



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

CITY OF EMERYVILLE

ACTION MINUTES

City Council

Members:

Mayor Dianne Martinez
Vice Mayor Scott Donahue
Council Member John J. Bauters
Council Member Ally Medina
Council Member (Vacant)

Monday, September 13, 2021

5:31 PM

Teleconference

1. CALL TO ORDER

The meeting convened via teleconference at 5:46 p.m. and 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: 4 - Mayor Dianne Martinez
Vice Mayor Scott Donahue
Council Member John J. Bauters
Council Member Ally Medina

3. APPROVAL OF FINAL AGENDA

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

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

4. SPECIAL ORDERS OF THE DAY

There were no Special Orders listed.

5. ANNOUNCEMENT OF COMMISSION / COMMITTEE VACANCIES

The City Clerk announced that appointments would be made later on the agenda to fill vacancies and another recruitment would be added in the coming weeks to fill additional vacancies.

6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS / REPORTS ON MEETING ATTENDANCE

Vice Mayor Donahue reported on his attendance at the Mayors' Conference where a discussion was held on a potential inter-city co-op to better utilize public funds, and added that he would become a voting member on the Alameda County Housing Commission at its September meeting. Mayor Martinez announced the upcoming Coastal Clean Up Day, named in honor of late Council Member Nora Davis.

7. CITY MANAGER'S REPORT

The City Manager announced that a banner had been installed celebrating Coastal Clean Up Day.

8. EX PARTE COMMUNICATIONS

Council Member Bauters reported having communicated with Kecia Johnson from Rob Ben's regarding Item 11.2. Council Member Medina reported having discussions about Reach Codes regarding Item 11.4.

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

There were no comments made.

10. CONSENT ITEMS

Approval of the Consent Agenda

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

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

10.1. [ID-2021-423](#) Warrants. (Brad Farmer)

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

A motion was made to accept this Informational Report.

10.2. [ID-2021-386](#) Action Minutes of July 20, 2021 Special Closed Session (City Council / City of Emeryville as Successor Agency to the Emeryville Redevelopment Agency / Management of Emeryville Services Authority). (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

10.3. [ID-2021-390](#) Action Minutes of July 20, 2021 Emeryville City Council Special

Study Session. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.4.** [ID-2021-391](#) Action Minutes of July 20, 2021 Emeryville City Council Special Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.5.** [ID-2021-392](#) Action Minutes of July 20, 2021 Emeryville City Council Regular Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.6.** [ID-2021-384](#) Resolution Of The City Council Authorizing The City Manager To Accept A Grant Award On Behalf Of The Police Department, From The FY2021 Byrne Justice Assistance Grant (JAG) In The Amount Of \$10,613.13 For Funds Related To Conducted Energy Devices. (Chief Jennings / Oliver Collins)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Grant Application](#)

[EPD Conducted Energy Device Policy](#)

[APPROVED Resolution No. 21-89](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 21-89

- 10.7.** [ID-2021-215](#) Resolution Of The City Council Authorizing The City Manager To Accept A Grant Award On Behalf Of The Police Department, From The State Homeland Security Grant Program (SHSGP) In The Amount Of \$16,500 For Funds Related To ballistic shields and a patrol vehicle mounted RADAR. (Capt. Oliver Collins)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[SHSGP FY19 Proposal Application](#)

[APPROVED Resolution No. 21-90](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 21-90

- 10.8.** [ID-2021-410](#) Resolution Of The City Council Of The City Of Emeryville Approving The Expenditure Of An Amount Not To Exceed \$15,000 From The Public Art Fund (Fund 243) For The City Hall Art Banner Project Consisting Of The Installation Of 15 Banners In Place Of Ten Existing Banners Located At City Hall (Charles S. Bryant / Chadrick Smalley / Amber Evans)

Attachments: [Staff Report](#)

[Attachment 1 - Photos of Existing Banners](#)

[Attachment 2 - Proposed Layout](#)

[Attachment 3 - Proposed Banner Artwork](#)

[Draft Resolution](#)

[APPROVED Resolution No. 21-91](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 21-91

- 10.9.** [ID-2021-405](#) Resolution Of the City Council Of the City of Emeryville Accepting the Child Development Center Rehabilitation Project No. EPW 19-114 (CIP No. 16475013) as Complete and Authorizing the City Engineer to File a Notice of Completion With the Alameda County Clerk

