



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, February 27, 2014

CITY COUNCIL:

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

CITY STAFF:

John Becker
City Manager

Terrence Grindall
Assistant City Manager

Susie Woodstock
Administrative Services Director

Sandy Abe
Human Resources Director

Peggy A. Claassen
Public Works Director

Jim Leal
Police Chief

David Zehnder
Recreation and Community
Services Director

David J. Benoun
City Attorney

Sheila Harrington
City Clerk

Welcome to the Newark City Council meeting. The following information will help you understand the City Council Agenda and what occurs during a City Council meeting. Your participation in your City government is encouraged, and we hope this information will enable you to become more involved. The Order of Business for Council meetings is as follows:

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

Items listed on the agenda may be approved, disapproved, or continued to a future meeting. Many items require an action by motion or the adoption of a resolution or an ordinance. When this is required, the words **MOTION**, **RESOLUTION**, or **ORDINANCE** appear in parenthesis at the end of the item. If one of these words does not appear, the item is an informational item.

The attached **Agenda** gives the **Background/Discussion** of agenda items. Following this section is the word **Attachment**. Unless "none" follows **Attachment**, there is more documentation which is available for public review at the Newark Library, the City Clerk's office or at www.newark.org. Those items on the Agenda which are coming from the Planning Commission will also include a section entitled **Update**, which will state what the Planning Commission's action was on that particular item. **Action** indicates what staff's recommendation is and what action(s) the Council may take.

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

Addressing the City Council: You may speak once and submit written materials on any listed item at the appropriate time. You may speak once and submit written materials on any item **not** on the agenda during **Oral Communications**. To address the Council, please seek the recognition of the Mayor by raising your hand. Once recognized, come forward to the lectern and state your name for the record. Public comments are limited to five (5) minutes per speaker, subject to adjustment by the Mayor. Matters brought before the Council which require an action will be either referred to staff or placed on a future Council agenda.



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A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the special and regular City Council meetings of Thursday, February 13, 2014. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

- C.1 Commending the 2013 California District 14 Big League All-Stars. (COMMENDATION)**

Background/Discussion – Little League Baseball’s Big League Baseball program is for youth ages 15 to 18. Players participate in a regular season, playing against teams from other local leagues and districts. In 2013 California District 14 had two teams composed of players from Newark and Fremont. From the two District 14 teams, one all-star team was assembled to represent the District in post-season all-star tournaments including Sectionals, Divisionals, and Regionals. The all-star team progressed all the way to the final game and finished the season as the number two Big League team in Little League Baseball’s Western Region.

- C.2 Proclaiming March as American Red Cross Month in Newark. (PROCLAMATION)**

Background/Discussion – President Barack Obama has proclaimed March as American Red Cross Month across the United States. Helen Knudson, a member of the American Red Cross Leadership Council, will accept the City of Newark proclamation at the meeting.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

E.1 Hearing to consider adoption of an Initial Study/Mitigated Negative Declaration (E-13-19) and an amendment to a conditional use permit (U-93-22) for modifications (conversion to LED) to an existing parcel identification sign (Fremont Mazda) at 39800 Balentine Drive – from Assistant City Manager Grindall. (MOTIONS-2)

Background/Discussion - Mr. Amir Fariso has submitted an application to modify the existing digital parcel identification sign at 39800 Balentine Drive. The original 50-foot high sign was approved by the Planning Commission and City Council in 1993. The current sign face is 22'-4" x 29'-7". The current sign is internally illuminated with static panels. The proposed sign would utilize the existing column to convert the entire sign faces to digital display. The height and orientation of the sign would not change, however the sign face would be reduced to 19'-9" x 29'-4".

Environmental Review

An Initial Study/Mitigated Negative Declaration (IS/MND) evaluating the sign was prepared by the consulting firm Lamphier-Gregory. As noted above, the IS/MND was circulated for public review and comment.

The IS/MND reviewed and considered applicable Federal and State regulations including the Highway Beautification Act of 1965 (enforced by the Federal Highway Administration), the California Outdoor Advertising Act, and the California Code of Regulations (enforced by Caltrans), and the California Vehicle Code (enforced by Caltrans, California Highway Patrol or local authorities). A summary of these regulations is provided on pages 3 and 4 of the IS/MND.

