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## 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

#### AMENDED

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Tuesday, July 10, 2018

7:16 PM

Council Chambers

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#### 1. CALL TO ORDER

The meeting was called to order at 7:22 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 Vice Mayor Medina, 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-2018-421](#)   Introduction: Interim City Manager James Holgersson. (Lisa Lopez)

Mr. Holgersson made brief remarks of appreciation for the opportunity to serve in the Interim City Manager role.

**4.2.**     [ID-2018-350](#)   Introduction: Deputy City Clerk Thai Pham. (Sheri Hartz)

City Clerk Sheri Hartz introduced the new Deputy City Clerk, Thai Pham.

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

City Clerk Hartz announced that a new recruitment would be started in the near future to fill vacancies that were not filled in the evening's prior meeting to make annual appointments.

## 7. CITY MANAGER'S REPORT

There was no report given.

## 8. EX PARTE COMMUNICATIONS

The Vice Mayor and Council Members each disclosed having had communication regarding Item 12.2 with representatives from the various cannabis businesses, and also from a representative of the American Lung Association regarding Item 12.1. Mayor Bauters disclosed the same contacts, adding that a letter had been received from the American Cancer Society, and additionally noted that he had had met with Watergate residents regarding Item 12.1, and had met with Nasser Azimi regarding 12.2.

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

A speaker asked why the speaking time had been reduced from the normal three minutes. Again addressing Mr. Holgersson, he spoke regarding the fire egress from the Police Administration Building.

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

Mayor Bauters announced that he had been appointed to the Bay Area Air Quality Air District Board, and its Refinery Oversight Committee. He also announced the upcoming Dive-In movie to be held at ECCL.

## 10. CONSENT ITEMS

### *Approval of the Consent Agenda*

A motion was made by Council Member Patz, 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-2018-407](#) 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-2018-393](#) Action Minutes of the June 19, 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-2018-394](#) Action Minutes of the June 19, 2018 Emeryville City Council Special Study Session. (Sheri Hartz)

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

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

- 10.4. [ID-2018-397](#) Action Minutes of the June 19, 2018 Emeryville City Council Meeting. (Sheri Hartz)

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

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

- 10.5. [ID-2018-398](#) Resolution Of The City Council Of The City Of Emeryville Declaring The Results Of The Emeryville Consolidated General Municipal Election Held On Tuesday, June 5, 2018, As To The Election For And Against Measure C. (Sheri Hartz)

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

[Draft Resolution](#)

[Certificate of Results](#)

[APPROVED Resolution No. 18-96](#)

**A motion was made to approve this Resolution.**

Enactment No: 18-96

- 10.6. [ID-2018-399](#) Resolution Calling for the General Municipal Election November 6, 2018; Requesting Approval of Consolidation with the County of Alameda County; Requesting the County Registrar of Voters Perform Certain Election Services in Connection with Said November 6, 2018 Election; and Authorizing the City of Emeryville to Reimburse the County Registrar of Voters for Election Services Performed. (Sheri Hartz)

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

[Draft Resolution](#)

[APPROVED Resolution No. 18-97](#)

**A motion was made to approve this Resolution.**

Enactment No: 18-97

- 10.7.**     [ID-2018-316](#)     Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A Purchasing And License Agreement With Sunridge Systems, Inc, Inc. For Software, Services, And Hardware Necessary To Implement A New Computer Aided Dispatch And Records Management System In The Police Department In An Amount Not To Exceed \$293,104. (Jennifer Tejada / Oliver Collins)

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

[Draft Resolution](#)

[Contract](#)

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

Chief Tejada addressed the Council regarding Item 10.7 responding to questions.

**A motion was made by Council Member Martinez, seconded by Mayor Bauters, to continue this item to the July 24, 2018 City Council meeting. The motion carried by the following vote:**

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

- 10.8.**     [ID-2018-403](#)     Resolution Of The City Council Of The City Of Emeryville Authorizing The Amendment And City Manager To Execute Contract #CSPP-7008 With The State Department Of Education, Office Of Child Development, For Fiscal Year 2017-2018 In The Amount From \$170,230 To \$240,230 And Appropriate Said Funds When Received To Account 230-53600. (Pedro Jimenez)

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

[Draft Resolution](#)

[Amendment #2: CSPP-7008-02](#)

