

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, November 14, 2019

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the City Council meeting of October 24, 2019.
(MOTION)

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

Background/Discussion – Accountant Ivan Quon and Aquatics Coordinator Nick Darnell will be at the City Council meeting to be introduced to the City Council.

- C.2 Proclaiming November 17 to 23, 2019 as United Against Hate Week.
(PROCLAMATION)

Background/Discussion – The City of Newark has been invited to participate in the second annual United Against Hate Week. This is a movement against bias and bullying that calls for seven days of local civic action by people in every Bay Area community to stop hate. A proclamation will be presented at the City Council proclaiming November 17 to 23, 2019 as United Against Hate Week.

- C.3 Commending Newark Days Committee members. (COMMENDATION)

Background/Discussion – Newark Days celebrated the City's 64th birthday during the weekend of September 19-22, 2019. Members of the Newark Days Committee (Committee) volunteer their time and efforts throughout the year to ensure a successful event. Members of the Committee will accept a commendation at the City Council meeting.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

- E.1 Hearing to consider “Sanctuary West”, a 469-unit residential project on an approximately 430-acre site within Area 4 of the “Areas 3 and 4 Specific Plan” located at the south western edge of the City of Newark. The City Council will consider approval of: (1) proposed findings based on the Compliance Checklist prepared pursuant to Sections 15164 and 15168 of the California Environmental Quality Act (CEQA) Guidelines that the environmental effects of the proposed Sanctuary West Residential Project (Project) in Area 4 are within the scope of the previously-certified 2015 Recirculated Environmental Impact Report (REIR) for the Areas 3 and 4 Specific Plan (State Clearinghouse No. 2007052065), that the REIR adequately describes the Project in Area 4 and retains substantial relevance and informational value to consideration of the Project and the environmental effects of the Project were sufficiently analyzed under the REIR and that there are no new substantial changes to the Project or to the circumstances surrounding the Project, nor new information of substantial environmental significance, nor other events since that REIR was certified in 2015 that require supplemental or subsequent CEQA review and that the Project is consistent with and implements the Specific Plan and therefore exempt from further CEQA review pursuant to California Government Code Section 65457; (2) approving Vesting Tentative Tract Map 8495; and (3) approving a Conditional Use Permit and a Planned Unit Development to allow for construction of a 469-unit residential project located at the south western edge of the City of Newark– from Senior Planner Mangalam. (RESOLUTIONS-2)**

Background/Discussion – The Sobrato Organization has submitted an application for a 469-lot single-family dwelling subdivision on a 430-acre site located at the south western edge of the City of Newark. The subject site has a Low Density Residential General Plan land use designation and is zoned Residential Single Family (RS-6000).

Location

The 430-acre Project site is located in south western Newark, within the boundaries of the Areas 3 and 4 Specific Plan, specifically within Area 4. Area 4 consists of approximately 560 acres, including 316 acres of potential development area. The surrounding land uses include Flood Control Channel to the north, Union Pacific Railroad (UPRR) to the east, City of Fremont to the south and salt flats and Mowry Slough to the west (see Exhibit A, Location map).

History

In 1992, the City Council adopted the General Plan Update. The General Plan designated areas of development focus, including Areas 3 and 4. The General Plan allowed future development of Area 4 consisting of high-quality low-density housing, an 18-hole golf course, and open space. In 1999, the community rejected a ballot measure to change the General Plan land use designation for Area 4 to conservation, open space, and agricultural

uses and confirmed the vision for Area 4. Further, on June 22, 2006, the City agreed in a Memorandum of Understanding (MOU) with New Technology Park Associates to prepare a Specific Plan for Areas 3 and 4 to address future land uses and to provide a framework for future development. The City's Specific Plan process commenced in late 2006, and consisted of two phases. Phase One involved preparation of a conceptual plan and a feasibility analysis which evaluated development constraints. Phase Two used the results of this constraints analysis as the basis for developing the Specific Plan and an Environmental Impact Report (EIR). The constraints analysis was completed in Fall 2007. The City distributed a Notice of Preparation for the EIR in May 2007. On February 26, 2008, the City of Newark Planning Commission reviewed two alternative Concept Plans, selected a preferred alternative, and recommended that the City Council approve the preferred alternative as the basis upon which a Specific Plan would be developed. On March 13, 2008, the City Council accepted and approved the Planning Commission recommendation on the preferred land use concept. In 2010, the Planning Commission and the City Council certified a Final EIR on the Specific Plan, approved the Specific Plan, a map amendment to the General Plan and Development Agreement (DA) for the Specific Plan. The 2013 General Plan Update also maintained this vision and designated the development area as the Southwest Newark Residential and Recreational Project.

Subsequently, the Citizen's Committee to Complete the Refuge, a non-profit public benefit corporation, filed legal action for judicial review of the EIR's compliance with CEQA, and the court found the EIR to be deficient in three respects: (1) the EIR was not clear about which portions of the project were being reviewed at a program level; (2) improper deferral of mitigation for impacts to trees to be preserved; and (3) improper deferral of mitigation for impacts to sensitive habitats and special status species from the potential spread of non-native invasive plant species. The court found the EIR to be adequate and in compliance with CEQA in all other respects. Although the court denied the majority of the Citizen's claims, the Judgment and Writ directed the City to, within 90 days, void the resolutions and ordinances approving the General Plan amendment, Specific Plan, Zoning map amendment, including the ones that approved the DA and certified the EIR.

