



# 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, November 8, 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  | 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](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.



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## AGENDA

Thursday, November 8, 2018

**A. ROLL CALL**

**B. MINUTES**

- B.1 Approval of Minutes of the City Council meetings of October 17 and 25, 2018. (MOTION)**

**C. PRESENTATIONS AND PROCLAMATIONS**

- C.1 Commending Roxanne Müller on her retirement. (COMMENDATION)**

**Background/Discussion** – Administrative Support Specialist II Roxanne Müller is retiring after 22 years of dedicated service to the City. A commendation will be presented to Ms. Müller at the City Council meeting.

- 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 Introduction of employee.**

**Background/Discussion** – Public Works Administrative Support Specialist II Mirna Padilla will be at the meeting to be introduced to the City Council.

**D. WRITTEN COMMUNICATIONS**

**E. PUBLIC HEARINGS**

- E.1 Hearing to consider Compass Bay, a 138-unit residential project on a 9.97-acre site located at 8610 Enterprise Drive. The City Council will consider approval of: (1) rezoning a 9.97-acre portion of Vesting Tentative Tract Map 8459 from Business and Technology Park (BTP) to Residential Medium Density with Form Based Code (RM-FBC) and**

**Planned Development Overlay District (PD) (APN 092-0115-005-02); (2) Vesting Tentative Tract Map 8459; (3) Planned Development Plan for construction of 138 residential units; (4) addendum to the Dumbarton Transit Oriented Development Specific Plan Environmental Impact Report and certifying that the previously approved EIR (State Clearinghouse Number 2010042012) addresses all the impacts of the proposed development; and (5) Authorizing the Mayor to sign a Community Financing Agreement with TH Willow Newark Investors, LLC – from Associate Planner Mangalam. (ORDINANCE)(RESOLUTIONS-4)**

**Background/Discussion** – TH Willow Newark, LLC., has submitted an application to develop Compass Bay, a 138-unit residential development on property owned by Ashland LLC. The site was previously used as a chemical packaging and distribution facility. The project site is vacant and consists of leveled industrial pads and road embankments. The surrounding properties are actively being developed in accordance with the Dumbarton Transit Oriented Development (TOD) Specific Plan, approved in 2011. Residential units planned within the Specific Plan area have been constructed or are under construction. Enterprise Drive borders the project site to the north, and Hickory Street borders the project site to the west. Vacant land and industrial uses occur north/northwest of the project site, across Enterprise Drive. To the east, commercial and residential developments are under construction. To the south and west of the project site, residential developments are under construction. The surrounding land uses are characterized by existing and former industrial parcels and commercial and residential developments constructed and/or under construction such as William Lyons Bayshores, Trumark Glass Bay, Lennar Lighthouse, as part of the Dumbarton TOD area.

**Project Benefits** - The vision of the Specific Plan was to create a unique and memorable community by integrating key elements of community design into the plan, including: a future Transit Station; a Neighborhood Center; up to 2,500 new residential units; necessary infrastructure; contribution towards the construction of an overpass on Central Avenue over the Union Pacific Railroad right-of-way; more than 16-acres of parks including a community (public) park and a Bayside Trail; and a project that is fiscally beneficial to the City of Newark. The proposed project is in line with the vision of the Specific Plan, and will provide the following benefits:

Community Identification – Monument Signs

Community identification monument signs form an important element of urban landscapes which helps both the inhabitants and visitors to identify a place. Bayside is a new neighborhood in the City and will benefit from sense of place. The applicant for this project proposes to install monument signs on existing and proposed roundabouts to provide neighborhood identification. Each roundabout will have two to four monument signs installed with a uniform design reflecting the theme of the Bayside neighborhood.

Contribution towards improvement of 5-acre public park

One of the main elements of the Specific Plan was to provide for a public park to best serve the active and/or passive recreational needs of the community. There is a 5-acre park that will be developed by the applicant of proposed FMC Parcel C project. The applicant/developer for Compass Bay will contribute approximately \$2.9 million in Park Impact Fees towards the improvement of the public park.

#### Fiscal Impact Fee

The Dumbarton TOD Specific Plan contains critical elements necessary for its implementation. To ensure that the city's fiscal health is sustained, developers are required to contribute to the provision of public improvements and city services in the Plan area. As such, the applicant has agreed to enter into a Community Financing Agreement. Under the terms of the agreement, a contribution of \$2,500 per dwelling unit is required. The applicant will pay \$345,000 towards the Fiscal Impact Fee. This fund can be allocated by the Council in a future action.

