CITY OF NEWARK
CITY COUNCIL

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

AGENDA

Thursday, June 26, 2014

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

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
B. MINUTES
C. PRESENTATIONS AND PROCLAMATIONS
D. WRITTEN COMMUNICATIONS
E. PUBLIC HEARINGS
F. CITY MANAGER REPORTS
G. CITY ATTORNEY REPORTS
H. ECONOMIC DEVELOPMENT CORPORATION
I. COUNCIL MATTERS
J. SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY
K. ORAL COMMUNICATIONS
L. APPROPRIATIONS
M. CLOSED SESSION
N. ADJOURNMENT

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.

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

CITY OF NEWARK
CITY COUNCIL

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4266 • E-mail: city.clerk@newark.org

AGENDA

Thursday, June 26, 2014

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

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular City Council meeting of Thursday, June 12, 2014. (MOTION)

C. PRESENTATIONS AND PROCLAMATIONS

D. WRITTEN COMMUNICATIONS

D.1 Planning Commission referral of a review of a conditional use permit (U-82-48) and a planned unit development (P-82-49) for a trellis feature to be added to an existing building (Isla Restaurant) at 5720 Mowry School Road – from Assistant Planner Jimenez. (MOTION)

Background/Discussion - Mr. Richard Lyttle, on behalf of Isla Restaurant, has submitted an application to construct a trellis feature at 5720 Mowry School Road. Isla Restaurant is a Filipino restaurant located within the Balentine Plaza Shopping Center which is zoned CC (Community Commercial).

The owners of the restaurant feel that the addition of the trellis "accentuates the atmosphere and culture" of the Philippines and that it will make for a more authentic dining experience. The trellis is purely decorative and is not an area intended for outdoor dining. The wood trellis will be constructed along the south side of the restaurant. The support columns will be relocated an additional two feet from the curb from what is shown on the exhibits in order to accommodate the required two-foot vehicle overhang.

The proposed project is categorically exempt from the California Environmental Quality Act per Section 15311, Class 11(a), construction of minor structures accessory to existing commercial facilities.

Attachment

Update – At its meeting of June 10, 2014, the Planning Commission approved Resolution No. 1880 with Exhibit B, pages 1 through 4, for a review of a conditional use permit (U-

82-48) and a planned unit development (P-82-49) for a trellis feature to be added to an existing building (Isla Restaurant) at 5720 Mowry School Road.

Action - It is recommended that the City Council, by motion, approve Planning Commission Resolution No. 1880, with Exhibit B, page 1 through 4, for a review of a conditional use permit (U-82-48) and a planned unit development (P-82-49) for a trellis feature to be added to an existing building (Isla Restaurant) at 5720 Mowry School Road.

E. PUBLIC HEARINGS

E.1 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 1 – from Senior Civil Engineer Fajeau. (RESOLUTION)

Background/Discussion – The City Council has set June 26, 2014, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 1. This district includes properties which abut Central Avenue between Filbert Street and Willow Street and provides for the maintenance of median landscaping on Central Avenue between Filbert Street and Willow Street, and buffer landscaping adjacent to the Alameda County flood control channel immediately west of Filbert Street. Maintenance and operation of median street lights along this portion of Central Avenue are also included in this district. An annual public hearing is necessary to adopt the Engineer's Report to provide funds for this district.

The total assessment for this district as provided in the Engineer's Report is $42,100 for the 2014-2015 fiscal year.

Attachment

Action - Upon conclusion of the public hearing, it is recommended that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 1 for the 2014-2015 fiscal year.

E.2 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 2 – from Senior Civil Engineer Fajeau. (RESOLUTION)

Background/Discussion – The City Council has set June 26, 2014, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 2. This district provides for the maintenance of median and in-tract buffer landscaping on Jarvis Avenue adjacent to and within the boundaries of Tract 5232, Dumbarton Technology Park, on Jarvis Avenue at Lido Boulevard, as well as the Newark Boulevard medians fronting the Raley's and Safeway shopping centers. An annual public hearing is necessary to adopt the Engineer's Report to provide funds for this district.

The total assessment for this district as provided in the Engineer's Report is $27,100 for the 2014-2015 fiscal year.

Attachment

Action - Upon conclusion of the public hearing, it is recommended that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 2 for the 2014-2015 fiscal year.

E.3 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 4 – from Senior Civil Engineer Fajeau. (RESOLUTION)

Background/Discussion – The City Council has set June 26, 2014, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 4. This district provides for the maintenance of median landscaping on Stevenson Boulevard from the Nimitz Freeway to Eureka Drive (west) and on Cherry Street between Stevenson Boulevard and the Sportsfield Park. An annual public hearing is necessary to adopt the Engineer's Report to provide funds for this district.

The total assessment for this district as provided in the Engineer's Report is $48,100 for the 2014-2015 fiscal year.

