



# CITY OF NEWARK CITY COUNCIL

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

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

## AGENDA

**Thursday, October 25, 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  
  
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:

- |                                     |                         |
|-------------------------------------|-------------------------|
| A. ROLL CALL                        | I. COUNCIL MATTERS      |
| B. MINUTES                          | J. SUCCESSOR AGENCY     |
| C. PRESENTATIONS AND PROCLAMATIONS  | K. REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS           | L. ORAL COMMUNICATIONS  |
| E. PUBLIC HEARINGS                  | M. APPROPRIATIONS       |
| F. CITY MANAGER REPORTS             | N. CLOSED SESSION       |
| G. CITY ATTORNEY REPORTS            | O. 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](http://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.

City Council meetings are cablecast live on government access channel 26 and streamed at <http://newarkca.pegstream.com>.  
Agendas are posted pursuant to Government Code Section 54954.2. Supporting materials are available at the Newark Library, in the City Clerk's office or at [www.newark.org](http://www.newark.org) on the Monday preceding the meeting. For those persons requiring hearing assistance, or other special accommodations, please contact the City Clerk two days prior to the meeting.



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## AGENDA

Thursday, October 25, 2018

**A. ROLL CALL**

**B. MINUTES**

- B.1 Approval of Minutes of the City Council meeting of October 11, 2018. (MOTION)**

**C. PRESENTATIONS AND PROCLAMATIONS**

**C.1 Introduction of employee.**

**Background/Discussion** - Police Officer Corey Swadener will be at the meeting to be introduced to the City Council.

**C.2 Commending Newark Days Committee members. (COMMENDATION)**

**Background/Discussion** – Newark Days was held September 20-23, 2018, and celebrated the City's 63rd birthday. Members of the Newark Days Committee (Committee) volunteer their time and efforts to ensure a successful event. Members of the Committee will accept a commendation at the City Council meeting.

**C.3 Proclaiming October 25, 2018 as Unity Day. (PROCLAMATION)**

**Background/Discussion** – October 25, 2018 is Unity Day, a day that promotes bullying awareness and prevention. A proclamation has been prepared and members of the Silliman Activity and Family Aquatic Center will accept it at the City Council meeting.

**D. WRITTEN COMMUNICATIONS**

**E. PUBLIC HEARINGS**

**F. CITY MANAGER REPORT**

**(It is recommended that Items F.1 through F.4 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 Second reading and adoption of an ordinance amending Newark Municipal Code Chapter 6.32 (“Regulations - Domestic Animals”), to modify the number of bantam chickens that can be kept as pets and to make other changes to clarify and update this section - from Assistant City Manager Grindall. (ORDINANCE)**

**Background/Discussion** – On October 11, 2018, the City Council introduced an ordinance to amend Newark Municipal Code Section 6.32.010 (Domestic Pets – Animal Fanciers Permit Required When) to allow a total of 10 animals, with per species limit of eight (8) bantam chickens, four (4) hen chickens, three (3) cats or dogs and two (2) of all other pet species. The list of defined pets was also updated to remove some inappropriate specificity and to remove gophers as a defined pet. Exceeding the number of animals could still be permitted if an Animal Fanciers Permit was secured.

Adding shelter, water, and food requirements was briefly discussed at the ordinance introduction and will be scheduled for City Council consideration at a future meeting.

### **Attachment**

**Action** - Staff recommends that the City Council, by ordinance, amend Title 6 Animals, Chapter 6.32 Regulations – Domestic Animals, Section 6.32.010 Domestic Pets – Animal Fanciers Permit Required When of the Newark Municipal Code.

- F.2 Authorization for the purchase of two (2) 2019 Dodge Chargers as replacement vehicles for the Police Department from Elk Grove Auto Group and outfitting by Lehr – from Maintenance Supervisor Connolly. (RESOLUTION)**

**Background/Discussion** – The Newark Police Department is in need of two (2) replacement vehicles that have reached the end of their useful lives. The 2018-2020 Biennial Budget and Capital Improvement Plan includes funding for vehicle replacements in the amount of \$100,000 as part of the Equipment Replacement Budget. Authorization is requested to participate in an intergovernmental procurement process for the purchase of two (2) 2019 Dodge Chargers.