#### Development Impact and other fees

The project will also provide significant impact fee revenue including: approximately \$4.2 million in Affordable Housing fees; \$369,009 in Public Safety fees; \$226,908 in Community Services/Facilities fees; and \$540,439 in Transportation Impact fees and Art in Public Places fee of \$37,260. Collectively, the estimated total of impact fee revenue is \$5.3 million (excluding park impact fee). These fees can be utilized Citywide to improve the Newark community. The project will also pay \$1.13 million in school fees to the Newark Unified School District.

**Overview** – The applicant proposes to construct 138 homes consisting of 53 detached single-family and 85 attached townhomes with a density of 14-units to an acre. The residential development would be accessible directly from Enterprise Drive and Seawind Way and would be oriented along a few internal roadways serving the neighborhood. The project includes two north/south oriented roadways, off Seawind Way and off Enterprise Drive, that would function as the main arterials through the neighborhood. Both streets provide access to two east/west oriented roadways. Fourteen courts are provided throughout the residential development.

Single-family homes: The applicant proposes to construct 53 detached single family homes. Five different floor plans ranging from approximately 2,000 to 2,600 square feet are proposed to provide diversity of styles and configurations. The project proposes three different architectural styles, Farmhouse, Craftsmen and Victorian and within those styles, there are variations in architectural elements, color and material schemes to add diversity. Plan types 1, 2, 2X and 3 are two-stories high; and Plan 3X is three-stories high.

Multifamily homes/Townhomes: There will be 85 townhomes proposed in 3-plex, 4-plex, 5-plex, 6-plex and 7-plex buildings. Three different townhome floor plans range from approximately 1,885 square feet to 2,060 square feet. The townhome buildings will be three-stories tall and alley loaded. Buildings will have different colors and materials schemes.

A small park with a lawn area and playground is located to the east of the site. The proposed development would include walkways that would connect to off-site sidewalks along Enterprise Drive/Hickory Street and adjacent residential projects. The distinct feature of this proposed development is that all the homes front to major streets- Enterprise Drive, Hickory Street and Seawind Way instead of backing on them, thus enhancing pedestrian activity.

The Specific Plan requires that 2.5 on- and off-street parking spaces per unit be provided for single- and multifamily residential developments. The proposed project would construct 53 single-family residential units and 85 multi-family residential units, requiring 345 parking spaces. A total of 350 parking spaces would be provided for the residential development, out of which 276 spaces would be private garage spaces and 74 spaces would be on-street surface parking for guests. With a planned supply of 350 spaces, the proposed parking supply would meet the Specific Plan's requirements.

The proposed residential project is consistent with the objectives, policies, and vision of the Dumbarton Transit-Oriented Development Specific Plan and requires the approval of the following actions to allow the construction of proposed residential project:

**Rezoning:** The site is currently zoned as Business and Technology Park (BTP) which allows advanced technology research and development, manufacturing, and related support facilities. This project requires rezoning to a residential district. The applicant proposes a density of 14 units per acre (138 units on 9.68 net acres) and requires Residential Medium Density (RM) which allows residential densities from 14 to 30 units per net acre. Further, Dumbarton TOD Specific Plan included the concept of Form Based Code to set guidelines for developments within the TOD to create a vibrant, thriving and special community. Thus, the site will require a rezoning of approximately 9.97- acre from Business and Technology Park (BTP) to Residential Medium Density with Form Based Code (RM-FBC). As per Section 17.12.050 of Newark Zoning Ordinance, a Planned Development (PD) Overlay District must be adopted for the approval of a PD Plan, which provides greater flexibility in the design of the development.

**Vesting Tentative Tract Map:** The applicant has submitted Vesting Tentative Tract Map 8459 to construct 138 units comprising of 53 single-family and 85 townhomes on an approximately 9.97-acre site. The tract will consist of the following land uses: single family lots (3.33 acres), multi-family lots (2.84 acres), private streets (2.36 acres), park (0.18), water quality (0.22 acres) and open space (1.04 acres). The project requires two off-street covered spaces and 0.5 guest spaces per unit, thus requiring total of 345 parking spaces. The project will provide a total of 350 spaces including 276 private garage spaces and 74 guest parking spaces.