To address the court's ruling, the City Council repealed and rescinded the certification of Final EIR and resolutions and ordinances approving General Plan amendment, Zoning map amendment and DA in February 2015. In addition, the City revised the Areas 3 and 4 Specific Plan EIR to address issues specified in the Court's ruling and recirculated the revised EIR for public review. In March 2015, the City of Newark certified the Newark Areas 3 and 4 Specific Plan Recirculated Environmental Impact Report (REIR) and re-adopted the Newark Areas 3 and 4 Specific Plan (Specific Plan) and related approvals. The approved Specific Plan allows for development of up to 1,260 housing units of various densities, an elementary school of up to 600 students, a golf course, parks and open space areas, as well as retention of existing light industrial and institutional uses. At the same time, the City also readopted the DA with minor changes. The developer granted the City certain public benefits such as: (1) dedicating to the City a 66-acre parcel along Mowry Avenue in Area 4 for recreational purposes; (2) dedicating a six-acre parcel in Area 3 for the construction of an elementary school; and (3) dedicating a three-acre parcel in Area 3 for a park to be shared by the neighborhood and the school. The City agreed to keep in place the City's land use rules, regulations, and policies in effect at the time of the re-adopted DA for any subsequent approvals of project under the Areas 3 and 4 Specific Plan.

Area 3 is mostly developed. It includes the City’s George M. Silliman Recreation Complex, City of Newark Fire Station No. 3, Ohlone College Campus, and light industrial/commercial buildings. In 2016, the City approved a tentative map for a 386-unit residential project, including a 6-acre parcel for the school site and 3-acre parcel for the park site (known collectively as “Sanctuary”). Residences are currently being constructed under the ownership of three separate developers, namely: DR Horton, KB Homes and Landsea.

Proposed Development

The applicant is proposing further implementation of the approved Specific Plan through the approval of a vesting tentative map, a Conditional Use Permit (CUP) and Planning Unit Development (PUD) for Area 4 that would allow residential development of 469 single-family homes consistent with Area 4 of the Specific Plan. The Project site consists of approximately 430 acres of land. The site is predominantly undeveloped, and professionally managed. The Project would include 469 single-family homes, three park parcels, and four boardwalk overlooks.

The residential development is comprised of four “villages”, each village characterized by the minimum size of the residential lots (see Table 1). Three different styles of homes are being proposed in each village to provide diversity of style and configuration including variations in architectural elements, color and materials (See Exhibit D, page 28 and 29).

Table 1: Proposed Residential Development

	Min. lot size (feet)	No. of units	Plan 1	Plan 2	Plan 3
Village I	47 X 77	133	2,326 sq. ft.	2,639 sq. ft.	2,874 sq. ft.
Village II	52 X 72	118	2,340 sq. ft.	2,560 sq. ft.	2,800 sq. ft.
Village III	60 X 65	133	2,870 sq. ft.	3,000 sq. ft.	3,225 sq. ft.
Village IV	50 X 100	85	3,103 sq. ft.	3,312 sq. ft.	3,653 sq. ft.

Circulation

As contemplated in the adopted Specific Plan, Stevenson Boulevard would be extended as a public street from its existing westerly terminus across the UPRR tracks via a new overpass. Where the Stevenson Boulevard overpass ends on the Project site, a private street network would provide vehicular, pedestrian, and bicycle access throughout the site to the individual home lots.

To the north of the Area 4 development area (outside the subject site), a private roadway easement for emergency purposes is proposed immediately west of the UPRR alignment, across the City of Newark-owned land from the flood control channel to Mowry Avenue. The easement would serve as a combined Emergency Vehicle Access (EVA) roadway and multi-use trail. The access roadway would be locked and gated at Mowry Avenue to allow only emergency vehicles; however, the gate would allow passage of pedestrians and bicycles. The EVA roadway/multi-use trail would be approximately 20-foot wide (within an approximately 40-foot wide EVA easement). An approximately 12-foot-wide paved public multi-use trail is proposed to begin at the Stevenson Boulevard terminus and extends around most of the outer perimeter of the Area 4 residential development.

Parking

The Project will provide a total of 2,739 parking spaces including 938 covered off-street parking spaces, 938 uncovered off-street parking spaces, and 863 on-street guest parking spaces.

Landscape Design

The proposed Project includes various landscape design elements:

- Parks and open space: three parks and four boardwalk overlooks are planned throughout the site with a combined park area of approximately 4.70 acres. Parks would include play areas, seating, and lawn areas.
- Entry feature: an entry feature comprising of a 30-foot-tall lighthouse at the culmination of the extension of Stevenson Boulevard is proposed to create a strong identity for this new residential development as envisioned in the Specific Plan.
- Multi-use trail: An approximately 12-foot-wide paved public multi-use trail is proposed at the beginning of the Stevenson Boulevard terminus and extends around most of the outer perimeter of the Area 4 residential development. The trail would then connect to the combined trail and EVA at the northeast corner of Area 4. The trail has the potential for Bay Trail designation.

Noise attenuation

Due to the location of UPRR tracks to the east of the Project, projected noise levels would exceed the City's acceptability criteria of 60 decibels Ldn (average equivalent sound level over a 24-hour period) at the nearest residential uses. To ensure compatibility with the City's General Plan noise compatibility guidelines, a sound wall is proposed along the length of UPRR tracks adjacent to residential development.

