

# 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 10, 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:

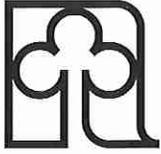
- |                                     |                         |
|-------------------------------------|-------------------------|
| A. ROLL CALL                        | I. COUNCIL MATTERS      |
| B. MINUTES                          | J. SUCCESSOR AGENCY     |
| C. PRESENTATIONS AND PROCLAMATIONS  | 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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City Administration Building  
7:30 p.m.  
City Council Chambers

## **AGENDA**      Thursday, September 10, 2015

### **A.      ROLL CALL**

### **B.      MINUTES**

- B.1      Approval of Minutes of the regular City Council meeting of Thursday, July 23, 2015.      (MOTION)**

### **C.      PRESENTATIONS AND PROCLAMATIONS**

#### **C.1      Introduction of employees.**

**Background/Discussion** – Recently hired Community Preservation Inspector Shama Khan will be introduced to the City Council. Recently promoted Police Sergeant Sean Eriksen will also be at the meeting to be introduced to the City Council.

#### **C.2      Proclaiming September 17-20, 2015, as Newark Days.      (PROCLAMATION)**

**Background/Discussion** – Newark Days, celebrating Newark's 60th birthday, will be held September 17-20, 2015. A proclamation has been prepared and members of the Newark Days Committee will accept it at the City Council meeting.

### **D.      WRITTEN COMMUNICATIONS**

### **E.      PUBLIC HEARINGS**

### **F.      CITY MANAGER REPORTS**

**(It is recommended that Items F.1 through F.5 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 23, 2015, meeting the City Council adopted Resolution No. 10,348 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 Approval of fiscal year 2015-2016 planned expenditures for the Used Oil Payment Program and corresponding approval to amend the 2014-2016 Biennial Budget – from Administrative Analyst Khuu-Seeman. (RESOLUTION)**

**Background/Discussion** – The Department of Resources and Recycling and Recovery (CalRecycle) administers the Used Oil Payment Program (OPP) throughout the State of California. The OPP provides opportunities for local governments/jurisdictions to receive funding for local used oil and used oil filter collection/recycling programs. The City of Newark has received OPP funding since 1995.

Per Resolution No. 9734, adopted on June 24, 2010, the Public Works Director, or his/her designee, is authorized and empowered to execute in the name of the City of Newark all documents, including but not limited to, applications, agreements, annual reports, including expenditure reports, and amendments necessary to secure payments from the OPP to support the City of Newark's Used Oil Collection Program.

Used oil collection programs funded by the OPP must provide at least one of the following: ensuring there is at least one Certified Used Oil Collection Center for every 100,000 residents not served by curbside collection, and, providing used oil curbside collection at least once a month. Additionally, recipients of OPP funding must have a public education component that informs the public of locally available used oil recycling opportunities.

The City of Newark currently has seven Certified Used Oil Collection Centers throughout the City, and provides used oil curbside collection through Republic Services. Republic drivers deliver new motor oil and filter recovery kits upon request, and residents are able to recycle used motor oil by placing the oil next to his/her recycling cart on collection day.

In regards to the public education component of the grant, City of Newark staff work at approximately four community events per year, staffing a booth to promote awareness of the program, and encouraging residents to recycle used oil by providing free used oil recycling kits. Examples of community events staff has attended include: SummerFest, Newark Days, Family Day, and the Tri-City Auto Show.

In April 2015, the City of Newark received \$12,292 in OPP funding from CalRecycle for the latest funding cycle. All expenditures using OPP funding must be for the purposes of establishing and maintaining a used oil program. Anticipated expenditures for fiscal year 2015-2016 will continue to be similar to expenditures from past fiscal years, and may include, but are not limited to, expenses for: used oil kit components (drain pans, funnels, rags, and a map of Newark's Certified Collection Centers), advertising to promote awareness of the program, training, and staff time. All anticipated expenditures are eligible costs under the program guidelines.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, approve: 1) the fiscal year 2015-2016 planned expenditures for the City of Newark's Used Oil Collection Program, and 2) an amendment to the 2014-2016 Biennial Budget.

### **F.3 Approval of an Amendment to Resolution No. 3513 to Revise Rule X, Section 4 of the Personnel Rules and Regulations by Granting Approval Authority for Unpaid Employee Leaves to the City Manager – from Human Resources Director Abe. (RESOLUTION)**

**Background/Discussion** – The Personnel Rules and Regulations govern the approval process for employee leave of absence without pay. In accordance with existing rules, the City Manager may approve unpaid leaves for up to two months beyond protected leaves including Military Leave (USERRA), the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), and Pregnancy Disability Leave (PDL). Unpaid employee leaves from two to twelve months beyond protected leaves currently require City Council approval.