**Planned Development (PD) Plan:** The project proposes the development of a previously analyzed and approved project with minor deviations from the City's Form

Based Code for the TOD Specific Plan area. These deviations require the approval of a planned development plan. The proposed deviations from the Newark Zoning Ordinance are: (1) Single-family homes will be setback at minimum 4 feet from the front property line in lieu of the minimum 8 feet (building face) and 6 feet (porch/stoop) as set in Section 17.13.040.A; (2) Section 17.13.040.B requires multi-family buildings to be a minimum of 30 feet from non-street property line of a detached lot. In the proposed development, townhomes do not meet this requirement and are set at a distance ranging from 8 feet to 12.8 feet; (3) Multi-family buildings should be at minimum 15 feet from non-property line of a multi-unit lot as included in Section 17.13.040.B. However, one of the 3-plex building (townhomes) is setback at 10 feet from Lennar Lighthouse residential project; and (4) Multi-family buildings shall be at minimum 5 feet from on-site drive lane as required per Section 17.13.040.B of Newark Zoning Ordinance, however the proposed buildings are set at 4 feet with an overhang of two-feet on the second and third floor, thus only providing two-foot setback in lieu of five feet.

Per Newark Zoning Code Section 17.12.060, a PD Plan shall only be approved if certain findings are made. The findings given in the draft resolution of approval contains language that comes from the Newark Zoning Ordinance and is supported by application materials on file. The findings are as follows:

- a. *The proposed development is consistent with the General Plan and any applicable specific plan, including the density and intensity limitations that apply.*

The 9.97-acre Compass Bay Project site is proposed for medium density residential development. The total number of proposed housing units is 138 on 9.68 net acres of the site to achieve a density of approximately 14 housing units per acre.

Land use in the project area is regulated by the City of Newark through various plans and ordinances, including the City of Newark 2013 General Plan and the City of Newark Zoning Ordinance. Further, the Compass Bay Project is included in the Dumbarton Transit Oriented Development (TOD) Specific Plan (Specific Plan).

The City of Newark zoning designation for the site is Business and Technology Park (BTP), which is inconsistent with the proposed land uses for the Compass Bay Project. Implementation of the project would require a rezone of the project site from BTP to medium density residential for the residential development project. City approval of the rezone would resolve this conflict.

The Dumbarton TOD Specific Plan identifies the project property as medium/high-density residential, and the project is proposed for medium-density residential. However, the Specific Plan allows for an adjustment of land uses within the Specific Plan area without necessitating a Specific Plan Amendment. Additionally, the Specific Plan identifies a maximum number of units that may be developed on each parcel within the Dumbarton TOD area, and the maximum number of units allowed on APN

092-0115-005-02 is 243, which is 105 units less than the maximum number of units allowed.

- b. *Adequate transportation facilities and public services exist or will be provided in accord with the conditions of development plan approval, to serve the proposed development; and the approval of the proposed development will not result in a reduction of traffic levels of service or public services so as to be a detriment to public health, safety, or welfare.*

The proposed residential development would be accessible directly from Enterprise Drive and Seawind Way and would be oriented along a few internal roadways serving the neighborhood. The project includes two north/south oriented roadways, “A” Street, off Seawind Way, and “C” Street, off Enterprise Drive, that would function as the main arterials through the neighborhood. Both streets provide access to two east/west oriented roadways, “D” Way and “B” Avenue, and “C” Street provides access to an east/west oriented roadway, “E” Lane, embedded in the residential development. Fourteen courts are provided throughout the residential development and are accessible via “A” Street, “C” Street, “B” Avenue, and “E” Lane. The proposed project would not require additional modification to the roadways (e.g. re-alignment) other than already identified in the Program Environmental Impact Report (PEIR) prepared for the Dumbarton TOD Specific Plan.

New vehicular trips generated by the Compass Bay Project, in combination with other approved projects within the Specific Plan area, are below the total number of daily, a.m. peak hour, and p.m. peak hour trips that were assumed in the Specific Plan PEIR and would not conflict with the City’s operational standards as projected under those plans.

Sidewalks would be provided along at least one side of each neighborhood street and would connect to sidewalks along Enterprise Drive and Seawind Way. The residential development would include walkways and crosswalks that would connect to off-site sidewalks along Enterprise Drive and the adjacent Tract 8099 – Bridgeway Lennar project, west of the project site.

