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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

--AMENDED--

Tuesday, May 21, 2019

7:16 PM

Council Chambers

1. CALL TO ORDER

The meeting was called to order at 7:17 p.m.

2. ROLL CALL

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

3. APPROVAL OF FINAL AGENDA

Council Member Bauters announced that he would be adjourning the meeting in memory of Jeanne Souchak, mother of Emeryville resident John Gooding.

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

Ayes: 5 - Mayor Ally 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

Deputy City Clerk Pham announced the upcoming annual interviews and appointments of Committee and Commission members at a Special Meeting to be held on June 18, 2019.

6. COUNCIL MEMBER SPECIAL ANNOUNCEMENTS / REPORTS ON MEETING ATTENDANCE

Council Member Bauters reported on his attendance of a CalTrans meeting and provided an update on the MacArthur Maze Vertical Clearance Project, stating that it had been placed on hold. Mayor Medina reported on her attendance of the recent STEM Career Awareness Day, hosted by Wareham Development.

7. CITY MANAGER'S REPORT

There was no report given.

8. EX PARTE COMMUNICATIONS

Council Member Martinez reported having communicated with representatives from EBASE, Alameda Labor Council, SEIU 1021, Unite Here, and Local 55 regarding Item 12.2. She also reported receiving an email message from the Building Trades Council, and several from the public regarding Item 12.5. Council Member Bauters reported having had the same meetings as Council Member Martinez, and additionally with Townsend Public Affairs on Item 12.4 and SEIU, IAFF Local 55, Alameda County Trade Association on Item 12.5.

Mayor Medina reported the same previously mentioned communications, and also a discussion with Townsend Public Affairs and Office of Assembly Member Tang on Item 12. 4. Vice Mayor Patz and Council Member Donahue reported the same contacts related to Item 12.2.

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

1. Eugene Tssui spoke in opposition to the proposed Onni project, stating it would be an ecological disaster.
2. Nan Parks, President of 350 Bay Area, requested that the Council pass a climate emergency resolution.
3. A speaker refuted the need for more housing in Emeryville, and requested that Council Member Martinez provide facts to support her position.

Council Member Martinez responded to the speaker's comments, stating they were inaccurate.

10. CONSENT ITEMS

Approval of the Consent Agenda

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

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

- 10.1. [ID-2019-202](#) 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-2019-192](#) Action Minutes of the May 7, 2019 Emeryville City Council Closed Session Special Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

- 10.3. [ID-2019-194](#) Action Minutes of the May 7, 2019 Emeryville City Council Regular Meeting. (Sheri Hartz)

Attachments: [Action Minutes](#)

A motion was made to approve the Minutes.

Enactment No: Resolution No. 19-48

- 10.5. [ID-2019-199](#) Resolution Of The City Council Of The City Of Emeryville Appropriating In Fiscal Year 2018/2019 \$15,000 From Fund 204; And Authorizing The City Manager To Enter Into A Professional Services Agreement With HF&H Consultants, LLC, In The Amount Of \$15,000 For Analysis Of Proposed Contract Terms For The City's Collection Service Agreement With Waste Management Of Alameda County. (Andrew Clough / Nancy Humphrey)

Attachments: [Staff Report](#)
[Draft Resolution](#)
[WMAC Response Letter](#)
[Contract](#)
[Exhibit A Proposal](#)
[ADOPTED Resolution No. 19-49](#)

A motion was made to approve this Resolution.

Enactment No: Resolution No. 19-49

- 10.6. [ID-2019-190](#) Second Reading Of An Ordinance Of The City Council Of The City Of Emeryville Amending The Planning Regulations To Allow The Research and Development Use Type In The Mixed Use With Residential Zone (CEQA Status: General Plan EIR Certified by City Council on October 13, 2009). (Charles S. Bryant / Navarre Oaks)

Attachments: [Staff Report](#)[Attachment 1 - Staff Report from May 7, 2019](#)[Draft Ordinance](#)[APPROVED Ordinance No. 19-006](#)

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

Enactment No: Ordinance No. 19-006

11. PUBLIC HEARINGS

There were no Public Hearings listed.