[Approved Resolution 17-134](#)

[Approved Resolution 17-169](#)

[APPROVED Resolution No. 18-98](#)

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

**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: 18-98

- 10.9.**     [ID-2018-381](#)     Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Professional Services Agreement (PSA) With Callander Associates For Design Services For The 40th Street/San Pablo Avenue Median Rehabilitation Project In An Amount Not To Exceed \$66,565 And To Execute An Amendment To The PSA In The Future To Add Up To \$40,000 In Additional Scope If Required To Accommodate The 40th Street And San Pablo Avenue Transit Hub Project. (Charles S. Bryant / Chadrick Smalley)

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

[Draft Resolution](#)

[Exhibit A - Professional Services Agreement](#)

[APPROVED Resolution No. 18-99](#)

**A motion was made to approve this Resolution.**

Enactment No: 18-99

- 10.10.**     [ID-2018-382](#)     Resolution Of The City Council Of The City Of Emeryville Adopting The 2018 Housing Affordability Table Pursuant To The Affordable Housing Program (Article 4 Of Chapter 5 Of The Planning Regulations). (Charles S. Bryant / Chadrick Smalley / Catherine J. Firpo)

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

[Draft Resolution](#)

[Exhibit A - 2018 Housing Affordability Table](#)

[Attachment 3 - State Rent and Income Limits](#)

[APPROVED Resolution No. 18-100](#)

**A motion was made to approve this Resolution.**

Enactment No: 18-100

- 10.11.**     [ID-2018-383](#)     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 2018-19. (Charles S. Bryant / Chadrick Smalley / Catherine J. Firpo)

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

[Draft Resolution](#)

[Exhibit A - Agreement](#)

[APPROVED Resolution No. 18-101](#)

**A motion was made to approve this Resolution.**

Enactment No: 18-101

- 10.12.**     [ID-2018-368](#)     Resolution of the City Council of the City of Emeryville Authorizing the City Manager to Enter Into A Professional Services Agreement With Noble Consultants, Inc. In An Amount Not To Exceed \$90,035 For Engineering Design and Regulatory Permitting Services For Point Emery Shoreline Protection Project, EPW 101-18 (CIP #16243031). (Andrew Clough / Michael Roberts)

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

[Draft Resolution](#)

[Professional Services Agreement - Noble Consultants](#)

[Exhibits A and B](#)

[APPROVED Resolution No. 18-102](#)

**A motion was made to approve this Resolution.**

Enactment No: 18-102

- 10.13.**     [ID-2018-386](#)     Resolution Of The City Council Of The City of Emeryville Appropriating In Fiscal Year 2018/2019 Amounts Of \$230,000 From Measure B - VLF (Fund #238) And \$70,000 From Measure B - Bicycle and Pedestrian (Fund #262); To Increase Appropriations In Fiscal Year 2018/2019 By Amounts Of \$850,000 From Measure B - Local Streets & Roads (Fund #240), \$310,000 From Measure BB - Local Streets & Roads (Fund # 242), And \$1,208,000 From 1999 Bond Funds (Fund #444); And Authorizing The City Manager To Enter Into A Contract With Telfer Pavement Technologies, LLC In An Amount Not To Exceed \$1,573,225.50 For The Construction Of The 2017/2018 Street Rehabilitation and Preventive Maintenance Project, Phase 2, EPW 18-104 (CIP No. 17240005). (Andrew Clough / Ryan O'Connell)

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

[Draft Resolution](#)

[Exhibit A.pdf](#)

[Agreement \(EPW-18102\).docx](#)

[APPROVED Resolution No. 18-103](#)

**A motion was made to approve this Resolution.**

Enactment No: 18-103

- 10.14.**     [ID-2018-387](#)     Resolution Of The City Council Of The City Of Emeryville Granting The City Manager Signature Authority For All Agreements Necessary To Assure Completion Of The Quiet Zone Safety

Engineering Measures Project; CEQA Determination: Exempt Pursuant To 15301(c). (Andrew Clough / Ryan O'Connell)

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

[Draft Resolution](#)

[Attachment A - Application](#)

[Attachment B - Adopted TCEP Project List](#)

[Attachment C - SB 1 Baseline Agreement Template](#)

[APPROVED Resolution No. 18-104](#)

