



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, April 24, 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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Thursday, April 24, 2014

- A. ROLL CALL

- B. MINUTES
 - B.1 Approval of Minutes of the regular City Council meeting of Thursday, April 10, 2014. (MOTION)

- C. PRESENTATIONS AND PROCLAMATIONS
 - C.1 Proclaiming May 2014 as Older Americans Month in Newark. (PROCLAMATION)
 - C.2 Proclaiming May as Water Aquatics Safety Month in Newark. (PROCLAMATION)
 - C.3 Proclaiming May 9 - 18, 2014, as Affordable Housing Week in Newark. (PROCLAMATION)
 - C.4 Proclaiming May 1, 2014, as National Day of Prayer in Newark. (PROCLAMATION)
 - C.5 Presentation on Measure AA the Alameda County Healthcare Services Tax Healthcare Safety Net Reauthorization on the June 3, 2014 ballot. (PRESENTATION)

- D. WRITTEN COMMUNICATIONS

- E. PUBLIC HEARINGS
 - E.1 Hearing to consider the development of 88 townhomes, 72 affordable housing units, and a 15,000 square foot commercial building along Enterprise Drive and Willow Street within the Dumbarton Transit Oriented Development Specific Plan : (1) Adopt a resolution making certain findings approving an Initial Study/Mitigated Negative Declaration for the Dumbarton Transit Oriented Development Specific Plan; (2) Introduction of an ordinance amending Title 17 (Zoning) of the Newark Municipal Code and Section 17.44.010 "Zoning Map" by rezoning all that real

property shown on vesting tentative map 8157 (APN 092-0115-11, 12 & 13) from MT-1 (High Technology Park District) to MDR-FBC (Medium Density Residential – Form Based Codes), HDR-FBC (High Density Residential – Form Based Code), and R-FBC (Commercial Retail – Form Based Code); (3) adopt a resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and authorize the Mayor to sign the Affordable Housing Obligation Satisfaction Agreement; 4) adopt a resolution approving TM-13-22, Vesting Tentative Map 8157; 5) adopt a resolution authorizing the Mayor to sign the Community Financing Agreement with SHH Project Owner, LLC and Newark Parcel E Project Owner, LLC; and 6) by motion, approve ASR-13-23, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 31 – from Assistant City Manager Grindall.

(RESOLUTIONS - 4)(INTRODUCTION OF ORDINANCE)(MOTION)

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.6 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 events within the public right-of-way, authorization to issue an Encroachment Permit to the S.E.S. (Holy Ghost Festival Committee) organization, and provision of traffic control for the annual Holy Ghost Festival on July 26 and 27, 2014 – from Police Sergeant Hoppe and Assistant Engineer Carmen. (MOTION)
- F.2** Adoption of the 2014-2019 Five-Year Forecast – from Administrative Services Director Woodstock. (RESOLUTION)
- F.3** Second reading and adoption of an Ordinance amending Chapter 17.18 (Affordable Housing Program) of the Newark Municipal Code to replace Inclusionary Housing requirements with a Housing Impact Fee – from City Clerk Harrington. (ORDINANCE)
- F.4** Adopting a Compensation Plan for certain positions in the Exempt Service Employee Group and revoking previously adopted plans – from Human Resources Technician Gendreau. (RESOLUTION)

- F.5 Authorization for the Mayor to sign the amendment to the agreement with Alameda County for participation in the Alameda County Urban County Community Development Block Grant (CDBG) Program for fiscal year 2013-2014 – from Assistant Planner Jimenez. (RESOLUTION)**

- F.6 Approval of the final map and authorization for the Mayor to sign the Subdivision Agreement for Tract 8130, a 164-unit residential subdivision (Timber Street LLC – Trumark Homes) on the east side of Cedar Boulevard, approximately 450 feet south of Central Avenue – from Senior Civil Engineer Fajeau. (RESOLUTION)**

NONCONSENT

- F.7 Review of the Draft 2014-2015 and 2015-16 Capital Improvement Plan – from Senior Civil Engineer Fajeau. (INFORMATIONAL ONLY)**

- F.8 Authorization for the Mayor to sign an agreement with Citygate Associates LLC to conduct a fire services alternatives study for the cities of Newark and Union City– from City Manager Becker (RESOLUTION)**

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

- I.1 Consideration of City Council’s summer meeting recess during the month of August 2014 – from Mayor Nagy. (MOTION)(RESOLUTION)**

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

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.



