

CITY OF NEWARK CITY COUNCIL

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4266 • E-mail: city.clerk@Newark.org

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

AGENDA

Thursday, July 12, 2018

CITY COUNCIL:

Alan L. Nagy, Mayor
Michael K. Hannon, Vice Mayor
Luis L. Freitas
Sucy Collazo
Mike Bucci

CITY STAFF:

John Becker
City Manager

Terrence Grindall
Assistant City Manager

Susie Woodstock
Administrative Services Director

Sandy Abe
Human Resources Director

Soren Fajeau
Public Works Director

Michael Carroll
Police Chief

David Zehnder
Recreation and Community
Services Director

David J. Benoun
City Attorney

Sheila Harrington
City Clerk

Welcome to the Newark City Council meeting. The following information will help you understand the City Council Agenda and what occurs during a City Council meeting. Your participation in your City government is encouraged, and we hope this information will enable you to become more involved. The Order of Business for Council meetings is as follows:

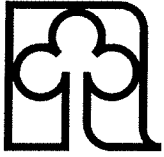
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|-------------------------------------|-------------------------|
| A. ROLL CALL | I. COUNCIL MATTERS |
| B. MINUTES | J. SUCCESSOR AGENCY |
| C. PRESENTATIONS AND PROCLAMATIONS | TO REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS | K. ORAL COMMUNICATIONS |
| E. PUBLIC HEARINGS | L. APPROPRIATIONS |
| F. CITY MANAGER REPORTS | M. CLOSED SESSION |
| G. CITY ATTORNEY REPORTS | N. ADJOURNMENT |
| H. ECONOMIC DEVELOPMENT CORPORATION | |

Items listed on the agenda may be approved, disapproved, or continued to a future meeting. Many items require an action by motion or the adoption of a resolution or an ordinance. When this is required, the words *MOTION*, *RESOLUTION*, or *ORDINANCE* appear in parenthesis at the end of the item. If one of these words does not appear, the item is an informational item.

The attached *Agenda* gives the *Background/Discussion* of agenda items. Following this section is the word *Attachment*. Unless "none" follows *Attachment*, there is more documentation which is available for public review at the Newark Library, the City Clerk's office or at www.newark.org. Those items on the Agenda which are coming from the Planning Commission will also include a section entitled *Update*, which will state what the Planning Commission's action was on that particular item. *Action* indicates what staff's recommendation is and what action(s) the Council may take.

Addressing the City Council: You may speak once and submit written materials on any listed item at the appropriate time. You may speak once and submit written materials on any item **not** on the agenda during **Oral Communications**. To address the Council, please seek the recognition of the Mayor by raising your hand. Once recognized, come forward to the lectern and you may, but you are not required to, state your name and address for the record. Public comments are limited to five (5) minutes per speaker, subject to adjustment by the Mayor. Matters brought before the Council which require an action may be either referred to staff or placed on a future Council agenda.

No question shall be asked of a council member, city staff, or an audience member except through the presiding officer. No person shall use vulgar, profane, loud or boisterous language that interrupts a meeting. Any person who refuses to carry out instructions given by the presiding officer for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.



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AGENDA

Thursday, July 12, 2018

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the City Council meeting of June 28, 2018. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employee.

Background/Discussion – Recently hired Accountant Michelle Villanueva will be at the meeting to be introduced to the City Council.

C.2 Proclamation for the Portuguese Fraternal Society of America Council No. 16 Holy Ghost Festival and 96th Anniversary. (PROCLAMATION)

Background/Discussion – The Portuguese Fraternal Society of America Council 16 will celebrate the annual Holy Ghost Festival on July 21-22, 2018. This will also be a celebration of the Society's 96th Anniversary in the City of Newark. Council President Fabio Pereira and officers of the Society will be at the City Council to accept the proclamation.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

F. CITY MANAGER REPORT

(It is recommended that Items F.1 through F.5 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT**F.1 Authorization for the Mayor to sign an agreement with Alameda County for participation in the Alameda County Urban County for Fiscal Year 2018-2019 – from Assistant Planner Mangalam. (RESOLUTION)**

Background/Discussion – Each year the City of Newark receives funding under the United States Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program. This grant provides funding for activities benefiting low- and moderate-income persons, including public works projects, planning studies, and housing rehabilitation and repair.

