



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, September 11, 2014

CITY COUNCIL:

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

CITY STAFF:

John Becker
City Manager
Terrence Grindall
Assistant City Manager
Susie Woodstock
Administrative Services Director
Sandy Abe
Human Resources Director
Peggy A. Claassen
Public Works Director
Jim Leal
Police Chief
David Zehnder
Recreation and Community
Services Director
David J. Benoun
City Attorney
Sheila Harrington
City Clerk

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

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

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

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

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

No question shall be asked of a council member, city staff, or an audience member except through the presiding officer. No person shall use vulgar, profane, loud or boisterous language that interrupts a meeting. Any person who refuses to carry out instructions given by the presiding officer for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.



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A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, July 24, 2014. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

Background/Discussion – Newly hired Public Works employees: Landscape Parks Maintenance Worker I Warren Antida, General Laborer Mike Mulhearn, and Administrative Analyst Myvan Khuu-Seeman will be at the meeting to be introduced to the City Council.

C.2 Commending Jennifer Chung. (COMMENDATION)

Background/Discussion – Jennifer Chung is a student at San Francisco State University majoring in business and is the successful CEO of Forever Beaumore Cosmetics, Inc., a global cosmetics company. She was recently named 2014 Miss Vietnam of Northern California and Miss Asian America 2014. A commendation has been prepared and Miss Chung will be at the City Council meeting to accept it.

C.3 Proclaiming September 18-21, 2014, as Newark Days. (PROCLAMATION)

Background/Discussion – Newark Days, celebrating Newark's 59th birthday, will be held September 18-21, 2014. A proclamation has been prepared and members of the Newark Days Committee will accept it at the City Council meeting.

D. WRITTEN COMMUNICATIONS

- D.1 Planning Commission referral of an Architectural and Site Plan Review for a 75 unit senior housing project (Gateway at Newark) located on Willow Street within the Dumbarton Transit Oriented Development – from Assistant City Manager Grindall. (MOTION)**

Background/Discussion – USA Properties Fund, Inc., has made an application to construct a 75 unit senior housing project within the Dumbarton Transit Oriented Development area on Willow Street.

In April 2014, the Planning Commission and City Council approved a project (known as the SHH Properties project) that involved 88 townhomes, a 15,000 square foot supermarket, and a senior housing project. The concept of the senior housing project was approved and considered in the accompanying Initial Study/Mitigated Negative Declaration; however, the building design had not been determined. As a condition of that original approval, the specific building plans required Planning Commission and City Council approval.

The four-story, 75-unit complex will provide three different two bedroom/1 bath floor plans along with two 1 bedroom/1 bath plans. All of the plans provide a patio and a large living and dining/kitchen area. There is a 2,691 square foot community center room that opens onto an outdoor sitting area. The buildings architecture is modern, incorporating several exterior treatments such as recessed balconies and awnings to give the elevations depth and shadowing, as well as an alternating color scheme to add to the overall exterior treatment. The design is consistent with the retail building that will be located at the other side of the parking field and will complement the proposed surrounding uses.

Affordable Housing

The Newark Municipal Code authorizes alternative means of compliance with the City's Affordable Housing Program (AHP), including land dedication, payment of in-lieu fees, or approval of an alternative housing program consisting of any combination of alternative means of compliance.

In connection with the previously approved Torian Project, the developer and SHH agreed to meet the Torian affordable housing obligation by the construction of 54 affordable units on the SHH site. In addition, the Cedar Townhomes project is meeting its obligation through the units constructed on this site. In total, the 75 affordable housing units provided on the SHH site will meet the obligation for these projects. Of the 75 units, 20% are offered at 50% of the Area Median Income (AMI) while the remaining 80% are offered at 60% AMI.

The provision of these units furthers affordable housing opportunities in the City and, because they will be built adjacent to market rate units, prevents the concentration of affordable housing units in a particular area. This allows for a much greater and more effective approach to addressing the most pressing affordable housing needs in the community.