Attachments: [Staff Report](#)

[Draft Resolution](#)

[APPROVED Resolution No. 21-92](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 21-92

- 10.10.** [ID-2021-428](#) Resolution Of The City Council Of The City Of Emeryville Authorizing Examination Of Sales And Use Tax Records By the City Manager and MuniServices, LLC. (Brad Farmer)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[APPROVED Resolution No. 21-93](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 21-93

- 10.11.** [ID-2021-406](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Enter Into A Professional Services Contract In The Amount Of \$897,387.25 With Zephyr Rail For Bid Support, Pre-Construction Assistance, Construction Management, And Testing Services For The Quiet Zone Safety

Engineering Measures Project, (CIP No. 19475008). (Christine Daniel / Ryan O'Connell)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Attachment A - PSC with Zephyr Rail](#)

[Attachment B - Caltrans Form 12-F](#)

[APPROVED Resolution No. 21-94](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 21-94

- 10.12. [ID-2021-411](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute The '8 To Go' Paratransit Shuttle Service Agreement With The Emeryville Transportation Management Association, For A Total Amount Not To Exceed \$126,500, Execute A Grant Agreement with the City of Oakland for \$50,000, And Appropriate \$35,644 to 261-88400. (Pedro Jimenez)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[ETMA PSA 21-22](#)

[APPROVED Resolution No. 21-95](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 21-95

- 10.13. [ID-2021-409](#) Building Division Budget Revisions And WC3 Contract Amendment. (Charles S. Bryant / Victor Gonzales)

Attachments: [Staff Report](#)

- 10.13. [ID-2021-417](#)
1 Resolution Of The City Council Of The City Of Emeryville Increasing Revenues And Expenditures In The Building Division Budget For Fiscal Year 2021-2022

Attachments: [Draft Resolution](#)

[APPROVED Resolution No. 21-96](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 21-96

- 10.13. [ID-2021-418](#)
2 Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A First Amendment Of The Professional Services Contract With West Coast Code Consultants (WC3) For Fiscal Year 2021-2022 For Building

Division Services In An Amount Of \$500,000 To Cover Expanded Services For A Total Amount Not To Exceed \$ 1,633,700, And Authorizing The City Manager To Amend The WC3 Contract In The Future Up To A Total Compensation Amount Not To Exceed \$2,133,700, Provided That There Is Sufficient Revenue To Cover The Expense

Attachments: [Professional Services Contract](#)

[Draft Resolution](#)

[Exhibit A - First Amendment to Contract with WC3](#)

[APPROVED Resolution No. 21-97](#)

A motion was made to approve this Resolution.

Enactment No: Reso No. 21-97

11. PUBLIC HEARINGS

- 11.1. [ID-2021-383](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The Chief Of Police To Issue An Annual Cabaret License To The Public Market AG-CCRP L.P. (Chief Jennings / Oliver Collins)

Attachments: [Staff Report](#)

[Public Market Application](#)

[Draft Resolution](#)

[Conditions of Approval](#)

[APPROVED Resolution No. 21-98](#)

Council waived staff's presentation.

PUBLIC HEARING OPENED: 5:57 p.m.

No testimony was given.

PUBLIC HEARING CLOSED: 5:58 p.m.

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

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

Enactment No: Reso No. 21-98

- 11.2. [ID-2021-400](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The Chief Of Police To Issue An Annual Cabaret License To Rob Ben's Restaurant and Lounge. (Chief Jennings / Oliver Collins)

Attachments: [Staff Report](#)
[Rob Ben's Application](#)
[Draft Resolution](#)
[Rob Ben's Conditions of Approval](#)
[APPROVED Resolution No. 21-99](#)

Council waived staff's presentation.

PUBLIC HEARING OPENED: 5:59 p.m.

Kecia Johnson thanked the Council for considering Rob Ben's application.

PUBLIC HEARING CLOSED: 6:00 p.m.

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

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

Enactment No: Reso No. 21-99

- 11.3.** [ID-2021-402](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The Chief Of Police To Issue An Annual Cabaret License To Trader Vic's. (Chief Jennings / Oliver Collins)

Attachments: [Staff Report](#)
[Trader Vic's Application](#)
[Draft Resolution](#)
[Trader Vic's Conditions of Approval](#)
[APPROVED Resolution No. 21-100](#)

Council waived staff's presentation.

