

# CITY OF NEWARK CITY COUNCIL

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

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

## AGENDA

Thursday, September 24, 2015

### CITY COUNCIL:

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

### 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:

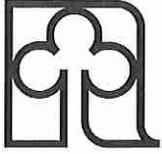
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|-------------------------------------|-------------------------|
| A. ROLL CALL                        | I. COUNCIL MATTERS      |
| B. MINUTES                          | J. SUCCESSOR AGENCY     |
| C. PRESENTATIONS AND PROCLAMATIONS  | TO REDEVELOPMENT 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](http://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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## AGENDA

Thursday, September 24, 2015

**A. ROLL CALL**

**B. MINUTES**

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, September 10, 2015. (MOTION)**

**C. PRESENTATIONS AND PROCLAMATIONS**

- C.1 Introduction of employee.**

**Background/Discussion** – Recently promoted Police Sergeant Sean Eriksen will be at the meeting to be introduced to 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 Tentative Parcel Map 10391 for a proposed four-parcel division of land on the west side of unimproved Hickory Street near the western terminus of Enterprise Drive - from Assistant City Engineer Fajeau. (RESOLUTION)**

**Background/Discussion** – Carlson, Barbee & Gibson, Inc., on behalf of Dumbarton Area 2, LLC (property owner), has submitted Tentative Parcel Map 10391 for a

proposed four-parcel division of land on the west side of Hickory Street near the western terminus of Enterprise Drive. The subject property was created as Parcel 1 of Parcel Map 9837, for which a tentative parcel map was approved by the City Council on March 26, 2009. The 54.53-acre site lies entirely within the Dumbarton Transit Oriented Development (TOD) Specific Plan Area with a current zoning designation of MT-1, High Technology Park District. The General Plan Land Use Designations include Low-Medium Density Residential, Medium Density Residential, High Density Residential, and Conservation/Open Space.

The primary purpose of the proposed land division is to create a 6.00-acre parcel for future donation to an environmental organization. This “donation parcel” is shown as proposed Parcel 4 on the tentative parcel map. City approval of the tentative parcel map and a record parcel map would result in a division of land only. No development is proposed at this time. Parcels 1, 2 and 3 of the tentative parcel map may be proposed for residential development in the future, subject to a full discretionary review by the City and required conformance with the previously adopted Dumbarton TOD Specific Plan and Form Based Code (Newark Municipal Code Chapter 17.37). These additional parcels are proposed as shown on the tentative parcel map for future financing and/or conveyance purposes associated with potential site development.

This item was continued from the September 10, 2015 City Council meeting due to a request by the applicant on behalf of the property owner to provide an alternative access easement for the benefit of proposed Parcel 4 over proposed Parcel 3. This access easement would be reserved along the southern boundary of the map and would overlap an existing non-exclusive PG&E easement that leads to the Parcel 4 boundary. This modification is proposed in order to address a concern regarding the access rights associated with an existing access easement located just beyond the southern boundary of the map that was previously identified as the primary means of access to Parcel 4.

Pursuant to the Newark Subdivision Ordinance, the Public Works Director acts as the advisory agency for tentative parcel maps. This map is categorically exempt under the California Environmental Quality Act (CEQA), Article 19, Section 15315 “Minor Land Divisions.” A Notice of Exemption can be filed by staff following City Council action on the tentative parcel map.

### **Attachment**

**Action** - It is recommended that the City Council, by resolution, approve Tentative Parcel Map 10391 for a proposed four-parcel division of land on the west side of unimproved Hickory Street near the western terminus of Enterprise Drive.

- F.2 Authorize staff to execute agreements relating to the implementation of the Local Prepaid Mobile Telephony Services Collection Act – from Administrative Services Director Woodstock. (RESOLUTIONS - 2)**

**Background/Discussion** – Newark has a Utility User Tax (UUT) on telecommunications, video, electricity and gas utility services. The UUT rate is currently 3.5% and, in accordance with the extension of the UUT, will be reduced to 3.25% as of January 1, 2016.

Currently, the UUT is only applied to cellular telecommunications that have a monthly bill associated with the service. As a result of the collection method, phones purchased with prepaid minutes at a retail point of sale do not pay the UUT. Assembly Bill 1717 was approved in September 2014 and becomes effective on January 1, 2016. AB 1717 requires California retailers and online sellers to collect the local UUT on prepaid mobile phone service at the point of sale, similar to the way that it collects sales tax on its other retail products.

The State Board of Equalization (SBOE) will administer the program similar to its administration of the local sales tax for the municipalities. The law creates requirements on information and certifications regarding local UUT ordinances and a necessary agreement authorizing SBOE to collect and remit the taxes to the local jurisdictions. To narrow down the assortment of rates that the SBOE will be collecting, the law included a tiered rate table. The SBOE will collect 2.5% for jurisdictions whose UUT rate falls between 2.5% and 3.5%. A Certification will be sent to the SBOE indicating the 2.5% rate and indemnifying the SBOE related to the rate determination.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, authorize the Mayor to execute the Agreement for State Collection and Administration of Local Charges and authorize the City Clerk to execute the Certification and by separate resolution authorize Staff within the City to examine prepaid mobile telephony service surcharge and local charge records.

### **F.3 Amendment of Purchasing Rules and Regulations - from Administrative Services Director Woodstock. (RESOLUTION)**

**Background/Discussion** – In 1995, the City Council adopted Resolution No. 7053 amending the Purchasing Rules and Regulations pursuant to Ordinance No. 142. Minor revisions were made in 1997, 2011 and 2013. The current Purchasing Rules and Regulations need changes that will improve the efficiency of the product and service procurement and clarify the procedures and processes.

The recommended changes are as follows:

- Add processes for awarding of professional service contracts including guidance regarding request for proposals and qualifications. This will provide staff information on the procedures required to procure services.

- Add “Schedule of Purchasing Authority and Authorizations to Sign City Contracts and Claims” which assigns who may sign contracts, agreements and claims and the purchasing authority amount. This schedule identifies signing authority and dollar amount for typical contracts, agreements and settlements. All contracts, agreements and claims that can be authorized at a staff level must have adequate budget available for the project.
- Add a Public Works contract section which references that these contracts are regulated by the California Public Contracts Code. State code mandates that specific procedures be followed for public works projects.
- Eliminate the requirement for open market bids for single item purchases of under \$500. The process of obtaining three bids for items under \$500 is very time consuming and typically results in minimal or no savings.
- Minor clarifications to the procedures and processes.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, adopt the Purchasing Rules and Regulation pursuant to Ordinance No. 142.

#### **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**

**Approval of Audited Demands for the City Council meeting of September 24, 2015.**  
**(MOTION)**

**M. CLOSED SESSION**

**M.1 Closed session pursuant to Government Code Section 54957  
Public Employee Performance Evaluation  
Title: City Attorney.**

**Background/Discussion** – City Attorney Benoun has requested that the City Council convene in closed session pursuant to Government Code Section 54957 for a performance evaluation.

**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.