The proposed amendment revises and updates the approval process for employee leaves as summarized below:

- Grants authority to the City Manager for approving unpaid employee leaves up to one year beyond protected leaves.
- Specifies compliance with protected leaves including USERRA, FMLA, CFRA, and PDL.
- Continues the employee option to request the retention of up one week of vacation, general and/or compensatory time accumulation for use after returning from leave.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, amend Resolution No. 3515 to revise Rule X, Section 4 of the Personnel Rules and Regulations by granting approval authority for unpaid employee leaves to the City Manager.

**F.4 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.

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.5 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.

### **NONCONSENT**

#### **F.6 Review and approval of the Greater NewPark Master Plan – from Assistant City Manager Grindall. (MOTION)**

**Background/Discussion** – A planning process for the NewPark Mall area began in 2012. At that time, the mall and the surrounding mall area was in severe decline and there was little attention to the problem by the mall owner: Rouse Properties. Soon after the Greater NewPark Master Plan process began, the mall’s owners began negotiations in earnest with the City on a major renovation of the mall. While those negotiations were underway, the Greater NewPark Master Plan work was suspended. Ultimately, a landmark agreement was reached between the City and Rouse Properties on a partnership for a massive renovation project-including a new theater, new restaurants, and new retailers. The renovation project is now under construction and its first phase is expected to be completed late this year. After the mall renovation began, the Greater NewPark Master Plan effort was refocused to reflect the improved outlook for the Mall and to direct attention to the parcels that surround the mall as well as on a longer term vision for the area. The result of this refocused effort has now been completed.

The purpose of the Greater NewPark Master Plan is to put in place a community-supported vision for an economically feasible transformation of the mall area that will support the ongoing mall renovation, catalyze and guide new investment, and serve as the framework for future implementing measures. The key elements of the Vision embodied in the Master Plan are:

- The revitalization of the properties that surround the mall with hotels, regional serving retail, and modern mixed use development.
- Improvements in infrastructure, particularly pedestrian and bicycle access and mall entrances.
- The potential creation of a “New Park Commons” a place for public events such as farmers markets, craft fairs, and concerts.
- The long term transformation of the Mall Loop Road into “NewPark Boulevard” a vibrant corridor marked by dynamic retail, jobs, and housing.

It is important to note that this document is intended as a long term vision - the buildings and roadways that are shown are illustrative and highly conceptual. They have not been proposed by the property owners nor received City approval. Before any such buildings were built, there would be further study, community input, as well as Planning Commission and City Council review. The Master Plan document would be used as a guide to evaluate future proposals to assure the orderly development of the Greater NewPark Mall and to guide its transformation into the premier shopping and entertainment district in the Tri-City area.

On July 28, 2015 the Planning Commission reviewed the Greater NewPark Master Plan and recommended that the City Council approve it. In their motion the Commission recommended that the Plan be modified to indicate that the NewPark Commons, if feasible, be large enough to accommodate the Summer Concert Series, farmers market and other community events. The Plan has been modified on page 34 to address this direction.

#### **Attachment**

**Action** - It is recommended that the City Council review the Greater NewPark Master Plan, hear from the public, and by motion, approve the Greater NewPark Master Plan.

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

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

### **I. CITY COUNCIL MATTERS**

- I.1 Acknowledging the 25<sup>th</sup> Anniversary of the Americans with Disabilities Act – from Mayor Nagy. (RESOLUTION)**

**Background/Discussion** – In 1990, the Americans with Disabilities Act (ADA) was signed into law to ensure the civil rights of people with disabilities. The ADA established a national mandate for the elimination of discrimination against individuals with disabilities. On the 25<sup>th</sup> Anniversary of this historic legislation, it is appropriate to celebrate and recognize the progress that has been made in providing equality and inclusion for all.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, acknowledge the 25<sup>th</sup> Anniversary of the Americans with Disabilities Act.

**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 adopting and endorsing the Recognized Obligation Payment Schedule for the period of January to June 2016 (ROPS 15-16B) – 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 2015.

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.

The outstanding debt on the loan is \$380,238. Per Health and Safety Code Section 34191.4 (b) (2), the Agency can request \$48,007 in Fiscal Year 2015-2016 for repayment of the loan. Per HSC 34171 (b), the City can be reimbursed for administrative costs up to 3% of the property tax allocated to the Successor Agency which is \$3,145 in Fiscal Year 2015-2016. The Agency requested and received the first half of each of these amounts on ROPS 15-16A and is now requesting the second half on ROPS 15-16B.

Upon approval by the Successor Agency, the ROPS 15-16B 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 2016 (ROPS 15-16B).

**K. ORAL COMMUNICATIONS**

**L. APPROPRIATIONS**

**Approval of Audited Demands for the City Council meeting of September 10, 2015. (MOTION)**

**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, 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.