CITY OF NEWARK
CITY COUNCIL

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

AGENDA

Thursday, January 23, 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.

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.

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, January 23, 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, January 9, 2014. (MOTION)

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

Background/Discussion – Newly promoted employees, Landscape/Parks Maintenance Worker II Jason Avery and Landscape/Parks Maintenance Worker I Jose Rodriguez, will be at the meeting to be recognized by the City Council.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.3 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 a Resolution Establishing Settlement Authority in the amount not to exceed Twenty-Five Thousand Dollars ($25,000) for the City Manager in Workers Compensation Claims – From Human Resources Director Abe. (RESOLUTION)

Background/Discussion – The City of Newark is a member of the Local Agencies Workers' Compensation Excess Joint Powers Authority ("LAWCX JPA"), which provides excess coverage for workers compensation claims. The City currently has a self-insured retention of $350,000. The LAWCX JPA authorizes members to enter

into contracts with third party claims administrators, provided they comply with performance standards – one of which is that all settlements must be approved by the member agency.

The City currently does not have a policy that allows staff to settle workers compensation claims. Accordingly, all workers compensation claims require approval from the City Council. Staff recommends that this be modified to allow staff to settle claims up to certain amounts.

California Government Code Section 935.4 currently authorizes general law cities to settle claims up to $50,000 (enacted in 1963 and set at $5,000; amended in 1981 and set at $20,000; and amended in 1989 and set at $50,000). For comparison and context, it is staffs' understanding that the Cities of Union City and Fremont currently authorize staff to settle claims up to the maximum amount of $50,000.

For efficiency reasons, staff recommends that the Council authorize the City Manager, or designee, to allow, deny, or compromise workers compensation claims in the amount not to exceed twenty-five thousand dollars ($25,000). For the purposes of the settlement authority authorized under the attached proposed resolution, claims for future medical expenses incurred by the claimant would not be included as part of the settlement amount. The City Manager, or designee, would have authority to allow claims for future medical expenses since defendants in workers compensation cases have a continuing obligation to provide reasonable and necessary medical treatment to injured workers with accepted industrial injuries pursuant to California Labor Code Section 4600 et seq.

Attachment

Action - It is recommended that the City Council, by resolution, establish settlement authority in the amount not to exceed twenty-five thousand dollars ($25,000) for the City Manager in workers compensation claims.

F.2 Acceptance of contract with Bayscape Management, Inc., for the 2013 Weed Abatement Program – from Maintenance Supervisor Carey. (RESOLUTION)

Background/Discussion – On March 24, 2011 the City Council awarded a contract to Coast Landscape Management, Inc., for providing weed abatement services.

The 2011 Weed Abatement contract was previously completed and accepted by City Council. An option for contracting up to two additional years of work was included in the 2011 project specifications, and could be implemented upon mutual consent by the City and the contractor. Approval was granted for extending services for the 2013 Weed Abatement Program. All work on the 2013 project is now complete.

Coast Landscape Management, Inc., is now providing service under the corporation of Bayscape Management, Inc.

Attachment

Action - It is recommended that the City Council, by resolution, accept the contract with Bayscape Management, Inc., for the 2013 Weed Abatement Project.

F.3 Approval of sponsorship of the Chamber of Commerce's 2014 "Summerfest" and "Tri-City Motor Rally" to promote recycling in Newark and amendment to the 2012-2014 Biennial Budget for Recycling Promotion Sponsorships – from Administrative Services Director Woodstock. (RESOLUTION)

Background/Discussion – Newark has received funds from Alameda County Measure D to promote recycling. These funds must be used to promote recycling in Newark and are not available for other uses. The Chamber of Commerce will once again be holding Summerfest in July and their annual Tri-City Motor Rally in May. These events offer sponsorship opportunities that provide an excellent avenue to promote recycling in Newark.

For $20,000 for Summerfest and $10,000 for the Tri-City Motor Rally, Newark Recycles will be positioned prominently in all marketing and on the day of each event. Both events will have a staffed informational booth and will offer recycling opportunities.

Attachment

Action - It is recommended that the City Council, by resolution, approve sponsorship of "Summerfest, and the Tri-City Motor Rally" and amend the 2012-2014 Biennial Budget for Fiscal Year 2013-2014 for Recycling Promotion Sponsorships.

G. CITY ATTORNEY REPORTS

G.1 Claim of Rajnesh Kumar – from City Clerk Harrington. (MOTION)

Background/Discussion – On October 23, 2013, the City received a claim from Rajnesh Kumar in the amount of $226 alleging damage to his sewer line from City tree roots.

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.

G.2 Claim of Susan and Thomas Jimenez – from City Clerk Harrington. (MOTION)

Background/Discussion – On September 20, 2013, the City received a claim from Susan and Thomas Jimenez in the amount of $9,543 or $5,524 (the amount of the claim is unclear) alleging damage to his house when a City tree 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 Approving leave credit for City Manager Becker – from Mayor Nagy. (RESOLUTION)

Background/Discussion – On January 9, 2014, the City Council met in closed session to evaluate the City Manager's performance for the previous year and found his performance to be favorable. The Council also met with its agency negotiator to discuss the City Manager's compensation.

In July, labor agreements were approved with the Newark Association of Miscellaneous Employees, the Newark Police Association, and the Management and Confidential employees. In lieu of on-going compensation increases, one-time non-pensionable leave time was granted. Full-time employees received 41.6 hours of leave time which may be taken as leave time or cashed out at the employee's base pay rate. In addition, full-time employees received 23 hours of leave time that has no cash value and may not be cashed out. This leave was granted for the current Fiscal Year 2013 – 2014 and the next Fiscal Year 2014 – 2015.

I recommend that the City Council award the same leave that was previously granted to the various employee groups to City Manager Becker for current Fiscal Year 2013-2014 and the next Fiscal Year 2014-2015. Additionally, I recommend that the City Council also award Mr. Becker 56 hours of Management Leave, per fiscal year, for both Fiscal Years 2013-2014 and 2014-2015. Management Leave is given in

recognition of the extra hours of work required for which overtime pay is not provided. Management leave may not be converted to pay nor carried over between fiscal years.

All other compensation shall remain unmodified.

Attachment

Action - It is recommended that the City Council, by resolution, approve the leave credit for City Manager Becker.

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

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

M. CLOSED SESSION

M.1 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(b), Anticipated Litigation: Two cases – from Assistant City Manager Grindall and City Attorney Benoun.

Background/Discussion – City Attorney Benoun has requested that the City Council convene in closed session pursuant to Government Code Section 54956.9(b), Anticipated Litigation: Two cases.

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.