Attachment

Action - Upon conclusion of the public hearing, it is recommended that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 4 for the 2014-2015 fiscal year.

E.4 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 6 – from Senior Civil Engineer Fajeau. (RESOLUTION)

Background/Discussion – The City Council has set June 26, 2014, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 6. This district provides for the maintenance of median and greenbelt landscaping and the irrigation systems in the area formerly known as Redevelopment Area No. 2. The area is the property generally bounded by Balentine Drive, Cedar Boulevard, Stevenson Boulevard, and the Nimitz Freeway.

For many years all expenses for Landscaping and Lighting District No. 6 were paid out of the reserves deposited by the original developer and there has never been an assessment levied on any of the properties in the district. These reserves have been depleted and a deficit now exists. A special election would need to be held as required by Proposition 218 to increase the assessments of all properties in the district based on the district's original method of assessment, but to date a majority of the affected property owners of have objected to an assessment. Applications for development on the vacant property within the district boundary have been made and new development could provide sufficient votes to increase assessments. Staff will continue to minimize

expenditures for landscape maintenance in this district until assessments can be increased.

All property owners in this district will receive a "zero" assessment for 2014-2015.

Attachment

Action - Upon conclusion of the public hearing, it is recommended that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 6 for the 2014-2015 fiscal year.

E.5 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 7 – from Senior Civil Engineer Fajeau. (RESOLUTION)

Background/Discussion – The City Council has set June 26, 2014, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 7. This district provides for the maintenance of Rosemont Square Shopping Center buffer landscaping and the landscape irrigation system within the public right-of-way and easement areas on Jarvis Avenue, Newark Boulevard, and Cedar Boulevard.

The total assessment for this district as provided in the Engineer's Report is $25,600 for the 2014-2015 fiscal year.

Attachment

Action - Upon conclusion of the public hearing, it is recommended that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 7 for the 2014-2015 fiscal year.

E.6 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 10 – from Senior Civil Engineer Fajeau. (RESOLUTION)

Background/Discussion – The City Council has set June 26, 2014, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 10. This district is a consolidated district which includes miscellaneous developments at several locations. These locations and the work involved are as follows:

10a. The maintenance of Jarvis Avenue and Lido Boulevard median-island and street landscaping, and lighting adjacent to the boundaries of Tract 5318, Lexington Square.

10b. Maintenance of landscaping and the landscape irrigation system within easement areas adjacent to the public right-of-way on the north side of Central Avenue between the Nimitz Freeway and Timber Street.

10c. Maintenance of landscaping and the landscape irrigation system within easement areas adjacent to the public right-of-way on Morton Avenue for Geomax.

10d. Maintenance of landscaping and the landscape irrigation system within easement areas adjacent to the public right-of-way on Enterprise Court and Enterprise Drive for Parcel 1 of Tentative Parcel Map 5109.

10e. Maintenance of landscaping and the landscape irrigation system adjacent to Cedar Boulevard south of Mowry Avenue for Jiffy Lube.

10f. Maintenance of landscaping and the landscape irrigation system for the apartment complex at the intersection of Rich Avenue and Magnolia Street.

10g. Maintenance of landscaping and the landscape irrigation system within easement areas on Smith Avenue and Cedar Boulevard for the Cedar Boulevard Neighborhood Church.

10h. Maintenance of landscaping and the landscape irrigation system within easement areas for the parcel adjacent to Eucalyptus Grove Park.

10i. Maintenance of landscaping and the landscape irrigation system within easement areas and the public right-of-way on Cherry Street for Thoro Systems.

10j. Maintenance of landscaping and the landscape irrigation system within the public right-of-way and easement areas for the King & Lyons development at Thornton Avenue and Willow Street.

10k. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Central Avenue for Bay Mirror.

10l. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and easement areas on Cedar Boulevard near Moores Avenue for Empire Tractor.

10m. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Mowry Avenue for the property at the northeast corner of Mowry Avenue and Cedar Boulevard.

10n. The maintenance of street lighting within the public right-of-way and landscaping and the landscape irrigation system within the public right-of-way and easement areas adjacent to the public right-of-way on Cedar Boulevard and Balentine Drive for TJ Maxx.

10o. The maintenance of street lighting within the public right-of-way and landscaping and the landscape irrigation system within the public right-of-way and the easement areas adjacent to the public right-of-way on Newark Boulevard and Cedar Boulevard for Lido Faire Shopping Center.

10p. The maintenance of street lighting within the public right-of-way and landscaping and the landscape irrigation system within the public right-of-way on Sycamore Street for B.K. Mills.

10q. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Magnolia Street for the Moose Lodge.

10r. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Central Avenue at the Southern Pacific railroad right-of-way for Leslie Salt Company.

10s. The maintenance of landscaping and the landscape irrigation system within landscape easement areas on Cedar Boulevard at Central Avenue for Parcel 1 of Parcel Map 4073.