Planned Unit Development (PUD) and Conditional Use Permit (CUP)

As discussed previously, the DA provided assurance to the developer that it has vested rights to proceed with the Project in accordance with the City's land use rules, regulations and policies applicable to the Project in effect at the time of approval of the DA. Thus, the Project will require the approval of a PUD and CUP as described in the Newark Municipal Code that was in-effect as of 2015. The Project is consistent with the findings pursuant to Chapter 17.72 (Use Permits), Chapter 17.40 (Planned Unit Developments), Section 17.40.050 (Permit Procedure) and Section 17.72.070 (Action by Planning Commission) of the 2015 Municipal Code and is supported by application materials on file with the City of Newark and the recommended Planning Commission resolution attached with this staff report. The findings with regard to the proposed location of the planned unit development is in accord with the objectives of the zoning ordinance and the purposes of the district in which the site is located. Consistency with the Zoning Ordinance is supported by the fact that the site is located in a Residential Single Family (RS) district and the Project would develop the Project site with single-family residences, parks, and open spaces. Accordingly, the Project conforms with the objective of the RS district to preserve as many of the desirable characteristics of single-family residential districts as possible. The Project also clusters the proposed residences on the least biologically sensitive portions of the Project site, leaving 346 acres for open space.

The Project would not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity of the Project. The

Project leaves the majority of the Project site as open space (346 acres) to protect the Project site’s most biologically sensitive areas. The Project would result in a new residential, single-family neighborhood, which would enhance and complement the surrounding properties, including the residential neighborhood under development in Area 3. The Project implements the Specific Plan, which has long planned for residential development of the site. The Project also would result in new parks and passive recreation areas for the City’s residents.

The Project would develop fewer homes than the maximum number otherwise permitted by the Specific Plan (see Table 2) and will not overload utilities.

Table 2: Specific Plan & REIR Consistency Summary

	Specific Plan	Recirculated EIR	Area 3 (under construction)	Area 4 (under consideration)	Total units – Area 3 and 4	Consistent with Specific Plan and within environmental impact envelope of REIR?
Number of Single family units	1,260	1,260	386	469	855	Yes

Tentative Tract Map

The applicant has submitted a Vesting Tentative Tract Map 8495 encompassing approximately 430 acres of land to construct approximately 469 single-family homes. The Project will comprise the following land uses: single family lots (46.60 acres), private streets (30.25 acres), parks (4.70 acres), water quality (1.94 acres), and open space (346.65 acres), thus totaling to approximately 430 acres. The Project will provide a total of 2,739 parking spaces including 938 covered off-street parking, 938 uncovered off-street parking and 863 on-street guest parking spaces.

Environmental

The Project is a residential development project that implements the Newark Areas 3 and 4 Specific Plan. As discussed above, the City of Newark certified the REIR and adopted a Mitigation Monitoring Reporting Program for the Newark Areas 3 and 4 Specific Plan in 2015. The REIR analyzed the development in Areas 3 and 4 at a programmatic level, and that REIR retains substantial relevance and informational value to the consideration of the Project.

The CEQA Compliance Checklist (Checklist) was prepared pursuant to the provisions of CEQA and the CEQA Guidelines (Title 14, California Code of Regulations Section 15000 et seq.), Government Code Section 65457, and the regulations and policies of the City of Newark. The purpose of preparing this checklist/addendum was to evaluate and determine whether the proposed Project is consistent with the REIR and approved Specific Plan, whether the Project is within the scope of the REIR and to determine whether any of the

events specified in Public Resources Code Section 21166, as further addressed by CEQA Guidelines Section 15162, have occurred since the City's certification of the REIR. Specifically, this checklist is prepared in accord with the requirements of CEQA Guidelines Section 15164 and 15168(c)(4), describing and limiting the review of a project which has already been reviewed under CEQA in a previous EIR, and with Government Code Section 65457, describing and limiting the review that may be applicable to a project that is consistent with a previously approved Specific Plan.

The information and analysis set out in the attached checklist/addendum, prepared pursuant to CEQA Guidelines Sections 15164 and 15168(c)(4) and Government Code Section 65457, demonstrates: (a) that the proposed construction of up to 469 residential units in Area 4 is consistent with the Areas 3 and 4 Specific Plan; (b) that none of the events listed in Public Resources Code Section 21166 and CEQA Guidelines Section 15162 have occurred; and (c) that the proposed Project would not result in any new or substantially more significant environmental impacts from changes to the Project or changes in circumstances beyond those previously evaluated and disclosed in the REIR. The Checklist also demonstrates that there is no new information of substantial importance that could not have been known at the time the REIR was prepared that shows the Project would have new or substantially more severe environmental impacts than analyzed in the REIR.

The accompanying Checklist provides substantial evidence supporting the conclusions that: (a) the proposed Project is within the scope of the REIR; (b) the proposed Project implements and is consistent with the Specific Plan; and (c) that none of the major changes, new information, or other environmentally-significant events specified in Public Resources Code Section 21166 and CEQA Guidelines Section 15162 have occurred since 2015.

Accordingly, a supplemental or subsequent EIR to the REIR is not required or warranted, and the Project is exempt from further CEQA review under Government Code Section 65457. For these reasons, no further CEQA review of the Project is required.

The Specific Plan EIR was approved with a Mitigation Monitoring Reporting Program (MMRP) and the Project is required to implement all applicable mitigation measures identified in the MMRP (Exhibit C).

Public Review: Although not required by CEQA or the CEQA Guidelines, the Checklist was posted on City's website for 20-day voluntary public review period from September 11 – October 1, 2019. The City received comments on the Checklist, which have been responded to by the City's consultant and Staff. The comments and responses are attached hereto (Exhibit E).

