDP) to allow the removal of 11 street trees on the west side of Horton Street fronting the project site to accommodate joint trenching needed to underground overhead utilities on Horton Street between Park Avenue and new 46th Street. The proposal includes approval by the Planning Commission of a Tree Removal Permit for 11 street trees, contingent upon City Council approval of the PUD/PDP amendment.\*\*

(c) 5850 Shellmound Way Mixed Use Project - A second study session to review a Conditional Use Permit and Design Review proposal to demolish an existing 61,000 square foot office building and replace it with an eight-story building accommodating 240 rental residential units with 10,000 square feet of ground floor commercial



space.

\* 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.

\*\* Item requires City Council approval and is scheduled for City Council consideration on April 3, 2018.

The packet for the March 15, 2018 Planning Commission special meeting can be viewed online at <<http://ca-emeryville.civicplus.com/Archive.aspx?AMID=43&Type=Recent>>

Mayor Bauters recused himself from the discussion of Item 13.1 (b) due to the proximity of his residence to the project site.

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

Vice Mayor Medina requested and received majority support to agendaize an update on the potential of including electric bikes, electric scooters and dockless bikes to the agreement with the City's current bike share vendor at the April 17, 2018 Council meeting.

#### **15. ADJOURNMENT**

The meeting adjourned at 9:32 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**