10t. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cedar Boulevard north of Lake Boulevard for Lot 5 of Tract 5361.

10u. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Magnolia Street south of Graham Avenue for Parcel 1 of Parcel Map 6178.

10v. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Smith Avenue west of Cherry Street for Parcel 4 of Parcel Map 1425.

10w. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cedar Boulevard and Mowry Avenue for Parcels 1, 2, 3, and 6 of Parcel Map 3028.

10x. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on the cul-de-sac of Enterprise Court at 37569 Enterprise Court.

10y. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Magnolia Street and Graham Avenue at 37088 Magnolia Street (formerly 6963 Graham Avenue).

10z. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on the Thornton Avenue and Locust Street frontage of 37010 Locust Street.

10aa. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Enterprise Drive and Hickory Street at 8610 Enterprise Drive.

10ac. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Thornton Avenue and Sycamore Street at 7275 Thornton Avenue.

10ad. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Thornton Avenue at 6152 Thornton Avenue.

10ae. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cedar Boulevard south of Mowry Avenue.

10af. The maintenance of landscaping, the landscape irrigation system, and the concrete block wall within the public right-of-way and adjacent easement areas on Mowry Avenue and Cedar Boulevard for the shopping center that includes 5789 Mowry Avenue.

10ag. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Hickory Street at 37137 Hickory Street.

10ah. The maintenance of median-island landscaping and lighting, and street frontage landscaping up to 30 feet in width along all streets within the boundaries of Bridgeway Technology Park on Fircrest Street.

10ai. The maintenance of lighting within public right-of-way and landscaping and landscape irrigation system within easement areas adjacent to the public right-of-way along Dairy Avenue, Newark Boulevard, and Thornton Avenue for the Foxwood condominium project.

10aj. The maintenance of lighting within public right-of-way and landscaping and landscape irrigation system within easement areas adjacent to the public right-of-way on Magnolia Street, Graham Avenue, and Sycamore Street for the Summerhill Apartments.

10ak. The maintenance of lighting within public right-of-way and landscaping and landscape irrigation system within easement areas adjacent to the public right-of-way on Cherry Street and Dairy Avenue for the Summerhill Apartments.

10al. Maintenance of landscaping, landscape irrigation and lighting within the entire street right-of-way of Potrero Avenue; the easterly portion of Cherry Street, Buena Vista Drive and Parada Street contiguous to Tract 5869; and the easterly portion of Parada Street contiguous to Tract 5810; and the northerly portion of Stevenson Boulevard contiguous to Tract 5810, excluding the median islands within Cherry Street and Stevenson Boulevard.

10am. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and easement areas on Smith Avenue for the Oatey Company.

10an. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Thornton Avenue at Cedar Boulevard for Newark Square shopping center.

10ao. The maintenance and/or construction of landscaping and the irrigation system within the public right-of-way and adjacent easement areas on the Mowry School Road frontage of the property to the rear of Fremont Ford.

10ap. The construction and maintenance of landscaping and an irrigation system within the public right-of-way and adjacent easement areas on Morton Avenue for Morton Salt.

10aq. Construction and maintenance of landscaping and the landscape irrigation system within the public right-of-way and easement areas on the Cedar Boulevard frontage of the shopping center on the northwest corner of Newark Boulevard and Cedar Boulevard.

10ar. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Central Avenue and on Clark Avenue for Matheson Gas.

10as. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Smith Avenue at 6565 Smith Avenue.

10at. The construction and/or maintenance of the Art in Public Places Element required in accordance with Newark City Council Resolution No. 5682 within the public right-of-way and/or adjacent easement areas on Parcels 1 and 2 of Tract 5343.

10au. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Newark Boulevard at 35193 Newark Boulevard.

10av. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cedar Boulevard at 37300 Cedar Boulevard.

10aw. The maintenance and/or construction of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Fircrest Street at Assessor's Parcel No. 537-460-12-3.

10ax. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Enterprise Drive and Willow Street at 8400 Enterprise Drive.

10ay. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Mowry Avenue and Cherry Street.

10az. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Balentine Drive at Parcel 1 of Parcel Map 6692.

10ba. The maintenance and/or construction of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cherry Street north of Thornton Avenue.

10bb. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Jarvis Avenue and Newark Boulevard.

10bc. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cherry Street south of Robertson Avenue.

10bd. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Filbert Street and Central Avenue.

10be. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement along the street frontage on Balentine Drive.

Since this district is for properties responsible for their own maintenance, all property owners for all subdistricts in this district will receive a "zero" assessment for 2014-2015.

Attachment

Action - Upon conclusion of the public hearing, it is recommended that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 10 for the 2014-2015 fiscal year.

