



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, April 24, 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.

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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A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, April 10, 2014. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

- C.1 Proclaiming May 2014 as Older Americans Month in Newark. (PROCLAMATION)**

Background/Discussion – May is Older Americans Month. A proclamation has been prepared and members of the Newark Senior Citizen Standing Advisory Committee will accept the proclamation at the City Council meeting.

- C.2 Proclaiming May as Water Aquatics Safety Month in Newark. (PROCLAMATION)**

Background/Discussion – In recognition of the popularity of swimming and other water-related recreational activities in the United States, and the resulting need for ongoing public education on safer water practices, including swim lessons, the buddy system, parental supervision, following the posted rules, and always being “water aware,” the month of May 2014 has been designated as National Water Safety Month.

A member of the Recreation and Community Services staff will be at the meeting to accept the proclamation.

- C.3 Proclaiming May 9 - 18, 2014, as Affordable Housing Week in Newark. (PROCLAMATION)**

Background/Discussion – May 9-18, 2014, has been designated Affordable Housing Week in Newark. A proclamation has been prepared and a representative from the East Bay Housing Organizations will be at the meeting to accept it.

**C.4 Proclaiming May 1, 2014, as National Day of Prayer in Newark.
(PROCLAMATION)**

Background/Discussion – May 1, 2014, has been designated as National Day of Prayer in Newark. A member of the religious community will be at the meeting to accept the proclamation.

**C.5 Presentation on Measure AA the Alameda County Healthcare Services Tax Healthcare Safety Net Reauthorization on the June 3, 2014 ballot.
(PRESENTATION)**

Background/Discussion – In 2004, county voters approved Measure A, the essential health care services tax ordinance. Measure A authorized Alameda County to impose a half-cent sales and use tax to “provide for additional financial support for emergency medical, hospital inpatient, outpatient, public health, mental health and substance abuse services to indigent, low-income, and uninsured adults, children, families, seniors and other residents of Alameda County.” The Alameda County Board of Supervisors has placed Measure AA on the June 3, 2014 ballot to maintain the half-cent sales tax with an extension of 15 more years upon the expiration of the current measure. A member of the Committee for a Healthy Alameda County will provide a presentation at the City Council meeting. A formal action may be considered by the City Council at a future meeting.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

- E.1 Hearing to consider the development of 88 townhomes, 72 affordable housing units, and a 15,000 square foot commercial building along Enterprise Drive and Willow Street within the Dumbarton Transit Oriented Development Specific Plan : (1) Adopt a resolution making certain findings approving an Initial Study/Mitigated Negative Declaration for the Dumbarton Transit Oriented Development Specific Plan; (2) Introduction of an ordinance amending Title 17 (Zoning) of the Newark Municipal Code and Section 17.44.010 “Zoning Map” by rezoning all that real property shown on vesting tentative map 8157 (APN 092-0115-11, 12 & 13) from MT-1 (High Technology Park District) to MDR-FBC (Medium Density Residential – Form Based Codes), HDR-FBC (High Density Residential – Form Based Code), and R-FBC (Commercial Retail – Form Based Code); (3) adopt a resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and authorize the Mayor to sign the Affordable Housing Obligation Satisfaction Agreement; 4) adopt a resolution approving TM-13-22, Vesting Tentative Map 8157; 5) adopt a resolution authorizing the Mayor to sign the Community Financing Agreement with SHH Project**

**Owner, LLC and Newark Parcel E Project Owner, LLC; and 6) by motion, approve ASR-13-23, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 31 – from Assistant City Manager Grindall.
(RESOLUTIONS - 4)(INTRODUCTION OF ORDINANCE)(MOTION)**

Background/Discussion – In collaboration with the landowners, the City of Newark began a planning effort in the Fall of 2007 to explore potential development around the planned Newark Dumbarton Rail Station. The Project Area includes approximately 205 acres of land that has previously contained various industrial, manufacturing, and chemical processing land uses since the early twentieth century. Most of the land is currently vacant.

The SHH Project Owner, LLC and Newark Parcel E Project Owner, LLC, have submitted a proposed Vesting Tentative Map and building plans for approximately 88 townhome/condominium units, approximately 72 affordable senior housing units, and a 15,000 square foot retail building, to be located on approximately 8.09 acres along Enterprise Drive and Willow Street. The project proposes to rezone this portion of the Dumbarton TOD to be consistent with the Specific Plan. RZ-13-24 is a rezoning to Medium Density Residential, High Density Residential (Senior Housing), and Commercial Retail.

