



# CITY OF NEWARK CITY COUNCIL

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

## AGENDA

Thursday, January 11, 2018

**A. ROLL CALL**

**B. MINUTES**

- B.1 Approval of Minutes of the City Council meetings of December 7 and 14, 2017. (MOTION)**

**C. PRESENTATIONS AND PROCLAMATIONS**

- C.1 Commending Sergeant Ray Hoppe on his retirement. (COMMENDATION)**

**Background/Discussion** – Sergeant Ray Hoppe is retiring after 19 years of distinguished service to the Newark Police Department. A commendation will be presented at the City Council.

**D. WRITTEN COMMUNICATIONS**

- D.1 Notice of the Planning Commission approval of a conditional use permit to allow a fitness gym, GFY CrossFit, in a building at 36601 Newark Boulevard, Suite #77. The property is zoned Community Mixed Use - from Deputy Community Development Director Interiano. (REVIEW OPTIONAL)**

**Background/Discussion** – Mr. Fred Camacho has submitted an application to allow a GFY CrossFit gym at 36601 Newark Boulevard, Suite #77. The request for a fitness gym in the Community Mixed Use district (CMU) requires a conditional use permit.

The shopping center is home to various retail and restaurant uses. The shopping center is bordered by office and commercial uses across Newark Boulevard and residential uses to the rear or west of the shopping center.

GFY CrossFit gym is a functional fitness gym that offers group training sessions. The programming promotes general physical preparedness using a mix of gymnastics, weightlifting, bodyweight movements, jump roping, indoor rowing, and indoor biking all performed at high intensity.

All training will be limited to the interior of the gym. Due to the fitness class schedule, the number of attendees at any given time will be limited and staff does not expect any

parking issues that would require additional spaces than what the shopping center already provides. A copy of the interior proposed layout of unit #77 is attached. There is no signage proposed at this time. The general hours of operation will be 6 a.m.-8 p.m. Monday-Friday, 10 a.m.-11 a.m. Saturday, and closed on Sunday.

**CEQA-** This project is categorically exempt from the California Environmental Quality Act (CEQA) per section 15301, Class 1, existing facilities.

**Update-**On December 12, 2017, the Planning Commission held a Public Hearing and approved the Conditional Use Permit to allow a fitness gym by a vote of 4-0-1(Otterstetter absent).

#### **Attachments**

**Action** – This item is review optional.

#### **D.2 Notice of Planning Commission’s decision to uphold the Community Development Director’s denial of a single-family design review change of exterior building material from siding to stucco at 8215 Thornton Avenue – from Associate Planner Mangalam. (REVIEW OPTIONAL)**

**Background/Discussion** – Keshni and Satish Kumar, property owners at 8215 Thornton Avenue, filed an application for a single-family design review (SFDR), for a change in the exterior building material from siding to stucco to their single-family home which is under construction. The subject site is on the north side of Thornton Avenue between Spruce Street and Laurel Street and abuts August Schilling Elementary School. The property is zoned R-6000 (Low Density Residential) and has Low-Density Residential General Plan designation.

Per Newark Municipal Code Section 17.16.206, all new single-family residences, second-story additions and exterior modifications to existing single-family residences shall be reviewed and acted upon by the Community Development Director.

The applicants initially filed for a single-family design review for a new home on November 11, 2015 and were approved for the same on December 17, 2015. On July 7, 2017, the property owners applied for another SFDR for an additional two-car garage to their house. Staff approved the application with the condition that the elevations are enhanced by adding architectural features and siding will be used as exterior building material on front and side elevations. Subsequent to this approval, the property owners requested to modify the elevations by changing exterior building material from siding to stucco and applied for another SFDR on November 20, 2017.

Most of the houses in the surrounding neighborhood are single story with few exceptions. The subject house under construction is two stories and appears very bulky in its size and context. The siding material will help break down the bulkiness of this home and enhance the architectural elements of the house. Staff also studied various homes throughout the City including both stucco and siding as exterior building material for comparison.

Keeping in mind the guidelines of SFDR of Newark Municipal Code, “to promote orderly, attractive and harmonious development, the preservation of the visual character of Newark...” and other considerations, the Community Development Director denied the request to change the exterior building material to stucco.

