



# CITY OF NEWARK CITY COUNCIL

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City Administration Building  
7:30 p.m.  
City Council Chambers

## MINUTES

Thursday, March 13, 2008

### A. ROLL CALL

Mayor Smith called the meeting to order at 7:34 p.m. Present were Council Members Nagy, Freitas, Huezo, and Vice Mayor Apodaca.

### B. MINUTES

#### B.1 Approval of Minutes of the special and regular City Council meetings of Thursday, February 28, 2008.

Council Member Nagy moved, Council Member Huezo seconded, to approve the Minutes of the special budget work session and regular City Council meetings of Thursday, February 28, 2008. The motion passed, 5 AYES.

### C. PRESENTATIONS AND PROCLAMATIONS

#### C.1 Commending the Newark Soccer Club, 2008 Under 11 Boys' Association Cup Champions.

Mayor Smith read and presented the commendation to the Newark Earthquakes.

#### C.2 Commending the Outstanding Crossing Guard of the Year for 2006-2007 and 2007-2008.

Mayor Smith read and presented the commendations to James and Mona Taplin.

#### C.3 Presentation by Union Sanitary District.

Pat Kite, Newark's Union Sanitary District representative, introduced General Manager Rich Currie. Mr. Currie gave an update on Union Sanitary District activities.

### D. WRITTEN COMMUNICATIONS

**D.1 Planning Commission referral of MUP-08-5, a minor conditional use permit, to establish a large family day care home at 35499 Blackburn Drive.**

City Manager Becker gave the staff report.

The City Council concurred with the action of the Zoning Administrator.

**E. PUBLIC HEARINGS**

**E.1 Hearing to consider abandonment of a portion of street right-of-way along the frontages of 7721 through 7737 Sunset Avenue.**

**RESOLUTION NO. 9428**

City Manager Becker gave the staff report recommending approval to abandon the 8-foot wide uniform strip of right-of-way that is not needed for present or future street purposes.

Mayor Smith opened and closed the public hearing at 7:58 p.m.

Council Member Nagy moved, Vice Mayor Apodaca seconded, to abandon a portion of street right-of-way along the frontages of 7721 through 7737 Sunset Avenue. The motion passed, 5 AYES.

City Attorney Galliano read the title of the resolution.

**E.2 Continuation of hearing to April 10, 2008, to consider an appeal of the Planning Commission's denial of an extension of a conditional use permit (U-90-39) and a planned unit development (P-90-48) for an existing auto wrecking yard (Pick-N-Pull) at 7400 Mowry Avenue.**

**MOTION APPROVED**

City Manager Becker gave the staff report recommending continuation of the public hearing to April 10, 2008.

Council Member Huezco moved, Vice Mayor Apodaca seconded, to continue the public hearing to April 10, 2008, to consider an appeal of the Planning Commission's denial of an extension of a conditional use permit (U-90-39) and a planned unit development (P-90-48) for an existing auto wrecking yard (Pick-N-Pull) at 7400 Mowry Avenue. The motion passed, 5 AYES.

**F. CITY MANAGER REPORTS**

Council Member Freitas moved, Council Member Nagy seconded, to approve Consent Calendar Item F. 1. The motion passed, 5 AYES.

## CONSENT

- F.1 Approval of specifications, acceptance of bid and award of contract to SpenCon Construction, Inc. for the 2008 Curb, Gutter, and Sidewalk Replacement, Project 877.**

**MOTION APPROVED  
RESOLUTION NO. 9429  
CONTRACT NO. C08015**

## NONCONSENT

- F.2 Approval of Conceptual Land Use Concept for the Area 3 and 4 Specific Plan.**

**MOTION APPROVED**

Community Development Director Grindall gave the staff report outlining the history of the concepts, the community meetings held, the phases of the project, and constraints to be addressed in the Environmental Impact Report (EIR).

Patrick Boyce, Harvey & Associates, stated that he conducted technical studies in advance of the EIR and gave an overview on the wetlands and endangered species constraints.

Mr. Paul Lettieri, Guzzardo Partnership, outlined the proposed Concept Plans.

Area 3 consists of 77 acres bordering Cherry Street and Stevenson Boulevard. A residential community with a school and park is proposed. Concept Plan Alternative A includes an elementary school located within a residential area in the southeast portion of the site; in Concept Plan Alternative B the elementary school is in the northern portion of the site. The school district will advise the City of a preferred location for the elementary school.

Area 4 Concept Plan Alternative A proposes a residential area in the northern portion of the site with a golf course in the southern portion. More residential units would be located adjacent to the railroad tracks and near power lines. Area 4 Concept Plan B would place the golf course in the northern portion of the site and place the residential area in the southern portion.