**A motion was made to approve this Resolution.**

Enactment No: 18-104

- 10.15.** [ID-2018-385](#) Resolution Of The City Council Of The City Of Emeryville Approving The Request To The Metropolitan Transportation Commission By The City Of Emeryville For An Allocation Of Transportation Development Act Article 3 Pedestrian And Bicycle Project Funding For Fiscal Year 2018/2019; CEQA Determination: Exempt Pursuant To 15301(c). (Andrew Clough / Ryan O'Connell)

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

[Draft Resolution](#)

[Attachment A - Findings](#)

[Attachment B - Application](#)

[APPROVED Resolution No. 18-105](#)

**A motion was made to approve this Resolution.**

Enactment No: 18-105

- 10.16.** [ID-2018-392](#) Joint City Of Emeryville And AC Transit Letter To Caltrans Regarding Bus-Only Left Turn Onto Westbound I-80 On-Ramp. (Charles S. Bryant / Diana Keena)

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

[Draft Letter to Caltrans](#)

**A motion was made to approve this Other Item.**

- 10.17.** [ID-2018-405](#) Resolution Of The City Council Approving And Consenting to A Side Letter Agreement to the Memorandum Of Understanding Between The Management Of Emeryville Services Authority (MESA) and The Service Employees International Union, Local 1021 (SEIU) With A Term Effective July 1, 2018 Through June 30, 2019. (Lisa Lopez)  
(In Conjunction With Management Of Emeryville Services Authority Agenda Item 6.3.)

**Attachments:** [Staff Report](#)  
[Draft Resolution](#)  
[Exhibit A - Side Letter Agreement](#)  
[APPROVED Resolution No. 18-106](#)

**A motion was made to approve this Resolution.**

Enactment No: 18-106

## 11. PUBLIC HEARINGS

- 11.1. [ID-2018-384](#) Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance To Arrow Sign Company On Saturday, July 21, 2018 Between The Hours Of 6:00 A.M. And 5:00 P.M. For The Installation Of Two Tanium High-Rise Signs At 2100 Powell Street (APN: 49-1495-9) (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(b)(3)). (Charles S. Bryant / Navarre Oaks)

**Attachments:** [Staff Report](#)  
[Draft Resolution](#)  
[Exhibit A - Applicant Request Letter](#)  
[APPROVED Resolution No. 18-107](#)

Council waived the staff presentation.

PUBLIC HEARING OPEN: 7:57 p.m.

Andre Carpiaux spoke regarding the sign materials and other matters.

PUBLIC HEARING CLOSED: 7:59 p.m.

**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: 18-107

## 12. ACTION ITEMS

- 12.1. [ID-2018-273](#) First Reading Of An Ordinance Of The City Council Of The City Of Emeryville Repealing And Replacing Chapter 29 Of Title 5 Of The Emeryville Municipal Code, "Smoking Pollution Control"; CEQA Determination: Exempt Pursuant To Section 15061(B)(3) Of The California CEQA Guidelines. (Michael Guina)



Consideration of a Memorandum of Understanding Between the City of Emeryville and the County of Alameda Public Health Department Regarding Provision of Education and Outreach for City's Smoking Pollution Control Ordinance. (Michael Guina)

**Attachments:** [Staff Report](#)  
[Draft Ordinance](#)  
[Proposed MOU](#)

Assistant City Attorney Andrea Visveshwara provided a brief presentation and responded to Council questions. Tamiko Johnson, Alameda County Public Health, was present to respond to questions regarding the County's role in educating and informing the public about the new regulations.

#### PUBLIC COMMENT

1. Liz Williams, Americans for Non-Smokers Rights, supported adoption of the ordinance.
2. Serena Chen spoke in support of adoption of the ordinance.
3. Marilyn Boucher asked for clarification on the legality of smoking in the public right-of-way.
4. Andre Carpiaux spoke regarding the mechanics of smoking.
5. Nazeem Azimi stated that cannabis does not contain as many toxins as tobacco.
6. Tamiko Johnson spoke regarding the ordinance, stating that its language allows smoking onsite at cannabis dispensaries, so it would be important not to allow dispensaries that are adjacent to housing.