As per Section 17.26.206(G) of Newark Municipal Code, notice of the Community Development Director’s denial was sent to the applicants on November 29, 2017. The applicants appealed staff’s decision to the Planning Commission.

The Planning Commission considered the matter on December 12, 2017. After a lengthy discussion on the item, the Planning Commission ultimately decided that siding was an architectural feature that would reduce the massing of the large house and agreed to uphold the decision of the Community Development Director. Commissioner Nillo voted in opposition due to concerns about the durability of siding material. The applicants did not submit an appeal of the Planning Commission’s decision.

**CEQA** – One single-family residence, is categorically exempt from the California Environmental Quality Act per Section 15303, class 3 (a).

**Attachment**

**Action** – This is a review optional item.

**E. PUBLIC HEARINGS**

**E.1 Hearing to consider an amendment to the Master Fee Schedule to add an Improvement Plan Review by Outside Consulting Firm by Applicant Request Fee – from Administrative Services Director Woodstock.**

**(RESOLUTION)**

**Background/Discussion** – The City’s Master Fee Schedule (MFS) is reviewed annually in June of each year using an analysis of both direct and indirect costs for the delivery of certain City programs and services. A new service has been identified since the last review and is being proposed to add to the existing MFS.

This addition would be to the Development Enterprise Fund, Section B, as follows:

020-0000	3150 (50%) 3670 (50%)	f. Improvement plan review by outside consulting firm upon request by applicant (in addition to standard review and inspection fees above)	Actual Cost
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This addition will allow an applicant to request improvement plan review by an outside consulting firm. An applicant would be charged the full cost of the consulting services in addition to any other fees already required for the plan review.

**Action** - It is recommended that the City Council, by resolution, amend the Master Fee Schedule for Fiscal Year 2017-2018 to add a new fee for improvement plan review by outside consulting firms upon applicant request.

**E.2 Hearing to introduce an ordinance to repeal and replace Title 17 (“Zoning”) of the Newark Municipal Code and rezone properties by adopting the Official Zoning Map – from Deputy Community Development Director Interiano. (INTRODUCTION OF ORDINANCE)**

**Background/Discussion** – An ordinance is being proposed to repeal and replace the City’s Zoning Code and adopt a new Official Zoning Map. The existing Zoning Code has been in place since 1965. The comprehensive examination of the Zoning Code began in 2016 with the objective to provide a Zoning Code which is clear, concise, and easy to navigate. The draft language provides a clear decision-making and review process in addition to incorporating new planning terms, concepts and best practices. The goal has also been to provide a zoning code which attracts quality investment and improves the quality of life of Newark’s residents.

The draft includes the following sections as described below:

Division I- General Provisions  
Division II- Base and Overlay Districts  
Division III- Citywide Regulations  
Division IV- Administration and Permits  
Division V- Terms & Definitions

The following sections were modified based on feedback received at the City Council work session held on November 7, 2017:

- Industrial Districts (Division II, Section 17.09.030)-Increase rear setback for Business Technology Park district.
- All Districts (Division III, Section 17.17.120(B)(2)(a))-The City may require additional trash and recycling service if needed.
- Window Signs (Division III, Section 17.25.090(H))-Window sign coverage limited to 25% of windows.
- Parking Standards (Division III, Section 17.23.050)-Removed language allowing Parking In-Lieu Fee Program and motorcycle reduction program. In addition, all reductions in parking standards shall require a Minor Use Permit.
- Public Notices (Division IV, Section 17.34.070(a)&(b) & 17.31.060(A)(2)) -Increase the notification radius for design review of Residential and Non-Residential districts. Increase notification radius for discretionary approvals.
- Communication Towers (Division III, Section 17.26.250(3)(a))-Increased allowed height by 15 feet above zoning district height limit.
- Non-Conforming Uses (Division III, Section 17.22.110)-Clarifying language for Class I, non-conforming uses shall not require a Conditional Use Permit if reopened, resumed or re-established during the 10-year abandonment period.

In addition, the city's Official Zoning Map will be updated to conform with the most updated City approved projects and made consistent with the current General Plan.