PUBLIC HEARING OPENED: 6:01 p.m.

No testimony was given.

PUBLIC HEARING CLOSED: 6:01 p.m.

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

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

Enactment No: Reso No. 21-100

- 11.4. [ID-2021-403](#) Ordinance Of The City Council Of The City Of Emeryville Amending Chapter 10 ("Energy Code") of Title 8 ("Building Regulations") Of The Emeryville Municipal Code To Amend The 2019 California Energy Code Of The 2019 Edition Of The California Building Standards Code (California Code Of Regulations, Title 24, Part 6). (Nancy Humphrey)

Attachments: [Staff Report](#)
[Draft Ordinance](#)
[Exhibit A - Approved Reach Codes in CA](#)
[Exhibit B - 2019 Res NC Reach Codes](#)
[Exhibit C - 2019 Mid-rise NC Cost-Eff Report \(1\)](#)
[APPROVED Ordinance No. 21-006](#)

Council waived staff's presentation.

PUBLIC HEARING OPENED: 6:03 p.m.

No testimony was given.

PUBLIC HEARING CLOSED: 6:03 p.m.

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

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

Enactment No: Ord No. 21-006

The Council took a brief recess at 6:05 p.m. and reconvened the meeting at 6:10 p.m.

12. ACTION ITEMS

- 12.1. [ID-2021-419](#) Community Advisory Committee Appointments: (Sheri Hartz / Lorryne Leong)

Attachments: [Staff Report](#)
[Commission on Aging - Applicant Rene Terlet](#)
[Commission on Aging - Applicant Dr Walt Watman](#)
[Housing Committee - Applicant Cristal Alejandrez](#)
[Housing Committee - Applicant Rodrigo Jacomet](#)
[Housing Committee - Applicant Daniel Johnson](#)
[Housing Committee - Applicant Martin Leung](#)

The City Clerk reported that both Commission on Aging applicants

were not able to attend the meeting and had submitted written comments, which were read aloud into the record. Each of the four applicants for Housing Committee were present and responded to questions from the Council.

- 12.1.1** [ID-2021-420](#) Resolution Of The City Council Of The City Of Emeryville Appointing _____ As Community Member To Serve On The Commission On Aging For A Term Commencing Immediately And Ending June 30, 2025; And Amending The FY2021-22 Local Roster Of Boards, Commissions And Committees Accordingly

Attachments: [Draft Resolution - Commission on Aging](#)
[Exhibit A - Commission on Aging Roster](#)

Council Member Bauters proposed that the Commission on Aging seat be re-opened for new applicants and received majority support that it would be added to the upcoming recruitment.

- 12.1.2** [ID-2021-421](#) Resolution Of The City Council Of The City Of Emeryville Appointing _____ As Community Member To Serve On The Housing Committee For A Term Commencing Immediately And Ending June 30, 2022; Appointing _____ As Community Member To Serve On The Housing Committee For A Term Commencing Immediately And Ending June 30, 2023; And Amending The FY2021-22 Local Roster Of Boards, Commissions And Committees Accordingly

Attachments: [Draft Resolution - Housing Committee](#)
[Exhibit A - Housing Committee Roster](#)
[APPROVED Resolution No. 21-101](#)

A motion was made by Mayor Martinez, seconded by Council Member Medina, to approve this Resolution, appointing Rodrigo Jacomet to the seat with a term expiring in 2022 and Martin Leung to the seat with a term expiring in 2023. The motion carried by the following vote:

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

Enactment No: Reso No. 21-101

- 12.2.** [ID-2021-228](#) Resolution Of The City Council Of The City Of Emeryville Adopting The Public Art Committee's Recommendation To Approve The Design Proposal By Nigel Sussman For The Public Art Mural Project At 1451 Sherwin Avenue, Authorizing The City Manager To Execute An Artist Agreement With Nigel Sussman In An Amount Not To Exceed \$80,000 For Final Design And Installation Of The Artwork, And Authorizing The City Manager To Execute A License Agreement With P&H Associates And Nigel Sussman For The Installation Of The

Artwork (Charles S. Bryant / Chadrick Smalley / Amber Evans)

Attachments: [Staff Report](#)
[Draft Resolution](#)
[Attachment 1 - Artist Agreement](#)
[Attachment 2 - License Agreement](#)
[APPROVED Resolution No. 21-102](#)

Council Member Bauters stated that he was recusing himself from consideration of this matter due to the proximity of his residence to the project, and left the virtual dais.

