



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, January 9, 2014

CITY COUNCIL:

Alan L. Nagy, Mayor
Ana M. Apodaca, Vice Mayor
Luis L. Freitas
Sucy Collazo
Robert Marshall

CITY STAFF:

John Becker
City Manager

Terrence Grindall
Assistant City Manager

Susie Woodstock
Administrative Services Director

Sandy Abe
Human Resources Director

Peggy A. Claassen
Public Works Director

Jim Leal
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. 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.

City Council Members act as Board Members of the **Economic Development Corporation**. When there is business to discuss, the Council will adjourn and then reconvene as the Economic Development Corporation. When the City Council acts as the **Successor Agency to the Redevelopment Agency**, it is winding up the former Redevelopment Agency's obligations.

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 state your name 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 will be either referred to staff or placed on a future Council agenda.



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A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, December 12, 2013. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

- C.1 Introduction of Assistant City Manager Grindall.**

Background/Discussion – Newly promoted Assistant City Manager Terrence Grindall will be at the meeting to be recognized by the City Council.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

- E.1 Hearing to consider an extension of a conditional use permit (U-07-32) and planned unit development (P-07-33) for the continued operation of a farmers' market (Agricultural Institute of Marin) in the NewPark Mall parking lot, (NewPark Mall is bounded, generally, to the north by Mowry Avenue, to the west by Cedar Boulevard, to the south by Balentine Drive, and to the east by Interstate 880 [Nimitz Freeway]) and authorization to waive the application fee – from Assistant Planner Jimenez. (MOTIONS-2)**

Background/Discussion – Agricultural Institute of Marin has submitted a request to allow for the continued operation of a farmers' market in the NewPark Mall parking lot. The City Council, on the recommendation of the Planning Commission, originally approved a conditional use permit (CUP) and a planned unit development (PUD) for the weekly farmers' market located in the westerly portion of the mall parking lot between Sear's and Macy's in 2007. The farmers' market is open every Sunday, rain or shine, from 9:00 a.m. to 1:00 p.m.

The initial approval was for a one-year time period, however, on three occasions – 2009, 2010 and 2011 – the Council, on the recommendation of the Planning

Commission, approved one-year extensions of the CUP and PUD for the farmers' market to continue operating. Because there were no reported problems after three years of operation, the City Council approved a two-year extension for the farmers' market in 2012. As the applicant would like to continue having the farmers' market here, a fifth extension request has been filed. City departments and divisions involved in the development review process do not object to granting another extension. Further, as mentioned above, staff has not received any negative feedback from the community regarding the farmers' market. Staff, thus, recommends the applicant's extension request be approved for a four-year time period as this would allow the City to again ensure the market is compatible with the mall and not conflict with possible future changes to the mall. The applicant, a nonprofit organization, has also requested a fee waiver.

Environmental Review

The continued operation of the farmers' market is categorically exempt from the California Environmental Quality Act per Section 15301, Class 1, operation of existing private structures involving negligible or no expansion of use beyond that existing.

Attachment

Update – At its meeting of December 10, 2013, the Planning Commission approved Resolution No. 1855 with Exhibit C, pages 1 through 4, for an extension of a conditional use permit (U-07-32) and planned unit development (P-07-33) for the continued operation of a farmers' market (Agricultural Institute of Marin) in the NewPark Mall parking lot (NewPark Mall is bounded, generally to the north by Mowry Avenue, to the west by Cedar Boulevard, to the south by Balentine Drive, and to the east by Interstate 880 [Nimitz Freeway]).

Action – It is recommended that the City Council, by motions: (1) approve Resolution No. 1855 with Exhibit C, pages 1 through 4, for an extension of a conditional use permit (U-07-32) and planned unit development (P-07-33) for the continued operation of a farmers' market (Agricultural Institute of Marin) in the NewPark Mall parking lot (NewPark Mall is bounded, generally to the north by Mowry Avenue, to the west by Cedar Boulevard, to the south by Balentine Drive, and to the east by Interstate 880 [Nimitz Freeway]) and (2) authorize a waiver of the application fee.

F. CITY MANAGER REPORTS

(It is recommended that Item F.1 be acted on 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 to amend the contract between the Board of Administration of the California Public Employees Retirement System and the City Council of the City of Newark to provide Section 20516 (Employees Sharing Additional Cost) of 3.468% for new local miscellaneous members and 1.5% for new local safety members – from City Clerk Harrington. (ORDINANCE)**

Background/Discussion – At the December 12, 2013 City Council meeting the City Council adopted an urgency ordinance and held the first reading of a regular ordinance to amend the contract with the California Public Employees Retirement System (CalPERS) to provide for Section 20516 (Employees Sharing Additional Cost) of 3.468% for new local miscellaneous members and 1.5% for new local safety members.

The urgency ordinance took effect immediately in order to allow for the timely and appropriate reporting of employee retirement contributions to employee accounts and to avoid an additional 60 day processing delay. A second reading is necessary for the regular ordinance which will be effective 30 days after the second reading.

Attachment

Action – It is recommended that the City Council adopt the ordinance to amend the contract between the Board of Administration of the California Public Employees Retirement System (CalPERS) and the City Council of the City of Newark to provide Section 20516 (Employees Sharing Additional Cost) of 3.468% for new local miscellaneous members and 1.5% for new local safety members

G. CITY ATTORNEY REPORTS**H. ECONOMIC DEVELOPMENT CORPORATION****I. CITY COUNCIL MATTERS**

- I.1 Reappointment of William Spinola to the Alameda County Mosquito Abatement District – from Mayor Nagy. (RESOLUTION)**

Background/Discussion – William Spinola is the City's appointed representative on the Alameda County Mosquito Abatement District. Mr. Spinola has requested reappointment for a two year term ending January 1, 2016.

Attachment

Action - It is recommended that the City Council, by resolution, approve the reappointment of William Spinola to the Alameda County Mosquito Abatement District, for a term to expire on January 1, 2016.

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

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

M. CLOSED SESSIONS

- M.1 Closed session for conference with Legal Counsel on existing litigation pursuant to Section 54956.9(a) of the California Government Code: Mendoza v. City of Newark, et al., Alameda County Superior Court Case No. RG13664482 – from City Attorney Benoun.**

Background/Discussion – The City Attorney has requested a closed session to discuss existing litigation: Mendoza v. City of Newark, et al., Alameda County Superior Court Case No. RG13664482.

- M.2 Closed session pursuant to Government Code Section 54957 Public Employee Performance Evaluation
Title: City Manager.**

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

- M.3 Closed session pursuant to Government Code Section 54957.6
Conference with Labor Negotiator
Agency Negotiator: Mayor Alan L. Nagy
Unrepresented Employee: City Manager.**

Background/Discussion – A closed session is requested for the City Council to confer with Labor Negotiator Mayor Alan L. Nagy pursuant to Government Code Section 54957.6.

N. ADJOURNMENT

Pursuant to Government Code 54957.5: Supplemental materials distributed less than 72 hours before this meeting, to a majority of the City Council, will be made available for public inspection at this meeting and at the City Clerk's Office located at 37101 Newark Boulevard, 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.