Of the 18 potentially affected environmental factors evaluated per the IS checklist, three were determined as potentially involving at least one impact that requires mitigation to reduce the impact(s) to *less than significant* levels: Aesthetics, Biological Resources, and Transportation/Traffic. All other IS checklist items were either *less than significant impact* or *no impact*.

The Aesthetics analysis identifies steps to be taken to ensure the brightness of the LED display does not affect traffic safety and complies with guidelines of the Outdoor Advertising Association of America (OAAA). The Biological Resources analysis deals with potential impacts to nesting birds if construction occurs during the breeding season of February through August. The Transportation/Traffic analysis addresses traffic safety concerns from the potential effects of illumination brightness and changing images on driver attention. The IS/MND identified mitigation measures to reduce these potential impacts to *less than significant levels*, and staff has incorporated these mitigation measures into the resolution as conditions of approval.

The IS/MND public review and comment period closed on January 21, 2014. No comments were received.

Attachment

Update – At its meeting of February 11, 2014, the Planning Commission approved Resolution No. 1856, with Exhibit A, pages 1 and 2, recommending approval of the adoption of an Initial Study/Mitigated Negative Declaration (E-13-19) and an amendment to a conditional use permit (U-93-22) for modifications (conversion to LED) to an existing parcel identification sign (Fremont Mazda) at 39800 Balentine Drive.

Action - It is recommended that the City Council, by motions: (1) adopt E-13-19, an Initial Study/Mitigated Negative Declaration; and (2) approve Resolution No. 1856, with Exhibit A, pages 1 and 2, for an amendment to a conditional use permit (U-93-22) for modifications (conversion to LED) to an existing parcel identification sign (Fremont Mazda) at 39800 Balentine Drive.

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.4 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT

F.1 Authorization for the City of Newark to apply for a California Department of Alcoholic Beverage Control (ABC) grant – from Police Chief Leal. (RESOLUTION)

Background/Discussion – The California Department of Alcoholic Beverage Control (ABC) is providing funds to law enforcement agencies for identifiable alcohol-related problems associated with alcoholic beverage licensed establishments. Within the City of Newark, 105 ABC licenses, including 72 on-sale (ie. restaurants and bars), 29 off-sale (ie. liquor stores) and four non-retail, have been granted. The Newark Police Department responds to numerous calls for service at establishments with on-sale licenses, including one that has generated 30 calls for services over a 24 month period. A number of these calls are for disturbing the peace and include incidents involving physical violence and/or the brandishing of weapons. These service calls require significant staff resources not only in terms of frequency, but also in terms of scale. Situations such as bar fights escalating into near riot conditions require all units to respond, which in turn increases our response time to all other calls for service.

If awarded funding, our objectives would include an educational component, as well as active enforcement, including:

- Identify and target problematic ABC licensed establishments;
- Develop and implement an ongoing standard operating ABC enforcement procedure and training program;
- Conduct investigative operations at ABC licensed establishments, as well as provide education to owners, patrons, and employees to ensure compliance with the conditions of their licenses;

- Increase communication and involvement with local community groups and businesses; and
- Conduct minor decoy and “shoulder tap” operations.

The project period is July 1, 2014 through June 30, 2015. Our proposal requests funding in the amount of \$45,312 for overtime required to conduct operations and provide education, operating expenses for decoy and shoulder tap operations, equipment purchase, and travel expenses for the mandatory training session provided by ABC.

Attachment

Action - It is recommended that the City Council, by resolution, authorize the City to apply for a California Department of Alcoholic Beverage Control (ABC) grant.

**F.2 Amendment to Resolution No. 2505, Employee Classification Plan, to retitle the Senior Public Safety Clerk classification specification to Police Records Supervisor – from Human Resources Technician Gendreau.
(RESOLUTION)**

Background/Discussion – With the upcoming retirement of the current Senior Public Safety Clerk the Police Department requested Human Resources to review the classification specification for a possible title change to reflect the current trend for this position and well as to highlight that this is a supervisory position. In a review of our comparable cities and positions, the majority of agencies use the Police Records Supervisor title. There are no changes to salary or benefits.