An intergovernmental procurement process (also known as a “piggybacking”) is an alternative option to Newark’s formal bidding process. By piggybacking onto another agency’s contract, the City would save the cost and time associated with the formal bid

process but be able to be assured of competitive set prices established by another agency's formal bidding process.

Upon completion of a formal bidding process, the State of California entered into a master contract and a procurement contract with Elk Grove Auto Group for the purchase of new vehicles. This contract is in effect through April 30, 2020, and includes a provision to allow other agencies to participate.

The competitive process used by the State of California has been reviewed by the Public Works Department and satisfies the City's requirements for the proposed vehicle purchases.

Based upon the State of California contract with Elk Grove Auto Group, the combined purchase cost for the two vehicles will be \$70,000. The vehicle cost does not include outfitting of the vehicles which is estimated not to exceed \$30,000 combined for both vehicles. The outfitting, by Lehr, is based on specialized vendor quotes for the installation of lights, sirens, window tinting, speakers, antennas, and specialized wiring.

**Action** - It is recommended that the City Council, by resolution, authorize the purchase of two (2) 2019 Dodge Chargers as replacement vehicles for the Police Department from Elk Grove Auto Group and outfitting by Lehr.

**F.3 Amendment to Resolution No. 10755, Police Recruiting Incentive Program, adding a lateral leave incentive and approving a budget amendment – from Police Chief Carroll. (RESOLUTION)**

**Background/Discussion** – The Newark Police Department has been hiring officers continuously for the past several years and anticipates that these efforts will continue over the next few years. Due to the limited pool of qualified applicants, police departments must offer incentives to attract the best possible candidates.

A Police Recruiting Incentive Program was presented and approved by City Council on March 8, 2018. This program currently includes the following hiring incentives:

1. Reimbursement for moving expenses which includes actual moving and initial rent expenses up to \$2,500 in cases where employee lives further than 75 miles from the City of Newark and relocates within 30 miles of the city, or the employee lives further than 50 miles away from the City of Newark and moves into the city.
2. Reimbursement for police academy costs. Newly hired police officers who have completed the academy within one year of hire and who have not yet been employed by another agency as a police officer will be eligible to be reimbursed for all out of pocket academy tuition and related costs. The academy graduate must provide evidence of his/her expenses and the reimbursement is limited to \$2,500.

3. A \$500 referral fee to Newark Police Department employees who refer a candidate to the City. Payment of the referral fee is contingent upon the recommended candidate completing probation.

The department has since identified the need to add a lateral leave incentive. This incentive would allow the Chief of Police, at his or her discretion, to grant lateral hires a one-time vacation and/or sick leave credit adjustment. Their tenure as a police officer at his or her previous employer will be considered in determining the number of hours awarded. A maximum of 120 hours of vacation and 100 hours of sick leave will be allowed. The addition of a lateral leave incentive will allow the department to be more competitive in attracting police officers from other agencies who will bring years of experience and knowledge with them.

Staff estimates that this program will cost up to a maximum of \$13,000 per year and requests that the 2018-2020 Biennial Budget be amended to provide funding.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, approve the amendment of Resolution No. 10755, Police Recruiting Incentive Program, to add a lateral leave incentive and a budget amendment to the 2018-2020 Biennial Budget for Fiscal Year 2018-2019.

#### **F.4 Award of contract to Law Dogs for Police Canine services for the Newark Police Department and approving an amendment to the 2018-2020 Biennial Budget - from Police Lieutenant Kimbrough. (RESOLUTION)**

**Background/Discussion** – The Newark Police Department has operated a Canine Unit continuously since the mid-1990's. Police canines are specifically trained to assist officers in locating and apprehending suspects and may also be trained to search for narcotics or assist in tracking persons. After the retirement of two Police canines earlier this year, the Newark Police Department researched potential vendors who could assist with the evaluation and selection of canines as well as provide the necessary Police canine training.

