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CITY OF EMERYVILLE

ACTION MINUTES

City Council

Members:

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

Tuesday, October 20, 2020

7:16 PM

Teleconference

1. CALL TO ORDER

The meeting convened via teleconference at 7:20 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: 5 - Mayor Christian R. Patz
Vice Mayor Dianne Martinez
Council Member John J. Bauters
Council Member Scott Donahue
Council Member Ally Medina

3. APPROVAL OF FINAL AGENDA

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

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

4. SPECIAL ORDERS OF THE DAY

There were no Special Orders listed.

5. ANNOUNCEMENT OF COMMISSION / COMMITTEE VACANCIES

There was no announcement made.

6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS / REPORTS ON MEETING ATTENDANCE

Council Member Medina reported on her attendance of the East Bay EDA Executive Committee meeting, stating that legislative priorities

were adopted regarding solutions to re-open businesses affected by the COVID-19 closures. Council Member Donahue reported on his participation in the recent Reach Codes webinar, where the goal was to have building codes be unique to cities. Council Member Bauters reported on his attendance of the Annual League of California Cities conference, where it was determined that a quorum was not present to approve the resolution, but not until after a lengthy discussion had been held, and that, at length, the Executive Board recommended approval as is within its purview.

Vice Mayor Martinez reported that she had attended the East Bay Innovation Awards, where Emeryville's Bolt Threads was honored. She also recognized Michael Houghton, who, along with Harvey Alter and Charles Rice, was awarded the 2020 Nobel Prize in Physiology or Medicine for his work in identifying the hepatitis C virus, and who has roots in Emeryville for his early work at the Chiron Corporation. Mayor Patz stated that he had also attended the Innovation Awards event which had been held via YouTube. He also stated that he had attended the Mayors' Conference, where calculating RHNA (Regional Housing Needs Allocation) numbers was discussed.

7. CITY MANAGER'S REPORT

City Manager Daniel reported that the Community Development Department would be presenting an item at the Council's November 17th meeting to discuss the RHNA process and the policy objectives proposed by the Tri-Valley mayors at the Mayors' Conference meeting mentioned by the Mayor in his comments. She added that the recent drive-in movie had been another quick sellout and great success.

8. EX PARTE COMMUNICATIONS

Council Member Medina reported having spoken to Marcos Quezada regarding Item 12.2 and Council Member Bauters reported haven spoken with representatives of Rudy's Can't Fail Cafe, Trader Vic's and the Public Market, also regarding Item 12.2.

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

1. Betsy Cooley (online comment read aloud by City Clerk), spoke in support of Item 10.4.

10. CONSENT ITEMS

Approval of the Consent Agenda

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

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

10.1. [ID-2020-475](#) Warrants. (Bill Zenoni)

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

A motion was made to accept this Informational Report.

10.2. [ID-2020-470](#) Action Minutes of October 6, 2020 Special Closed Session (City Council / Management of Emeryville Services Authority). (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

10.3. [ID-2020-473](#) Action Minutes of October 6, 2020 Emeryville City Council Regular Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

10.4. [ID-2020-474](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Grant Agreement with the Emeryville Transportation Management Association For \$1 Million For The New Emery-Go-Round Shuttle Bus Yard. (Bill Zenoni)

Attachments: [Staff Report](#)
[ETMA Funding Request Letter](#)
[Draft Resolution](#)
[APPROVED Resolution No. 20-108](#)

A motion was made to approve this Resolution.

Enactment No: 19-10

10.5. [ID-2020-459](#) Resolution Of The City Council Of The City Of Emeryville Approving Artists Archana Horsting, Lenore McDonald, Kazuko Watanabe, Joey Rose, Jessalyn Aaland, Nora Pauwels, Michael Murphy And Courtney Sennish For The Bus Shelter Temporary Art Program - Phase VI And Authorizing The City Manager To Execute Agreements With The Approved Artists For Final Design Of The Art Works In Amounts Not To Exceed \$4,000 For Each Artist (Charles S. Bryant / Chadrick Smalley / Amber Evans)

Attachments: [Staff Report](#)

[Attachment 1 - Art Work Imagery by Proposed Artists](#)

[Draft Resolution](#)

[APPROVED Resolution No. 20-109](#)

A motion was made to approve this Resolution.

Enactment No: 19-11

- 10.6.** [ID-2020-467](#) Resolution Of The City Council Of The City Of Emeryville Concluding The City's Contractual Obligations Related To A Right Of First Offer For Operation Of A Bike Share Program With Electric-Assist Bicycles. (Mary Grace Houlihan / Nancy Humphrey)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Program Agreement](#)

[First Amendment to the Program Agreement](#)

[Coordination Agreement](#)

[Draft Business Terms for Hybrid Bikes 1-24-20 Emeryville](#)

[Bay Wheels Ebike Pricing Proposal - February 3, 2020](#)

[East Bay Cities Initial Joint eBike Pricing Proposal 4 6 20](#)

[East Bay Ebike Pilot Proposal - June 2 2020](#)

[APPROVED Resolution No. 20-110](#)

A motion was made to approve this Resolution.