Architectural and Site Plan Review

Two designs are proposed, each with four different floor plans. All four will accommodate three stories that provide two covered parking spaces along with a bedroom/den on the first level, a mid-level living area with dining room, family room, and kitchen, and a third story living area with two bedrooms.

These units provide a nice variation in design and offer balconies, dormers, several window treatments, recessed features, and wall treatments.

The retail component of this proposal is comprised of a 15,000 square foot grocery store. The design is modern in nature, but the colors and vertical design elements are found within the townhome/condominium design. Staff feels that the architectural features complement the surrounding neighborhood.

The development of the 72-unit Senior Housing portion of the project will be done by a developer other than the applicant. The final design for the Senior Housing project will be required to be brought before the Planning Commission and City Council for review.

Affordable Housing Obligation and Agreement

Chapter 17.18 of the Newark Municipal Code (NMC) generally requires developers to set-aside a minimum of 15% of the total number of dwelling units in a project as inclusionary units for very low, low, and moderate income households. Nine percent of the units are required to be affordable to moderate income households (earning 110% or less of the median income) and 6% to be affordable to lower income households

earning (80% or less of the median income). The NMC also authorizes alternative means of compliance with the City's Affordable Housing Program (AHP), including land dedication, payment of in-lieu fees, or approval of an alternative housing program consisting of any combination of alternative means of compliance.

Under the affordable housing ordinance, the market rate project on the SHH project site would require the development of 6 low income units and 8 moderate income units. As an alternative method of compliance the developer will be providing 9 senior residential units affordable to households that earn 60% or less of the median income. In connection with the previously approved Torian Project, the developer and SHH previously agreed to meet the Torian affordable housing obligation by the construction of 54 affordable units on the SHH site. A third project by the developer is also pending development approval and has an obligation of providing nine affordable units. In total, the 72 affordable housing units provided on the SHH site will meet the obligation of all three projects. An Affordable Housing Obligation Satisfaction Agreement, obligating SHH to this arrangement, is attached for the Council's consideration.

The provision of 10% of the housing units at restricted to lower housing cost levels-60% of Median Income as opposed to the required 110% and 80% levels, is substantially more beneficial to the community than what is required of the ordinance and meets an important need for housing for low income seniors. The provision of these units fulfills the purposes of the Inclusionary Housing Ordinance, and will further affordable housing opportunities in the City to a greater extent than simple compliance with the requirements of the Ordinance. The location of the units adjacent to market rate units prevents the concentration of affordable housing units in a particular area. This will allow for a much greater and more effective approach to addressing the most pressing affordable housing needs in the community.

Community Financing Agreement

In order to implement the Dumbarton TOD Specific Plan, SHH agrees to contribute toward the estimated costs of the anticipate TOD Project-wide improvement, including the City's planning, design, right-of-way acquisition and construction of the Central Avenue Railroad Overcrossing. SHH's entire contribution shall be payable by SHH to the City at the time of, or prior to, the issuance of each building permit for development of new residential units on the property, at the rate and in the fixed amount of \$2,500 per market rate dwelling unit.

The Initial Study/Mitigated Negative Declaration (IS/MND)

The IS/MND prepared for this project was completed by HELIX Environmental Planning, Inc. The key issues analyzed by the IS/MND were aesthetics, agricultural and forestry resources, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use planning, mineral resources, noise, population and housing, public services, recreation, transportation/traffic, and utilities and service systems,

Then environmental analysis indicates that the proposed project would not have a significant adverse impact on overall environmental quality, including the potential to reduce the habitat of fish and wildlife species, or contribute to lowering populations to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of rare or endangered plant or animal, or eliminate important examples of major periods of California history or prehistory.

While the project would indirectly contribute to cumulative impacts with increased urban development in the City and region, these impacts been previously evaluated in the Environmental Impact Report (EIR) for the Dumbarton TOD Specific Plan, and are incorporated into the City of Newark's updated General Plan. The EIR concluded that development of the project site as allowed under the Dumbarton TOD Specific Plan may contribute to significant cumulative impacts as a result of contribution to the loss of vegetation and wildlife resources impacts to cultural resources, seismic or soils hazards, greenhouse gas emissions, hazardous materials, hydrology and water quality, and noise levels. With implementation of the measures set forth in the IS/MND (and as previously analyzed in the EIR), cumulative impacts as a result of the Dumbarton TOD would be *less than significant*. No additional cumulative impacts as a result of this project are identified.