In accordance with the City's Purchasing Rules and Regulations, staff prepared and initiated an open and competitive Request for Proposals (RFP) for professional canine selections and training. The RFP specified that selection would be based on quality and completeness of submissions as well as the vendor's experience and expertise.

Proposals were received from Myers Police K9 Training (Chico), Witmer-Tyson Imports (La Honda), Top Dog Police K9's (Modesto), and Law Dogs (Sacramento). Upon initial review of the proposal received by Myers Police K9 Training, it was determined that they did not meet the criteria outlined in the RFP.

On September 17, 2018, staff conducted site visits, which included interviews and demonstrations, of the three remaining qualified vendors. Staff members included a Police Officer, Police Sergeant, Police Lieutenant, and a Police Captain from the Newark Police Department; a Sergeant from the Fremont Police Department, and a Deputy Sheriff from the Alameda County Sheriff's Office. Of the six, two were former K9 handlers, two are current K9 handlers, and two are members of the Newark Police Department's Command Staff.

Staff evaluated and ranked all proposals received based on the completeness and responsiveness of their RFP, the site visits conducted, costs, and risk management. Law Dogs was selected based on their ability to exceed Peace Officer Standards and Training (POST) requirements, canine selections and training philosophy, training facility, expertise, and cost.

Staff is recommending the approval of a Contractual Services Agreement with Law Dogs for the selection of two Police canines and training. The cost for Police canines varies depending on the breed and available selection at the time of purchase. The current price is \$9,300-\$12,500 per dog and the initial first year training for both canines is \$26,000. Funding in the amount of \$30,000 was originally budgeted in Equipment Replacement for the purchase of two Police canines and initial first year training for Fiscal Year 2018-2019. Staff requests that the 2018-2020 Biennial Budget for Fiscal Year 2018-2019 be amended to include an additional \$21,000 to cover the cost of this contract.

#### **Attachment**

**Action** – It is recommended that the City Council, by resolution award a contract with Law Dogs for Police canine services for the Newark Police Department and a budget amendment to the 2018-2020 Biennial Budget for Fiscal Year 2018-2019.

### **NONCONSENT**

#### **F.5 Update on the new Newark Civic Center and approval of a Stipend Agreement in the Request for Proposals for Design-Build Services for the new Civic Center – from Chief Building Official/City Architect Collier.**

**(MOTION)**

**Background/Discussion** – On April 19, 2018, City Council accepted the conceptual design of the new Civic Center and authorized Heller Manus Architects to proceed with the development of the bridging documents. Project Manager, Ray Collier, will update the Council on the progress to date at the City Council meeting.

It is anticipated that the Request for Proposals (RFP) for design-build services will be issued on October 26, 2018. As discussed at previous City Council meetings the design-build model of project delivery is very different from the design-bid-build model the City has used since the City was formed in 1955. The design-bid-build

model can, and often does, lead to big fluctuations in bid amounts, costly change orders, and litigation. The design-build model significantly reduces these types of construction issues.

The design-build model requires a considerable investment from proposers in order to complete the RFP process. To attract quality contractors that have demonstrated history of delivering successful and litigation free projects, staff is recommending that the City provide incentives. The City will be employing two industry standard processes. First, design-build entities have been prequalified and ranked and only the top three have been invited to submit proposals. The second is to provide a stipend to the two design-build entities that submitted responsible and responsive proposals but were not selected.

Stipends are an industry standard utilized by government agencies with amounts ranging from 0.01 percent to 0.25 percent of the construction budget. Staff is proposing setting the stipend at \$50,000 for each unsuccessful proposer. With the Civic Center construction budget set at \$64 million the \$50,000 stipend equals 0.08 percent of the construction budget. The stipend will cover a portion, but not all, of the proposer's costs which includes design, concept and technical proposals in addition to cost estimating. The funding for the stipend would come from the existing budget for the Civic Center project.

The City will require a signed stipend agreement with each of the two unsuccessful proposers giving the City rights to all proposal documents including any enhancements and innovative concepts included in their proposals. The description of the stipend will be included in the RFP and the stipend agreement will be signed by the City Manager. The stipend will be issued to the unsuccessful proposers who submitted responsible and responsive proposals.