Community Development Coordinator Amber Evans gave the staff presentation and responded to Council Member questions. Artist Nigel Sussman was also present to make remarks.

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

Ayes: 3 - Mayor Martinez, Vice Mayor Donahue, and Council Member Medina

Recused: 1 - Council Member Bauters

Enactment No: Reso No. 21-102

- 12.3.** [ID-2021-401](#) League Of California Cities 2021 Annual Conference Resolutions Packet. (Sheri Hartz / Thai Nam Pham)

Attachments: [Staff Report](#)
[2021 Resolution Packet](#)
[Letter from City of Rancho Cucamonga](#)

Council waived staff's presentation.

A motion was made by Council Member Bauters, seconded by Vice Mayor Donahue, to authorize Mayor Martinez as voting delegate to use her discretion in voting on the first resolution and to support the second resolution. The motion carried by the following vote:

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

- 12.4.** [ID-2021-416](#) Resolution Of The City Council Of The City Of Emeryville Amending The Regular Meeting Schedule Of The Housing Committee; And Amending The FY2021-22 Local Roster Of Boards, Commissions And Committees Accordingly. (Sheri Hartz / Lorrayne Leong)

Attachments: [Staff Report](#)
[Draft Resolution](#)
[Exhibit A: Housing Committee Roster](#)
[APPROVED Resolution No. 21-103](#)

Council waived staff's presentation on this item.

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

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

Enactment No: Reso No. 21-103

- 12.5.** [ID-2021-414](#) Report To The City Council Of The City Of Emeryville Of Recommendations Made By The Parks and Recreation Committee For Council Consideration. (Pedro Jimenez)

Attachments: [Staff Report](#)

Community Development Director Pedro Jimenez gave the staff presentation and responded to Council Member questions.

A motion was made by Mayor Martinez, seconded by Vice Mayor Donahue, to refer the first recommendation to the Transportation Committee and to add the recommendation for nature play access to the Strategic Parks and Recreation Plan update. The motion carried by the following vote:

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

- 12.6.** [ID-2021-412](#) Resolution Of The City Council Of The City Of Emeryville Setting A Public Hearing Date Of October 5, 2021 To Consider An Appeal Of The Planning Commission's June 24, 2021 Denial Of An Amendment To A Conditional Use Permit And Design Review Permit For The Redevelopment Of The Existing 30,000 Square Foot Vacant Building Located At 4060 Hollis Street As An Arts And Cultural Center, And Two Signs (APN: 49-618-4). (Charles S. Bryant / Miroo Desai)

Attachments: [Staff Report](#)
[Draft Resolution](#)
[Project Record](#)
[APPROVED Resolution No. 21-104](#)

Council waived staff's presentation.

PUBLIC COMMENT:

1. Vickie Jo Sowell stated that the project should not move forward as

designed, citing many problematic elements of the design.

2. Archana Horsting spoke about the many ways that exist to raise money for an art center and in opposition to the proposed new design.

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

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

Enactment No: Reso No. 21-104

- 12.7. [ID-2021-408](#)** Resolution Of The City Council Of The City Of Emeryville Approving And Consenting To An Agreement Of Employment Between The Management Of Emeryville Services Authority (MESA) And Christine S. Daniel As City Manager And Authorizing The Chair Of The Board Of Directors To Execute Said Agreement On Behalf Of MESA. (Mayor Martinez)

(In Conjunction With MESA Agenda Item 7.2)

Attachments: [Staff Report](#)

[Draft Resolution](#)

[Exhibit A: Agreement of Employment](#)

[APPROVED Resolution No. 21-105](#)

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

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

Enactment No: Reso No. 21-105

13. DEPARTMENT HEAD REPORTS

There were no reports given.

14. FUTURE AGENDA ITEM REQUESTS FROM COUNCIL MEMBERS

Council Member Bauters requested and received majority support to bring an item forward to discuss a new rule from the Air Resources Board that would affect a specific subset of boats, and to potentially draft a comment to submit during the 45-day comment period. Mayor Martinez requested and received majority support to discuss the handling of Conditions of Approval requirements going forward.

15. ADJOURNMENT

The meeting adjourned at 7:45 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