As outlined in the IS/MND, the project will adhere to mitigation measure previously prescribed in the Dumbarton TOD Specific Plan EIR for potentially significant impacts to air quality, biological resources, cultural resources, seismic or soil hazards, greenhouse gases, hazardous materials, hydrology drainage and water quality, noise, wastewater treatment, the environment from constructing Parcel A Park, regional traffic congestion and the stormwater system. These impacts have been reduced at both the project and cumulative levels through project design and mitigation measures. Implementation of the proposed project will not result in substantial adverse effect to people either directly or indirectly.

The review period for the IS/MND ended on February 27, 2014. The City received letters from; (1) Mr. Barry J. Schotts, Attorney representing Ashland, Inc.; (2) the State of California Public Utilities Commission; (3) the Alameda County Water District; and (4) the California Department of Fish and Game. All four letters were received within the review period and have been addressed in the Final Initial Study/Mitigated Negative Declaration.

Attachment

Action - It is recommended that the City Council:

- 1) Adopt a resolution making certain findings and adopting an Initial Study and Mitigated Negative Declaration for 88 Townhomes, 75 Affordable Housing Units, and a 15,000 square foot commercial building within the Dumbarton Transit Oriented Development Specific Plan;

- 2) Introduce an ordinance amending Title 17 (Zoning) of the Newark Municipal Code being the City of Newark Zoning ordinance by changing the zoning of a specified area in the City of Newark;
- 3) Adopt a resolution approving an alternative means of compliance with the Inclusionary Housing Ordinance for the SFF Project; making findings related to the use of an Alternative Means of Compliance and authorize the Mayor to sign the Affordable Housing Obligation Satisfaction Implementation Agreement;
- 4) Adopt a resolution approving Vesting Tentative Map 8157;
- 5) Adopt a resolution authorizing the Mayor to sign a Community Financing Agreement with SHH Project Owner, LLC;
- 6) By motion, approve ASR-13-23, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 31.

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.6 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT

- F.1 Approval of events within the public right-of-way, authorization to issue an Encroachment Permit to the S.E.S. (Holy Ghost Festival Committee) organization, and provision of traffic control for the annual Holy Ghost Festival on July 26 and 27, 2014 – from Police Sergeant Hoppe and Assistant Engineer Carmen. (MOTION)**

Background/Discussion – The S.E.S. (Holy Ghost Festival Committee) organization has requested that the City approve and provide traffic control for two events associated with the 2014 Holy Ghost Festival:

- Small Parade, Saturday, July 26, from 1:00 p.m. – 3:00 p.m. The parade will exit the Newark Pavilion onto Cherry Street, to Plummer Avenue, to Galletta Drive, back to Cherry Street, and return to the Pavilion.
- Traditional Annual Parade, Sunday, July 27, from 10:45 a.m. – 2:30 p.m. The parade will exit the Newark Pavilion onto Thornton Avenue, proceed to St. Edwards Church, and return to the Pavilion.

Issuance of an Encroachment Permit is necessary for these events to be held within the public street right-of-way. As a condition of issuance of this permit, S.E.S. will

conform to the City's insurance requirements and will deposit sufficient funds for the cost of Police and Maintenance personnel and equipment to provide traffic control for these events.

Attachment - None

Action - It is recommended that the City Council, by motion, approve the events within the public right-of-way, authorize issuance of an Encroachment Permit to the S.E.S. (Holy Ghost Festival Committee) organization, and provide traffic control for the annual Holy Ghost Festival on July 26 and 27, 2014.

F.2 Adoption of the 2014-2019 Five-Year Forecast – from Administrative Services Director Woodstock. (RESOLUTION)

Background/Discussion – The Five-Year Forecast serves as the basis for preparing the 2014-2016 Biennial Budget and Capital Improvement Plan. At a work session on February 13, 2014 staff provided Council with an overview of the Forecast as well as revenue and expenditure projections for Fiscal Years 2014-2015 and 2015-2016.

The final draft of the Five-Year Forecast is now proposed for adoption.

Attachment

Action - It is recommended that the City Council, by resolution, adopt the 2014-2019 Five-Year Forecast.