**A motion was made by Vice Mayor Medina, seconded by Council Member Martinez, to read the Ordinance by title only. The motion carried by the following vote:**

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

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

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

- 12.2.** [ID-2018-425](#) Direction On Potential Revenue Measures For The November 2018 Election. (Susan Hsieh)

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**Attachments:** [Staff Report](#)[Attachment: Cannabis Tax Rate Analysis](#)[Late Correspondence \(July 10, 2018\)](#)[Late Correspondence \(July 10, 2018\)](#)[Late Correspondence \(July 10, 2018\)](#)[Late Correspondence \(July 10, 2018\)](#)

Finance Manager Susan Hsieh opened the presentation and then turned it over to a representative from NBS who discussed Emeryville's need for additional revenue sources. Emily Kirby Goodman, EMC, provided information on the methodology of the poll that had been conducted and presented the results.

**PUBLIC COMMENT**

1. Sean Luse, Rochambeau, Inc., spoke in support of a cannabis tax, but urged that it be created carefully.
2. Eric Brucia, Versagenics, spoke in favor of keeping the profit margins for cannabis businesses in a sustainable realm.
3. Nasser Azimi, East Bay Therapeutics, stated that they have already agreed to substantial community benefit contributions and urged a low rate to start, and a gradual escalation as business grows.
4. Louis Samuel, Golden State Cannabis, supported the tax, but stated that his small business was already paying the highest rate per square foot of any of the local cannabis businesses.
5. Chelsey McCrill, Kikoko, said it was a myth that the cannabis industry is making huge profits, and stated that they face many challenges to stay in compliance with so many regulations.
6. Jennifer Chapin, Kikoko, stated that there are many issues being faced by the industry and that the public does not understand, which is why they would vote to tax it.

Council discussion ensued, and direction was given to staff to return to the July 24, 2018 meeting with a draft resolution to place a cannabis tax on the November 2018 ballot.

**13. DEPARTMENT HEAD REPORTS**

- 13.1. [ID-2018-371](#) Planning Director's report on Planning Commission actions at the June 28, 2018 meeting:

(a) Ocean View Townhomes - Consideration of a Conditional Use Permit and Design Review Permit to demolish an existing single family home and replace it with a three-unit residential building at 1270 Ocean Avenue, and a Tree Removal Permit for two street trees on

Ocean Avenue. \*

(b) Sherwin Williams Surface Parking Lot - Consideration of a Conditional Use Permit to allow a temporary surface parking lot accommodating 140 spaces to support office use in the existing building at the Sherwin Williams Planned Unit Development (PUD) site until a new garage building (identified on Parcel B2 of the approved PUD) is constructed. \*\*

(c) Shellmound Way General Plan Amendment - Consideration of a General Plan Amendment to revise the location of Shellmound Way such that it coincides with its current location 250 feet south of what is shown on Figure 3-1, "Circulation", in the General Plan and other maps in the General Plan; and to add an east-west bicycle and pedestrian path to Figure 3-1 and other maps in the General Plan between Christie Avenue and Shellmound Street generally along the property line between 5850 Shellmound Way and 5890 Christie Avenue. \*\*\*

(d) 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 244 rental residential units with 7,000 square feet of ground floor commercial space.

\* Conditional Use Permit and Design Review Permit require City Council approval, which is tentatively scheduled for consideration at the July 24, 2018 Council meeting. Tree Removal Permit is 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 subject to "call for review" (i.e. appeal) by motion of the City Council pursuant to Section 9-7.1406 of the Planning Regulations.

\*\*\* General Plan Amendment requires City Council approval, which is tentatively scheduled for consideration at the September 4, 2018 Council meeting.

The packet for the June 28, 2018 Planning Commission meeting can be viewed online at <<http://ca-emeryville.civicplus.com/Archive.aspx?AMID=43&Type=Recent>>

Director Bryant gave the report and asked whether the Council wished to appeal any of the items to itself. Council Member Patz stated that he wanted to appeal Item (a), regarding the 1270 Ocean Avenue Tree Removal Permit, but did not receive majority support to do so.

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

Vice Mayor Medina requested and received majority support that an

item that was scheduled for the Transportation Committee agenda to discuss scooters come forward to the Council in September. Mayor Bauters requested that an item be placed on the July 24, 2018 agenda to discuss the Police Administration Building lobby, and that an item to consider the City's PACE program providers be brought forward in the fall.

## **15. ADJOURNMENT**

The meeting adjourned at 9:55 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**