

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, January 22, 2015

CITY COUNCIL:

Alan L. Nagy, Mayor
Sucy Collazo, Vice Mayor
Luis L. Freitas
Michael K. Hannon
Mike Buccì

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:

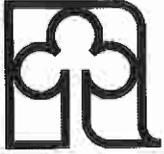
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|-------------------------------------|-------------------------|
| A. ROLL CALL | I. COUNCIL MATTERS |
| B. MINUTES | J. SUCCESSOR AGENCY |
| C. PRESENTATIONS AND PROCLAMATIONS | TO REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS | K. ORAL COMMUNICATIONS |
| 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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Thursday, January 22, 2015

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, January 8, 2015. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

- C.1 Proclaiming February Teen Dating Violence Awareness and Prevention Month. (PROCLAMATION)**

Background/Discussion – Safe Alternatives to Violent Environments (SAVE) has requested a proclamation to raise awareness on teen dating violence and prevention. A representative from SAVE will accept the proclamation at the meeting.

- C.2 Presentation by Safe Alternatives to Violent Environments (SAVE). (PRESENTATION)**

Background/Discussion – Nina Clymer, RN, MBA, Executive Director of Safe Alternatives to Violent Environments (SAVE) will give a presentation on the mission and services provided by SAVE.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

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 Approval of a Retention of Services Agreement with Renne Sloan Holtzman Sakai LLP to provide labor negotiation consulting services - from Human Resources Director Abe (RESOLUTION)

Background/Discussion - Memoranda of Understanding with the Newark Police Association (NPA) and the Newark Association of Miscellaneous Employees (NAME) are current through June 30, 2015. Labor negotiations with both bargaining units are scheduled to begin later this month.

NPA has retained the services of a negotiations consultant from a law firm with an emphasis on labor representation. City staff identified similar consulting services from a public employment law firm providing both non-attorney consulting and legal services. The selected law firm has extensive experience providing labor negotiation services to municipalities and other public employers throughout California and in the Bay Area.

All consulting costs, not to exceed \$20,000, will be incurred by the existing Human Resources budget.

Attachment

Action – It is recommended that the City Council, by resolution, authorize the Mayor to sign a Retention of Services Agreement with Renne Sloan Holtzman Sakai to provide labor negotiation consulting services.

F.2 Approval of sponsorship of the Chamber of Commerce's 2015 Summerfest, Octoberfest, and Tri-City Motor Rally to promote recycling in Newark and amendment to the 2014-2016 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, Octoberfest, and the Tri-City Motor Rally. These events offer sponsorship opportunities that provide an avenue to promote recycling in Newark.

The Chamber of Commerce is requesting \$20,000 which will be applied \$10,000 for Summerfest, \$5,000 for Octoberfest, and \$5,000 for the Tri-City Motor Rally. Newark Recycles will be positioned prominently in all marketing material and on the day of each event. A staffed informational booth will be at both of these events that will distribute recycling resource materials. Both events will offer prominent recycling opportunities at the events.

In addition to distributing the recycling information at their events, the Chamber of Commerce will incorporate the recycling resource materials in their marketing material that is distributed to members of the Chamber and create electronic links on their webpage as additional resources for members.

Action - It is recommended that the City Council, by resolution, approve sponsorship of Summerfest, Octoberfest, and the Tri-City Motor Rally and amend the 2014-2016 Biennial Budget for Fiscal Year 2014-2015 for \$20,000 in Recycling Promotion Sponsorships with the condition that the Chamber of Commerce will provide audited financial statements for the fiscal year(s) in which the funding is used.

NONCONSENT

F.3 Amendment of the 2014-2016 Biennial Budget and Capital Improvement Plan and Update to the Year-end Fund Balance Policy and Procedures – from Administrative Services Director Susie Woodstock (RESOLUTION)

Background/Discussion – The City is in the first year of a two-year budget cycle. As part of the mid-year budget review, a number of general revisions are proposed to the annual budget. These revisions affect activities where savings or deficiencies have been identified, modify revenue estimates and increase some expenses where savings will not cover a deficiency. Savings are usually realized when there are staffing vacancies or reduction in expenditures for services or supplies. Deficiencies occur as a result of unforeseen increases in cost or need for services or supplies. Since the budget reductions that occurred during the recession, the budget has been prepared with minimal contingencies requiring expenditure increases for most changes that occur.