Dan Powell, Kyle Phillips Golf Course Design, reviewed the sites for golf course potential. The proposed golf course in Concept A would require a bigger footprint and more wetlands. Concept B would require less land, maintenance,

and less impact to the wetlands. Either concept will yield a world class golf course.

Community Development Director Grindall recommended in Area 3, that an alternative with both variants be selected by the City Council and carried forward into the Specific Plan in order to provide the School District with flexibility in determining a school location. In Area 4, that Alternative B be selected by the City Council as the land use concept.

City Council discussion ensued.

Council Member Nagy requested that staff prepare a chart of timelines for this process and include an economic analysis.

Council Member Huezo requested that the economic analysis include ownership and liability issues associated with the golf course.

Vice Mayor Apodaca requested that staff review the 1998 Hayward project that was similar to this one for lessons learned that could be applied to this project.

Bill McMillin recommended placing the elementary school on the opposite side of Ohlone College so the students would not have to cross the college campus, which might result in safety issues.

Cal Truger stated his preference for a world class golf course.

Winnie Chan, Don Edwards National Wildlife Refuge, noted that Area 4 borders the Refuge, which has been identified by Congress as an ideal place for open space restoration. She hoped that Area 4 would be restored to open space and that the City Council would consider other plans.

Janet Sokel, Friends of Coyote Hills, stated that global warming could cause the sea level to rise in this area. The project would require approval by other agencies that could derail the project. She stated that golf is in decline and noted that three municipal golf courses in San Jose were operating in the red. She suggested developing other alternatives for the location.

Margaret Lewis, Citizen's Committee to Complete the Refuge, stated that the public has commented on conceptual plans and not actual plans. The EIR will be based on concepts, not a specific plan. She requested consideration of other plans and consulting with regional agencies. Ms. Lewis noted that a developer is not associated with the plan. She stated that when Measure C was considered, 62 percent of the registered voters did not cast a ballot. She suggested changing elections in Newark to even years to increase voter participation.

Andy Francis stated that she was part of the citizens group involved with Measure C in 1999. She stated that the citizens have spoken on this matter and they want to see the golf course and executive homes. She noted that a championship golf course will generate funds. Ms. Francis stated that children across Cherry Street will also attend the proposed school.

Council Member Freitas moved, Council Member Nagy seconded, to select the Preferred Land Use Concept in the Specific Plan to include both alternatives A and B in Area 3 and Alternative B for Area 4. Council Member Nagy amended the motion to include a fiscal analysis of the impact of housing and the impact of a golf course. Council Member Freitas accepted the amendment to the motion. The motion passed, 5 AYES.

**G. CITY ATTORNEY REPORTS**

**H. REDEVELOPMENT AGENCY**

**I. ECONOMIC DEVELOPMENT CORPORATION**

**J. COUNCIL MATTERS**

- J.1** The entire City Council congratulated Mayor Smith on his 30<sup>th</sup> Anniversary in the office of Mayor.

**K. ORAL COMMUNICATIONS**

- K.1** Greg Miller requested City Council assistance in obtaining building permits for his sunroom addition.

Mayor Smith advised Mr. Miller that the Building Codes were written at the state level and the City is required to follow the law.

In response to City Manager Becker, Mr. Miller declined to show proof that the foundation under the sunroom meets the requirements of the Building Code.

- K.2** Alice Johnson, League of Women Voters, invited the public to attend the ABC's of Campaigns, a workshop for those considering elective office, on March 29 in the City of Fremont Council Chambers.

- K.3** Peggy Misata requested that the City Council adopt an ordinance regulating the parking of recreational vehicles in Newark.

Council Member Huezo requested a report outlining options that the City Council may consider.

**L. APPROPRIATIONS**

City Clerk Harrington read the Register of Audited Demands: Check numbers 78650, 78651 to 78742, 78743 to 78822.

Council Member Freitas moved, Council Member Nagy seconded, to approve the Register of Audited Demands. The motion passed, 5 AYES.

**M. CLOSED SESSION**

- M.1 Closed session for conference with Legal Counsel on anticipated litigation pursuant to Section 54956.9 (b) of the California Government Code: One case.**

At 9:50 p.m. the City Council recessed to a closed session.

At 10:05 p.m. the City Council convened in closed session.

At 10:22 p.m. the City Council reconvened in open session with all Council Members present.

**N. ADJOURNMENT**

At 10:22 p.m. Council Member Nagy moved, Vice Mayor Apodaca seconded, to adjourn the regular City Council meeting of Thursday, March 13, 2008. The motion passed, 5 AYES.

SHEILA HARRINGTON  
City Clerk