F.3 Second reading and adoption of an Ordinance amending Chapter 17.18 (Affordable Housing Program) of the Newark Municipal Code to replace Inclusionary Housing requirements with a Housing Impact Fee – from City Clerk Harrington. (ORDINANCE)

Background/Discussion – On April 10, 2014, the City Council introduced an ordinance amending the Newark Municipal Code by repealing Chapter 17.18 (Affordable Housing Program) and adding a new Chapter 17.18 (Affordable Housing Program). The amendment to the Affordable Housing Program will require that residential developments pay a housing impact fee, as established by a resolution of the City Council, rather than provide a percentage of affordable housing within their proposed projects.

Action - It is recommended that the City Council, by ordinance, amend the Newark Municipal Code by repealing Chapter 17.18 (Affordable Housing Program) and adding a new Chapter 17.18 (Affordable Housing Program).

F.4 Adopting a Compensation Plan for certain positions in the Exempt Service Employee Group and revoking previously adopted plans – from Human Resources Technician Gendreau. (RESOLUTION)

Background/Discussion – A salary schedule for Part-time, Seasonal, and Temporary (PST) classifications was adopted in June 2004. This schedule provides a list of hourly rate ranges assigned to each PST classification. This schedule was amended in January 2007, June 2009, and July 2010.

With the upcoming minimum wage increase for the State of California, staff recommends revoking the prior adopted schedule and amendments and adopting the updated schedule to remain in compliance with state law minimum wage requirements. In addition, staff recommends the removal of the Recreation Aide position that is no longer in use by the Recreation and Community Services Department.

Attachment

Action - It is recommended that the City Council, by resolution, revoke Resolution Nos. 8826, 9228, 9583, and 9740, and adopt the compensation plan for certain positions in the exempt service employee group.

F.5 Authorization for the Mayor to sign the amendment to the agreement with Alameda County for participation in the Alameda County Urban County Community Development Block Grant (CDBG) Program for fiscal year 2013-2014 – from Assistant Planner Jimenez. (RESOLUTION)

Background/Discussion – Each year, the City of Newark receives funding under the United States Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program. This grant provides funding for activities benefiting low- and moderate-income persons, including public works projects, planning studies, and housing rehabilitation and repair.

Newark's funds are disbursed through Alameda County. The County oversees Newark's use of the funds in order to ensure that all appropriate federal government requirements are met. This arrangement is established and governed each year by an agreement between the City and Alameda County. The most recent agreement entered between the City and the County was July 1, 2013. The City would now like to amend this agreement in order to recoup additional funding that has been made available from prior fiscal years. The funds will be allocated to a current public works project that will improve accessibility in City parks by resurfacing and repairing existing pathways to make connections more accessible to the disabled. A copy of the proposed amended agreement is attached. By approving this resolution, the City Council will authorize the mayor to amend the 2013-2014 CDBG agreement between the City of Newark and Alameda County.

Attachment

Action – It is recommended that the City Council, by resolution, authorize the Mayor to sign the amendment to the agreement with Alameda County for participation in the Alameda County Urban County Housing and Community Development Block Grant (CDBG) Program for fiscal year 2013-2014.

- F.6 Approval of the final map and authorization for the Mayor to sign the Subdivision Agreement for Tract 8130, a 164-unit residential subdivision (Timber Street LLC – Trumark Homes) on the east side of Cedar Boulevard, approximately 450 feet south of Central Avenue – from Senior Civil Engineer Fajeau. (RESOLUTION)**

Background/Discussion – Timber Street LLC (Trumark Homes) has submitted the required fees, documents, and bonds for approval of the final map for Tract 8130. This subdivision will consist of 80 residential condominium units and 84 detached single-family residences. The project will have three points of access from Cedar Boulevard and one point of access from Timber Street. Off-site improvements include construction of a new traffic signal at the primary Cedar Boulevard entrance opposite Robertson Avenue, a new precast concrete wall on the west side of Cedar Boulevard, and a new raised median on Cedar Boulevard. Recording of the final map and issuance of all permits for construction activity will be at the discretion of the City Engineer.

Attachment

Action – It is recommended that the City Council, by resolution approve the final map and authorize the Mayor to sign the Subdivision Agreement for Tract 8130.