The Fiscal Year 2014-2015 Budget is being adjusted to reflect revenues that are trending higher than budgeted. The revenues include Property Tax, Sales Tax, Business License revenue, and construction and developer fee revenue. These are all trending higher due to the uptick and improved confidence in the economy over the last year. Revenue and expenditures are being increased to account for reimbursable services provided by various departments that were previous accounted for by means of holding accounts. One-time transfers to the Capital Improvement Fund Reserves, Other Post Employment Benefit (OPEB) Trust Fund, and Equipment Replacement Fund Reserves are being proposed to be funded through use of unallocated General Fund balance that will be established with the approval of the Updated Year-End Fund Balance Policy proposed below.

Due to the passage of Measure Y in November 2014, the second year of the budget cycle is being included at this time for review and adjustment. The budget for Fiscal Year 2015-2016 was developed with the Utility User Tax (UUT) sunset date of December 31, 2015. Measure Y extends the UUT to December 31, 2020 and will reduce the rate in January 2016. The adjustments to Fiscal Year 2014-2015 revenues that were discussed above will be added to this Fiscal Year. Fiscal Year 2015-2016 will also be adjusted to reflect receiving a full year, instead of a partial year, of the UUT revenue. The expenditures for Fiscal Year 2015-2016 will be adjusted to include the ongoing expenses that were added above and will be budgeting to fund the Annual Required Payment (ARC) to the OPEB Trust Fund, as well as a large increase in

CalPERS pension rates that will become effective July 1, 2015. This CalPERS rate increase will add about \$500,000 beyond the existing budgeted PERS costs.

Exhibits A and B list all of the adjustments proposed to the budget for each fiscal year to accommodate modifications in expenditures and changes in revenue that have occurred since the budget was approved.

The City's Year-End Fund Balance Policy is also being reviewed due to the renewal of the UUT. The existing Fund Balance Policy was adopted in 2012 and was intended to build a Fiscal Uncertainty Reserve sufficient in the event the UUT extension was not approved. With the economy improving and the extension of the UUT, the policy can now be revised to reflect sustainable, prudent reserve building practices. The policy will set goals of balances equivalent to 15% of the operating budget for the Emergency Reserves and 10% of the operating budget for Fiscal Uncertainty Reserves. The policy further establishes ongoing replenishment of the Capital Improvement Fund Reserves and the Equipment Replacement Fund Reserves. The transfers to these reserves will occur as surpluses allow.

Attachments

Action - It is recommended that the City Council, by two separate resolutions, 1. amend the 2014-2016 Biennial Budget and Capital Improvement Plan for Fiscal Years 2014-2015 and 2015-2016; and 2. Approve the Year-End Fund Balance Policy and Procedures.

F.4 Authorization to fund the Other Post-Employment Benefits Trust Fund – from Administrative Services Director Woodstock. (RESOLUTION)

Background/Discussion – At the January 8, 2015 City Council meeting, the California Employers' Retiree Benefit Trust Fund (CERBT) contract was approved. This contract allowed for the creation of a trust fund for the future liabilities of the costs of Other Post-Employment Benefits (OPEB). These benefits include a modest supplement towards the cost of medical insurance for retirees.

The City is on the Pay-As-You-Go plan which means a monthly bill is paid to CalPERS for the OPEB provided to our current retirees. Currently, the City's future OPEB liabilities are 0% funded. The Unfunded Actuarial Accrued Liability as of June 30, 2014 was \$5.5 million.

Staff reviewed funding options provided by the City's actuarial consultant, Bartel Associates, that included combinations of lump sum and annual payments and investment strategies. The CERBT program offers three investment strategies. Strategy 1 is the asset allocation method used by the CalPERS pension plan. The other two strategies are slightly more conservative and therefore do not offer a discount rate (rate of return) as beneficial as Strategy 1. Analysis of funding options shows the most beneficial option that is still practical to implement within the City's budget, is to begin funding the Annual Required Contribution (ARC), to deposit a one-time lump

sum of one million dollars (\$1,000,000), and to opt to invest in Asset Allocation Strategy as discussed above. This action will reduce the projected Unfunded Actuarial Accrued Liability for 2015-2016 down to about \$2.5 million. The City's future OPEB liabilities will then be considered about 35% funded. The projected ARC, which varies year to year, is about \$290,000. This is about \$190,000 above the existing budget for pay-as-you-go.

Action - It is recommended that the City Council, by resolution, authorize funding the California Employers' Retiree Benefit Trust Fund in an amount equal to the Annual Required Contribution plus a one-time lump sum deposit of one million dollars, and to opt to invest in Asset Allocation Method (Strategy 1).