The future sidewalk and roundabout at the Enterprise Drive and Hickory Street would be constructed by the project applicant and other Dumbarton TOD developers per a pending developer agreement. Additionally, the proposed project would include the construction of the sidewalk and landscaping strip along the Hickory Street project frontage from Seawind Way to Enterprise Drive and the Seawind Way project frontage.

The project site would provide 350 parking spaces, including three for disabled persons, 276 spaces in private garage spaces, and 71 on-street parking spaces. With a planned supply of 350 spaces, the proposed parking supply would exceed the minimum parking required by Specific Plan with a surplus of 5 spaces.

The project proposes to construct 105 fewer units than allocated to the parcel in the Specific Plan and would not result in a significant increase in service demands or render the current service levels to be inadequate, as service demands for the medium-density residential land use would be similar to or less than those envisioned under the medium/high-density residential land use. Further, the applicant is required to pay development impact fees for fire protection, police protection, and schools.

- c. *The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area.*

The project site is vacant and consists of leveled industrial pads and road embankments, and the surrounding properties are actively being developed in accordance with the Dumbarton TOD Specific Plan. Residential units planned within the Specific Plan area east, south, and west of the project site have been constructed or are under construction.

Enterprise Drive borders the project site to the north, and Hickory Street borders the project site to the west. Vacant land and industrial uses occur north/northwest of the project site, across Enterprise Drive, although a combination of residential, commercial, park and transit uses are planned for this area. To the east, commercial and residential developments are under construction. To the south and west of the project site, residential developments are under construction. The surrounding land uses are characterized by existing and former industrial parcels and commercial and residential developments constructed or under construction as part of the Dumbarton TOD Specific Plan.

- d. *The development generally complies with applicable adopted design guidelines.*

Chapter 5 of the Dumbarton TOD Specific Plan has established design guidelines to govern development of a planned community which offers a variety of residential housing types. Several building styles are recommended to be used throughout the Plan area including Agrarian Rural/Contemporary, Farmhouse, Arts & Crafts – Prairie/Craftsman and French Country. The proposed project would incorporate a mix of Farmhouse, Modern Prairie, and Contemporary Agrarian residential units.

The site planning and layout of the Specific Plan area is encouraged to have a strong pedestrian orientation. The Circulation Design Guidelines in the Specific Plan provide recommendations for the streets and other circulation areas throughout the Plan area. The street hierarchy is intended to create a pedestrian network through and around the Plan area and into the adjacent community. The proposed residential development would be accessible directly from Enterprise Drive and Seawind Way and would be oriented along a few internal roadways serving the neighborhood. The project includes two north/south oriented roadways, “A” Street, off Seawind Way, and “C” Street, off Enterprise Drive, that would function as the main arterials through the neighborhood. Both streets provide access to two east/west oriented roadways, “D” Way and “B” Avenue, and “C” Street provides access to an east/west oriented roadway, “E” Lane,



embedded in the residential development. Fourteen courts are provided throughout the residential development and are accessible via “A” Street, “C” Street, “B” Avenue, and “E” Lane. Sidewalks would be provided along at least one side of each neighborhood street and would connect to sidewalks along Enterprise Drive and Seawind Way. The residential development would include walkways and crosswalks that would connect to off-site sidewalks along Enterprise Drive and the adjacent Tract 8099 – Bridgeway Lennar project, west of the project site.

- e. *The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior community design, environmental preservation and/or substantial public benefit.*

A Planned Development approval will allow for greater connectivity between the Planning Area neighborhoods and also the greater Specific Plan area. As mentioned under finding b), the proposed project would construct walkways and crosswalks that would connect to off-site sidewalks along Enterprise Drive and the adjacent Tract 8099 – Bridgeway Lennar project and Tract 8157- Lennar Lighthouse/Senior Housing. Additionally, the future sidewalk and roundabout at the Enterprise Drive and Hickory Street would be constructed by the project applicant and other Dumbarton TOD developers per the pending developer agreement. The proposed project would also include the construction of the sidewalk and landscaping strip along the Hickory Street project frontage from Seawind Way to Enterprise Drive and the Seawind Way project frontage.

The proposed project would provide community members with varied housing options. The applicant proposes to construct 53 single-family residential units, with four different floor plan options, and 85 multi-family attached townhomes, with four different floor plan options.