Planning Commission Recommendation

On October 22, 2019, the Newark Planning Commission held a Public Hearing to consider recommending to the City Council approval of the Project and findings regarding compliance with CEQA based on the Checklist.

A number of residents were in attendance at the meeting and eight people voiced their opinion on the Project. They raised issues related to CEQA compliance, the Checklist, preserving the area for open space uses, and concerns with the pedestrian and bicycle crossing at the Union Pacific Railroad right-of-way, the EVA, and Mowry Avenue.

In addition to the initial comments received on the Checklist, additional comment letters were received on October 22, 2019 from Stuart Flashman, Josh Sonnenfeld Consulting, the Citizens Committee to Complete the Refuge, and Alameda County Water District (ACWD). Staff prepared additional responses to these letters and those additional responses are attached hereto Exhibit F. Staff also recommended that comments from ACWD specific to project-level design and construction, be included as a condition of approval of the Project; the applicant acknowledged the same.

Staff added two new conditions of approval to the proposed City Council resolution in response to the comments received at the Planning Commission meeting. These are: (1) Prior to the first certificate of occupancy, the project applicant or successor shall install pedestrian gates and signage at the Mowry Avenue connection of the EVA/multi-use trail outside of UPRR right-of-way and wetlands boundary. Additionally, sidewalk and pedestrian signage may be installed at the Silliman Center parking lot frontage outside of UPRR right-of-way. These improvements are depicted on the Exhibit G – EVA/Multi-Use Trail Preliminary Plan.; and (2) The project applicant or successor shall satisfy Alameda County Water District (ACWD) requirements for the proposed development per letter dated October 22, 2019.

At its meeting, the Planning Commission approved: (1) Resolution No. 1982, recommending that the City Council of the City of Newark approve Vesting Tentative Tract Map 8495; and (2) Resolution No. 1983, recommending that the City Council approve a Conditional Use Permit and a Planned Unit Development to allow construction of a 469-unit residential development (Sanctuary West) on an approximately 430-acre site within the areas 3 and 4 specific plan area located at the south western edge of the city and making CEQA findings that the environmental effects of the project were sufficiently analyzed under the 2015 Areas 3 and 4 Specific Plan Recirculated Environmental Impact Report (REIR), that the Project in Area 4 is within the scope of the REIR, that the REIR retains substantial relevance and informational value to consideration of the Project, and that none of the circumstances described in CEQA Guideline 15162 have occurred since 2015, and that the proposed Project is exempt from CEQA pursuant California Government Code Section 65457.

Attachments

Resolutions (2)

Exhibit A: Location Map

Exhibit B: California Environmental Quality Act (CEQA) Compliance Checklist document

Exhibit C: Mitigation Monitoring Reporting Program

Exhibit D: Plan Set for proposed residential development

Exhibit E: Comments on Draft Compliance Checklist and responses to same

Exhibit F: Comments on letters received prior to Planning Commission meeting and responses to same.

Exhibit G: EVA/Multi-use trail preliminary plan
Exhibit H: Planning Commission meeting draft minutes

Action – Staff and the Planning Commission recommend that the City Council of the City of Newark:

- (1) Make findings based on E-19-4, the Compliance Checklist/Addendum prepared pursuant to Sections 15164 and 15168 of the California Environmental Quality Act (CEQA) Guidelines and other information in the record that the environmental effects of the proposed Sanctuary West Residential Project (Project) in Area 4 were sufficiently analyzed under and are within the scope of the previously-approved 2015 Recirculated Environmental Impact Report (REIR) for the Areas 3 and 4 Specific Plan (State Clearinghouse No. 2007052065), and retains substantial relevance and informational value to consideration of the Project, and that the REIR adequately describes the Project in Area 4, and that there are no new substantial changes to the Project or to the circumstances surrounding the Project, nor new information of substantial environmental significance, nor other events since that REIR was certified in 2015 that require supplemental or subsequent CEQA review and that the Project is also exempt from CEQA pursuant to California Government Code Section 65457;
- (2) by resolution, approve TTM-19-5, Vesting Tentative Tract Map 8495; and
- (3) by resolution, approve U-19-6, a Conditional Use Permit and P-19-7, a Planned Unit Development to allow for construction of a 469-unit residential project located at the south western edge of the City of Newark.

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.7 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 authorizing the implementation of a Community Choice Aggregation Program pursuant to California Public Utilities Code Section 366.2 – from City Manager Benoun. (ORDINANCE)**

Background/Discussion – On October 24, 2019, the City Council voted (Council Members Bucci and Collazo were absent) to join the East Bay Community Energy (EBCE) Community Choice Aggregation Program (CCA). EBCE is a not-for-profit CCA that purchases electricity for its customers, with PG&E continuing to deliver that electricity, maintain the grid, and handle customer billing. The benefits to joining the EBCE include a reduction in PG&E bills for electricity, greener power at a lower cost, and more influence on purchasing power through the EBCE.

The City Council introduced an ordinance at the October 24, 2019 meeting authorizing the implementation of a Community Choice Aggregation program pursuant to California

Public Utilities Code Section 366.2. A second reading of the ordinance is required before adoption.

Attachment - Ordinance

Action - Staff recommends that the City Council, waive further reading and adopt the ordinance amending authorizing the implementation of a Community Choice Aggregation Program pursuant to California Public Utilities Code Section 366.2.

F.2 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 Acting Human Resources Director Que-Garcia. (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, staff reviewed this schedule to identify recommendations for minimum wage compliance.