12. ACTION ITEMS

- 12.1.** [ID-2019-164](#) South Bayfront Pedestrian-Bicycle Bridge and Horton Landing Park. (Andrew Clough)

Attachments: [Staff Report](#)

The Council waived the staff presentation.

- 12.1.1** [ID-2019-212](#) Resolution Of The City Council Of The City Of Emeryville Approving The Bid Results; Appropriating in Fiscal Year 2018/19 \$9,126,375 From General Capital Fund (Fund 475); Authorizing The City Manager To Enter Into A Contract With Ghilotti Construction Company, Inc. For An Amount Of \$21,370,206; And Authorizing The City Manager To Approve Payments Of Possible Additional Costs As Contingency Expenditures Up To \$2,201,521, All For The Construction Of The South Bayfront Pedestrian And Bicycle Bridge And Horton Landing Park, Project No. EPW 17-112 (CIP No. 16475006 And CIP No. 17237003)

Attachments: [Draft Resolution #1: Authorize Funding and Award Contract](#)

[Bid Tally](#)

[ADOPTED Resolution No. 19-50](#)

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

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

Enactment No: Resolution No. 19-50

- 12.1.2** [ID-2019-213](#) Resolution Of The City Council Of The City Of Emeryville Approving And Authorizing The Expenditure Of \$410,000 To Union Pacific Railroad As A Deposit For Flagging Costs, Track Restoration Costs And Engineering Oversight Costs As Required In The Executed

Pedestrian Overcrossing Agreement For The Construction Of South Bayfront Pedestrian And Bicycle Bridge And Horton Landing Park, Project No. EPW 17-112 (CIP No. 16475006 And CIP No. 17237003)

Attachments: [Draft Resolution #2: Authorize Funds for UPRR Deposits](#)
[ADOPTED Resolution No. 19-51](#)

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

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

Enactment No: Resolution No. 19-51

- 12.1.3** [ID-2019-214](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute Amendment No. 3 To The Professional Services Agreement With EKI Environment and Water, Inc. Granting A Time Extension To December 31, 2020 For Soil Services within the West Side of Railroad Tracks side of The Construction Of The South Bayfront Pedestrian And Bicycle Bridge And Horton Landing Park, Project No. EPW 17-112 (CIP No. 16475006 And CIP No. 17237003)

Attachments: [Draft Resolution #3: PSA Amendment EKI](#)
[PSA Amendment 3 EKI West Side](#)
[ADOPTED Resolution No. 19-52](#)

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

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

Enactment No: Resolution No. 19-52

- 12.1.4** [ID-2019-215](#) Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute Amendment No. 1 To The Professional Services Agreement With EKI Environment and Water, Inc. Granting A Time Extension To December 31, 2020 For Soil Services within the East Side of Railroad Tracks side of The South Bayfront Pedestrian And Bicycle Bridge And Horton Landing Park, Project No. EPW 17-112 (CIP No. 16475006 And CIP No. 17237003)

Attachments: [Draft Resolution #4: PSA Amend 1](#)
[PSA Amendment 1 EKI](#)
[ADOPTED Resolution No. 19-53](#)

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 - Council Member Bauters, Council Member Donahue, Council Member Martinez, Vice Mayor Patz, and Mayor Ally Medina

Enactment No: Resolution No. 19-53

- 12.1.5** [ID-2019-216](#) Resolution Of The City Council Of The City Of Emeryville Approving The Payment Of Up To \$75,000 To East Bay Municipal Utility District For Water Service To The South Bayfront Pedestrian And Bicycle Bridge And Horton Landing Park, Project No. EPW 17-112 (CIP No. 16475006 And CIP No. 17237003)

Attachments: [Draft Resolution #5: EBMUD Meter Fees](#)

[ADOPTED Resolution No. 19-54](#)

