



CITY OF NEWARK CITY COUNCIL

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

Minutes

Thursday, May 10, 2018

A. ROLL CALL

Mayor Nagy called the meeting to order at 7:33 p.m. Present were Council Members Collazo, Freitas, and Vice Mayor Hannon. Council Member Bucci was noted absent.

B. MINUTES

B.1 Approval of Minutes of the City Council meetings of April 19 and April 26 2018. **MOTION APPROVED**

Vice Mayor Hannon moved, Council Member Collazo seconded, to approve the minutes. The motion passed, 4 AYES, 1 ABSENT.

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Proclaiming May 20-26, 2018, as National Public Works Week.

Mayor Nagy presented the proclamation to Maintenance Superintendent Costa.

C.2 Proclaiming May 20-26, 2018, as National Emergency Medical Services Week.

Mayor Nagy presented the proclamation to Alameda County Fire Department Division Chief Nishimoto.

C.3 Proclaiming May 13-19, 2018, as National Police Week.

Mayor Nagy presented the proclamation to Police Chief Carroll, Police Explorer Curtsinger, and Police Explorer Arteaga.

D. WRITTEN COMMUNICATIONS

D.1 Design Review of four new advanced manufacturing buildings at 7380 Morton Avenue, location of the former Morton Salt Plant.

RESOLUTION NO. 10778

Assistant City Manager Grindall stated that Newark Industrial Partners proposes four new advanced manufacturing buildings located at 7380 Morton Avenue. The 29.89-acre project site will be reconfigured into four lots as follows:

Building 1 will be 161,680 square feet on a 7.71-acre lot with 183 parking spaces. Building 2 will be 141,275 square feet on a 6.18-acre with 159 parking spaces. Building 3 will be 76,162 square feet on a 4.85-acre lot with 138 parking spaces. Building 4 will be 225,679 square feet on a 11.15-acre lot with 254 parking spaces.

Assistant City Manager Grindall stated that this project is only subject to design review and is considered ministerial. The project is allowed by right in the zoning district and is exempt from the California Environmental Quality Act (CEQA). This project will create up to 500 jobs and generate impact fees of over \$2 million.

Assistant City Manager Grindall stated that City received two letters from law firms (Holland & Knight, Adams Broadwell Joseph & Cardozo) this afternoon claiming the project was discretionary and requested CEQA review. He stated that staff has reviewed the letters and concluded that there is no merit to their assertion.

Timur Tecimer, project applicant, presented a marketing video of the proposed project. He stated that he cannot disclose the names of the companies that are interested in the site at this time. He stated that he agreed with the staff report and the resolution.

Paula Kirlin, Holland & Knight CEQA and land use counsel for the applicant, stated that she reviewed the letters that were submitted today. She supported the City position that this is a ministerial review and this was not a Cortese List site.

Collin McCarthy, Adams Broadwell Joseph & Cardozo, stated that he represented Newark Residents for Responsible Development. He said that this project is a discretionary approval subject to the requirements of CEQA. He requested that the City Council not approve the project and follow the CEQA process.

David Lanferman, Rutan & Tucker, LLP, outside legal counsel for the City stated that he reviewed this matter for the City and found the staff report to be accurate in claiming the statutory exemption to CEQA.

Jonathan Weissglass, Lozeau Drury, LLP, stated that he represented the Laborers International Union and referenced the letter they submitted this afternoon. He outlined the reasons that they believed made this a project subject to CEQA.

City Attorney Benoun reiterated the City's position that this project was not subject to CEQA.

Vice Mayor Hannon moved, Council Member Collazo seconded to, by resolution, approved DR-18-4, a Design Review for four new advanced manufacturing buildings

located at 7380 Morton Avenue, the former Morton Salt Plant. The motion passed, 4 AYES, 1 ABSENT.