As proposed, effective January 1, 2020, the rates for Activity Coordinator, Aquatics Instructor I and II, Customer Service Representative and Senior Customer Service Representative, General Maintenance Worker I and II, Lifeguard I and Senior Lifeguard, Police Services Aide I and II, Preschool Aide, Recreation Instructor, Recreation Leader I and II, and Sports Official will increase by 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 hourly rate changes are highlighted in yellow in Exhibit A.

Attachments – Resolution, Exhibit A Part-Time, Seasonal, and Temporary (PST) Classifications

Action – Staff recommends that the City Council, by resolution, adopt the Compensation Plan for certain positions in the Exempt Service Employee Group to amend the Hourly Wage Rates for Part-Time, Seasonal, and Temporary (PST) Classifications effective January 1, 2020, and revoke Resolution No. 10,858.

F.3 Cancellation of the November 28 and December 26, 2019 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 28, 2019 regular meeting falls on the Thanksgiving holiday. The December 26, 2019 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 28 and December 26, 2019, City Council meetings.

F.4 Amending City of Newark Records Retention Schedule – from City Clerk Harrington. (RESOLUTION)

Background/Discussion – The main purpose of the Records Retention Schedule is to ensure that City records are maintained in accordance with federal, state and local codes. The schedule provides regulations and guidelines for records management and ensures that records are not destroyed prematurely.

The current schedule was adopted in 2008 and has been amended four times. Staff is once again recommending changes to the schedule. The detailed additions are attached to the resolution. The proposed changes consist of the following:

General Records

The number of authorized staff members who now use Social Media such as NextDoor or Facebook for the dissemination of information to the public has increased in the last year. These postings create a record that should be kept by authorized staff members for two years.

Unsuccessful submittals of bids, requests for proposals, or requests for qualifications are being proposed as a separate line item with a two year retention period. The successful bid, request for proposal, or request for qualifications would continue to be kept with the award documents and for the retention of each of those record categories.

Recreation and Community Services

Recreation and Community Services staff have requested a 5 year retention for records related to the Aquatic Center. The California Department of Instruction Relations Regulation 3195.12 requires a five year retention for training, maintenance, water quality testing, and accidents. The City's current retention for accidents is 7 years citywide; therefore, it is proposed to only add the training, maintenance, water quality testing to the retention schedule.

Records will be maintained and destroyed in accordance with the approved retention schedule. The destruction of records is subject to the review and consent of the Department Head, City Clerk, and City Attorney.

Attachment - Resolution

Action – Staff recommends that the City Council, by resolution, amend the City of Newark Records Retention Schedule.

F.5 Introduction of an ordinance and setting a hearing date of December 12, 2019, to amend the Newark Municipal Code Title 15 (Buildings and Construction), Article I (Building Regulations), Chapters 15.08 (California Building Code), 15.09 (California Residential Code), 15.10 (California Mechanical Code), 15.12 (California Electrical Code), 15.16 (California

Plumbing Code), 15.17 (California Fire Code), 15.18 (California Referenced Standards Code), 15.20 (California Historical Building Code), 15.21 (California Existing Building Code), 15.22 (California Energy Code), and 15.23 (California Green Building Standards Code) – from Chief Building Official / City Architect Collier and Fire Marshal Terra.

(MOTION)(INTRODUCTION OF ORDINANCE)

Background/Discussion – The State of California has adopted new editions of existing construction codes which will become effective January 1, 2020. These codes include Building, Residential, Mechanical, Electrical, Plumbing, Fire, Reference Standards, Historical, Energy, Existing, and Green Building.

As required by state law, applications for a building permit made after December 31, 2019 will be subject to the new codes. Local jurisdictions have the opportunity to make limited amendments to the new state codes provided the local jurisdiction makes a finding that such modifications are reasonably necessary because of local climatic, geological or topographical conditions. Staff is recommending modifications to some of the State codes.

A large portion of the recommended local amendments relate to the administrative portion of the codes. These administrative amendments will allow the City to carry forward the same administrative standards the City is currently using. Some of the changes merely accommodate new numbering systems. Staff is recommending technical changes to the Building, Residential, Plumbing, Electrical, Mechanical, Fire, and Existing codes. There are no technical changes recommended to the Reference Standards, Historical Building, Energy, Existing, and Green Building Standards codes. The recommended technical changes to the codes are listed below. Some of the technical changes were incorporated into the Newark Municipal Code (NMC) in previous code cycles, so they are not new to the Ordinance.

California Building Code

Section 1.8.4.3.1, Retention of Plans. Portions of this section are deleted. The code lists project types where the drawings need not be retained. The City has for decades retained drawings for all project types. No change from previous ordinance.

Section 101.4, Reference Codes. In previous ordinances this code section was deleted to eliminate conflicts with the City ordinance. The language is such that deletion is no longer needed.

Section 104.10.1, Construction in Flood Hazard Areas.

This section is deleted. The City has its own ordinance for construction in flood hazard areas that is in compliance with Federal standards. No change from previous ordinance.

Section 105.3.2, Permit Application Limitations and Section 105.5, Expiration of Permits. These sections are deleted because the City has its own permit limitation and expiration standards in another part of the ordinance which are very similar to the code standard. No change from previous ordinance.

Sections 402.5, 404.3, 407.6, 410.7, 419.5, 441.2, 509.4.2.1, 901.7, 903, and 1029.6.2.3, Automatic Fire Sprinkler Systems. These various code sections have been modified to complement the City's fire sprinkler and alarm ordinance. No change from previous ordinance.

Section 1510.7, Spark Arrestors.