It is recommended that the City Council retitle the Senior Public Safety Clerk to Police Records Supervisor.

Attachments

Action - It is recommended that the City Council, by resolution, amend Resolution No. 2505, Employee Classification Plan, to retitle the Senior Public Safety Clerk classification specification to Police Records Supervisor.

**F.3 Approval of Specifications, Acceptance of Bid, and Award of Contract to Joel Nelson Productions for Productions Services for the 2014 Music at the Grove Summer Concert Series - from Recreation and Community Services Director Zehnder.
(RESOLUTION)**

Background/Discussion – Bids for the 2014 Music at the Grove summer concert series were solicited to ensure delivery of professional production services at competitive market rates. Joel Nelson Productions, Prime Time Entertainment, Live Nation, and Another Planet Entertainment were notified of the bid opportunity. Specifications for the bid included booking live musical entertainment as agreed upon by City staff, professional

staging and sound system comparable to the last three years of the concert series, and day-of-event staffing to support sound quality and band performances.

Low bidder Joel Nelson Productions (JNP) has promoted all of the previous 25 years of the Music at the Grove summer concert series. JNP has provided professional and reliable services to the City of Newark and has an excellent reputation within the music industry.

Bids for the project were opened on February 10 at 2:00 p.m. with the following results:

Bidder	Amount
Joel Nelson Productions	\$18,450.00
Prime Time Entertainment	\$20,000.00

The 2014 Music at the Grove summer concert series will be funded through a donation from the Newark Betterment Corporation. Concerts will be held on Friday evenings on June 27, July 11, July 25, and August 8 at Shirley Sisk Grove.

Attachment

Action - It is recommended that the City Council, by resolution, accept the bid and award a contract with Joel Nelson Productions for production services for the 2014 Music at the Grove summer concert series.

F.4 Initiation of the 2014 Weed Abatement Program and setting a date for a public hearing – from Deputy Fire Marshal Guier/ Maintenance Supervisor Carey. (RESOLUTION)

Background/Discussion – The annual weed abatement program abates weeds on vacant commercial and industrial properties not maintained by the property owners as directed by the Fire Marshal. The abatement work consists of tractor mowing, supplemented with manual labor to clear weeds abutting fences and remove debris to facilitate the tractor work. There are 151 industrial, residential and commercial parcels that have large areas of vacant ground that host seasonal weeds that could become a fire hazard. These parcels are located throughout the City.

Property owners have the option to make their own arrangements for weed and debris removal. They must get the work completed prior to the schedule set for the City’s contractor. The City’s contractor is scheduled to perform weed abatement work in May and June. Property owners will be asked to return a pre-paid postcard to the City indicating that they will abate their own weeds. Alameda County Fire Department staff will inspect the properties prior to the abatement of the weeds. This provides sufficient opportunity for the property owners to perform their own work. All properties that the City performs the abatement work on will be assessed the full cost of that work, including administration costs.

If necessary, an additional fall program will be scheduled to abate seasonal weeds, like tumbleweeds and re-growth of weeds that occur during the summer months. Prior to any

supplemental fall weed abatement work, the City will provide written notices to the affected property owners. A second public hearing for the fall program is not required.

Attachment

Action - It is recommended that the City Council, by resolution, initiate the 2014 Weed Abatement Program and set April 10, 2014, as the date for the public hearing.

NONCONSENT

F.5 Resolution accepting the findings and recommendations contained in Newark-Fremont Bay Trail Realignment Feasibility Study, approval of the preferred alignment, and supporting the re-alignment of the San Francisco Bay Trail within Newark– from Assistant City Manager Grindall. (RESOLUTION)

Background/Discussion In 2010, the cities of Newark and Fremont received a grant from Association of Bay Area Governments, Bay Trail and subsequently approved a contract with Questa Engineering to prepare a Feasibility Study and conduct public outreach related to identification of a shoreline alignment of the San Francisco Bay Trail. The City of Newark was the lead agency over-seeing the study and directing the work of its consultant. The Feasibility Study area extends from Don Edwards National Wildlife Refuge to Dixon Landing Road at the Fremont/Alameda County limits. The completed Feasibility Study identifies potential alignments, environmental issues, opportunities and constraints, current planning efforts related to a shoreline trail alignment, project costs, design guidelines, funding needs, and permitting requirements.