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

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

Enactment No: Resolution No. 19-54

- 12.2.** [ID-2019-200](#) Introduction And First Reading Of An Ordinance Of The City Of Emeryville Amending Sections 5-37.01 And 5-37.02 Of Chapter 37 Of Title 5 Of The Emeryville Municipal Code With Respect To The Minimum Wage For Employees Of Small Independent Restaurants; CEQA Determination: Exempt Pursuant To State CEQA Guidelines Sections 15324 And 15061(b)(3). (Charles S. Bryant / Chadrick Smalley / April Shabazz)

Attachments: [Staff Report](#)

[Draft Ordinance](#)

[Late Correspondence - East Bay Alliance For A Sustainable Economy](#)

[Late Correspondence - Kara's Cupcakes](#)

[Late Correspondence - Dylan O'Brien](#)

[Late Correspondence - The Broken Rack et. al.](#)

[Late Correspondence - Laura McCamy](#)

[Late Correspondence - Ruth Major](#)

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

PUBLIC COMMENT

1. Andrea Mullarkey, Member Leader of SEIU 1021, spoke in

- opposition of a minimum wage carve-out for small restaurants.
2. Jeffrey Kroeber, Townhouse Restaurant, stated that the minimum wage should be a regional effort and that deciding it city by city was unfair.
 3. Liz Ortega, Alameda Labor Council, opposed the ordinance amendment.
 4. Lenny Farrell stated that the Mills College data was limited.
 5. Marilyn Boucher, Broken Rack, stated that the process had not been rushed and supported the Council's approach.
 6. Gabriel Haaland, SEIU 1021, opposed the ordinance, stating that the study was poorly done and that no low wage workers had been interviewed.
 7. Jake Freed, Emeryville business owner, stated that the Minimum Wage Ordinance was not helping his business and that he had been forced to cut hours and employees to meet salary cost increases over the last four years.
 8. Alvin Shen, West Coast Burrito, spoke in favor of the ordinance, citing his family's long history in Emeryville and stating that one size did not fill all business types.
 9. Nasser Azimi, East Bay Therapeutics, supported the idea of implementing a policy that is community sensitive and stated that higher wages attract better resources.
 10. A speaker spoke in opposition to the ordinance.
 11. Ruth Major stated that workers deserve living wages that the City should find ways to help local businesses succeed.

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

Ayes: 2 - Council Member Bauters, and Council Member Martinez

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

City Attorney Guina read the ordinance aloud in its entirety.

- 12.2.** [ID-2019-200](#) Introduction And First Reading Of An Ordinance Of The City Of Emeryville Amending Sections 5-37.01 And 5-37.02 Of Chapter 37 Of Title 5 Of The Emeryville Municipal Code With Respect To The Minimum Wage For Employees Of Small Independent Restaurants; CEQA Determination: Exempt Pursuant To State CEQA Guidelines Sections 15324 And 15061(b)(3). (Charles S. Bryant / Chadrick Smalley / April Shabazz)

Attachments: [Staff Report](#)
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[Late Correspondence - East Bay Alliance For A Sustainable Economy](#)
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[Late Correspondence - The Broken Rack et. al.](#)
[Late Correspondence - Laura McCamy](#)
[Late Correspondence - Ruth Major](#)

A motion was made by Council Member Martinez, seconded by Council Member Bauters, to approve first reading and introduction of the Ordinance. The motion failed by the following vote:

Ayes: 2 - Council Member Bauters, and Council Member Martinez

Noes: 3 - Council Member Donahue, Vice Mayor Patz, and Mayor Ally Medina
Council Member Bauters brought forward an alternate version of the Ordinance for Council consideration.