Enactment No: 19-12

11. PUBLIC HEARINGS

- 11.1.** [ID-2020-468](#) Resolution Of The City Council Of The City Of Emeryville Granting A Waiver From The Noise Ordinance to City of Emeryville And Ghilotti Construction Company For Work Related To The Assembly And Placement Of A 230 Foot Long Steel Arch Span Across Union Pacific Track Yard Near Ohlone Way As Part Of The South Bayfront Pedestrian Bicycle Bridge Project (CEQA Status Exempt Pursuant To State CEQA Guidelines Section 15061(b)(3). (Mary Grace Houlihan / Todd Teachout)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[APPROVED Resolution No. 20-111](#)

Public Works Director Mary Grace Houlihan gave the staff presentation and responded to Council questions.

PUBLIC HEARING OPENED: 7:42 p.m.

Bobby Lee recommended that the project be captured on time-lapse video.

PUBLIC HEARING CLOSED: 7:43 p.m.

A motion was made by Council Member Medina, seconded by Council Member Bauters, to approve this Resolution, amended to designate the work start time on Saturdays as 9:00 a.m., and removing Saturday, November 28th from the work schedule. The motion carried by the following vote:

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

Enactment No: 19-13

12. ACTION ITEMS

- 12.1.** [ID-2020-460](#) Resolution Of The City Council Of The City Of Emeryville Approving The Purchase Of Art Work For The City's Annual Purchase Award Program Entitled Stucked By Emeryville Artist Prabin Badhia With Funding Of Up To \$3,700 From The Public Art Fund (Fund 243) For The Purchase And Installation Of The Art Work And Acknowledging Aerial Landscapes By Judy Hart And Terrace Martin By Ronald Davis As First And Second Alternates, Respectively (Charles S. Bryant / Chadrick Smalley / Amber Evans)

Attachments: [Staff Report](#)

[Attachment 1 - Art Work Images](#)

[Attachment 2 - Artists Biographies](#)

[Attachment 3 - Site Proposed for 2020 Purchase Award](#)

[Draft Resolution](#)

[APPROVED Resolution No. 20-112](#)

Economic Development Coordinator Amber Evans gave the staff presentation and responded to Council Member questions.

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

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

Enactment No: 19-14

- 12.2.** [ID-2020-464](#) COVID-19 Restaurant Delivery And Takeout Commission Fee Ordinance (Charles S. Bryant / Chadrick Smalley)

Attachments: [Staff Report](#)

Economic Development Manager Chadrick Smalley gave the staff presentation and responded to Council Member questions.

PUBLIC COMMENT:

Kiyomi Doty spoke in favor of capping delivery fees.

- 12.2.1** [ID-2020-465](#) An Urgency Ordinance Of The City Council Of The City Of Emeryville Restricting Restaurant Delivery And Takeout Commissions, Charges And Fees During The COVID-19 Pandemic Emergency; CEQA Determination: Exempt Pursuant to California Public Resources Code Section 21080(b)(4) and State CEQA Guidelines 15269(c) and 15061(b)(3)

Attachments: [Draft Urgency Ordinance](#)[APPROVED Ordinance No. 20-023](#)

A motion was made by Council Member Bauters, seconded by Council Member Medina, to read this Ordinance by title only. The motion carried by the following vote:

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

Enactment No: ORD 20-004

A motion was made by Council Member Bauters, seconded by Council Member Medina, to adopt this Ordinance as amended to revise the 90-day time frame to 180 days. The motion carried by the following vote:

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

Enactment No: ORD 20-004

- 12.2.2** [ID-2020-466](#) An Ordinance Of The City Council Of The City Of Emeryville Restricting Restaurant Delivery And Takeout Commissions, Charges And Fees During The COVID-19 Pandemic Emergency; CEQA Determination: Exempt Pursuant to California Public Resources Code Section 21080(b)(4) and State CEQA Guidelines 15269(c) and 15061(b)(3)

Attachments: [Draft Ordinance](#)

A motion was made by Council Member Bauters, seconded by Mayor Patz, to read this Ordinance by title only. The motion carried by the following vote:

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

A motion was made by Mayor Patz, seconded by Vice Mayor Martinez, to approve first reading this Ordinance, amended to revise the 90-day time frame to 180 days. The motion carried by the following vote:

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

- 12.3.** [ID-2020-478](#) Resolution Allocating Up To \$5 Million of General Fund Unassigned Fund Balance As Needed To Close The Projected Deficit In Fiscal Year 2020-2021 And Directing Staff To Explore The Creation Of A Lighting And Landscaping Assessment District

Attachments: [Staff Report](#)

[Draft Resolution](#)

[APPROVED Resolution No. 20-113](#)

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

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

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

Enactment No: 19-15

- 12.4.** [ID-2020-477](#) Discussion of East Bay Community Energy (EBCE) Brilliant 100 Options for 2021. (Vice Mayor Martinez)

Attachments: [Staff Report](#)

[September 25, 2020 Report to the East Bay Community Energy Executive Committee from Annie Henderson, VP Marketing and Account Services, titled "Brilliant 100 Options for 2021."](#)

Vice Mayor Martinez presented the informational item which was discussed by the Council. Annie Henderson, East Bay Community Energy Vice President, Marketing and Account Services, was also present to speak and respond to questions. No direction was given to staff.

13. DEPARTMENT HEAD REPORTS

There were no reports given.

14. FUTURE AGENDA ITEM REQUESTS FROM COUNCIL MEMBERS

Council Member Medina asked that a previously requested item be scheduled for an upcoming agenda to discuss the process for cannabis permits and what happens if they are not used before expiring. The City Manager stated that a date would be scheduled once she had been able to confer with staff.

15. ADJOURNMENT

The meeting adjourned at 9:11 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