Newark's funds are disbursed through Alameda County. The County oversees Newark's use of the funds in order to ensure that all appropriate federal government requirements are met. This arrangement is established and governed each year by a pair of agreements, one between Alameda County and HUD, and one between the City and Alameda County. A copy of the agreement between Newark and Alameda County is attached. By approving this resolution, the City Council will authorize the Mayor to sign the agreement between the City of Newark and Alameda County, thereby continuing the City's participation in the CDBG program.

Attachment

Action - It is recommended that the City Council, by resolution, authorize the Mayor to sign an agreement with Alameda County for participation in the Alameda County Urban County Community Development Block Grant (CDBG) Program for the 2018-2019 fiscal year.

F.2 Second reading and adoption of an ordinance establishing a Planned Development Overlay District at 36589 Newark Boulevard – from Assistant Planner Bowab. (ORDINANCE)

Background/Discussion – On June 28, 2018, the City Council introduced an ordinance establishing a Planned Development Overlay District at 36589 Newark Boulevard. The location is currently a vacant lot that will be developed with a six unit multi-family residential townhome subdivision.

Attachment

Action – Staff recommends that the Council, by motion, adopt an ordinance establishing a Planned Development Overlay District at 36589 Newark Boulevard (APN: 92A-623-43).

F.3 Second reading and adoption of an ordinance amending Title 17 (Zoning) of the Newark Municipal Code to revise Chapters 17.07, 17.08, 17.10, 17.13, 17.17, 17.21, 17.22, 17.23, 17.25, 17.26, and 17.46 generally

affecting land uses, heights, landscaping, signs, parking, and other development standards – from Deputy Community Development Director Interiano. (ORDINANCE)

Background/Discussion – On June 28, 2018, the City Council introduced an ordinance Title 17 (Zoning Ordinance) of the Newark Municipal Code to revise Chapters 17.07, 17.08, 17.10, 17.13, 17.17, 17.21, 17.22, 17.23, 17.25, 17.26 and 17.46.

The following sections of the Newark Zoning Code will be amended per this ordinance:

- 17.07.020-Allow Community Assembly with a Conditional Use Permit (CUP) in RS District.
- 17.07.030-Require a Minor Use Permit (MUP) for heights over 35 ft. in RM and RH Districts.
- 17.08.020-Require a MUP for a Drive-Thru in CC and RC Districts.
- 17.10.020-Require a MUP for unmanned aircraft activity in PK and OS Districts.
- 17.13.040.B-Reduce Paseo (distance between buildings) distance from 19 to 16 feet in FBC District.
- 17.17.020.D.2- allow 30% of the required rear yard area to be used for accessory structures, and no more than 2 structures.
- 17.17.040.A-Clarify fence restrictions and require a MUP for additional height.
- 17.17.070-Limit storage of inoperable vehicles in Residential Districts.
- 17.21.050.A.3.c-All required trees shall be 24” box instead of only 25% of site.
- 17.22.030.B-Clarify that screening and parking are not exempt from nonconforming status.
- 17.23.040 - Additional guest parking requirements for multifamily projects.
- 17.23.090.D-Change Drive isle width to 25 feet instead of 20 feet.
- 17.25.060.F-Clarify Cabinet signs are prohibited.
- 17.25.090.B.3-Monument signs shall be limited to a height of 6 feet.
- 17.25.100.B- Clarify all signs require design review.
- 17.26.140.B&E&F-Provides language to revoke a Home Occupation and require license
- 17.26.260.B.2-Increase review time for a special event permit from 20 to 45 days.
- 17.46.120-Reintroduce the definition of a Lodging House.

At the June 28, 2018 introduction of the ordinance, the City Council amended Section 17.17.020.D.2. The requirement that accessory structures in the RS and RL Districts “shall not exceed 25% of the principal structure” has been removed. The ordinance reflects that change.

