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CITY OF EMERYVILLE

ACTION MINUTES

City Council

Members:

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

Tuesday, October 1, 2019

7:16 PM

Council Chambers

1. CALL TO ORDER

The meeting was called to order at 7:52 p.m.

2. ROLL CALL

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

3. APPROVAL OF FINAL AGENDA

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

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

4. SPECIAL ORDERS OF THE DAY

There were no Special Orders listed.

5. ANNOUNCEMENT OF COMMISSION / COMMITTEE VACANCIES

There were no announcements made.

6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS / REPORTS ON MEETING ATTENDANCE

Council Member Bauters reported on his attendance of the Alameda County private briefing on the San Pablo Avenue corridor study, where the results of a survey conducted about vision and hopes for multi modality were reported. He also announced the upcoming Celebration of the Arts event.

Vice Mayor Patz reported that he had attended the League of California Cities regional meeting where he attended several interesting sessions. He added that geological maps are now available that are searchable by parcel number.

Council Member Martinez stated that the cities of Pleasanton and Tracy are taking action to join East Bay Community Energy which would increase capacity.

Mayor Medina reported on the recent trash pick up "plogging" event and Council Member Donahue added that there was a reduced amount of trash ending up on Emeryville's shores.

7. CITY MANAGER'S REPORT

City Manager Daniel reported on the results of the recent Coastal Clean Up Day.

8. EX PARTE COMMUNICATIONS

Council Members Martinez and Bauters, Vice Mayor Patz and Mayor Medina each reported having received several emails from Wareham and City Center regarding Item 12.1. Council Member Bauters, Vice Mayor Patz and Mayor Medina also reported having heard from the various labor groups regarding Item 12.4.

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

1. Andre Carpiaux spoke about items that he claimed were stolen from his property.
2. A speaker stated that he was going to start refuting the Council's claims that Emeryville needed more housing.

10. CONSENT ITEMS

Approval of the Consent Agenda

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

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

10.1. [ID-2019-473](#) Warrants. (Susan Hsieh)

Attachments: [Staff Report](#)

[Wire Transfers](#)

[Check Register](#)

A motion was made to accept this Informational Report.

- 10.2. [ID-2019-463](#) Action Minutes of the September 17, 2019 Emeryville City Council / Management of Emeryville Services Authority Special Closed Session. (Sheri Hartz / Thai Nam Pham)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.3. [ID-2019-464](#) Action Minutes of the September 17, 2019 Emeryville City Council Special Study Session. (Sheri Hartz / Thai Nam Pham)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.4. [ID-2019-466](#) Action Minutes of the September 17, 2019 Emeryville City Council Regular Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.5. [ID-2019-431](#) Resolution Of The City Council Of The City Of Emeryville Recognizing Importance Of Census 2020 And Encouraging All Residents To Get Counted. (Pedro Jimenez / Brad Helfenberger)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[APPROVED Resolution No. 19-138](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 19-138

- 10.6. [ID-2019-469](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A First Amendment To The Professional Services Agreement With Noble Consultants, Inc., For An Amount Of \$32,620 For A Total Amount Not To Exceed \$122,655 For Additional Engineering Design And Regulatory Permitting Services For Point Emery Shoreline Protection Project, EPW 101-18 (CIP #16243031). (Christine Daniel / Michael Roberts)

Attachments: [Staff Report](#)

[Noble PSA](#)

[Draft Resolution](#)

[1st Amendment Contract](#)

[Exhibit A-R1](#)

[APPROVED Resolution No. 19-139](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 19-139

- 10.7.** [ID-2019-470](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A Contract With American Civil Constructors, Inc., In An Amount Not To Exceed \$249,545 For Construction Of The Powell Street Overhead Joint Seal Replacement And Deck Seal Project, Project No. EPW 106-17, CIP No. 1647503; CEQA Determination: Exempt Pursuant To 15301(c). (Christine Daniel / Michael Roberts)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[American Civil Contractors Contract](#)

[APPROVED Resolution No. 19-140](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 19-140

- 10.8.** [ID-2019-455](#) Ordinance Of The City Council Of The City Of Emeryville Adopting An Amendment To The Sherwin Williams Planned Unit Development/ Preliminary Development Plan (PUD/PDP) To Allow The Removal Of Street Trees On The West Side Of Horton Street (CEQA Determination: Environmental Impact Report for Sherwin Williams Project PUD Certified By City Council on September 6, 2016). (Charles S. Bryant / Miroo Desai)

Attachments: [Staff Report](#)

[Attachment 1 - Staff Report from September 17, 2019](#)

[Proposed Ordinance](#)

[Exhibit A - Conditions of Approval](#)

[Exhibit B - Amended Landscape Plan 9-17-19](#)

A vote was taken on this item, but was not valid as Councilmember Bauters had a conflict due to the proximity of his residence to the project location. He will recuse himself when the matter comes back to the Council at its October 15, 2019 meeting.

