



# CITY OF NEWARK CITY COUNCIL

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

## AGENDA

Thursday, July 10, 2014

### A. ROLL CALL

### B. MINUTES

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, June 26, 2014 and the adjourned regular City Council meeting of Monday, June 30, 2014. (MOTION)

### C. PRESENTATIONS AND PROCLAMATIONS

- C.1 Proclamation for the Portuguese Fraternal Society of America Council No. 16 Holy Ghost Festival and 92<sup>nd</sup> Anniversary. (PROCLAMATION)

**Background/Discussion** – The Portuguese Fraternal Society of America Council 16 will celebrate the annual Holy Ghost Festival on July 26-27, 2014. This will also be a celebration of the Society's 92<sup>nd</sup> Anniversary in the City of Newark. Members of the Society will be at the City Council to accept the proclamation.

- C.2 Commending Eagle Scout Samuel Englese. (COMMENDATION)

**Background/Discussion** – Samuel Englese has completed all the requirements necessary to be awarded the rank of Eagle Scout. In recognition of this achievement, a commendation has been prepared and the new Eagle Scout will accept it at the City Council meeting.

- C.3 Presentation by Supervisor Richard Valle on Science in the Park. (PRESENTATION)

**Background/Discussion** – Science in the Park will be held on Saturday, October 4, 2014 at the Alden E. Oliver Sports Park in Hayward from 9 am to 4 pm. Supervisor Richard Valle will give a presentation on the event which will promote STEM, environment, health and nutrition for the community.

### D. WRITTEN COMMUNICATIONS

- D.1 Planning Commission referral of a review of U-12-21, a conditional use permit, and P-12-22, a planned unit development, for modifications to a

**previously approved veterinary surgery center (Ohlone Veterinary Emergency) at 5600 John Muir Drive – from Assistant City Manager Grindall. (MOTION)**

**Background/Discussion** - Ms. Deborah Rue, D.V.M., as manager of Fideux, LLC., the property owner, has submitted an application proposing modifications to a veterinary surgery center previously approved by the Planning Commission and City Council in December 2012. The original center was designed to be approximately 11,490 square feet, occupying a portion of the one-story office building also occupied by Silver Creek Fitness and Physical Therapy. The center is designed to be a consortium of veterinary specialists to provide specialized treatment such as emergency trauma clinic, surgery, oncology, and ophthalmology on a referral-based system from other veterinarians.

Subsequent to the original 2012 approval, additional specialists approached Dr. Rue to join her practice at this new facility. In order to accommodate these new specialists, an additional 4,000 square feet is needed and will provide space for, among other services, MRI's, a CT Scanner, and Radiology. In addition, an enclosed exercise yard is also proposed along with both dog and cat wards. Although some parking will be removed as part of the expansion, the remaining parking on-site exceeds that required for an office building. The addition matches the architecture, materials, and colors of the existing building and will blend seamlessly.

Environmental Review

The proposed project is categorically exempt from the California Environmental Quality Act per Section 15301, Class 1, (Existing Facilities) expansion of existing facility involving negligible or no expansion of an existing use.

**Attachment**

**Update** – At its meeting of June 24, 2014, the Planning Commission approved Resolution No. 1881 for the review of U-12-21, a conditional use permit, and P-12-22, a planned unit development, with Exhibit B, pages 1 through 4, for modifications to a previously approved veterinary surgery center (Ohlone Veterinary Emergency) at 5600 John Muir Drive.

**Action** - It is recommended that the City Council, motion, approve Resolution No. 1881 for the review of U-12-21, a conditional use permit, and P-12-22, a planned unit development, with Exhibit B, pages 1 through 4, for modifications to a previously approved veterinary surgery center (Ohlone Veterinary Emergency) at 5600 John Muir Drive.

**E. PUBLIC HEARINGS**

**E.1 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 11 – from Senior Civil Engineer Fajeau. (RESOLUTION)**

**Background/Discussion** – The City Council has set July 10, 2014, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 11. This district provides for the maintenance of landscaped medians on Edgewater Drive and Parkshore Drive within the Lake Area.

The total assessment for this district as provided in the Engineer’s Report is \$24,800 for the 2014-2015 fiscal year. There are a total of 1,127 properties within this district. The assessment per property is \$22, which is the same amount charged per property last 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. 11 for the 2014-2015 fiscal year.