Attachment

Action – Staff recommends that the Council, by motion, adopt an ordinance Title 17 (Zoning Ordinance) of the Newark Municipal Code to revise Chapters 17.07, 17.08, 17.10, 17.13, 17.17, 17.21, 17.22, 17.23, 17.25, 17.26 and 17.46, generally affecting

land uses, heights, landscaping, signs, parking and various other development standards.

F.4 Authorizing the City Manager to sign the California Asset Management Trust Investor Agreement for the investment of funds in a Local Government Investment Pool – from Administrative Services Director Woodstock. (RESOLUTION)

Background/Discussion – The City currently uses the Local Agency Investment Fund (LAIF) as the main investment option for cash. LAIF is a state run investment option that allows local agencies to pool funds for optimum performance. The main goal of this investment option is the safety of the principal balances; liquidity and return on investment are the second and third priorities respectively. LAIF has a maximum allowed deposit limit of \$65 million, which has been reached.

The option of investing in a Local Government Investment Pools (LGIP) was added to the Investment Policy in June 2018. This option is similar to LAIF. The California Asset Management Program (CAMP) is a LGIP. The CAMP program is managed by PFM Asset Management Program LLC. CAMP is rated as an ‘AAAm’ by S & P Global Ratings which is the highest rating possible. The rating indicates that the fund has demonstrated an extremely strong capacity to maintain principal and to limit exposure to principal losses. CAMP is in compliance with Government Code 6509.7 which allows local agencies to pool their investments and Government Code 53601 which sets the requirements for oversight of government funds. Several neighboring cities including the cities of Fremont and Dublin, utilize CAMP as part of their portfolio.

The City will be joining the CAMP pool as an investor, instead of joining a Joint Powers Authority member. All expenses related to the operation of the pool are paid from the income of the pool. For investments of up to \$200 million, the cost of the investment is equal to 0.18% of the value of the assets in the pool. The initial deposit into CAMP will be \$25 million. The attached Agreement will initiate the process to allow CAMP to be used in the City’s portfolio.

Attachment

Action - It is recommended that the City Council, by resolution, authorize the City Manager to sign the California Asset Management Trust Investor Agreement.

F.5 Approval of Second Amendment to the Transfer Services Agreement with BLT Enterprises for garbage transfer services – from Administrative Services Director Woodstock. (RESOLUTION)

Background/Discussion – The City has a contract with BLT Enterprises for garbage transfer services. On September 9, 2013, the City received a Notice of Extraordinary

Review from BLT Enterprises. The Extraordinary Review clause in the Agreement allows either party to request a rate adjustment based on specific circumstances. The Cities of Fremont and Union City also use this transfer station and received similar review requests.

The Extraordinary Review Notice requested fee adjustments based on healthcare costs, labor costs associated with newly negotiated collective bargaining agreement, an increase in transportation costs from the transfer station to the landfill, and increases in insurance, property tax, business license and water rates. Staff agreed with the adjustments for the changes to the collective bargaining agreement. In December 2013, the City Council authorized the City Manager to sign an agreement related for those items and authorized payment to BLT starting January 2014. An agreement for this item was not executed, nor was the payment made as negotiations continued on the other items in the request. In June 2016, the City received a revised Extraordinary Review Notice. The revised Notice includes the costs related to the collective bargaining agreement and costs associated with transportation costs, but excludes the other items requested in the previous notice.

The proposed amendment specifies that the adjustments are retroactive to January 1, 2014. The amount due to cover the period between January 1, 2014 and March 31, 2018 would be \$372,630. There is currently \$463,700 in the City's Waste Augmentation Fund that can be used for this purpose. The amount for April, May, and June would be calculated based on actual tonnage delivered to the transfer station using a rate of \$3.55 per ton, which is estimated to be \$29,000. The rate adjustment approved by the City Council in November 2017 for calendar year 2018 included an adjustment for this increase. This adjustment resulted in a \$0.18 rate increase, per month, for the 35-gallon cart residential customer. Currently the \$0.18 is being remitted from Republic Services to the City. As of the effective date of the proposed amendment, the adjustment would be remitted directly to BLT Enterprises.