This modification of the Building Code is being eliminated. Adding spark arrestors to existing fire place chimneys is no longer necessary. No new wood burning fire place are allowed in the Bay Area, existing wood burning fireplaces are seldom used, and roofs are now, for the most part, fire resistant.

California Residential Code

Sections R105.3.1.1 and R322, Construction in Flood Hazard Areas.

These sections are deleted. The City has its own ordinance for construction in flood hazard areas that is in compliance with Federal standards. No change from previous ordinance.

Section R301.1.3.2.1, Engineering Required.

This item is a continuation of existing NMC standards added in previous code cycles. The California Residential Code allows the Building Official to require drawings for dwellings taller than two stories be designed by an licensed professional. The recommended NMC change is to increase the standard to capture dwellings taller than one story. This is the standard the City has been using for years.

R313, Automatic Fire Sprinkler Systems.

This item is a continuation of existing NMC standards added in previous code cycles. The California Residential Code requires automatic fire sprinkler systems in all new one and two dwellings and townhouses, regardless of floor area, but does not require sprinklers for any size addition or remodel. For one and two family dwellings and townhomes, the NMC currently requires fire sprinklers be installed in existing dwellings when additions and/or repairs exceed 80 percent of the value of the existing dwelling prior to the additions and/or repairs.

R322, Flood Resistant Construction. This section has been deleted because the City has its own flood ordinance that is in compliance with Federal Standards. No change from previous ordinance.

R326.1 Swimming Pools.

The Residential Code does not adequately address the construction of swimming pools so a section has been added to the Residential Code referencing the California Building

Code for the standards governing swimming pools. The ordinance section has been modified to eliminate possible confusion. There is no actual change in intent from previous ordinance.

R1000, Wood Burning Fireplaces.

This section was added to complement existing Bay Area wide prohibition on new wood burning fireplaces. No change to previous ordinance.

Appendix H, Patio Covers. This section is a carryover from previous ordinance.

Appendix K, Sound Transmission. This section is a carryover from previous ordinance.

California Mechanical Code

Section 1.8.4.3.1, Retention of Plans. Portions of this section are deleted. The code lists project types where the drawings need not be retained. The City has for decades retained drawings for all project types. No change from previous ordinance.

Section 104.4.3, Expiration of Permits. These sections are deleted because the City has its own permit limitation and expiration standards in another part of the ordinance which are very similar to the code standard. No change from previous ordinance.

Title 15.10.030, Connection of Natural Gas Utilities. This section is in the previous ordinance and gives the Building Official options to assist developers in obtaining utility connections.

California Electrical Code

Article 89.108.4.3.1, Retention of Plans. Portions of this section are deleted. The code lists project types where the drawings need not be retained. The City has for decades retained drawings for all project types. No change from previous ordinance.

Article 310.106(B), Conductor Material. This item is a continuation of existing NMC standards added in previous code cycles. Aluminum wire used for circuit wiring has been removed. Aluminum house wiring has a history of starting fires if not installed properly.

15.12.090, Temporary Connection of Electrical Utilities. This section is in the previous ordinance and gives the Building Official options to assist developers in obtaining utility connections.

15.12.120, Building Official Authority. This section is in the previous ordinance and gives the Building Official authority to disconnect an electrical service if conditions are unsafe. In practice this authority has not been exercised in the last two decades.

15.12.190, Electrical Service Connections. This section clarifies standards not well described in the Electrical Code. No change from previous ordinance.

California Plumbing Code

Sections 1.8.4, 104.3.2, 104.3.3, 104.4.3, and 104.4.4, Permits and Fees. These sections have been deleted because the City has its own standards in the NMC. No change from previous ordinance.

Section 422.10.1 and 422.10.2, Privacy in Public Multiple Accommodation Toilet Rooms. This item is a continuation of existing NMC standards added in previous code cycles. It is generally understood that persons using water closets or urinals in multiple accommodation toilet rooms be afforded some degree of privacy. The current California Plumbing Code and California Building Code do not specifically address this issue. Some designers have in the past proposed designing multiple accommodation toilet rooms without privacy partitions around water closets or placing urinals in full view of persons outside the toilet room.

Section 713.0, Connection to Public Sewer Systems.

The plumbing code provides a number of exceptions to having to connect waste lines to a public sewer. One of the exceptions allows for private septic systems which in Newark would be unacceptable. The change would prohibit septic systems. All waste lines must connect to Union Sanitary District sewer system mains. No change from previous ordinance.

Section 1101.12, Roof Drainage. The change prohibits, if practical, direct connection of roof drains to storm drains which complements requirements in the City's storm water permit. No change from previous ordinance.

California Fire Code

Section 15.17.010, California Fire Code adopted by reference. A number of individual sections have been added to supplement individual sections not adopted by the State Fire Marshal but are desired by Alameda County Fire Department.

Chapter 2, Definitions. Four definitions have been added, amended, and/or relocated to better clarify terms used by Alameda County Fire Department. No real change from previous ordinance.

Chapter 9, Fire Protection, Alarms, and Detection Systems. This chapter relates to the City's fire sprinkler, fire alarm, and fire detection standards which are more restrictive than State codes. These revisions are in the current ordinance. No change from previous ordinance.

Section 5614, Safe and Sane Fireworks.

This item is a continuation of existing NMC standards added in previous code cycles. Because of a major change to the California Fire Code it was appropriate to reformat the City’s fireworks ordinance. The City’s safe and sane fireworks ordinance remains unchanged except for minor editing and numbering changes. No technical changes are being recommended.