Attachment

Update – At its meeting of August 26, 2014, The Planning Commission approved Resolution No. 1885, with Exhibit A, pages 1 through 6, for ASR-14-35, an

Architectural and Site Plan Review for a 75 unit senior housing project (Gateway at Newark) located on Willow Street.

Action – It is recommended that the City Council, by motion, approve Planning Commission Resolution No. 1885, with Exhibit A, pages 1 through 6, for ASR-14-35, an Architectural and Site Plan Review for a 75 unit senior housing project (Gateway at Newark) located on Willow Street.

E. PUBLIC HEARINGS

- E.1 Cancellation of Public Hearing to consider: (1) A General Plan Amendment to change the land use designation from S-I (Special Industrial) to P-I (Public and Institutional); and (2) approving Planning Commission Resolution No. 1884, for a planned unit development and a conditional use permit for a private school (Stratford School) to be located at 39201 Cherry Street (APNs: 901-110-68 & 69). The project includes temporary modular school rooms and offices for the 2014/15 school year – from Assistant City Manager Grindall.**

(MOTION TO CANCEL HEARING)

Background/Discussion – Stratford Schools submitted an application for a private elementary and middle school at 39201 Cherry Street. Staff is requesting that the City Council cancel the public hearing at this time to allow additional traffic analysis to be completed. The hearing would be duly noticed for a future meeting.

Action – It is recommended that the City Council, by motion, cancel the public hearing regarding this item.

- E.2 Hearing to consider Z-14-32, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability) – from Assistant City Manager Grindall.**

(INTRODUCTION OF ORDINANCE)

Background/Discussion - As currently written, the Newark Municipal Code (NMC) states that “The regulations for form based codes are set forth in this chapter, and are applicable to the Dumbarton Transit-Oriented Development (TOD) Specific Plan Area.” The purpose of the form based codes is to address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. This is in contrast to conventional zoning’s focus on the management and segregation of land uses. Form-based codes have become a tool to address the concerns of development patterns, pedestrian access, and transit, to name just a few.

Newark's Form Based Code has been applied to all of the recent subdivisions approved in the TOD Specific Plan Area. This has resulted in providing a plan that designates the appropriate form and scale (and therefore, character) of development rather than only distinctions in land-use types. The neighborhoods have a pedestrian-scale design that is friendly to pedestrians, cyclists, and transit. Staff has seen a growing interest in applying these standards from developers with potential to expand to areas where conventional methods of zoning, oriented around regulating land use, may not result in the "sense of place" that the community is trying to achieve. As such, staff is recommending that the applicability of the Form Base Codes be expanded to other areas of Newark beyond the TOD Specific Plan Area. This can be accomplished by simply removing the words "Dumbarton Transit-Oriented Development Specific Plan Area" from Section 17.37.010 (Applicability).

Environmental Review

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 5060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15061(b)(3) (General Rule that CEQA only applies to projects which have the potential to cause a significant effect on the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

Update – At its meeting of July 22, 2014, the Planning Commission approved Resolution No. 1882, with Exhibit A, recommending the City Council approve Z-14-32, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability).

Attachment

Action - It is recommended that the City Council introduce an ordinance for a text amendment to Title 17 (Zoning) of the Newark Municipal Code to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability).

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 Report on administrative actions during August recess – from City Manager Becker. (MOTION)**

Background/Discussion – At the April 24, 2014, meeting the City Council adopted Resolution No. 10,202 authorizing the City Manager, or Acting City Manager, to act on certain administrative matters, which should not be deferred until the next regularly scheduled meeting of the City Council. The City Council also directed the City Manager to report to the City Council after the recess on all such actions.

Administrative matters on which action was taken during the recess are noted in Exhibit A.

Attachment

Action - It is recommended that the City Council, by motion, reaffirm the City Manager's, or Acting City Manager's, action on the matters listed in Exhibit A.