11. PUBLIC HEARINGS

- 11.1.** [ID-2019-456](#) Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance To Cannon Constructors North, Inc. For Work On Weekends For A 12 Week Period Between October 1, 2019 And March 31, 2020 Between The Hours Of 8:00 A.M. And 5:00 P.M. For Work Related To Framing Of Corridors To Receive Fire

Sprinklers At The Intersection Project Located At 3800 San Pablo Avenue (APN: 12-952-24 and 25; 49-952-4, 6, and 7) (CEQA Status: Exempt Pursuant To State CEQA Guidelines Section 15061(b)(3)). (Charles S. Bryant / Miroo Desai)

Attachments: [Staff Report](#)
[Draft Resolution](#)
[Exhibit A - Applicant Request Letter](#)

Senior Planner Miroo Desai gave the staff presentation and responded to Council Member questions.

Applicant Mark Trainer, Holliday Development, spoke from a public safety standpoint regarding the need for the waiver. Kurt Vierra, Cannon Constructors, explained why the weekend work was necessary.

PUBLIC HEARING OPEN: 8:20 p.m.

1. Amanda stated she resided near the project and stated that she had evidence that the current construction was beginning prior to the allowable start time. She said that, for that reason, she doubted that the construction company would abide by established timeframes and requested that the quiet of the weekend not be disturbed.
2. A speaker stated that modular construction was a money-saving strategy, that the reason this project was needed was the poor security of the building site, and recommended against granting the noise waiver.
3. A resident of the nearby building stated that noise from construction on the weekends was unacceptable.
4. Andre Carpiaux stated that he agreed with those who complained about the potential noise.

PUBLIC HEARING CLOSED: 8:28 p.m.

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

Ayes: 2 - Mayor Medina, and Council Member Martinez

Noes: 3 - Vice Mayor Patz, Council Member Bauters, and Council Member Donahue

12. ACTION ITEMS

- 12.1. [ID-2019-457](#) Appeal By Wareham Development Of Resolution No. FDP18-001R, A Resolution Of The Planning Commission Of The City Of Emeryville Approving A Final Development Plan (FDP) For APN 49-1556-16 ("Parcel B") Of The Marketplace Redevelopment Project Planned Unit

Development (PUD04-02) For An Eight-Story Building With Approximately 15,800 Square Feet Of Rentable Retail Space, 150,000 Square Feet Of Rentable Office/Lab Space, And 560 Parking Spaces And Rescinding Resolution No. FDP15-001 Previously Adopted By The Planning Commission On June 23, 2016. (Charles S. Bryant / Miroo Desai)

Attachments: [Staff Report](#)

[Link to Administrative Record](#)

Senior Planner Desai introduced City Attorney Michael Guina who explained the process staff was recommending for the night's proceedings, and for the Council to consider adopting. Mayor Medina, as Presiding Officer, approved the proposed procedure and then the staff presentation began.

Matthew Francois, Rutan & Tucker, gave the appellant presentation.

Mark Stefan, AG-CCRP Public Market, opened up the applicant presentation, with additional comments provided by Dorka Keehn, art consultant, and Chelsea Maclean, Holland & Knight.

PUBLIC COMMENT:

1. Nora Collins, Avalon Bay, spoke in support of the project moving forward.
2. Andre Carpiaux spoke regarding the wind impact of the project and asked how it was assessed.
3. A speaker spoke in support of the Marketplace development project.

Eron Ashley, Hart Howerton, presented the rebuttal on behalf of the Applicant.

Mr. Francois gave the rebuttal on behalf of the Appellant.

12.1.1. [ID-2019-458](#)

A Resolution Of The City Council Of The City Of Emeryville Rejecting An Appeal By Wareham Development Of Resolution No. FDP18-001R, And Upholding Resolution No. FDP18-001R, A Resolution Of The Planning Commission Of The City Of Emeryville Approving A Final Development Plan (FDP) For APN 49-1556-16 ("Parcel B") Of The Marketplace Redevelopment Project Planned Unit Development (PUD04-02) For An Eight-Story Building With Approximately 15,800 Square Feet Of Rentable Retail Space, 150,000 Square Feet Of Rentable Office/Lab Space, And 560 Parking Spaces And Rescinding Resolution No. FDP15-001 Previously Adopted By The Planning Commission On June 23, 2016;

CEQA Determination: Environmental Impact Report For Marketplace Redevelopment Project PUD Certified By Resolution No. 08-09 Applies

Attachments: [Draft Resolution](#)

This Resolution was not enacted.