Appendix D, Fire Department Access.

Appendix D has been a part of the ordinance for several code cycles. The Fire Department is recommending adopting the appendix without modifications.

Chapter 15.17.190, Permit Fees. This chapter has been eliminated because fees are covered in other parts of the ordinance.

Chapter 15.17.200, Violation deemed infraction. This chapter has been eliminated because this subject is covered in other parts of the ordinance.

California Referenced Standards Code. No changes.

California Historical Building Code. No changes.

California Existing Building Code. No changes.

California Energy Code. No changes.

California Green Building Standards Code. No changes.

Attachments – Ordinance

Action – Staff recommends that the City Council, by motion, set a public hearing date of December 12, 2019, for adoption of the construction codes and introduce an ordinance to amend the Newark Municipal Code Title 15 (Buildings and Construction), Article I (Building Regulations), Chapters 15.08 (California Building Code), 15.09 (California Residential Code), 15.10 (California Mechanical Code), 15.12 (California Electrical Code), 15.16 (California Plumbing Code), 15.17 (California Fire Code), 15.18 (California Reference Standards Code), 15.20 (California Historical Building Code), 15.21 (California Existing Building Code), 15.22 (California Energy Code), and 15.23 (California Green Building Standards Code).

F.6 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8459 – Compass Bay (TH-HW Enterprise, LLC), a 138-unit residential subdivision within the Bayside Newark Specific Plan project area – from Assistant City Engineer Imai. (RESOLUTION)

Background/Discussion – On November 8, 2018, the City Council approved Vesting Tentative Tract Map 8459 for a 138-unit residential subdivision within the Bayside Newark Specific Plan project area (formerly known as the “Dumbarton Transit-Oriented

Development”). The developer, TH-HW Enterprise, LLC has submitted the required fees, bonds, and other documents for approval of the Final Map for Tract 8459.

The Final Map dedicates public street rights-of-way for Enterprise Drive and Seawind Way. The developer has executed a Subdivision Improvement Agreement and has posted a Performance Bond in the amount of \$4,083,000 and a Materials Bond in the amount of \$2,041,500. The bonds will guarantee construction of the new public streets, private streets internal to the subdivision, and public improvements on Enterprise Drive, Hickory Street and Seawind Way.

The Final Map for Tract 8459 has been reviewed and found to be in conformance with Vesting Tentative Tract Map 8459 and the Conditions of Approval, and is now ready for City Council approval. Recording of the Final Map and issuance of subsequent permits and approvals for construction activity will be at the discretion of the City Engineer.

Financial Impact – The estimated annual maintenance of the street improvements associated with Tract 8459 is \$5,600 for street sweeping and pavement maintenance. The street lights and landscaping along Enterprise Drive, Seawind Way and Hickory Street will be maintained by Landscaping and Lighting District No. 19 and the Homeowners Association.

Attachments – Resolution, Final Map for Tract 8459, Subdivision Improvement Agreement

Action – Staff recommends that the City Council, by resolution, approve the Final Map and Subdivision Improvement Agreement for Tract 8459 – Compass Bay (TH-HW Enterprise, LLC), a 138-unit residential subdivision within the Bayside Newark Specific Plan project area.

F.7 Approval of partial release of security bonds for Tracts 8270, 8417, 8418, 8419 and 8420, Sanctuary Village (Arroyo Capp III, LLC) – from Assistant City Engineer Imai. (RESOLUTION)

Background/Discussion – Between November 2017 and September 2018, Arroyo Cap III, LLC entered into multiple Subdivision Agreements with the City of Newark to construct improvements associated with Tracts 8270, 8417, 8418, 8419 and 8420, collectively known as Sanctuary Village. Arroyo Cap III, LLC provided the following Performance Bonds and Materials Bonds to guarantee the respective tract improvements:

ORIGINAL BOND AMOUNTS

TRACT	PERFORMANCE BOND	MATERIALS BOND
8270 – Backbone	\$8,647,000.00	\$4,323,500.00
8417 – Village 1	\$2,780,000.00	\$1,390,000.00
8418 – Village 2	\$2,372,000.00	\$1,186,000.00
8419 – Village 3	\$2,080,000.00	\$1,040,000.00
8420 – Village 4	\$2,629,000.00	\$1,314,500.00

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. Arroyo Cap III, LLC has provided bond riders for both the Performance and Materials bonds for each of the respective tracts in the following amounts to guarantee the construction of remaining improvements. The amount of the bond riders is equal to twenty percent (20%) of the original bond amounts.

REDUCED BOND AMOUNTS

TRACT	PERFORMANCE BOND	MATERIALS BOND
8270 – Backbone	\$1,729,400.00	\$864,700.00
8417 – Village 1	\$556,000.00	\$278,000.00
8418 – Village 2	\$474,400.00	\$237,200.00
8419 – Village 3	\$416,000.00	\$208,000.00
8420 – Village 4	\$525,800.00	\$262,900.00

The replacement bonds will be adequate to guarantee the construction of remaining improvements of Tracts 8270, 8417, 8418, 8419, and 8420, which are limited to minor punchlist items including the application of a slurry seal on roadway pavement within the development, replacement of dead landscaping, and repair of damaged concrete.

Ownership of all tract improvements will remain with Arroyo Cap III, LLC until acceptance of the improvements by the City.

Action – Staff recommends that the City Council, by resolution, approve the partial release of security bonds for Tracts 8270, 8417, 8418, 8419 and 8420, Sanctuary Village.