NONCONSENT

- F.7 Review of the Draft 2014-2015 and 2015-16 Capital Improvement Plan – from Senior Civil Engineer Fajeau. (INFORMATIONAL ONLY)**

Background/Discussion – A draft of the 2014-15 and 2015-16 Capital Improvement Plan (CIP) has been prepared by staff for an initial review by the City Council. The CIP is prepared as part of the City's Biennial Budget as a policy statement of plans to fund proposed capital improvement projects. Capital improvement projects are expenditures in excess of \$5,000 for major equipment purchases or for physical improvements to the City's infrastructure that require resources above and beyond the City's operating budget. Equipment and vehicles normally replaced through the City's Equipment Replacement Fund are not included in the CIP.

The City uses a variety of funding sources for CIP projects. The Capital Improvement Fund can be used on any type of project, but these funds are typically reserved for buildings, parks, and other non-transportation projects. Capital Improvement Funds are traditionally generated from operating budget surpluses. Gas Tax funds are derived from various State Gas Tax sources and Alameda County fund sources, including Measure B. All Gas Tax funding must be used on transportation projects within the public right-of-way or on efforts to support those transportation projects. The City also uses a wide array of Federal, State, regional, and local grant programs to fund all types of projects. Gas Tax and Grant funds are normally spent as they are accumulated, but it is critical that the City maintain a reasonable Capital fund balance.

The current CIP process began in October 2013 with an initial Citywide call for projects. The submitted projects were evaluated by staff based on a variety of factors in a manner consistent with the past several budget cycles. First, projects were reviewed for consistency with the Critical Issues identified in the City's Strategic Plan. These Critical Issues include Public Safety Services, Education, Quality of Life, Community Development, and City Government Operations. Projects were further evaluated based on available funding and impacts to major fund sources, including the Capital Improvement Fund. Operational and maintenance impacts of individual projects were also considered.

There have been no operating budget surpluses to transfer to the Capital Improvement Fund since 2004. It is therefore essential that expenditures from this fund be minimized and that only those projects considered absolutely essential to the City be funded. Staff has therefore implemented additional requirements for project selection consistent with the past three budget cycles. Each project recommended for funding should: (1) satisfy a regulatory or mandatory requirement; (2) reduce the City's liability risk; or (3) preserve an existing asset. All of the projects recommended for funding in Fiscal Years 2014-15 and 2015-16 satisfy at least one of these requirements.

FY 2014-15 Projects:

In Fiscal Year 2014-15, staff is proposing 29 projects totaling \$3,173,400. There are four major projects that contribute significantly to this total. Funded by Gas Tax and a federal grant, the Enterprise Drive Pavement Rehabilitation project will preserve an existing asset at an estimated cost of \$760,000. The first phase of the Finance System Replacement project, consultation and selection, has an estimated cost of \$200,000. Capital funds will be used for this project, which is essential to operations and satisfying requirements related to financial recordkeeping and reporting. Another major project is partial replacement of the irrigation main line along the Southern portion of Community Park. The \$200,000 combined with previous funding will fully fund this project in order to preserve a major City asset. The last major project scheduled is Re-plastering of the Silliman Aquatic Center Lazy River Pool. This project is dependent on Alameda County Water District's regulations affecting the City's ability to drain and re-fill the pool during the current drought restrictions. If the project is allowed to move forward, approximately \$100,000 of Capital funds will be used. This pool is the first of three pools that are scheduled to be re-plastered during the December maintenance shut-down periods over the next three years, to preserve a major City asset.

Staff is also proposing a significant investment of \$1,022,500 in the 2014-15 Pavement Maintenance Program and \$400,000 in sidewalk and street tree maintenance. An additional \$115,000 is proposed for roadway striping, traffic signal equipment replacement, street name sign replacement, and handicap ramp installations. These projects are essential to preserving the City's existing street infrastructure, meeting regulatory requirements, and minimizing potential liability risks. All of these projects will utilize available Gas Tax funds or special grant funding without impacting Capital funds.

There are two recommended new minor projects proposed for funding that require the use of an estimated \$43,000 in Capital funds. These projects are Transition to Paperless Documents and a vehicle for the recently approved Police Lieutenant position. A new

project that will be funded by Measure D is an enclosure for the recycling bin at the City Administration Building. The estimated cost is \$15,000 and will not use Capital funds.

Grant funds in the amount of \$45,900 are proposed to be utilized on a variety of projects. The Police Department expects to fund the Bait Tablet/Phone Device and GPS Tracking Device with grant resources, totaling \$12,900. Additional grant funding is anticipated for handicap parking upgrades and ramp construction.