E. PUBLIC HEARINGS

F. CITY MANAGER REPORTS

Council Member Collazo moved, Vice Mayor Hannon seconded, to approve Consent Calendar Items F.1 through F.4, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions. The motion passed, 4 AYES, 1 ABSENT.

CONSENT

- F.1 Authorization for the Mayor to sign an agreement with the *Tri-City Voice* for legal advertising services for Fiscal Year 2018-2019.**

**RESOLUTION NO. 10779
CONTRACT NO. 18008**

- F.2 Acceptance of work with SpenCon Construction, Inc. for 2018 Citywide Accessible Pedestrian Curb Ramps, Project 1167**

RESOLUTION NO. 10780

- F.3 Acceptance of work with G. Bortolotto & Company, Inc. for the 2017 Asphalt Concrete Street Overlay Program, Project 1141.**

RESOLUTION NO. 10781

- F.4 Authorization for the City Manager to sign Task Order No. 1 with St. Francis Electric, LLC, for additional traffic signal and street light maintenance services.**

**RESOLUTION NO. 10782
CONTRACT NO. 17027**

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

The City Council wished everyone a Happy Mother's Day.

Council Member Collazo complimented the Police Department Explorer Program. She noted that today is Mother's Day in Mexico. She encouraged everyone to shop at NewPark Mall for Mother's Day gifts.

J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY

K. ORAL COMMUNICATIONS

Mr. Chilukura asked when the Birch Grove Park tennis courts would be resurfaced. He referenced his letter sent to the City approximately 18 months ago with the same request.

City Manager Becker stated that the project is proposed for funding in the next Biennial Budget and would likely occur in 2019. He confirmed receipt of the letter, however, it was received after the budget was prepared.

Mr. Chilukura requested that the tennis court include markings on the surface for youth players.

Greg Lemos stated his concern with the delay of the implementation of the ADA ramps at Birch Street and Smith Avenue. He stated that the Alameda County Water District and the State of California are looking to raise rates and encouraged the public to pay attention.

L. APPROPRIATIONS

Approval of Audited Demands for the City Council meeting of May 10, 2018. MOTION APPROVED

City Clerk Harrington read the Register of Audited Demands: Check numbers 114260 to 114398.

Council Member Freitas moved, Vice Mayor Hannon seconded, to approve the Register of Audited Demands. The motion passed, 4 AYES, 1 ABSENT.

M. CLOSED SESSIONS

- M.1 Closed Session for conference with legal counsel on existing litigation pursuant to Government Code Section 54956.9(d)(1): *Timothy Jones v. City of Newark*, Workers Compensation Appeals Board, Claim #**

160300120 – from City Attorney Benoun and Human Resources Director Abe.

M.2 Closed Session for conference with legal counsel on existing litigation pursuant to Government Code Section 54956.9(d)(1): *Hamilton v. City of Newark*, Alameda County Superior Court, Case No. RG17867662 – from City Attorney Benoun.

At 8:29 p.m. the City Council recessed to closed session.

At 8:38 p.m. the City Council convened in closed session.

At 8:59 p.m. the City Council reconvened in open session with all Council Members present (Council Member Bucci absent).

City Attorney Benoun stated that for item M.1, no reportable action was taken by the City Council because final approval rests with some other party to the litigation or with the court; therefore, no action can be reported at this time. If settlement becomes final, then the City will disclose the action that was taken upon inquiry by any person.

City Attorney Benoun stated that for item M.2, the City Council, on a 4-0 vote with Council Member Bucci absent, authorized and directed City staff to enter into a settlement agreement with Plaintiff that would require the City to pay Plaintiff \$240,000 in exchange for a dismissal with prejudice and release of any and all claims in connection with a tree failure that occurred at Birch Grove Park on July 14, 2016, at or around 6:15 p.m.

N. ADJOURNMENT

At 8:59 p.m. Vice Mayor Hannon moved, Council Member Collazo seconded, to adjourn the City Council meeting. The motion passed, 4 AYES, 1 ABSENT.