NONCONSENT

F.8 Authorizing the City Manager to execute a contract amendment with Rhoades Planning Group for additional planning services for the Newark Old Town Specific Plan and amend the 2018-2020 Biennial Budget and Capital Improvement Plan – from Deputy Community Development Director Interiano. (RESOLUTION)

Background/Discussion – The City previously entered into a Contractual Services Agreement (Agreement) with Rhoades Planning Group for professional services related to the preparation of the Old Town Specific Plan, Streetscape, and Project Schematic Design. The project is a Capital Improvement Project (CIP) funded by the Community Development Maintenance Impact Fee.

The project began in April 2018 and approximately half of the tasks described in the Agreement have been completed, including the preparation of a draft land use plan, schematic design for the streetscape and public facilities, and facilitation of two community meetings. It is expected that the project would be completed in the spring of 2020.

Staff recommends amending the scope of work for additional public outreach and an analysis of changes to development standards. The summary of changes to the scope of work are:

- Revision to Task #3- Provide additional stakeholder meetings for the public regarding the schematic streetscape plans and public facilities design;
- Revision to Task #4- Provide an analysis to address land use transition from the core commercial area to the mixed-use and residential areas. Provide recommendations on changes to site development regulations. Further analyze the character and identity of the plan area to inform the urban design. An optional third community meeting has been included to present the final draft specific plan to stakeholders; and
- Revision to Task #5- Based on revision to Tasks 3 and 4, an analysis to review the impacts of proposed zoning regulation amendments and the impacts to the Land Use section of the proposed EIR Addendum.

The original, not-to-exceed amount under the Agreement was \$351,040. The proposed amendment for the services listed above is estimated at \$29,980, for a total proposed not-to-exceed amount under the agreement of \$381,020. A budget amendment is necessary for the additional funding.

Attachment - Resolution, Amendment

Action – Staff recommends that the City Council, by resolution authorize the City Manager to execute the amendment to the contractual services agreement with Rhoades Planning Group for the Newark Old Town Specific Plan and amend the 2018-2020 Biennial Budget and Capital Improvement Plan.

F.9 Authorizing Application for, and, subject to subsequent City Council approval, receipt of Senate Bill 2 Planning Grants Program Funds for the Historic Newark District Specific Plan – from Deputy Community Development Director Interiano. (RESOLUTION)

Background/Discussion – City staff is seeking authority to apply for a grant associated with the Senate Bill 2 Planning Grants Program. The State Department of Housing and Community Development received a \$123 Million grant under Senate Bill 2 (SB 2, 2017) Planning Grants Program (PGP). SB 2 established a permanent source of funding consisting of a real estate recording fee to provide funding to increase the affordable housing stock in California. The legislation directs the Department of Housing and Community Development to use 50 percent of the first year’s revenue to establish a program that provides financial and technical assistance to local governments to update planning documents and land-use ordinances. The PGP is intended for the preparation, adoption, and implementation of plans that streamline housing approvals and accelerate housing production.

Staff identified the proposed Historic Newark District Specific Plan project which qualifies for this planning grant. The project will develop a Specific Plan to guide the transformation of the “Old Town” area into a vibrant mixed-use area with attractive ground floor retail with residential uses above the ground floor. The project meets

eligible activities of the grant application by establishing a specific plan and an environmental analysis, which facilitates expedited local approval of qualifying residential projects. In addition, the specific plan will review existing zoning regulations to identify barriers to housing production in the area. The plan would also address unique development challenges of fragmented ownership and the need to blend with surrounding single-family neighborhoods. Specialized development standards to guide development would be identified. Schematic designs for the Historic District Streetscape Improvements would also be included. Streetscape improvements are a key to improving the area and catalyzing development.

The Historic Newark District Specific Plan project began in April 2018, and is expected to be completed in Spring of 2020. The PGP grant allows funding to be used toward projects that have already begun and which meet the goals of the grant program. If approved, the City may be awarded up to \$160,000 that may be used to repay a portion of the originally approved agreement budget, which totaled \$351,040. The deadline to apply for the SB 2 PGP is November 30, 2019. A resolution of support from the City Council is required to apply for the grant.

Staff is requesting authorization from City Council to apply for and, if successful, return to the City Council to authorize the receipt of funding for the SB2 Planning Grant Program.

Attachments – Resolution

Action – Staff recommends that the City Council, by resolution, authorize application for, and, subject to subsequent City Council approval, receipt of, Senate Bill 2 Planning Grants Program Funds for the Historic Newark District Specific Plan.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

I.1 Reappointment of William Fitts and Debbie Otterstetter to the Planning Commission – from Mayor Nagy. (RESOLUTION)

Background/Discussion – Planning Commissioners William Fitts and Debbie Otterstetter each have a term on the Planning Commission that will expire in December. Both Planning Commissioners have requested a four year reappointment.

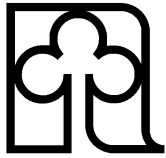
Attachment - Resolution

Action - It is recommended that the City Council, by resolution, approve the reappointment of William Fitts and Debbie Otterstetter to the Planning Commission, for a term to expire on December 31, 2023.

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, 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.



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, November 14, 2019

CITY COUNCIL:

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

CITY STAFF:

David J. Benoun
City Manager

Michael Carroll
Police Chief

Soren Fajeau
Public Works Director

David Zehnder
Recreation and Community
Services Director

Helen Que-Garcia
Acting Human Resources Dir.

Kristopher J. Kokotaylo
Interim City Attorney

Krysten Lee
Finance Manager

Steven M. Turner
Community Development Dir.

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. 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.