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MINUTES

Thursday, April 10, 2014

A. ROLL CALL

Mayor Nagy called the meeting to order at 7:30 p.m. Present were Council Members Freitas, Marshall, and Vice Mayor Apodaca. Council Member Collazo was noted absent.

B. MINUTES

B.1 Approval of Minutes of the regular City Council meeting of Thursday, March 27, 2014.

Council Member Freitas moved, Council Member Marshall seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 3 AYES, 1 ABSTENTION (Apodaca), 1 ABSENT (Collazo).

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Presentation by Union Sanitary District.

Union Sanitary District Director Pat Kite introduced General Manager Richard Currie.

Mr. Currie noted that Board President Anjali Lathi was also present. Mr. Currie gave a presentation on the services provided by the Union Sanitary District, accomplishments in 2013, and upcoming projects.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

E.1 CANCELLATION of continued hearing to consider the development of approximately 217 residential units (Trumark Homes) on an approximately 21.4 acre project site (Jones Hamilton property) generally located on the south side of Enterprise Drive east of Willow Street: (1) Adoption of a resolution making certain findings and adopting the Supplemental Environmental Impact Report (E-12-30) to the Environmental Impact Report (State Clearinghouse No. 2010042012) for

the Dumbarton Transit Oriented Development Specific Plan; (2) Introduction of an ordinance amending Title 17 (Zoning) of the Newark Municipal Code and Section 17.44.040, “Zoning Map” by rezoning all that real property shown on Vesting Tentative Map 8098 from ML (Limited Industrial) to MDR-FB (Medium Density Residential – Form Based Code); (3) adoption of a resolution making findings supporting the use of an alternative means of compliance with the inclusionary housing ordinance and approving the affordable housing implementation agreement for the Jones Hamilton Project; (4) adoption of a resolution authorizing the Mayor to sign a Community Financing Agreement with Newark Enterprise Joint Venture, LLC; (5) adoption of a resolution authorizing the Mayor to sign a Park Agreement with Newark Enterprise Joint Venture, LLC; (6) adoption of a resolution approving TM-12-32, Vesting Tentative Map 8098; (7) By motion, approving ASR-12-33, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 69; and (8) By motion, approving Exhibit B, Schedule of Impact Fees.

MOTION APPROVED HEARING CANCELED

City Manager Becker stated that staff has reviewed the letter from the legal counsel representing Gallade Chemical, Inc. Public Hearings E.1 and E.2 need to be reheard by the Planning Commission. He recommended that the Council close and cancel public hearings E.1 and E.2 concurrently.

Council Member Freitas moved, Council Member Marshall seconded to, by motion, close and cancel public hearings E.1 and E.2. The motion passed, 4 AYES, 1 ABSENT.

- E.2 CANCELLATION of continued hearing to consider the development of approximately 27 residential units (Trumark Homes) on an approximately 2.14-acre project site (Enterprise Property) generally located on the north side of Enterprise Drive east of Willow Street: (1) Adoption of a resolution making certain findings and adopting a Supplemental Environmental Impact Report (E-12-30) to the Environmental Impact Report (State Clearinghouse No. 2010042012) for the Dumbarton Transit Oriented Development Specific Plan; (2) Introduction of an ordinance amending Title 17 (Zoning) of the Newark Municipal Code and Section 17.44.010 “Zoning Map” by rezoning all that real property shown on vesting tentative map 8110 from MI (limited industrial) to Mdr-Fbc (medium density residential – form based codes); (3) adoption of a resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and approving the Affordable Housing Implementation Agreement for the Enterprise Drive Project; 4) adoption of a resolution approving TM-12-28, Vesting Tentative Map 8110; 5) adopt a resolution authorizing the Mayor to sign a Community Financing Agreement with Enterprise Drive, LLC; 6) By motion, approving ASR-12-29, an Architectural and Site Plan Review,**