**Action** - It is recommended that the City Council, by motion, approve the \$50,000 stipend in the Request for Proposal for Design-Build Services for the Newark Civic Center and authorize the City Manager to execute the Stipend Agreement and issue the stipend to the two unsuccessful proposers that submit responsible and responsive proposals.

**F.6 Declaration of opposition to Proposition 6, the Voter Approval for Future Gas and Vehicle Taxes and 2017 Tax Repeal Initiative, on the November 2018 ballot – from Public Works Director Fajeau. (RESOLUTION)**

**Background/Discussion** - The initiative to repeal Senate Bill 1 (SB1), the Road Repair and Accountability Act of 2017, through a constitutional amendment was successful in getting enough signatures to qualify for the November 2018 ballot and will appear as Proposition 6 – Voter Approval for Future Gas and Vehicle Taxes and 2017 Tax Repeal Initiative. A “yes” vote would support this initiative to repeal fuel tax increases and vehicle fees enacted with SB1 and would require voter approval via ballot propositions for the California State Legislature to impose, increase, or extend fuel

taxes or vehicle fees in the future. A “no” vote opposes this initiative to keep the fuel tax increases and vehicle fees enacted with SB1 and would allow the state legislature to continue to impose, increase, or extend fuel taxes or vehicle fees through a two-thirds vote of each chamber, without voter approval.

If approved this November, Proposition 6 would negatively impact every facet of the Bay Area’s transportation system. Action to meet California’s transportation funding challenges was long overdue with the State’s last adjustment to the gas tax in 1994. From 1994 until 2017, the backlog in needed repairs for local roads and highways increased to \$137 billion. With the passage of SB1, California joined the ranks of 38 states that have passed legislation to raise their own gas taxes since 1993, the last time Congress raised the federal gas tax.

As noted in an informational article in the Fall 2018 issue of the Newark News, the City is projected to receive approximately \$9 million over the next 10 years from SB1. Newark will receive over \$1M between fiscal year 2017-2018 (a partial year of funding from this new source) and fiscal year 2018-19. These funds will be used for a substantial expansion of the asphalt concrete overlay program and the concrete curb, gutter and sidewalk repair program. Future projects likely to be funded at least in part by SB1 include these annual maintenance projects as well as larger critical neighborhood projects such as the Lindsay Tract Street and Storm Drainage Improvements. SB1 is anticipated to generate over \$5 billion annually with \$1.5 billion allocated specifically to cities and counties to maintain local streets and roads. Without SB1 funding, the region’s Pavement Condition Index (PCI), a 0 to 100 scale, is forecast to drop from a “fair” score of 67 to an “at risk” level of 57 by 2027. Newark’s PCI has been holding steady at 76 and is currently projected to climb with this additional SB1 funding. However, a similar decrease would be expected without SB1 funding.

SB1 includes public accountability and transparency requirements to allow members of the public to review how the funds are spent. As an example, SB1 requires that cities and counties adopt project lists at the beginning of each fiscal year and provide year-end reporting on completed projects. Other accountability provisions ensure these funds are used only for transportation improvements and that the funds cannot be diverted for non-transportation purposes. Proposition 69 – the constitutional protection measure that accompanied the passage of SB1 – was approved by voters in June 2018 (81.3%) and ensures that the revenues from SB1 that were not already protected by the constitution are dedicated and protected for transportation purposes.

The Alameda County Transportation Commission and Metropolitan Transportation Commission have taken positions in opposition to Proposition 6 along with the League of California Cities, the California State Association of Counties, many cities and counties statewide, and a long list of environmental, social justice, transportation/infrastructure, public safety, business, labor, and public interest organizations.



**Attachment**

**Action** - It is recommended that the City Council, by resolution, declare opposition to Proposition 6, the Voter Approval for Future Gas and Vehicle Taxes and 2017 Tax Repeal Initiative, on the November 2018 ballot.

**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.**

**(MOTION)**

**M. CLOSED SESSION****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.