E.7 Hearing to consider property owners' objections and confirmation of the Superintendent of Streets' report concerning weed abatement assessments – from Maintenance Supervisor Carey. (MOTION)(RESOLUTION)

Background/Discussion – The Superintendent of Streets' report on the 2014 Weed Abatement Program is submitted pursuant to Resolution No. 10,173 adopted by the City Council on February 27, 2014. The report showing the assessments for the fall 2013 and the spring 2014 weed abatement has been posted as required. Owners whose properties are subject to an assessment may protest at this meeting or submit their objections prior to the hearing. As of June 12, 2014, no written objections have been received.

On April 10, 2014, the City Council directed the Superintendent of Streets to abate weeds on 151 parcels of land. Subsequent to notification, private property owners cleared 139 parcels and the City's contractor cleared 12 parcels. This year, the assessments ranged from $77 to $1,133. The lowest cost is for a vacant property that requires minimal work. The highest cost was for the San Mateo County Transit District property, where mowing, extensive handwork and trash removal was necessary. There were no supplemental lot clearings for the 2013 fall abatement work included in this year's assessments.

Attachment

Action - It is recommended that the City Council, by motion, act upon any objections by property owners for assessments on their parcels for the 2014 Weed Abatement Program and, by resolution, confirm the Superintendent of Streets' report concerning weed abatement assessments.

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.5 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT

F.1 Second reading and adoption of an ordinance amending 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 Tract Map 8166 from CC (Community Commercial) to R-1,500 (High Density Residential – 1,500) – from City Clerk Harrington. (ORDINANCE)

Background/Discussion – On June 12, 2014, the City Council introduced an ordinance Second reading and adoption 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 Tract Map 8166 from CC (Community Commercial) to R-1,500 (High Density Residential – 1,500). This applies to the development of 85 townhomes on a vacant lot located at 39850 and 39888 Cedar Boulevard (northeast corner of Cedar Boulevard and Mowry School Road)

Attachment

Action - It is recommended that the City Council adopt the 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 Tract Map 8166 from CC (Community Commercial) to R-1,500 (High Density Residential – 1,500).

F.2 Authorization for the City Manager to sign a lease agreement with Child, Family, & Community Services, Inc. for use of the Jerry Raber Ash Street Park Building #2 for the operation of a Head Start Preschool Program – from Recreation and Community Services Director Zehnder. (RESOLUTION)

Background/Discussion – The current lease agreement for use of the Jerry Raber Ash Street Park Building #2 by the Child, Family & Community Services, Inc. is due to expire in June. Child, Family, & Community Services, Inc. wishes to enter into a new one-year agreement. A new lease agreement has been prepared, the conditions of which remain essentially the same as in the past. A share of the utility cost will be paid on a biannual basis. Child, Family, & Community Services, Inc. provides a valuable Head Start Preschool program to the community and staff recommends that the City Council authorize an extension of the lease for an additional year, through June 5, 2015, at an annual rental fee of $1 per year.

Attachment

Action - It is recommended that the City Council, by resolution, authorize the City Manager to sign a lease agreement with Child, Family, & Community Services, Inc. for use of the Jerry Raber Ash Street Park Building #2 for the operation of a Head Start Preschool program.

F.3 Authorization for the Mayor to sign a Lease Agreement with Viola Blythe Community Service Center of Newark, Inc. for use of the Jerry Raber Ash Street Park Building #1 for the operation of a food and clothing distribution center – from Recreation and Community Services Director Zehnder. (RESOLUTION)

Background/Discussion – The current Lease Agreement for use of the Jerry Raber Ash Street Park Building #1 by the Viola Blythe Community Service Center of Newark is due to expire on June 30, 2014. Viola Blythe Community Service Center wishes to enter into a new one-year Agreement. A new Lease Agreement has been prepared, the conditions of which remain essentially the same as in the past. A share of the utility cost will be paid on a bi-annual basis. The Center provides a valuable service to the community and staff recommends that the City Council authorize an extension of the lease for an additional year, through June 30, 2015, at an annual rental fee of $1 per year.

Attachment

Action - It is recommended that the City Council, by resolution, authorize the Mayor to sign a Lease Agreement with Viola Blythe Community Service Center of Newark, Inc. for lease of the Ash Street Park Building #1 for the operation of a food and clothing distribution center.

F.4 Authorization for the Mayor to sign Task Order No. 8 to the Joint Powers Agreement with the City of Fremont for Case Management services – from Recreation and Community Services Director Zehnder. (RESOLUTION)

Background/Discussion – Case Management is a vital component of the services offered through the City of Newark Senior Services program. It targets frail, homebound Newark seniors, striving to keep the elder person in their own home rather than being institutionalized. An assessment is made of the senior's overall well-being, including health (physical and mental), financial, transportation and/or housing needs, personal safety issues, and the ability to care for themselves, either on their own or with assistance. If appropriate, a care plan for services is begun to assist the client with whatever services are needed and to provide ongoing monitoring of the client and the services put in place.