**Addendum to Program Environmental Impact Report (PEIR):**

The City of Newark (City) certified a Program Environmental Impact Report (PEIR) for the Dumbarton Transit Oriented Development (TOD) Specific Plan (State Clearinghouse No. 2010042012, July 2011). The State CEQA Guidelines environmental review procedures allow for the updating and use of a previously adopted PEIR for projects that are different from the previous project or the conditions under which the project was analyzed. In accordance with State CEQA Guidelines Section 15164, an Addendum has been prepared to document that the proposed project modifications do not require preparation of a subsequent EIR or Negative Declaration under Section 15162.

The proposed project is substantially similar to the project evaluated in the adopted 2011 PEIR. Similar to the approved project, the proposed project involves constructing medium density residential on the project site which is substantially similar to the development area analyzed in the 2011 PEIR, which involved constructing medium-high density residential. The analysis contained in the Initial Study demonstrated that

there are no substantial changes proposed in the project which would result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There is no new information of substantial importance which was not known for the 2011 PEIR, and no new mitigation measures are necessitated by new impacts. The applicant will remain obligated to comply with all applicable mitigation measures and conditions of approval contained within the EIR.

#### Recommendation

The proposed project is in line with the vision of the Specific Plan by proposing to create a livable residential development designed with connectivity to existing and proposed developments in the neighborhood of Bayside Newark. Thus, staff recommends approval of this proposed residential development.

**Update** – On August 28, 2018, the Planning Commission approved Resolution Numbers 1966, 1967, 1968, and 1969 which recommended that the City Council approve the Rezoning, Vesting Tentative Tract Map 8459, the Planned Development Plan, and the addendum to the Dumbarton Transit Oriented Development Specific Plan Environmental Impact Report and certifying that the previously approved EIR addresses all the impacts of the proposed development.

**Action** – It is recommended that the City Council, via motion, approve the following:

- (1) Introduce an ordinance amending Title 17 (Zoning) of the Newark Municipal Code Section 17.03.020 “Official Zoning Map And District Boundaries” by rezoning all that real property shown on the Vesting Tentative Map 8459 from Business and Technology Park (BTP) to Residential Medium Density with Form Based Code (RM-FBC) and Planned Development Overlay District (PD) APN 092-0115-005-02
- (2) By resolution approve, TTM-18-19, a Vesting Tentative Tract Map 8459 to allow construction of a 138-unit residential project on a 9.97-acre site located at 8610 Enterprise Drive (APN 092-0115-005-2);
- (3) By resolution approve, P-18-20, a Planned Development Plan to allow construction of a 138-unit residential project on a 9.97-acre site located at 8610 Enterprise Drive (APN 092-0115-005-2);
- (4) By resolution approve, E-18-18, an addendum to the Dumbarton Transit Oriented Development Specific Plan Environmental Impact Report and certifying that the previously approved EIR (State Clearinghouse Number 2010042012) addresses all the impacts of the proposed Compass Bay development (138 residential units);
- (5) By resolution, authorize the Mayor to sign a Community Financing Agreement TH Willow Newark Investors, LLC regarding provision of certain public facilities and services for the Dumbarton Transit Oriented Project Specific Plan.

#### **Attachments**

Exhibit A: Initial Study/Addendum to the Dumbarton Transit Oriented Development Specific Plan Environmental Impact Report (State Clearinghouse Number 2010042012)

Exhibit B: Plan Set for proposed residential development

Exhibit C: Plan Set for proposed monument signs

Exhibit D: Community Financing Agreement

## **F. CITY MANAGER REPORTS**

**(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 Cancellation of the November 22 and December 27, 2018 City Council meetings – from City Clerk Harrington. (MOTION)**

**Background/Discussion** – Newark Municipal Code Section 2.08.010 provides that when a regular meeting of the City Council falls on a day designated by law as a legal or national holiday, there shall be no meeting. The November 22, 2018 regular meeting falls on the Thanksgiving holiday. The December 27, 2018 meeting occurs during the winter furlough. Formally canceling these meetings will allow the City Clerk to notify the public in a timely manner.

**Action** - It is recommended that the City Council, by motion, cancel the November 22 and December 27, 2018, City Council meetings.

#### **F.2 Acceptance of work with Western Water Features, Inc. for Silliman Aquatic Center Improvements, Project 1104 – from Public Works Director Fajeau. (RESOLUTION)**

**Background/Discussion** – On November 9, 2017, the City Council authorized award of a contract to Western Water Features, Inc. for Silliman Aquatic Center Improvements, Project 1104. The scope of work included replacement of the activity pool play structure, replacement of the open-flume slide, and re-plastering of the lazy river pool, activity pool and lap pool. The project also included related tile, drain, and accessibility improvements as well as extensive electrical and mechanical system infrastructure upgrades. All work on this project is now complete.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, accept the work with Western Water Features, Inc. for Silliman Aquatic Center Improvements, Project 1104.