The remaining projects proposed in FY 2014-15 are focused on ongoing maintenance or regulatory requirements. This includes \$165,000 for Citywide buildings and parking lots, and \$140,000 for Citywide park requirements, repair and restoration projects. This is the minimal level of investment needed annually to continue to preserve these existing assets and will require the expenditure of Capital funds.

FY 2014-15 Projects:

The recommended projects for FY 2015-16 are limited to 23 projects totaling \$2,988,600. Street name sign replacement, pavement maintenance, sidewalk maintenance, street tree maintenance, and other roadway maintenance projects are expected to total \$1,470,600 in Gas Tax expenditures. Another \$33,000 in grant funding is anticipated for handicap ramp upgrades, and \$25,000 from the street light conversion fund will be used for traffic signal equipment replacement. It is possible that additional grant funding will become available for other projects during the second half of this budget cycle.

Projects identified as essential for FY 2015-16 include Part 2, the implementation phase, of the Finance System Replacement project, with an estimated cost of \$1,050,000. Capital funds will again be used for this project. Also, depending on Alameda County Water District's restrictions, Re-plastering of the Silliman Aquatic Center Activity Pool will cost an estimated \$100,000 in Capital funds.

All other projects proposed in FY 2015-16 will require the use of Capital funds in the amount of \$310,000. All other projects are again focused on ongoing building and park maintenance. This includes \$165,000 for Citywide buildings and parking lots, and \$145,000 for Citywide park requirements, repair and restoration projects.

Conclusion:

While the 2014-15 and 2015-16 CIP proposes significant and necessary investments in the City's existing assets, it is essential that a reasonable Capital fund balance remain. It is anticipated that Capital funds will be reduced to \$2,097,000 by June 30, 2016.

The remaining schedule for preparation of the 2014-2015 and 2015-2016 Capital Improvement Program is as follows:

- Presentation of the CIP to the Planning Commission (May 6)
- City Council Budget Work Session (May 22 or June 12)
- Scheduled adoption of the biennial Budget and CIP by the City Council (June 12 or 26)

Attachment

Action – This item is informational only.

F.8 Authorization for the Mayor to sign an agreement with Citygate Associates LLC to conduct a fire services alternatives study for the cities of Newark and Union City– from City Manager Becker (RESOLUTION)

Background/Discussion – The cities of Newark and Union City are currently under contract with the Alameda County Fire Department (ACFD) to provide fire and emergency response services. ACFD is a special dependent district, formed in 1993, to provide fire services to unincorporated Alameda County and which is governed by the Alameda County Board of Supervisors (BOS). During the past 21 years, five cities (San Leandro, Dublin, Newark, Union City and Emeryville) and two federal laboratories (Lawrence Berkeley and Lawrence Livermore National Laboratories) have joined the ACFD. The contracting agencies now constitute over 60% of the ACFD budget.

The fire services that Newark and Union City have received from ACFD have been excellent. However, recent budget issues within the unincorporated county portion of the ACFD budget (a structural budget deficit in excess of \$1 million annually) have placed a strain on the central administrative support services that ACFD provides both cities. Two major and problematic issues have become evident during the roughly four years that both cities have been served by the ACFD:

- **Governance** – The BOS holds all of the authority and control over the ACFD budget and the labor agreements which form the basic “driver” of increased operating costs for the ACFD. As a result, the ACFD contract agencies have no real control over the costs of their contracts with ACFD. The two advisory bodies formed to advise the BOS on issues of concern to contracting agencies, the Fire Advisory Commission (made up of appointed elected officials from the contract cities), and the Executive Management Oversight Committee (made up of City Managers and federal lab representatives), have no real authority and have recently seen their concerns and recommendations essentially ignored by the BOS. This situation is compounded by the fact that the County budget does not support the ACFD; rather, property taxes from the unincorporated county service areas support the ACFD. This dynamic presents a concern for the future of salary and benefit cost containment within the ACFD.

- **Other Post-Employment Benefits (OPEB)** – This term refers to the (legacy) Retiree Medical Benefit afforded all ACFD employees who serve at least five (5) years with the ACFD, and consists of uncapped universal family coverage for ACFD employees and their families. The term “uncapped” means that there is no upper limit on the monthly benefit that each retiree will receive (the benefit floats upward with the Kaiser family rate), and the term “legacy” means that despite future reductions in benefits that may possibly be negotiated in future ACFD labor agreements, there will almost certainly never be a reduction in the benefits that employees hired before such

reductions take effect will receive. For both cities, all former employees are legacy members of the ACFD Retiree Medical Benefit once they pass their fifth anniversary with the ACFD, which will happen on May 1, 2015 for Newark, and June 30, 2015 for Union City. At this time, the medical benefit is fully paid by ACFD with no financial contribution made by active employees and retirees.