The Case Management Program receives referrals from the Police and Fire Departments. As first responders they encounter elderly that need assistance on many levels. The case manager is the answer to many of these referrals. Case Management services often result in the elimination of repeated callouts for the Police and Fire Departments as a crisis situation receives prompt intervention. This allows safety

personnel to focus on other business within the City, thereby not straining the City's safety resources. With ever-increasing demands on City staff, it is reassuring to know that assistance is available for the City's most vulnerable residents.

The City has contracted for Case Management services with the City of Fremont since July 1, 1997. The Fiscal Year 2013-2014 agreement was in the amount of $5,000 and provided one and one half hours of Case Management services per week. Due to continued budget constraints, staff is recommending that the Case Management funding for Fiscal Year 2014-2015 remain at $5,000. Based on the number of cases opened during the current fiscal year, it appears that one and one half hour of service per week will be sufficient to meet the needs of Newark clients. If demand exceeds the available funding, new clients may be placed on a waiting list or directed to other fee-based agencies until the case load can accommodate them.

City staff and the City Attorney have reviewed the agreement and recommend that it be approved.

Attachment

Action - It is recommended that the City Council, by resolution, authorize the Mayor to sign Task Order No. 8 to the Joint Powers Agreement with the City of Fremont for Case Management services.

F.5 Amendment of the 2012-2014 Biennial Budget and Capital Improvement Plan for Fiscal Year 2013-2014 for General Revisions – from Senior Accountant del Rosario. (RESOLUTION)

Background/Discussion – As a part of the year-end closing, a number of general revisions are proposed to the annual budget. These revisions are for savings which are realized when there are staffing vacancies or reduction in services/supplies expenditures, and for deficiencies as a result of unforeseen increases in cost or need for services or supplies. A typical situation having no fiscal impact on the overall budget but requires a budget revision or amendment, is a reallocation of resources from one activity to another. Budget amendments are also proposed for those activities that have received grant funding.

Through mid-June 2014, there were significant revenue sources that were not anticipated or are higher than originally budgeted for:

- Police Overtime Reimbursement for Special Events and the NewPark Mall policing
- Vehicle In-Lieu Fees
- Sales Tax Triple Flip
- Transient Occupancy Tax
- Developer Contributions for City conducted Planning reviews and contractual work
- Grant Funding from Alameda County for the Park Pathways and Repair Project
- City Attorney legal fee reimbursements due to the increase in legal cases handled

Collectively, the above revenue increases will fund overages in actual over budgeted expenditure in legal fees expenditures (due to the increase in legal cases being handled), Police Overtime (which in part is reimbursed, but also attributable to department attrition), economic incentive payments, and planning professional services for increased development activity which is covered by developer contributions. Savings were also realized for Fire contractual services coming in under budget.

Exhibit A lists the various adjustments to the budget to accommodate the above modifications. Also included are budget amendments for other Special Revenue Funds which have received grant funding.

The City will perform the annual financial audit and year-end closing in September. At that time the final revenues and expenditures will be determined and any transfer of funds necessary to balance the budget will be identified.

Attachment

Action - It is recommended that the City Council, by resolution, amend the 2012-2014 Biennial Budget and Capital Improvement Plan for Fiscal Year 2013-2014.

NONCONSENT

F.6 Calling and giving notice of the holding of a General Municipal Election on Tuesday, November 4, 2014, for the election of certain officers of the City of Newark – from City Clerk Harrington. (MOTION)(RESOLUTION)

Background/Discussion – The City's next General Municipal Election will be held on November 4, 2014. A Mayor will be elected for a two-year term and two Council Members will be elected for four-year terms. Candidates may file nomination papers from July 14, 2014, through August 8, 2014. Should an incumbent fail to file, then the nomination period would extend to August 13, 2011 for that incumbent's elective office. The incumbent who did not file would not be eligible to file during the extended period.

The Alameda County Registrar of Voters (ROV) establishes polling places, secures precinct workers, prepares sample and official ballots, provides absentee voting, and tabulates the votes. In order for the ROV to render these services, the City must adopt a resolution requesting the services of the ROV through the Alameda County Board of Supervisors.

The Registrar's estimate for election services is between $4.00 and $6.00 per registered voter. Based on Newark's current voter registration of 20,213, the estimated cost for the November 4, 2014, election will be between $80,852 and $121,278, plus other publication printing, translation, and supply costs borne directly by the City. Funds to cover the services provided by the County and other vendors were estimated to be $144,000 and are included in the 2014-2015 fiscal year budget.

Resolution No. 7400 requires the City Clerk to estimate the cost and collect the deposit for the optional Candidate Statement of Qualifications. Candidates are responsible for the actual costs associated with their Statement of Qualifications. Based on the number of registered voters and a 200 word statement, staff has estimated an approximate cost of $600 per statement. The candidate will be refunded any overage or billed for any additional costs within 30 days of the final invoice from the ROV.