**E.2 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 13 – from Senior Civil Engineer Fajeau. (RESOLUTION)**

**Background/Discussion** – The City Council has set July 10, 2014, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 13. This district provides for the maintenance of landscaping within portions of the Citation Homes and Bren developments located on Thornton Avenue near Willow Street. An annual public hearing is necessary to adopt the Engineer’s Report to provide funds for this district.

Since this district performs its own maintenance of frontage landscaping, 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. 13 for the 2014-2015 fiscal year.

**E.3 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 15 – from Senior Civil Engineer Fajeau. (RESOLUTION)**

**Background/Discussion** – The City Council has set July 10, 2014, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 15. This district provides for the maintenance of landscaping along

Robertson Avenue at Iris Court. 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 \$5,046 for the 2014-2015 fiscal year. The assessment per property is \$174.00.

**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. 15 for the 2014-2015 fiscal year.

**E.4 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 16 – from Senior Civil Engineer Fajeau. (RESOLUTION)**

**Background/Discussion** – The City Council has set July 10, 2014, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 16. This district provides for the maintenance of landscaping for Tract 6671 on Jarvis Avenue at Kiote Drive. 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 \$19,900 for the 2014-2015 fiscal year. The assessment per property is \$210.

**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. 16 for the 2014-2015 fiscal year.

**E.5 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 17 – from Senior Civil Engineer Fajeau. (RESOLUTION)**

**Background/Discussion** – The City Council has set July 10, 2014, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 17. This district provides for the maintenance of landscaping for Tract 7004 on Newark Boulevard and Mayhews Landing Road. 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 \$6,237 for the 2014-2015 fiscal year. The assessment per property is \$189.

**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. 17 for the 2014-2015 fiscal year.

**F. CITY MANAGER REPORTS**

**(It is recommended that Items F.1 through F.2 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 Acceptance of work with ALB, Inc. for Citywide Park Pathways Resurfacing For ADA Access, Project 1055 – from Associate Civil Engineer Tran. (RESOLUTION)**

**Background/Discussion** – On February 13, 2014, the City Council awarded a contract to ALB, Inc. for Citywide Park Pathways Resurfacing for ADA Access, Project 1055. This project improved accessibility for disabled persons and all park users in various City parks with the repair and resurfacing of existing asphalt concrete pathways.

This project was completed on time and within the original budget using the Community Development Block Grant Program and Capital Funds.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, accept the work with ALB, Inc. for Citywide Park Pathways Resurfacing for ADA Access, Project 1055.

**F.2 Approval of plans and specifications, approval of bid withdrawal request from Graham Contractors, Inc., and acceptance of bid and award of contract to VSS International, Inc. for 2014 Street Microsurfacing Program, Project 1064 – from Associate Civil Engineer Tran. (MOTIONS-2)(RESOLUTION)**

**Background/Discussion** – This project scope of work includes microsurfacing application of sand, aggregate, and asphalt emulsion mixture and pavement re-striping on various City streets.

Bids for the project were opened on June 24, 2014 with the following results:

<b>Bidder</b>	<b>Amount</b>
Graham Contractors, Inc.	\$ 181,304.25
VSS International, Inc.	226,225.00
Bond Blacktop, Inc.	230,996.75
American Asphalt Repair and Resurfacing Company, Inc.	694,956.35

Engineer’s Estimate

\$ 230,000.00

The initial apparent low bidder, Graham Contractors, Inc., submitted a written request to have its submitted bid withdrawn due to a clerical error that made a material difference in the base bid total. This request was made in accordance with the Public Contract Code. Based on the value of the bid compared with that of the other bidders, as well as the nature of the error, staff concurs that a clerical error was made and recommends that the bid withdrawal request be approved.

Staff further recommends that this project be awarded to the second lowest responsive bidder, VSS International, Inc.

The 2012-2014 Biennial Budget includes funding for this project in Fiscal Year 2013-2014. This project will be funded through Alameda County Measure B Sales Tax funds, Vehicle Registration Fee funds, and the Traffic Congestion Relief Fund.

**Attachment**

**Action** – It is recommended that the City Council, by motion, approve the plans and specifications, by motion, approve the bid withdrawal request form Graham Contractors, Inc., and by resolution, accept the bid and award the contract to VSS International, Inc. for 2014 Street Microsurfacing Program, Project 1064.