**F.3 Adopting a Compensation Plan for certain positions in the Exempt Service Employee Group to amend the Hourly Wage Rate Schedule for Part-Time, Seasonal, and Temporary (PST) classifications, and revoking the previous Compensation Plan – from Human Resources Director Abe. (RESOLUTION)**

**Background/Discussion** – The Schedule of Part-time, Seasonal, and Temporary (PST) Classifications provides a list of hourly wage rates for temporary positions. Due to a scheduled increase in the California minimum wage, this schedule was reviewed to identify recommendations for minimum wage compliance.

As proposed, effective January 1, 2019, the rates for Activity Coordinator, Aquatics Instructor I and II, Customer Service Representative (CSR) and Senior CSR, General Maintenance Worker I, Lifeguard I and Senior Lifeguard, Police Services Aide I, and Recreation Leader I and II will increase by either 50 cents or one dollar per hour. In addition to state minimum wage compliance, these adjustments serve to maintain internal salary relationships based on increasing levels of responsibility and required knowledge. The top of the range for Police Service Aide II is recommended for an adjustment from \$20 to \$25 dollars per hour in recognition of the technical skills, training and extensive background process required. The hourly rate changes are highlighted in yellow in Exhibit A.

Café Worker I and II are renamed to Customer Service Representative and Senior Customer Service Representative. The attached resolution also revokes the previously adopted resolution that established the existing pay schedule (Resolution 10,706).

**Action** - It is recommended that the City Council, by resolution, adopt the Compensation Plan for certain positions in the Exempt Service Employee Group to amend the Schedule of Hourly Wage Rates for Part-Time, Seasonal, and Temporary (PST) Classifications effective January 1, 2019, and revoke Resolution No. 10,706.

**F.4 Approval of partial release and replacement of security bonds for Tract 8098, Glass Bay (TH-HW Newark LLC) a 217-unit residential subdivision at 8400 Enterprise Drive – from Senior Civil Engineer Cangco. (RESOLUTION)**

**Background/Discussion** – On December 8, 2016, TH-HW Newark LLC (Trumark Homes), entered into a Subdivision Agreement with the City of Newark to construct improvements associated with Tract 8098, Glass Bay. Glass Bay is a 217-unit residential subdivision at 8400 Enterprise Drive east of Willow Street. TH-NW Newark LLC provided a Performance Bond in the amount of \$7,302,000 and a Materials Bond in the amount of \$3,651,000, both issued by Philadelphia Indemnity Insurance Company, to guarantee the tract improvements. The improvements are more than 80% complete and, in accordance with authority contained in §66499.7 of the Government Code, these bonds may be reduced. TH-HW Newark LLC has provided bond riders issued by Philadelphia Indemnity Insurance Company for both the Performance and Materials bonds in the amounts of \$1,460,400 and \$730,200, respectively, to guarantee the construction of

remaining improvements. The amount of the bond riders is equal to twenty percent (20%) of the original bond amounts.

The replacement bonds will be adequate to guarantee the construction of remaining improvements of Tract 8098, which are limited to minor improvements including the installation of decorative pavement on alleyway pavement within the development, application of striping on roadways within the development as well as the adjacent right-of-way Enterprise Drive, and the installation of street trees and irrigation along roadways within the development and Enterprise Drive.

Ownership of all tract improvements will remain with TH-HW Newark LLC until acceptance of the improvements by the City.

#### **Attachment**

**Action** – It is recommended that the City Council, by resolution approve the partial release and replacement of security bonds for Tract 8098, Glass Bay.

## **NONCONSENT**

### **F.5 Approval of the solid waste collection, recycling, and organics services maximum rates for Calendar Year 2019 with an increase of 3.2% over 2018, and updates to the program – from Administrative Analyst Khuu-Seeman. (RESOLUTION)**

**Background/Discussion** – Republic Services, Inc. provides the City of Newark’s solid waste collection, recycling, and organic collection services and BLT Enterprises provides the City’s waste transfer services. The City’s agreements with Republic Services and BLT Enterprises include an annual rate adjustment provision. This annual adjustment is called the index-based adjustment and involves applying prescribed formulas to calculate rate adjustments due to changes in specific indices. These indices include: (1) A Consumer Price Index (CPI) for Garbage and Trash Collection, which was 2.73% for the period between August 2017 and August 2018; (2) A Compressed Natural Gas Service Index, which was -6.10% for the same period; and (3) An increase on the disposal costs at the Fremont Transfer Station (BLT), which is estimated at approximately 2.8% for this rate period.