F.2 Acceptance of work with AJW Construction for 2013 and 2014 Citywide Wheelchair Accessible Ramps, Projects 1022 and 1048 – from Assistant City Engineer Fajeau. (RESOLUTION)

Background/Discussion – On May 22, 2014, the City Council authorized award of a contract to AJW Construction for 2013 and 2014 Citywide Wheelchair Accessible Ramps, Projects 1022 and 1048. The scope of work included placement of new ADA-compliant wheelchair accessible ramps in areas where street overlay improvements were planned and the existing ramps did not meet the latest standards. All work on this project was completed within the original approved budget.

Attachment

Action - It is recommended that the City Council, by resolution, accept the work with AJW Construction for 2013 and 2014 Citywide Wheelchair Accessible Ramps, Projects 1022 and 1048.

F.3 Acceptance of work with United Storm Water, Inc. for Storm Drain Trash Capture Devices, Project 1059 – from Assistant City Engineer Fajeau. (RESOLUTION)

Background/Discussion – On May 22, 2014, the City Council authorized award of a contract to United Storm Water, Inc. for Storm Drain Trash Capture Devices, Project 1059. The scope of work included installation of 118 new trash capture devices within existing public storm drain inlets located in high trash generation areas. All work on this project was completed within the original approved budget.

Attachment

Action - It is recommended that the City Council, by resolution, accept the work with United Storm Water, Inc. for Storm Drain Trash Capture Devices, Project 1059.

F.4 Authorization for the Mayor to sign a cooperative funding agreement with the East Bay Regional Park District for the demolition of the Mowry's Landing School - from Chief Building Official/City Architect Collier.
(RESOLUTION)

Background In 1884, Mowry's Landing School (Schoolhouse) was built at a site near what is now the NewPark Mall. The building is sometimes referred to as "Mowry Schoolhouse". Mowry's Landing School served as a one room school from 1884 to 1939 when it was sold and converted to a single family dwelling. Although referred to as a schoolhouse the structure ceased being used as a school over 75 years ago.

In 1984, Newark City Council designated Mowry's Landing School a historical resource. Concurrently, with the development of the Newpark Mall, ownership of the schoolhouse structure was transferred to the East Bay Regional Park District (EBRPD) and it was moved to Ardenwood Regional Preserve and Historic Farm (Ardenwood). The EBRPD Master Plan envisioned including a refurbished schoolhouse along with other donated structures as part of the William Patterson Farming Education Center. However, the refurbishment project was never funded. The schoolhouse was placed on blocks and has remained at Ardenwood for the last 30 years. There are two other old structures owned by the EBRPD that sit adjacent to the schoolhouse. All three structures are in a significant state of disrepair.

On August 5, 1997, at the request of the City, the EBRPD declared the schoolhouse surplus property and transferred ownership to the City. It was the City's intent that Mowry's Landing School could eventually be moved adjacent to Watkins Hall on Ash Street. A project was envisioned by the City to renovate the schoolhouse and have it become a part of a History Museum Complex, along with a renovated Watkins Hall. Because of severe budget constraints the History Museum Complex is no longer a viable option for the City.

The Mowry's Landing Schoolhouse was in poor condition when it was moved to its current location at Ardenwood 30 years ago. Its condition has continued to deteriorate over the years and has become an attractive nuisance and a liability to the City. The EBRPD has requested that the Mowry's Landing Schoolhouse be removed from Ardenwood. The City offered to give the Mowry's Landing Schoolhouse to any responsible person or organization. No offers to take possession the schoolhouse were received. Another option to move the Schoolhouse to the City corporation yard at Filbert Street was considered but determined not to be viable because of a lack of a suitable use for the structure, its continued deterioration, utilization of scarce space at the corporation yard, and an increase in the City's liability. The only remaining viable option available is to demolish the Schoolhouse.

In May of 2013, the City entered into a cost sharing agreement with EBRPD to prepare an environmental impact report which would allow for the option of demolishing the Schoolhouse along with the two adjacent old structures owned by EBRPD. All other

options have been exhausted and demolition of the schoolhouse along with at least one of EBRPD's structures is the only viable option.