Attachment

Action - It is recommended that the City Council, by motion, approve the estimated cost of $600 to be paid by each candidate at the time nomination papers are filed for his/her Statement of Qualifications and, by resolution calling for the holding of a General Municipal Election to be held on Tuesday, November 4, 2014, for the election of certain officers; requesting the Alameda County Board of Supervisors to consolidate the General Municipal Election with the General Election to be held on November 4 2014; and request services of the Registrar of Voters.

F.7 Adoption of a resolution placing an extension of the existing City of Newark Utility Users Tax on the November 4, 2014 Election Ballot for voter consideration and related election procedures and consideration of the Ballot Measure language and participation in Ballot Arguments – from City Manager Becker. (RESOLUTION)

Background/Discussion – In November 2010, Newark voters approved Measure U, a temporary 3.5% Utility User Tax (UUT) within the City of Newark. The tax is applied to electricity, natural gas, telecommunications, and cable television services and includes exemptions for low income residents and senior citizens over the age of 70. The UUT is scheduled to sunset on December 31, 2015. In early 2011, the City Council adopted a Restoration Plan to use the UUT revenue to reinstate previously cut services and to begin to rebuild City reserves. The Restoration Plan included:

- Reopening the Senior Center
- Adding 2 Police Officers including a Detective and a School Resource Officer
- Reinstating the Neighborhood Watch Program and expanding a police volunteer program
- Increasing park and landscape maintenance throughout the City
- Increasing street sweeping from once every two months to once per month
- Reinstating the Ash Street Summer Program which serves at-risk youth
- Reinstating the School Crossing Guard Program
- Adding Community Preservation staffing
- Rebuilding the City's fiscal reserves.

As discussed during the February and May City Council budget work-sessions, budget projections indicate that there will be significant operating budget deficits in the years following the December 31, 2015 expiration of the City's Utility User Tax.

The UUT supports a number of critical programs and services in the City including public safety staffing, parks and street maintenance, the Senior Center, programs for at-risk youth, community preservation, and school crossing guards. Despite the recent improvement in the economy, the UUT revenue continues to make up a vital portion of the City's operating revenue. The UUT is expected to generate $3.5 million in revenue for the City in the current fiscal year. This represents approximately nine percent (9%) of the City's total operating revenue.

Despite the City's continued conservative budget balancing measures, revenue growth is not projected to keep up with projected expenditures. In order to balance future budgets it is anticipated that reductions or elimination of programs and services would have to be made. Projections also indicate that the City's operating budget reserve funds, which were built after the passage of the UUT, would be quickly exhausted bridging the projected budget deficits.

As a result of this information, the City Council directed staff to facilitate a public opinion poll to evaluate possible public support for an extension of the existing City of Newark Utility User Tax to address the projected operating budget deficits. On March 13, 2014, the City Council authorized the Mayor to sign an agreement with Godbe Research to prepare and conduct public opinion sampling and evaluation of possible public support for the extension of the existing City Utility User Tax.

Godbe Research completed their work and presented the survey results to the City Council during the May 8, 2014 City Council meeting. In summary, the results indicated strong support for a 5-year extension of the UUT at the current and/or a slightly lower tax rate. This support was tied to maintaining existing critical City services that are currently being supported by the UUT revenue and maintaining the current exemptions for seniors 70 years of age and older and low income residents. The results also indicated that a significant majority of those polled had a favorable opinion of the job the City of Newark is doing in providing City services and in managing and spending taxpayer dollars.

At the end of the presentation, the City Council accepted the results of the survey and directed staff to return at a future City Council meeting with the necessary actions to place a measure on the November 4, 2014 ballot to extend the City of Newark Utility User Tax beyond the current sunset date.

Election Actions

In order to place a proposed UUT Extension Ordinance on the ballot for the November 4, 2014 election, there are five matters that require Council direction. First, Council needs to approve the language for the ballot question. Second, Council needs to consider a resolution requesting the services of the Registrar of Voters of Alameda County to place the Utility Users Tax Ordinance on the November 4, 2014, ballot. Third, Council needs to direct the City Attorney to submit an impartial analysis to the City Clerk. Fourth, Council needs to determine the process for submission of an argument in favor of the measure. Fifth, Council needs to determine if rebuttals to arguments will be allowed and determine the process for submission of rebuttal arguments.

Ballot Question
The State Elections Code requires the ballot measure to be printed in the ballot pamphlet in the form of a "yes or no" ballot question of no more than 75 words. The ballot question must include a true and impartial statement of the nature of the ballot measure. The ballot question for City Council consideration, which is exactly at the 75-word limit, is as follows:

"To maintain critical City services, including neighborhood patrols, crime prevention, anti-drug/ gang-prevention programs, 9-1-1 emergency response, fire protection services, City streets, repairing potholes, keeping the Senior Center open, maintaining school police officers, parks/ recreation programs, and other city services, shall the City of Newark extend the existing, voter-approved utility users tax for 5 years, reducing the rate from 3.5% to 3.25%, exempting seniors and low-income residents, requiring independent audits, with no money for Sacramento?"

