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## 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)

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Tuesday, October 19, 2021

7:16 PM

Teleconference

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#### 1. CALL TO ORDER

The meeting convened via teleconference at 8:17 p.m., the Mayor having previously read aloud a statement announcing that the meeting was being conducted by teleconference pursuant to the extension of Brown Act waivers provided for under Assembly Bill 361, and would continue doing so as long as the City Council could make findings that it was necessary in order to protect public safety.

#### 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 Vice Mayor Donahue, seconded by Council Member Bauters, 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 the recruitment that was underway to fill unexpected vacancies, and stated that applications would be accepted until November 22nd.

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

Council Member Medina announced that she was disappointed that AB 1238, the so-called Freedom to Walk Act, had been vetoed by the Governor. Council Member Bauters reported that BAAQMD had held its last committee hearing on setting emission standards for residential and small business furnaces and water heaters.

## 7. CITY MANAGER'S REPORT

The City Manager announced the upcoming Spooktacular Harvest Festival.

## 8. EX PARTE COMMUNICATIONS

Each of the Council Members reported having received multiple emails regarding Item 12.3.

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

1. Brian Donahue stated that he had been denied information about trees that were cut down in relation to the Sherwin Williams project, despite asking for two and a half months, and that once it was provided, it was unclear.

## 10. CONSENT ITEMS

### *Approval of the Consent Agenda*

**A motion was made by Council Member Bauters, 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-2021-471](#) Warrants. (Brad Farmer)

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

**A motion was made to accept this Informational Report.**

### 10.2. [ID-2021-489](#) Action Minutes of October 5, 2021 Emeryville City Council Special Study Session. (Sheri Hartz)

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

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

### 10.3. [ID-2021-486](#) Action Minutes of October 5, 2021 Special Closed Session (City

Council / City of Emeryville as Successor Agency to the Redevelopment Agency / Management of Emeryville Services Authority). (Sheri Hartz)

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

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

- 10.4.** [ID-2021-487](#) Action Minutes of October 5, 2021 Emeryville City Council Regular Meeting. (Sheri Hartz)

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

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

- 10.5.** [ID-2021-465](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Second Amendment To The Exclusive Right To Negotiate Agreement With EAH, Inc. ("ERN") For The Purpose Of Negotiating A Lease Disposition And Development Agreement For The Redevelopment And Operation Of 4300 San Pablo Avenue As Intergenerational Housing To: (1) Extend The ERN Term To January 22, 2022, (2) Authorize An Additional 180 Day Extension If Needed, And (3) Authorize the Execution of Additional Minor Amendments As Necessary To Effectuate The Purpose Of The ERN (Charles S. Bryant / Chadrick Smalley)

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

[Attachment 1 - Executed ERN](#)

[Attachment 2 - First Amendment to ERN](#)

[Draft Resolution](#)

[Exhibit A - Second Amendment to ERN](#)

[APPROVED Resolution No. 21-109](#)

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

Enactment No: Reso No. 21-109

- 10.6.** [ID-2021-470](#) Resolution Of The City Council Of The City Of Emeryville Rejecting All Bids For The Purchase And Delivery Of A 22-26 Passenger Wheelchair Accessible Bus. (Pedro Jimenez / Kim Burrowes)

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

[Draft Resolution](#)

[APPROVED Resolution No. 21-110](#)

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

Enactment No: Reso No. 21-110

- 10.7.** [ID-2021-464](#) Ordinance Of The City Council Of The City Of Emeryville Amending The Planning Regulations At Title 9 Of The Emeryville Municipal Code To Allow Cannabis Manufacturing With A Minor Conditional Use Permit (CEQA Status: Not A "Project" Under Public Resources Code Section 21065, And Common Sense Exemption At CEQA Guidelines Section 15061(b)(3)). (Charles S. Bryant)

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

[Attachment 1 - Staff Report from October 5, 2021](#)

[Proposed Ordinance](#)

[APPROVED Ordinance No. 21-007](#)

**A motion was made to approve the second reading and adoption of this Ordinance.**

Enactment No: Ord No. 21-007

## **11. PUBLIC HEARINGS**

There were no Public Hearings listed.