with Exhibit A, pages 1 through 29; and 7) By motion, approving Exhibit B, Schedule of Impact Fees. MOTION APPROVED HEARING CANCELED

E.3 Hearing to consider property owners' objections to the 2014 Weed Abatement Program and instruction to the Superintendent of Streets to abate the public nuisances. MOTION APPROVED

City Manager Becker gave the staff report recommending approval.

Mayor Nagy opened the public hearing at 7:47 p.m.

Wynn Grich stated that students in the city of Millbrae have volunteered to do weed abatement work for seniors. She suggested a similar program in Newark.

John Henneberry stated that the previous speaker was from Hayward and that her comments should be disregarded.

Mayor Nagy closed the public hearing at 7:50 p.m.

Vice Mayor Apodaca moved, Council Member Marshall seconded to, by motion, act upon any objections by property owners to the 2014 Weed Abatement Program, and instruct the Superintendent of Streets to abate the public nuisances. The motion passed, 4 AYES, 1 ABSENT.

E.4 Introduction of an Ordinance amending Chapter 17.18 (Affordable Housing Program) of the Newark Municipal Code to replace Inclusionary Housing requirements with a Housing Impact Fee and approval of a Resolution setting Housing Impact Fees and establishing affordable units needed to mitigate impacts of Residential Development. ORDINANCE INTRODUCED RESOLUTION NO. 10184

Assistant City Manager Grindall stated that the City requires 15% percent of housing units that are developed be price restricted and reserved for moderate and lower income households. There have been successful legal challenges to inclusionary housing requirements. He recommended that the program be replaced with an Affordable Housing Impact Fee. The fee may be waived if the Planning Commission and City Council find that there is a substantial public benefit.

Mayor Nagy opened the public hearing at 7:58 p.m.

No one came forward to speak.

Mayor Nagy closed the public hearing at 7:59 p.m.

Council Member Freitas moved, Council Member Marshall seconded to, introduce an ordinance amending the Newark Municipal Code by repealing Chapter 17.18 (Affordable Housing Program) and adding a new Chapter 17.18 (Affordable Housing Program) and approve a resolution establishing affordable units needed to fully mitigate the impact of residential development on the need for affordable housing; and Housing Impact Fees for Residential Developments. The motion passed, 4 AYES, 1 ABSENT.

F. CITY MANAGER REPORTS

John Henneberry requested that Consent Calendar Item F.2 be removed for separate consideration.

Council Member Marshall moved, Vice Mayor Apodaca seconded, to approve Consent Calendar Items F.1, F.3, and F.4, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions. The motion passed, 4 AYES, 1 ABSENT.

CONSENT

- F.1 Authorization for the Mayor to sign the Amendment to the Agreement between the City and All Star Building Maintenance, Inc. for Janitorial Services for City Buildings to assign the Agreement to Marina Zepeda – Tri County Building Maintenance and authorize a one year extension.**
RESOLUTION NO. 10185
CONTRACT NO. 13007
- F.3 Establishing the number of residents in the City of Newark for the purpose of determining the voluntary expenditure ceiling for the November 4, 2014, Municipal Election.** **RESOLUTION NO. 10186**
- F.4 Resolution of the City of Newark City Council Authorizing the Annual Program Submittal for Measure B Funding of Paratransit Services.**
MOTION APPROVED