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

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

A motion was made by Council Member Bauters, seconded by Council Member Martinez, to approve the first reading and introduction of the alternate Ordinance. The motion carried by the following vote:

Ayes: 3 - Council Member Bauters, Council Member Donahue, and Council Member Martinez

Noes: 2 - Vice Mayor Patz, and Mayor Ally Medina

12.3. [ID-2019-201](#) Resolution Of The City Council Of The City Of Emeryville Amending The 2019 City Council Regular Meeting Schedule. (Sheri Hartz / Lorraine Leong)

Attachments: [Staff Report](#)
[Draft Resolution](#)
[Exhibit A](#)
[ADOPTED Resolution No. 19-55](#)

The City Clerk announced that this item was to add a Regular Meeting to the Council's meeting schedule for the purpose of conducting a second reading and adoption of the prior Ordinance.

A motion was made by Council Member Martinez, seconded by

Council Member Bauters, to approve this Resolution. The motion carried by the following vote:

Ayes: 3 - Council Member Bauters, Council Member Donahue, and Council Member Martinez

Noes: 2 - Vice Mayor Patz, and Mayor Ally Medina

Enactment No: Resolution No. 19-55

12.4. [ID-2019-211](#) Presentation and Discussion on Legislative Priorities. (Sheri Hartz)

Attachments: [Staff Report](#)

[Attachment A - Memorandum from Townsend Public Affairs; Update on 2019 Legislation](#)

[Attachment B - City of Emeryville Watch Position 5/14/2019](#)

[Attachment C - City of Emeryville Support Position 5/14/2019](#)

Niccolo DeLucca of Townsend and Associates Public Affairs gave the update and responded to Council Member questions. The Council provided direction to Mr. DeLucca, who will provide an updated memo.

A motion was made by Council Member Bauters, seconded by Mayor Medina, to accept the report, revised as directed. The motion carried by the following vote:

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

12.5. [ID-2019-197](#) Consideration Of Potential Revenue Measures For 2020. (Christine Daniel / Susan Hsieh)

Attachments: [Staff Report](#)

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

PUBLIC COMMENT

1. Bill Reuters stated he would be interested in seeing appropriate revenue measures.

Council Member Bauters presented a proposal for a future sales tax measure for the November 2020 ballot. Council discussion ensued, and staff was directed to begin the process for issuing a polling consultant RFP.

Mayor Medina requested that a discussion be scheduled regarding whether to add a Transportation Network Companies (TNC) tax to the November 2020 ballot as well.

13. DEPARTMENT HEAD REPORTS

13.1. [ID-2019-208](#) Planning Director's report on Planning Commission actions at the continued April 25, 2019 regular meeting held on May 14, 2019:

- (a) Item 7.1 continued from the April 25, 2019 Planning Commission Regular Meeting: Reconsideration of Marketplace Redevelopment Project, "Parcel B". Reconsideration of a new Final Development Plan (FDP) for "Parcel B" of the Marketplace Redevelopment Project Planned Unit Development (PUD04-12) and rescinding of Final Development Plan FDP15-001 that was approved by the Planning Commission on June 23, 2016. The previously approved FDP included 26,000 square feet of retail space and 300 parking spaces. The proposed FDP includes 14,000 square feet of retail space, 150,000 square feet of office/lab space, and 565 parking spaces. (Project previously approved by Planning Commission on January 24, 2019, appealed to City Council on February 8, 2019, and remanded to Planning Commission by City Council on March 19, 2019. Planning Commission public hearing closed April 25, 2019 and item continued to May 14, 2019.)*

* 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.

The packet for the May 14, 2019 Planning Commission continued regular meeting can be viewed online at <http://www.emeryville.org/ArchiveCenter/ViewFile/Item/4118>

Director Bryant provided the report on recent Planning Commission actions.

Following Council discussion, Council Member Bauters requested that the item be called for review by the Council.

A motion was made by Council Member Bauters, seconded by Vice Mayor Patz, to approve review of this matter. The motion carried by the following vote:

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

14. FUTURE AGENDA ITEM REQUESTS FROM COUNCIL MEMBERS

No Future Agenda Items were requested.

15. ADJOURNMENT

The meeting was adjourned at 9:47 p.m. with a moment of silence and in memory of Jeanne Souchak.

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