**Update-**The Planning Commission reviewed the final draft version of the Zoning Code on December 12, 2017 and recommended City Council approval of an Ordinance amending Title 17 (Zoning) of the Newark Municipal code to repeal and replace Title 17, including the update of the City's Official Zoning Map. The Planning Commission had previously held two workshops on the draft Zoning Code in June and September of 2017.

**CEQA-** The Zoning Code update is an implementation of the General Plan and all zoning map changes are consistent with the General Plan, the Environmental Impacts of the Zoning Code update have already been addressed through the General Plan Environmental Impact Report (State Clearing House No. 2013012052). The ordinance before the Council includes this finding.

#### **Attachments**

**Action** – It is recommended that City Council introduce an ordinance repealing and replacing Title 17 (Zoning) of the Newark Municipal Code in order to update the Newark Zoning Code, Rezone Districts and Properties and add a new Zoning Map.

## **F. CITY MANAGER REPORTS**

**(It is recommended that Items F.1 through F.3 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 Approval of Local Debt Policy – from Administrative Services Director Woodstock. (RESOLUTION)**

**Background/Discussion** – Senate Bill 1029 requires that local agencies adopt a comprehensive written debt management policy pursuant to the recommendations of the Government Finance Officers Associations (GFOA). The City is committed to fiscal sustainability by employing long-term financial planning efforts, maintaining appropriate reserve levels and employing prudent practices in governance, management and budget administration, and financial reporting. The attached Local Debt Policy is intended to improve the quality of decisions, assist with the determination of the structure of the debt issuance, identify policy goals, demonstrate a commitment to long-term financial planning and complies with Senate Bill 1029.

**Action** - It is recommended that the City Council, by resolution, approve the City's Local Debt Policy.

**F.2 Authorization for the City Manager to sign Task Order No.1 with Heller Manus Architects for additional architectural services for the renovation of the existing library under the original Newark Civic Center Contractual Services Agreement, Project 1188 – from Chief Building Official/City Architect Collier. (RESOLUTION)**

**Background/Discussion** - On April 27, 2017, the City Council authorized the City Manager to negotiate and enter into an agreement with Heller Manus Architects to provide professional architectural services for the Newark Civic Center, Project 1188. That agreement was executed and covered architectural services for the design of three new buildings and associated site work.

During City Council work sessions held on September 19, 2017, and December 7, 2017, City Council members expressed their desire to repurpose and reconstruct the existing library building to house certain police functions and provide for community gathering spaces. The original agreement did not include architectural services relating to the existing library building. A Task Order has been written to cover needed architectural services. Because the amount of the Task Order exceeds twelve percent (12%) of the original agreement amount staff is recommending City Council approve the Task Change Order. The not-to-exceed amount of the Task Change Order is \$158,913.00 for the Schematic Design Phase work and \$114,220.00 for the Bridging Document Phase work for a total of \$273,133.00. Funding for this task order is available in the project budget.

**Attachment**

**Action** – It is recommended that the City Council, by resolution, authorize the City Manager to sign Task Order No. 1 with Heller Manus Architects for additional architectural services for the renovation of the existing library under the original Newark Civic Center Contractual Services Agreement, Project 1188.

**F.3 Acceptance of the Annual Report on Newark Development Impact Fees for Fiscal Year 2016-2017 in accordance with Government Code Section 66006(b) – from Assistant City Manager Grindall. (MOTION)**

**Background/Discussion** – Government Code Section 66006(b) requires that any city that has adopted impact fees provide an annual report on fees collected, interest earned, and the status of planned public improvements to be funded with the fees.

Staff has completed an Annual Report on Newark Impact Fees for Fiscal Year 2016-2017. The report contains all information required by Government Code Section 66006(b) and has been noticed and distributed accordingly.

It should be noted that the Public Safety Facilities, Transportation and the Community Service Facilities fees were updated on May 25, 2017. All other fees remained constant from previous year.

**Attachment**

**Action** - It is recommended that the City Council, by motion, accept the Annual Report on Newark Development Impact Fees for Fiscal Year 2016-2017 in accordance with Government Code Section 66006(b).