NONCONSENT

- F.2 Amendment to Resolution No. 2505, Employee Classification Plan, to revise the Police Lieutenant classification specification; and amendment to Resolution No. 10130, The City Officials, and the Management, Supervisory, and Professional Employee Group Compensation and**

Benefit Plan, to add the Police Lieutenant position, effective April 10, 2014.
RESOLUTION NO. 10187 Classification Plan
RESOLUTION NO. 10188 Benefit Plan

John Henneberry stated that based on his salary survey Human Resources Director Abe was paid too much. He questioned why the report was prepared by her assistant. He stated that the police are paid double what the public wants to pay them and that the City Council should vote no on this item.

Frankie Addiego requested an explanation of the salary range for the Police Lieutenant position.

Human Resources Director Abe stated that the Lieutenant position was a promotional opportunity for police department staff and a cost savings for the City because it had a lower salary range than the Commander position.

Council Member Freitas moved, Vice Mayor Apodaca seconded to, by resolution, amend Resolution No. 2505, Employee Classification Plan, to revise the Police Lieutenant classification specification; Amend Resolution No. 10130, the City Officials, and the Management, Supervisory, and Professional Employee Group Compensation and Benefit plan to add the Police Lieutenant position. The motion passed, 4 AYES, 1 ABSENT.

City Manager Becker noted for the record that Mr. Henneberry was making profane gestures from the audience.

F.5 Approval of the 2014 Alameda County Transportation Expenditure Plan and recommendation for the Alameda County Board of Supervisors to place a 30-year extension and augmentation of the existing transportation sales tax on the November 4, 2014 general election ballot.
RESOLUTION NO. 10189

Senior Civil Engineer Fajeau gave the staff report recommending approval.

Council Member Marshall moved, Vice Mayor Apodaca seconded to, by resolution, approve the 2014 Alameda County Transportation Expenditure Plan and recommend that the Alameda County Board of Supervisors place a 30-year extension and augmentation of the existing transportation sales tax on the November 4, 2014 general election ballot. The motion passed, 4 AYES, 1 ABSENT.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION**I. CITY COUNCIL MATTERS****I.1 Approve changing the Newark City Council – Board of Education Joint Task Force on Youth Issues into the Newark City Council – Newark Board of Education Liaison Committee and appointing two members. RESOLUTION NO. 10190**

City Manager Becker stated that the Newark City Council – Board of Education Joint Task Force on Youth Issues recommended the name change. Renaming and repurposing the Committee would allow them to address all issues of mutual concern between the two agencies. The Committee would include the same two-member representation from the City Council and the Board of Education. The City Manager and School Superintendent would continue as ex-officio members.

Vice Mayor Apodaca thanked Recreation and Community Services Director Zehnder for his work on the Task Force.

Vice Mayor Apodaca moved, Council Member Marshall seconded to, by resolution, approve changing the Newark City Council – Board of Education Joint Task Force on Youth Issues into the Newark City Council – Newark Board of Education Liaison Committee and appoint two members to the Committee. The motion passed, 4 AYES, 1 ABSENT.

I.2 Approval of appointment of Jeffrey J. Lucia to the Community Development Advisory Committee and acceptance of resignation from Tanya Mendoza. RESOLUTION NO. 10191 MOTION APPROVED

Mayor Nagy recommended the appointment of Jeffrey J. Lucia and acceptance of the resignation from Tanya Mendoza to the Community Development Advisory Committee.

Council Member Freitas moved, Council Member Marshall seconded to, by resolution, appoint Jeffrey J. Lucia to the Community Development Advisory Committee and; by motion, accept the resignation of Tanya Mendoza. The motion passed, 4 AYES, 1 ABSENT.

I.3 Appointment of Sandra Marie Arellano to the Senior Citizen Standing Advisory Committee. RESOLUTION NO. 10192

Mayor Nagy recommended the appointment of Sandra Marie Arellano to the Senior Citizen Standing Advisory Committee. He stated that that applications for the remaining vacancy will be accepted until the position is filled.