Ballot Impartial Analysis, Arguments, and Rebuttals
The State Elections Code provides for the City Council to direct the City Attorney to prepare an impartial analysis of no more than 500 words, showing the effect of the measure on existing law. This must be submitted to the City Clerk, as the Elections Official, by 4:00 p.m. on Thursday, July 10, 2014.

The State Elections Code allows the City Council to determine its interest in authoring an argument in favor of the ballot measure. Arguments of no more than 300 words each for and against the ballot measure can then be included in the Voters Sample Ballot. The arguments must be submitted to the City Clerk, as the Elections Official, by 4:00 p.m. on Thursday, July 10, 2014.

The State Elections Code also allows the City Council to determine its interest in allowing rebuttals. Any rebuttals, of no more than 250 words, must be submitted to the City Clerk, as the Elections Official, no later than ten days after arguments are due. The tenth day following the due date for arguments falls on Sunday, July 20 so it rolls over to the next business day of Monday, July 21, 2014 at 4:00 p.m. If there is no argument put forward in opposition to the ballot measure, then there will be no rebuttal.

The arguments can be authored by a maximum of five eligible voters. The code also requires that only one argument for and one argument against each ballot measure will be accepted by the Elections Official, and provides for an orderly process in determining who is eligible to submit a statement. If more than one argument for or more than one argument against the measure is received by the deadline, per the Elections Code, the City Clerk must select only one argument for and one argument against, giving preference and priority in the following order to:

1. The legislative body, or member or members of the legislative body authorized by that body.

2. The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.
3. Bona fide associations of citizens.
4. Individual voters who are eligible to vote on the measure.

The City Council has several options regarding the preparation of ballot arguments. In order for the City Council to authorize an argument to be given preference, as identified above, the Council may either: (1) author an argument in favor of the measure as a whole body (subject to the Brown Act considerations in the next paragraph) or (2) authorize up to two Council members to author and sign the argument on behalf of the entire City Council. If the second option is chosen the argument could also be signed by community members eligible to vote in the election as long as the total number of signatures does not exceed five. If the Council chooses option (2) the Council will have delegated full authority to the identified Council Member(s) to author the measure and it would not be necessary to return to the whole Council at a special meeting to finalize the language of the argument. Alternatively, the City Council may choose to have other members of the Newark community author the argument, in which case the second priority position for acceptance. Staff recommends repeating the process used for the 2010 election ballot and select the second option and authorize the Mayor to sign the argument on behalf of the City Council along with four other community members of his choosing.

Recommendation
It is recommended the City Council approve the ballot language as presented and place an ordinance on the November 4, 2014 ballot extending the existing Utility Users Tax. The tax rate would be reduced from 3.5% to 3.25% effective January 1, 2016. Based on current revenue levels, this will result in a reduction of approximately $250,000 per year in UUT revenue. This reduction will not have a significant impact on the City's operating budget. The tax would be extended for a period of 5 years and will expire on December 31, 2020. An exemption will be provided for other governmental bodies, for low-income residents based on qualification for the PG&E CARE Program, and seniors age 70 and older. The City Attorney will be directed to prepare the impartial analysis of the measure. The Mayor will be designated to author and sign a ballot argument on behalf of the City Council for the measure along with four other community members who are proponents. Rebuttal arguments will be allowed and, if there is an argument submitted in opposition to the measure, the Mayor will be authorized to author and sign a rebuttal argument, along with four other community members who are proponents.

Attachment

Action - It is recommended that the City Council, by resolution, take the following actions:

1. Approve the ballot question language.

2. Submit a Utility Users Tax Extension Ordinance to the voters at the November 4, 2014 election, identifying the language of the ballot question, requesting the Board of Supervisors of the County of Alameda to authorize the Alameda County Registrar of Voters to place the ordinance on the ballot.

3. Direct the City Attorney to prepare the impartial analysis of the measure.

4. Authorize the Mayor to author and sign, on behalf of the City Council, the ballot argument and include the signatures of four other community members who are proponents of the measure.

5. Allow rebuttal arguments and authorize the Mayor to author and sign, on behalf of the City Council, a rebuttal if an argument in opposition to the ballot measure is submitted and include the signatures of four other community members who are proponents of the measure.

F.8 Approval of First Amendment to the Transfer Services Agreement between the Cities of Newark and Union City and BLT Enterprises of Fremont, LLC, and associated budget amendments – from Administrative Services Director Woodstock. (RESOLUTION)

Background/Discussion – In 2007, the City signed a Transfer Service Agreement ("Agreement") with BLT Enterprises of Fremont, LLC ("BLT"), the operators of the Fremont Transfer Station ("Transfer Station"), to accept and transfer waste to the landfill. (The City has a separate contract with the franchisee – previously Waste Management and now Republic – for collection of waste and collecting and processing of recycling material.) The Agreement is in effect until 2037.