**NONCONSENT**

**F.4 Acceptance of the Comprehensive Annual Financial Report (CAFR) for the period ending June 30, 2017 – from Administrative Services Director Woodstock. (MOTION)**

**Background/Discussion** – As part of the year-end closing process, staff presents the audited Comprehensive Annual Financial Report (CAFR) for the fiscal year ending June 30, 2017. The financial statements included in this report provide information on the City's year-end financial condition and the results of operation for the Fiscal Year 2016-2017. The report was audited by our independent auditors, Badawi & Associates, who have issued an unqualified opinion on the report.

The City's financial statements were prepared according to the requirements of the Government Accounting Standards Board (GASB). The two government-wide financial statements provide a broad view of the City's financial position and activities in a manner similar to the private sector business reporting. The Statement of Net Position provides information about the financial position of the City, including all assets and liabilities. The Statement of Activities provides information about the City's revenues and expenses. In the Transmittal Letter and Management Discussion and Analysis, the Administrative Services Director provides a narrative overview and analysis of the City's financial activities and performance during the fiscal year.

Copies of the CAFR have been provided to the City Council. A copy has also been placed in the Newark Library.

**Attachment**

**Action** - It is recommended that the City Council, by motion, accept the Comprehensive Annual Financial Report (CAFR) for the period ending June 30, 2017.

**F.5 Amendment of the 2016-2018 Biennial Budget and Capital Improvement Plan for Fiscal Year 2017-2018 for Budget Revisions – from Administrative Services Director Woodstock. (RESOLUTION)**

**Background/Discussion** – Fiscal Year 2017-2018 is the second year in the City's two-year budget cycle. The Fiscal Year 2017-2018 operating budget was approved in June of

2016 and amended in February of 2017. There is a need for additional revisions at this time.

There are several reasons for these revisions such as unforeseen increases in necessary professional services, increases in insurance premiums and claims and other increases in costs of services. There is a one-time expenditure of \$440,000 for funding of the Alameda County Fire Department Other Post-Employment Benefits (OPEB). This payment will be held in a trust for the City’s share of OPEB costs that have already occurred during the contract service period. The amendment includes a total of \$1.79 million in additional expenditures. The expenditures are offset by a combination of increases in projected revenues and a transfer of \$1.37 million from the unallocated fund balance.

Exhibit A is a table of the operating budget amendments with account details. The following is a summary of the citywide adjustments:

Professional Services:	\$ 477,000
Public Liability/Workers Compensation	\$ 609,000
Department Supplies/Equipment Maintenance	\$ 93,800
Position Modifications/Training	\$ 173,900
Fire OPEB Previous Year Funding	\$ 440,000
	<u>\$1,793,700</u>

The amendment also includes the following transfers from the General Fund to:

Workers Compensation Fund	\$ 1,000,000
PERS Reserve	\$ 2,000,000
Capital Reserve	\$ 2,000,000

Exhibit B is a table of adjustments to the Position Control Table. The adjustments include deleting an obsolete Commander position and deleting a Senior Accountant position and changing it into an Accountant and a Finance Technician.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, amend the 2016-2018 Biennial Budget and Capital Improvement Plan for Fiscal Year 2017-2018 budget and position revisions.

**G. CITY ATTORNEY REPORTS**

**H. ECONOMIC DEVELOPMENT CORPORATION**

**I. CITY COUNCIL MATTERS**



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

**K. ORAL COMMUNICATIONS**

**L. APPROPRIATIONS**

**Approval of Audited Demands for the City Council meeting of January 11, 2018. (MOTION)**

**M. CLOSED SESSION**

**M.1 Closed session pursuant to Government Code Section 54957  
Public Employee Performance Evaluation  
Title: City Manager.**

**Background/Discussion** – City Manager Becker has requested that the City Council convene in closed session pursuant to Government Code Section 54957 for a performance evaluation.

**M.2 Conference with Labor Negotiator  
Government Code Section 54957.6  
Agency Designated Representative: Mayor Nagy  
Unrepresented employee: City Manager**

**Background/Discussion** – A closed session has been scheduled pursuant to Government Code Section 54957.6.

**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, 5<sup>th</sup> 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.