--OR--

- 12.1.2. [ID-2019-459](#)** A Resolution Of The City Council Of The City Of Emeryville Setting A Public Hearing To Consider An Appeal By Wareham Development And City Council Call For Review Of Resolution No. FDP18-001R, A Resolution of the Planning Commission Of The City Of Emeryville Approving a Final Development Plan (FDP) For APN 49-1556-16 ("Parcel B") Of The Marketplace Redevelopment Project Planned Unit Development (PUD04-02) For An Eight-Story Building With Approximately 15,800 Square Feet Of Rentable Retail Space, 150,000 Square Feet Of Rentable Office/Lab Space, And 560 Parking Spaces And Rescinding Resolution No. FDP15-001 Previously Adopted By The Planning Commission On June 23, 2016

Attachments: [Draft Resolution](#)

[APPROVED Resolution No. 19-141](#)

A motion was made by Council Member Bauters, seconded by Council Member Martinez, to approve this Resolution, with the Public Hearing to be set for the City Council meeting of November 5, 2019. The motion carried by the following vote:

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

Noes: 1 - Council Member Donahue

Enactment No: Resolution No. 19-141

--OR--

- 12.1.3. [ID-2019-460](#)** A Resolution Of The City Council Of The City Of Emeryville Remanding To The Planning Commission For Consideration The Appeal By Wareham Development Of Resolution No. FDP18-001R, A Resolution Of The Planning Commission Of The City Of Emeryville Approving A Final Development Plan (FDP) For APN 49-1556-16 ("Parcel B") Of The Marketplace Redevelopment Project Planned Unit Development (PUD04-02) For An Eight-Story Building With Approximately 15,800 Square Feet Of Rentable Retail Space, 150,000 Square Feet Of Rentable Office/Lab Space, And 560 Parking Spaces And Rescinding Resolution No. FDP15-001 Previously Adopted By The Planning Commission On

June 23, 2016

Attachments: [Draft Resolution](#)

This Resolution was not enacted.

- 12.2.** [ID-2019-472](#) Resolution Of The City Council Of The City Of Emeryville Amending The Membership Composition Of The Commission On Aging; And Amending The FY2019-20 Local Roster Of Boards, Commissions And Committees Accordingly. (Sheri Hartz / Lorrayne Leong)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Proposed Roster](#)

[APPROVED Resolution No. 19-142](#)

City Clerk Sheri Hartz gave a brief presentation and responded to Council Member questions.

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

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

Enactment No: Resolution No. 19-142

- 12.3.** [ID-2019-462](#) League Of California Cities Annual Conference Resolutions Packet. (Sheri Hartz)

Attachments: [Staff Report](#)

[2019 Resolutions Packet](#)

[Guidelines for Process](#)

City Clerk Hartz and City Manager Daniel made a brief presentation and responded to Council Member questions.

A motion was made by Council Member Bauters, seconded by Vice Mayor Patz, to provide guidance to the League voting Delegate, Council Member Martinez to oppose Resolution #1, but to support amendment of Rule 20D if possible, and to support Resolution #2. The motion carried by the following vote:

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

- 12.4.** [ID-2019-475](#) Potential Revenue Measure For 2020

Attachments: [Staff Report](#)

City Manager Daniel made the staff presentation and responded to Council Member questions.

A motion was made by Council Member Bauters, seconded by Mayor Medina, to approve this Other Item. The motion carried by the following vote:

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

13. DEPARTMENT HEAD REPORTS

13.1. [ID-2019-461](#) Planning Director's report on Planning Commission actions at the September 26, 2019 meeting:

- (a) Swearing in of New Commissioner Deepak Sohane
- (b) Consideration of Planning Commission Meeting Schedule for 2020
- (c) Bird-Safe Building Standards. Study session on the content, applicability, and form of new bird-safe building standards.

The packet for the September 26, 2019 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

Council Member Martinez proposed and received majority support for a special City Council meeting to be added on Tuesday, October 29, 2019 at 6:00 p.m., for the purpose of discussing and providing direction on the ballot measure for the March 2020 election.

15. ADJOURNMENT

The meeting adjourned at 10:38 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