This situation is compounded by the fact that the ACFD, like many other government agencies throughout California, had not (until recently) developed accurate actuarial estimates of what the unfunded liabilities associated with such a generous OPEB would be. These unfunded liabilities now total over \$120 million and are expected to continue to grow every year. The reason these unfunded liabilities are growing is that no agency associated with the ACFD (nor any ACFD employee) has ever paid the actual annual costs required to fully fund the OPEB. Instead, ACFD agencies have paid only those amounts needed to pay for current benefit payouts to retirees (“pay as you go”), thereby pushing the unfunded liability forward and increasing its size.

Newark and Union City have collaborated on a process to solicit and evaluate consultants to perform a Fire Services Alternatives Study. The cities invited four reputable firms to submit proposals. After reviewing the proposals, both cities agreed to interview three of the four consultants including Citygate Associates, LLC, Management Partners, and Matrix Consulting Group. The interview process resulted in the unanimous selection of Citygate Associates, LLC (Citygate) as the recommended consulting team for this important study. The Citygate team possesses superior experience in conducting fire services studies and has an extensive track record of successful engagements throughout California.

As the City Council may recall, Citygate was used by both Newark and Union City back in 2009-10 to evaluate the feasibility of both cities forming a joint fire department. For several reasons, this concept proved unworkable at the time and both cities then engaged Citygate in evaluating the feasibility of joining ACFD separately. This time around, as Citygate has acknowledged, the OPEB issue will be evaluated in much greater detail than it was in 2009-10, and several options will be evaluated. These options include:

- Remaining with ACFD
- Forming a new, joint fire department (as the cities of Livermore and Pleasanton have done)
- Forming a new Joint Powers Agency, Fire Services District, or similar entity
- Contracting for fire services from another entity (not ACFD).

The combination of the governance and OPEB issues has the potential to significantly impact both cities’ budgets, and forms the impetus for the recommended action. Both Newark and Union City are facing a decision point on whether to remain in the ACFD or evaluate other potential fire services options and potentially undertake what would be a very challenging transition in less than a year (i.e., in order to avoid the OPEB

liability that accrues on the 5th anniversary of ACFD employment). All options will carry risks, both short and long term, and Citygate will be asked to develop alternatives for possible interim solutions if a total reconfiguration of fire services in the two cities cannot be completed within the period remaining from completion of the study and final decision, to the deadline for ACFD contract renewal.

Citygate's proposed work plan and cost proposal is attached for reference. The cost quote is an amount not to exceed \$65,070 and the time frame for completion of the analysis is no longer than 90 days. This is an aggressive schedule, but staff is confident in the capability of the Citygate team to deliver an accurate study within the specified time frame. Both cities will share the cost of the study equally with the City of Newark's share not to exceed \$33,000. The funding will come from the unallocated General Fund Balance.

Attachment

Action - It is recommended that the City Council, by resolution, authorize the Mayor to sign an agreement with Citygate Associates, LLC to conduct a fire services alternatives study for the cities of Newark and Union City.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

I.1 Consideration of City Council's summer meeting recess during the month of August 2014 – from Mayor Nagy. (MOTION)(RESOLUTION)

Background/Discussion – Since 1994 the City Council has approved a summer meeting recess during the month of August. This is because of the lack of any major City business during August and because several Council Members plan vacations during that month. Mayor Nagy would like the City Council to consider a summer recess again this year during August for the same reasons.

The City Council may authorize the City Manager, or his designee, to approve any administrative matters that might occur during the month of August that cannot be deferred until September for City Council action. The general types of administrative matters that might require action are:

- Acceptance of completion of work on City projects
- Approval of agreements as needed for budgeted projects and services

- Approval of plans and specifications
- Award of contracts for budget projects
- Denial of claims

The City Manager would report all such actions taken during the month of August to the City Council at the first regular meeting in September.

Attachment

Action - It is recommended that the City Council, by motion, approve a City Council summer meeting recess during the month of August 2014 and, by resolution, authorize the City Manager, or his designee, to take action on certain administrative matters on behalf of the City of Newark during the recess.

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

- K. ORAL COMMUNICATIONS**

- L. APPROPRIATIONS**

- 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.