Maximum rate limits are set annually by the City using the index-based adjustment methodology, with final rates determined by Republic Services. The total proposed rate increase, after applying the current rate indices listed above, is 3.2%. This proposed rate will be effective January 1, 2019. Last year’s rate increase was 3.9%.

The attachment, “New Exhibit L,” shows all of the proposed rates for 2019. The majority of residential households (approximately 75%) subscribe to the 32-gallon cart

size and will see an increase of \$1.01 per month. Approximately 33% of commercial customers use a 3-yard bin. For once-a-week pick-up service, the proposed increase is \$10.82 a month. Below is a sample of the difference between the 2018 and 2019 rates:

Service	2018 Rates	2019 Rates	Proposed Increase
Residential 32-Gallon Cart	\$31.55	\$32.56	\$1.01
Residential 64-Gallon Cart	\$55.89	\$57.68	\$1.79
Commercial 3 Yd/ 1 per week	\$338.28	\$349.10	\$10.82
Commercial 2 Yd/ 2 per week	\$488.10	\$503.72	\$15.62

Collection Program. In November 2017, as a result of Assembly Bill 1829 and the Alameda County Waste Management Authority Ordinance 2012-01 Mandatory Commercial Recycling Ordinance which requires that commercial customers divert organic material from the landfill, the City of Newark entered into a Second Amendment to the City’s Franchise Agreement with Republic Services to add commercial organic collection services. Effective January 1, 2018, businesses/institutions that generate food waste (such as restaurants and grocery stores) and multi-family properties (properties with five or more units) were required to sort organic materials (food scraps, compostable paper, etc.) separately from garbage and recycling. Enforcement of this requirement began on July 1, 2018. City staff continues to work closely with Republic Services to discuss program implementation, monthly status updates and enforcement issues.

China’s National Sword/Blue Sky Policies. The majority of the United States’ recycled material is purchased by China. However, in the last year, the Chinese government has enacted policies that establish extremely low thresholds for contamination of recycled materials. China will no longer accept recycled materials that are deemed contaminated, citing public health and environmental concerns. In essence, this policy has substantially decreased the market for mixed paper and post-consumer plastics. Across the United States, in response to China’s policies, some jurisdictions have reduced or even suspended their recycling programs. Due to State (and County) waste diversion requirements, this is not an option for California cities. Locally, Alameda County jurisdictions are working closely with waste haulers/processors to determine the financial impacts of China’s new policies.

In addition to the annual index-based rate adjustment, the City of Newark’s contract with Republic Services also outlines a cost-based rate adjustment and an extraordinary rate adjustment procedure. The cost-based adjustment involves review of Republic Service’s actual cost of operations and operational statistics (such as staffing levels, routes, route hours, etc.) to determine costs and fees. The last five rate adjustments to the City’s garbage rates have been part of the annual index-based rate adjustments. However, due to the recent policy changes enacted by the Chinese government, City staff and Republic Services will be analyzing the current recycling rates and the financial impacts to the recycling program as well as exploring a potential cost-based rate adjustment for 2020.

Republic Services is obligated under the contract to notify the City of any desired cost-based rate adjustment by March 2019.

**Attachments**

**Action** - It is recommended that the City Council, by resolution, establish the maximum limit for rates for solid waste collection, recycling and organics services for Calendar Year 2019 with an increase of 3.2% over 2018.

**G. CITY ATTORNEY REPORTS**

**H. ECONOMIC DEVELOPMENT CORPORATION**

**I. CITY COUNCIL MATTERS**

**I.1 Reappointment of Jeff Aguilar to the Planning Commission – from Mayor Nagy. (RESOLUTION)**

**Background/Discussion** – Planning Commissioner Jeff Aguilar’s term will expire in December. Commissioner Aguilar has requested a four year reappointment.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, approve the reappointment of Jeff Aguilar to the Planning Commission, for a term to expire on December 31, 2022.

**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.