**NONCONSENT**

**F.3 Authorization for the Mayor to sign Task Order No. 7 to the Joint Powers Agreement with the City of Fremont for Paratransit Services – from Recreation and Community Services Director Zehnder. (RESOLUTION)**

**Background/Discussion** – Door-to-door shared ride transportation services are an essential service offered to Newark residents who are 70 years of age and older or who are unable to access public transit independently due to a medical or disabling health condition. These paratransit services are provided to elderly and disabled Newark residents in order to improve their access to health care, shopping, errands and social and recreational activities. Funding for Newark Paratransit services is provided through Measure B sales tax and administered through the Alameda County Transportation Committee.

The size and scope of Fremont’s program provides Newark residents with expanded service from what was provided in the past. The following table provides a summary of services to be provided through the City of Fremont under a contract for services with MV Transportation:

<b>FY14/15 Service Parameters</b>	<b>Proposed Fremont/Newark Paratransit</b>
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Service Hours	Monday – Friday, 8 am – 6 pm  *Saturday and Sunday, 9 am – 3 pm *limited Sat./Sun. service within Newark
Service Area	All of Fremont, Newark and Union City.
Fares	\$2.50 per one-way trip within Newark, Fremont and Union City
Reservation Hours	Monday – Friday, 8 am – 5 pm Centralized reservations and dispatch with our contracted service provider that ensures that riders can reach a live person to make reservations and to check on the status of a ride (weekdays and weekends).
Enrollment processing time	On the same day of receipt of application. Expedited access to transportation can also be arranged on the same day or the next day as scheduling capacity allows.

In addition to the expanded paratransit service, Newark residents benefit from the high level of service coordination and customer service provided by the City of Fremont’s paratransit services team. City of Fremont staff ensure that elderly and disabled residents have expedited access to transportation services (applications can be processed within hours and urgent need transportation can be scheduled on the next day and sometimes even on the same day). Paratransit enrollment packets are sent out within a day or two of receipt of a completed application.

The City has contracted for paratransit services with the City of Fremont since September 1, 2013. For fiscal year 2014-2015, staff is recommending funding in the amount of \$145,000.

City staff and the City Attorney have reviewed Task Order No. 7 to the joint powers 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. 7 to the Joint Powers Agreement with the City of Fremont for Newark Paratransit services.

### **G. CITY ATTORNEY REPORTS**

### **H. ECONOMIC DEVELOPMENT CORPORATION**

**I. CITY COUNCIL MATTERS****I.1 Designation of a voting delegate and alternate(s) for the Annual Business Meeting of the League of California Cities' Annual Conference – from City Clerk Harrington. (MOTION)**

**Background/Discussion** – The League of California Cities' Annual Conference will be held from Wednesday, September 3 through Friday, September 5, 2014, in Los Angeles at the Los Angeles Convention Center. The Annual Business Meeting will be held on September 5 beginning at noon. At this meeting the League membership considers and takes action on resolutions that establish League policy. The League has requested that the City Council designate a voting delegate and up to two alternates for the Annual Business Meeting. If none of the City Council Members are planning on attending the conference, then no action is necessary.

**Attachment**

**Action** - It is recommended that the City Council, by motion, designate a voting delegate and up to two alternates for the Annual Business Meeting of the League of California Cities' Annual Conference.

**J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY****K. ORAL COMMUNICATIONS****L. APPROPRIATIONS****M. CLOSED SESSIONS****M.1 Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Anticipated Litigation (1 case) – from City Attorney Benoun and Assistant City Manager Grindall.**

**Background/Discussion** – City Attorney Benoun has requested that the Council convene in closed session pursuant to Government Code Section 54956.9(a) Anticipated Litigation.

**M.2 Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Citizens Committee to Complete the Refuge v. City of Newark et al., Alameda County Superior Court Case No.**

**RG10530015 – from City Attorney Benoun and Assistant City Manager Grindall.**

**Background/Discussion** – City Attorney Benoun has requested that the Council convene in closed session pursuant to Government Code Section 54956.9(d)(1), Existing Litigation.

**M.3 Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Citizens Committee to Complete the Refuge v. City Council of the City of Newark et al., Alameda County Superior Court Case No. RG14709701 – from City Attorney Benoun and Assistant City Manager Grindall.**

**Background/Discussion** – City Attorney Benoun has requested that the Council convene in closed session pursuant to Government Code Section 54956.9(d)(1), Existing Litigation.

**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, 5<sup>th</sup> 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.