The San Francisco Bay Trail Plan was adopted in 1989 by the Association of Bay Area Governments (ABAG) with the goal of developing a 500-mile continuous trail network around the Bay shoreline with connections to local and regional trail systems. The alignment of the Bay Trail continues to evolve over time as opportunities arise to plan and develop new or revised Bay Trail alignments that meets its goal of providing off-street bicycle and pedestrian trails that run along or near the Bay shoreline.

Within the Cities of Fremont and Newark, there are approximately fifteen miles of San Francisco Bay shoreline. Of these fifteen miles of shoreline, there are only five miles of off-street trails that are planned or already exist along the shoreline, and there are currently no shoreline trails planned for the remaining ten miles of Bayfront. Visitors to the area use a variety of trails, paths and streets, including on-street city sidewalks, bike lanes and segments of off-street paths within the Don Edwards Wildlife Refuge to reach the shoreline area.

There are no off-street Bay Trail segments in Newark, while in neighboring Fremont, there are three existing, designated off-street Bay Trail segments.

The Feasibility Study included coordination with staff from the cities of Newark and Fremont, as well as ABAG Bay Trail, Alameda County Public Works Agency, the US Fish and Wildlife Service, Don Edwards Wildlife Refuge, and representatives from Cargill, Inc. The Study provides an inventory of existing conditions, identification and evaluation of potential route options, identification of project opportunities and constraints, design criteria, community outreach and a statement of community goals for a Bay Trail along or near the shoreline.

The Study identifies a preferred alignment to provide safe and efficient travel within Newark and Fremont and connections to other trail systems. The Study will fulfill the vision of a bay-oriented shoreline trail that is accessible by many modes and abilities. The realigned route through this area has been incorporated into the General Plans for Newark. If approved by the City Council, Staff will work with the Bay Trail Project to designate the revised alignment and apply for grants to fund construction.

It is important to note that designation or an alignment does not assure construction of the a trail, it is only a first step to seek funding for more detailed planning, environmental analysis and construction.

Acceptance of the Feasibility Study will facilitate follow-up planning, engineering, grant applications, and budgeting, so that trail segments can be seamlessly integrated into ongoing and planned projects. The completed Feasibility Study charts a course for phasing, funding, and implementation of the trail system in the City of Newark.

Update: At their February 11, 2014 meeting the Planning Commission recommended that the City Council accept the Newark Fremont Bay Trail Realignment Feasibility Study and approve the Preferred Alignment.

Attachments

Recommendation- Approve a resolution accepting the findings and recommendations contained in the Newark-Fremont Bay Trail Realignment Feasibility Study, approval of the preferred alignment, and supporting the re-alignment of the San Francisco Bay Trail within Newark.

G. CITY ATTORNEY REPORTS

G.1 Claim of Jenelle Cooper – from City Clerk Harrington. (MOTION)

Background/Discussion – On December 18, 2013, the City received a claim from Jenelle Cooper in the amount of \$500 alleging damage to her car when a City tree branch fell on it.

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

**I.1 Appointment to the Planning Commission – from Mayor Nagy.
(RESOLUTION)**

Background/Discussion – On December 12, 2013, the City Council declared a vacancy on the Planning Commission due to the resignation of Theresa Ballard Dias. By the published deadline, applications were received from Melinda Pickens, Jeff Aguilar, Sherry Nikzat, and Jeffrey J. Lucia.

All applicants have been interviewed and the successful candidate will be announced at the City Council meeting. The appointment will be for the unexpired term of Ms. Dias' Planning Commission seat, December 31, 2014.

Attachment

Action - It is recommended that the City Council, by resolution, approve the appointment of _____ to the Planning Commission for a term to expire on December 31, 2014.

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.