Council Member Marshall moved, Vice Mayor Apodaca seconded to, by resolution, approve the appointment of Sandra Marie Arellano to the Senior Citizen Standing Advisory Committee. The motion passed, 4 AYES, 1 ABSENT.

I.4 Mayor Nagy invited the community to attend Family Day in the Park on April 12 beginning at 9 a.m. at Community Park.

I.5 Mayor Nagy announced that he would adjourn the City Council meeting in memory of Nance Trutner-Mummert.

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

K. ORAL COMMUNICATIONS

K.1 Wynn Greich stated it was good to share ideas from other cities. She invited the public to attend the “Stop Spraying Us” protest at the San Francisco Environmental Protection Agency office on April 16. She stated the EPA needs to test for airborne toxics. She shared internet addresses to view videos for: 1) a girl who spoke to the United Nations on saving the planet, 2) a moratorium on fracking, and 3) the dangers associated with cellphones.

K.2 John Henneberry shared his thoughts on Council Member Marshall, Officer Neithercutt, city salaries, the city manager’s schedule, the Newark Betterment Corporation, the 2011 Comprehensive Annual Financial Report, Measure U, the fiscal emergency and recent City Council actions.

L. APPROPRIATIONS

City Clerk Harrington read the Register of Audited Demands: Check numbers 101025 to 101168.

Council Member Freitas moved, Vice Mayor Apodaca seconded, to approve the Register of Audited Demands. The motion passed, 4 AYES, 1 ABSENT.

M. CLOSED SESSION

N. ADJOURNMENT

At 8:32 p.m. Mayor Nagy adjourned the City Council meeting in memory of Nance Trutner-Mummert.

C.1 Proclaiming May 2014 as Older Americans Month in Newark. (PROCLAMATION)

Background/Discussion – May is Older Americans Month. A proclamation has been prepared and members of the Newark Senior Citizen Standing Advisory Committee will accept the proclamation at the City Council meeting.

C.2 Proclaiming May as Water Aquatics Safety Month in Newark. (PROCLAMATION)

Background/Discussion – In recognition of the popularity of swimming and other water-related recreational activities in the United States, and the resulting need for ongoing public education on safer water practices, including swim lessons, the buddy system, parental supervision, following the posted rules, and always being “water aware,” the month of May 2014 has been designated as National Water Safety Month.

A member of the Recreation and Community Services staff will be at the meeting to accept the proclamation.

**C.3 Proclaiming May 9 - 18, 2014, as Affordable Housing Week in Newark.
(PROCLAMATION)**

Background/Discussion – May 9-18, 2014, has been designated Affordable Housing Week in Newark. A proclamation has been prepared and a representative from the East Bay Housing Organizations will be at the meeting to accept it.

C.4 Proclaiming May 1, 2014, as National Day of Prayer in Newark. (PROCLAMATION)

Background/Discussion – May 1, 2014, has been designated as National Day of Prayer in Newark. A member of the religious community will be at the meeting to accept the proclamation.

**C.5 Presentation on Measure AA the Alameda County Healthcare Services Tax
Healthcare Safety Net Reauthorization on the June 3, 2014 ballot.**

(PRESENTATION)

Background/Discussion – In 2004, county voters approved Measure A, the essential health care services tax ordinance. Measure A authorized Alameda County to impose a half-cent sales and use tax to “provide for additional financial support for emergency medical, hospital inpatient, outpatient, public health, mental health and substance abuse services to indigent, low-income, and uninsured adults, children, families, seniors and other residents of Alameda County.” The Alameda County Board of Supervisors has placed Measure AA on the June 3, 2014 ballot to maintain the half-cent sales tax with an extension of 15 more years upon the expiration of the current measure. A member of the Committee for a Healthy Alameda County will provide a presentation at the City Council meeting. A formal action may be considered by the City Council at a future meeting.