Attachments

Action - It is recommended that the City Council by resolution, authorize the Mayor to sign the Second Amendment to the Agreement between the City of Newark and BLT Enterprises of Fremont LLC for Transfer Services; and authorize payment from the Waste Augmentation Fund of up to \$410,000.

- G. CITY ATTORNEY REPORTS**

- H. ECONOMIC DEVELOPMENT CORPORATION**

- I. CITY COUNCIL MATTERS**

I.1 Request for direction regarding potentially amending Mayor and City Council Salary and Benefits – from City Manager Becker.(INFORMATION ONLY)

Background/Discussion – Staff recently completed a survey of Mayoral and City Council Member salary and benefits for all cities in Alameda County (excluding Oakland) as well as three additional Bay Area cities comparable in size to Newark. The results found that the combined salary and benefits for Newark’s Mayor and City Council Members was significantly lower than the average of the cities that were surveyed.

The monthly salary and benefits for the Newark City Council are set by City ordinance. The Mayor’s salary is currently set at \$2,479 per month and the City Council salary is set at \$1,134 per month. The Mayor receives no healthcare benefit payment and the City Council receives up to \$540 per month towards healthcare benefits. These salaries and benefits have not changed since December 1, 2007.

The Government Code provides that the City Council may adopt an ordinance increasing City Council salaries, however; the amount of the increase cannot exceed an amount equal to five percent for each calendar year from the effective date of the last adjustments of the salary. In other words, the five percent increase is non-compounded (five percent times the number of years since the last salary adjustment). The Government Code permits the City Council to establish, by ordinance, additional salary and benefits for the Mayor independent of the City Council Members. The last salary increase approved by the City Council for itself and the Mayor was on December 14, 2006. Pursuant to State Law, that increase did not go into effect until December 1, 2007 following the general municipal election.

As for health and welfare benefits, the law provides that the maximum amount that the City can pay Councilmembers towards these benefits starting January 1, 2019, would be \$821 per month.

If the City Council were to adopt an ordinance to be effective in December 2018 following the November 2018 election, the maximum salary and health and welfare benefit increases allowable would be as follows:

Title	Current Salary	Allowable increase (5% x 11 years)	Maximum allowable salary	Current Health Benefit	Maximum allowable Health Benefit
Mayor	\$2,479	Determined by ordinance	Determined by ordinance	\$ 0	Determined by ordinance
Council Member	\$1,134	\$623	\$1,757	\$540	\$821

As indicated in the table above, the City Council may elect to adjust its salary anywhere within the maximum allowable range, which is between 0 and 55%. The Mayor’s salary and benefits may be set independent of the Council’s compensation. Historically, the Mayor and City Council salary has been increased at the same time via a single ordinance.

Attachment – None

Action – Staff recommends that the City Council discuss this information and provide direction to staff regarding any proposed change in Mayor or City Council Member salary and benefits. If a change is proposed, staff will prepare the necessary ordinance and bring to the City Council for formal consideration at a future meeting.

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

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

Approval of Audited Demands.

(MOTION)

M. CLOSED SESSION

- M.1 Closed Session for conference with legal counsel on existing litigation pursuant to Government Code Section 54956.9(d)(1) *Ethan Katz v. City of Newark, et. al* Workers Compensation Appeals Board, Case Numbers: ADJ10739897; ADJ10623626 – from City Attorney Benoun and Human Resources Director Abe.**

Background/Discussion – The City Attorney has requested a closed session to discuss existing litigation pursuant to Government Code Section 54956.9(d)(1).

N. ADJOURNMENT

Pursuant to Government Code 54957.5: Supplemental materials distributed less than 72 hours before this meeting, to a majority of the City Council, will be made available for public inspection at this meeting and at the City Clerk's Office located at 37101 Newark Boulevard, 5th Floor, during normal business hours. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection.

For those persons requiring hearing assistance, please make your request to the City Clerk two days prior to the meeting.