## 12. ACTION ITEMS

- 12.1. [ID-2021-466](#) Resolution Of The City Council Of The City Of Emeryville Approving The Purchase Of Artworks For The City's Annual Purchase Award Program Entitled "Reuben Rodgers" and "Christian Sands" By Emeryville Artist Ronald Davis With Funding Of Up To \$11,500 From The Public Art Fund (Fund 243) For The Purchase And Installation Of The Artworks, And Acknowledging Arie Dallas And Linda Lee Boyd As The First And Second Honorable Mentions (Charles S. Bryant / Chadrick Smalley / Amber Evans)

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

[Attachment 1 - Artwork Images](#)

[Attachment 2 - Artists' Biographies](#)

[Draft Resolution](#)

[APPROVED Resolution No. 21-111](#)

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

**A motion was made by Vice Mayor Donahue, 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. 21-111

- 12.2. [ID-2021-430](#) Resolution Of The City Council Of The City Of Emeryville Requesting That East Bay Community Energy Enroll All City Of Emeryville Municipal Electric Accounts In Renewable 100 (100% Local, Renewable, And Greenhouse Gas-Free) Service; CEQA Determination: Exempt Pursuant To CEQA Guideline 15061(b)(3). (Mohamed Alaoui / Nancy Humphrey)

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

[Draft Resolution](#)

[APPROVED Resolution No. 21-112](#)

Environmental Programs Supervisor Nancy Humphrey made the staff presentation and responded to Council Member questions.

**A motion was made by Vice Mayor Donahue, 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. 21-112

- 12.3.** [ID-2021-469](#) Discussion On Whether To Send A Letter From The Mayor On Behalf Of The Entire City Council In Opposition To Proposed CARB Commercial Harbor Craft/Sportfishing Boat Engine Regulations. (Council Member Bauters)

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

[Attachment 1: Sportfishing Association FAQs on Harbor Craft Rule](#)

[Attachment 2: CARB Fact Sheet on Harbor Craft Rule](#)

[Late Correspondence - Andy Guiliano](#)

[Late Correspondence - Ken Franke](#)

Council Member Bauters gave a presentation on the item which was requested by him at a prior Council meeting.

**PUBLIC COMMENT:**

1. Andy Guiliano, FishEmeryville, requested that the City Council oppose the California Air Resources Board's proposed engine emission regulations for harbor craft and sportfishing fleets.

**A motion was made by Council Member Bauters, seconded by Mayor Martinez, to approve as amended to specify that Council Member Bauters will draft the letter to be sent. The motion carried by the following vote:**

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

- 12.4.** [ID-2021-461](#) Resolution Of The City Council Of The City Of Emeryville Approving And Consenting To An Extension Of The Term Of The Agreement Of Employment Between The Management Of Emeryville Services Authority (MESA) And Andrea Visveshwara As Interim City Attorney And Authorizing The Chair Of The Board Of Directors To Execute The First Amendment To The Agreement. (Mayor Martinez)  
**(In Conjunction With MESA Agenda Item 7.1)**

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

[Draft Resolution](#)

[Exhibit A: City Attorney Contract 1st Amendment](#)

[APPROVED Resolution No. 21-113](#)

Mayor Martinez announced that this was the corresponding action to the one already approved by the MESA Board at an earlier meeting.

**A motion was made by Council Member Medina, seconded by Vice**

**Mayor Donahue, to approve this CC 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. 21-113

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

No reports were given.

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

Council Member Bauters requested and received majority support to add an item to a future agenda to consider opting all City residential and business customers' energy in to Renewable 100. Mayor Martinez requested and received majority support for the Council to consider adopting a resolution of support for the Howard Terminal Project.

### **15. ADJOURNMENT**

The meeting adjourned at 9:14 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**