In mid-2012, BLT contacted the City and expressed concerns regarding the City's delivery obligations under the Agreement. The chief concern was the interpretation of the definition of recyclable material and repercussion of a load not meeting the disputed definition. Other concerns were in regards to diversion of food scraps and non-franchise dumpsters being used within the City that were not disposing of their waste at the Transfer Station. On these issues, the City has taken the position that the existing Agreement is part ambiguous and part silent.

Staff has had extensive discussions with BLT since the initial contact in 2012, as well as three private mediation sessions with a retired Superior Court Judge. The proposed resolution relieves the City of any past liability and clarifies the City and BLT's obligations under the Agreement going forward.

Key Contract Provisions

• For the purposes of delivery obligations, material that is designated by the generator as recyclable or organic material shall be deemed as such – regardless of the amount of waste contamination in the container – and shall be delivered to the franchisee's recycling facility for processing.

• In consideration for resolution on the definition of recyclable and organic materials, the City shall pay BLT a Service Charge Fee of $11 per ton for garbage disposal at the Transfer Station delivered by the franchisee.
• Construction and Demolition Waste shall be deemed a recycling material. This waste will be processed at the recycling facility and the waste contamination from the processing shall be hauled to the Transfer Station for disposal as garbage.
• Base Cost of Service was established as the minimum threshold of garbage tonnage delivered to the Transfer Station will be 27,000 tons.

The amendment to the Transfer Agreement will allow the City to pursue diversion of residential and commercial organics to comply with the Stopwaste ordinance; will allow the City to expand the list of recyclable materials to match the abilities of the franchisee's recycling facility; reduces staff time needed to oversee the waste contracts; and it will encourage the construction and demolition waste producers to recycle or reuse.

This settlement is estimated to increase rates by approximately 4%, which equates to $1.13 per month increase for a 35-gallon residential customer. Staff is proposing to pay for the increase for calendar year 2014 from the Waste Augmentation Fund. This fund was established to offset or smooth rate increases. The estimated total for 2014 is $298,000. The settlement costs or a fraction thereof will be included in the rate setting process for 2015 calendar year rates. There are sufficient funds available in the unallocated fund balance of the Waste Augmentation Fund for this payment.

The settlement cost is based on an estimate of 27,100 tons being delivered to BLT in 2014. This tonnage amount is based on tonnage delivered year to date along with a forecast for the remainder of the year based on past volumes. If the tons delivered fall below 27,000, the City would be obligated to compensate BLT for the full 27,000 tons. At the current tip fee rate, for every 500 tons below the 27,000 ton threshold, the City would pay BLT approximately $42,000. This translates to an additional $0.16 per 35-gallon residential customer. Staff has analyzed the tonnage history and, considering the anticipated housing developments, the disposal tonnage is projected to stay above 27,000. This estimate does not include any increase in industrial/construction debris. Those waste streams will contribute to the threshold tonnage.

Due to the extended negotiations, the effective date of the Service Charge Fee and the Base Cost of Service portion of the Amendment is January 1, 2014. The effective date of the construction and demolition provision is July 1, 2014.

Staff recommends amending the 2012-2014 Biennial Budget for Fiscal Year 2013-2014 to authorize payment of the Service Charge Fee for the estimated amount of $143,000 (with the actual amount being determined once the June tonnage information is received by the City) from the unallocated fund balance of the Waste Augmentation Fund. Staff also recommends an amendment to the 2014-2016 Biennial Budget for Fiscal Year 2014-2015 for the remaining amount of the estimated $153,000 (with the actual amount being determine by the actual tonnage delivered to the Transfer Station

during the months of July to December 2014), also from the unallocated fund balance of the Waste Augmentation Fund.

Attachment

Action – It is recommended that the City Council, by resolution, (1) authorize the Mayor to sign the First Amendment to the Service Agreement between the Cities of Newark and Union City and BLT Enterprises of Fremont, LLC, and (2) approve a budget amendment to the 2012-2014 Biennial Budget for Fiscal Year 2013-2104 and (3) approve a budget amendment to the 2014-2016 Biennial Budget for Fiscal Year 2014-2015.

G. CITY ATTORNEY REPORTS

G.1 Claim of Meher Homi Press – from City Clerk Harrington. (MOTION)

Background/Discussion – On April 7, 2014, the City received a claim from Meher Homi Press for an unspecified amount alleging bodily damage when she tripped on a sidewalk.

The claim and all relevant information were forwarded to ABAG Plan, the City's insurance administrator, who recommends that it be denied.

Attachment – None

Action - It is recommended that the City Council, by motion, deny the claim and authorize staff to inform the claimant of such denial.

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

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

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

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.