F.5 Approval of Draft Housing Element Update and authorization to transmit the Draft Housing Element Update to the State Department of Housing and Community Development for their review and approval - from Assistant City Manager Grindall. (MOTION)

Background/Discussion – The Housing Element of the General Plan must be updated periodically and certified by the State of California. The Housing Element was last updated in 2009. The City is required to approve a Housing Element update in 2015. The City approved a comprehensive update of its General Plan in December of 2013, but the Housing Element was not updated at that time.

Staff has developed a Draft Housing Element Update that builds upon the approved 2013 General Plan. The Housing Element update process included two community meetings, one on July 30, 2014 to present housing conditions information and proposed criteria for housing site selection. A second community meeting to review the previous information and discuss potential sites for new housing was held on September 3, 2014. The meetings were well attended with approximately 40 people in attendance at each meeting. Information from both meetings, including the presentations used at the meetings and a draft map of housing sites, were posted on the city's website shortly after each meeting.

The purpose of the Housing Element is to support the vision of assuring the provision of safe, decent, affordable housing for all Newark residents. The Element places a particular emphasis on lower income Newark residents and residents with special needs, including seniors and persons with disabilities. The Element includes an evaluation of housing needs in the city, based on demographics and housing conditions. As required by state law, it identifies sites sufficient to accommodate the city's share of the region's housing needs over an eight year period.

A key issue in the Housing Element Update is the identification of sites for housing to accommodate the Regional Housing Need Allocation (RHNA) as developed by the Association of Bay Area Governments (ABAG). Due to the 2013 General Plan update and all the other planning efforts that have been completed in the last few years, the City has sites, already designated for housing, to accommodate the RHNA housing

units. Therefore this housing element update does not include any new sites for housing. It does contain updated housing information and updated details about the existing housing sites. It also evaluates constraints to housing production and establishes measures to mitigate such constraints. The Housing Element Update presents a comprehensive picture of the issues facing Newark today, as well as a plan for addressing those issues.

The draft Housing Element Update was posted on the City's website in early December 2014 and email notification was sent to those who attended earlier community meetings on either the Housing Element Meetings or any other housing development in the City. The availability of the Draft Housing Element Update was advertised through the City's website, an email notice, and a mailing to advocacy groups, property owners, and other interested parties. We have received no comments from the community on the document.

The Housing Element must be reviewed and approved by the State Department of Housing and Community Development, therefore formal approval of the Housing Element Update would occur after we have received approval or detailed required changes from the State. After the State Department of Housing and Community Development formally reviews the Draft Housing Element, the Element will be amended to address their comments and then presented for consideration by the Planning Commission and City Council for formal approval in March 2015.

Update - At their January 13, 2015 meeting, the Planning Commission unanimously approved the Draft Housing Element and recommended that the City Council approve the Draft Element and submit it to the State Department of Housing and Community Development.

Action – It is recommended that the City Council, by motion, approve the Draft Housing Element Update and authorize staff to transmit the Draft Housing Element Update to the State Department of Housing and Community Development for their review and approval.

G. CITY ATTORNEY REPORTS

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

- M.1 Closed Session for 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 – The City Attorney and Assistant City Manager have requested a closed session to discuss existing litigation: Citizens Committee to Complete the Refuge v. City of Newark et al., Alameda County Superior Court Case No. RG10530015.

- M.2 Closed Session for 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 – The City Attorney and Assistant City Manager have requested a closed session to discuss 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.

- M.3 Closed Session for Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, City of Newark v. Olga E. Mullins, Alameda County Superior Court Case No. RG14729095 – from City Attorney Benoun and Assistant City Manager Grindall.**

Background/Discussion – The City Attorney and Assistant City Manager have requested a closed session to discuss existing litigation: City of Newark v. Olga E. Mullins, Alameda County Superior Court Case No. RG14729095.

- M.4 Closed Session for Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, City of Newark v. Adeline Caldeira et al., Alameda County Superior Court Case No. RG14729098 – from City Attorney Benoun and Assistant City Manager Grindall.**

Background/Discussion – The City Attorney and Assistant City Manager have requested a closed session to discuss existing litigation: City of Newark v. Adeline Caldeira et al., Alameda County Superior Court Case No. RG14729098.

- M.5 Closed Session for Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Anticipated Litigation (4 cases) – from City Attorney Benoun and Assistant City Manager Grindall.**

Background/Discussion – The City Attorney and Assistant City Manager have requested a closed session to discuss anticipated litigation (4 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.