Both the City and the EBRPD can realize a significant savings if a single demolition contract is awarded encompassing the remaining buildings. City staff has approached EBRPD staff suggesting EBRPD be the lead agency in overseeing a demolition contract for all the remaining buildings with the City paying EBRPD a fair share of the costs. The attached cooperative funding agreement would authorize the City to pay a portion of the demolition costs as well as a share of the administrative costs incurred by EBRPD. The agreement would authorize the City to pay one-third the demolition and administrative cost if both of the remaining EBRPD's structures are demolished or one-half the demolition and administrative costs if only one of the remaining EBRPD's structures is demolished. The maximum payment by the City to EBRPD would be \$15,000.00. The \$15,000 is identified in the budget from account 401-5600-5280-1029.

Staff recommends entering into a cooperative funding agreement with EBRPD to include the Mowry's Landing School in a demolition project administered by EBRPD.

Attachments

Action It is recommended that the City Council, by resolution, authorize the Mayor to sign a cooperative funding agreement with the East Bay Regional Park District for the demolition of Mowry's Landing School.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

I.1 Declaring a vacancy on the Senior Citizen Standing Advisory Committee and the Tri City Elder Coalition Volunteer Community Board and authorizing the City Clerk to post a notice of vacancy – from Mayor Nagy.

(MOTION)

Background/Discussion – Carol McCarty has submitted her resignation from the Senior Citizen Standing Advisory Committee and the Tri City Elder Coalition Volunteer Community Board effective immediately. Mrs. McCarty's term on the Senior Committee was scheduled to expire in April 2015. Her term on the Tri City Board was scheduled to expire in June 2016

Pursuant to Government Code Section 54974, whenever an unscheduled vacancy occurs on a commission a special vacancy notice shall be posted not later than 20 days after the vacancy occurs. The vacancy notice must be posted for at least ten days before the Mayor may appoint a new commission member.

Attachment

Action - It is recommended that the City Council, by motion, declare a vacancy on the Senior Citizen Standing Advisory Committee and the Tri City Elder Coalition Volunteer Community Board and direct the City Clerk to post the notice of vacancy.

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

J.1 Resolution of the City of Newark acting as the Successor Agency to the Newark Redevelopment Agency adopt and endorse the Recognized Obligation Payment Schedule for the period of January to June 2015 – from Administrative Services Director Woodstock. (RESOLUTION)

Background/Discussion – Assembly Bill (AB) 1x26 and the subsequent amendment, AB 1484, require agencies to adopt a Recognized Obligation Payment Schedule (ROPS) for each six (6) month period in which the Successor Agency is closing out the obligations of the former Newark Redevelopment Agency.

The Successor Agency and the Oversight Board previously have approved several ROPSs for periods between January 2012 and December 2014.

The only obligation remaining from the dissolution of the Newark Redevelopment Agency is the loan from the City to the Newark Redevelopment Agency. On June 27, 2012, the Governor signed AB 1484 which updated the procedures for the dissolution of the redevelopment agencies and indicated that a loan can be considered an obligation if the Agency obtains a Finding of Completion and the Oversight Board approves the loan as an obligation. The State Department of Finance issued a Finding of Completion to the Successor Agency and the Oversight Board approved the loan and the Successor Agency received the first payment on the loan in June 2014.

The reconciliation of ROPS14-15A with the State and County calculations determined that the payment received for ROPS 14-15A used the full allocation available from the Redevelopment Property Tax Trust Fund (RPTTF) for Fiscal Year 2014-2015.

ROPS 14-15B is not requesting any payment, but is still being submitted to the State to recognize the outstanding debt balance on the loan.

Upon approval by the Successor Agency, the ROPS14-15B will be presented to the Oversight Board for consideration.

Attachment

Action - It is recommended that the City Council acting as the Successor Agency to the Newark Redevelopment Agency, by resolution, adopt and endorse the Recognized Obligation Payment for the period of January to June 2015.

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.