



# 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, March 27, 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](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, March 27, 2014

- A. ROLL CALL
  
- B. MINUTES
  - B.1 Approval of Minutes of the regular City Council meeting of Thursday, March 13, 2014. (MOTION)
  
- C. PRESENTATIONS AND PROCLAMATIONS
  - C.1 Presentation by the Alameda County Transportation Commission regarding the 2014 Transportation Expenditure Plan. (PRESENTATION)
  
- D. WRITTEN COMMUNICATIONS
  
- E. PUBLIC HEARINGS
  - E.1 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 17.44.010, "Zoning Map" by rezoning all that real property shown on Vesting Tentative Map 8098 from ML (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 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 – from Assistant City Manager Grindall.

(RESOLUTIONS- 5)(INTRODUCTION OF ORDINANCE)(MOTIONS-2)

- E.2** 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 – from Assistant City Manager Grindall.

(RESOLUTIONS- 4)(INTRODUCTION OF ORDINANCE) (MOTIONS-2)

## **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** Acceptance of work with Marina Landscape, Inc. for Lakeshore Park Irrigation Renovation, Project 753 – from Senior Civil Engineer Fajeau.  
(RESOLUTION)
- F.2** Approval of plans and specifications for the 2014 Weed Abatement Program, and award the contract to JJ Landscape Management, Inc. – from Maintenance Supervisor Carey. (MOTION) (RESOLUTION)

- F.3 Accepting the bid of Group Mobile for the purchase of five Panasonic Toughbooks to replace the public safety mobile data computers, Project No. ERB0114 – from Information Systems Manager Towne. (RESOLUTION)**

**NONCONSENT**

- F.4 Resolution approving an Economic Incentive Agreement with NewPark Mall, LP, confirming the non-applicability of the California Environmental Quality Act, and authorizing the Mayor to sign the Agreement. – from Assistant City Manager Grindall. (RESOLUTION)**

**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**

**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.



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City Administration Building  
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## Minutes

Thursday, March 13, 2014

### A. ROLL CALL

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

### B. MINUTES

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

Council Member Freitas moved, Council Member Collazo seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 5 AYES.

### C. PRESENTATIONS AND PROCLAMATIONS

#### C.1 Proclaiming March 13, 2014, as Arbor Day in Newark.

Mayor Nagy presented the proclamation to Maintenance Supervisor Sue Carey.

#### C.2 Presentation by the Farmers and Farmerettes Square Dance Club.

Don Baker and members of the Farmers and Farmerettes Square Dance Club presented contributions to the Newark Betterment Corporation for Meals on Wheels, the K-9 program, and Graffiti Abatement.

### D. WRITTEN COMMUNICATIONS

### E. PUBLIC HEARINGS

### F. CITY MANAGER REPORTS – No Consent Calendar items.

NONCONSENT

**F.1 Authorization for the Mayor to sign an agreement with Godbe Research to provide consultant services for public opinion sampling and evaluation of possible public support for an extension of the existing City of Newark Utility User Tax.**

**RESOLUTION NO. 10177  
CONTRACT NO. 14005**

City Manager Becker stated that the Utility User Tax makes up 9 percent of the operating budget. Significant operating budget deficits were projected following the expiration of the Utility User Tax in 2015.

City Manager Becker recommended hiring Godbe Research for a public opinion poll to evaluate possible public support for an extension of the Utility User Tax to address the projected operating budget deficits.

John Bradley stated that he read the contract and it appeared to allow for additional expenses. He asked if there would be further City Council review and public comment for additional costs.

City Manager Becker stated that the contract was for a not to exceed amount of \$22,575 and there would not be additional costs.

Margaret Lewis stated that in the past auditors have been critical of the City. She referenced the February 13 City Council meeting noting that Property, Sales and Transient Occupancy Taxes have grown and reduced the need for the UUT. She suggested going to neighborhoods talk to people instead of hiring the consultant.

John Henneberry requested that the City Council not hire the consultant nor extend the Utility Users Tax.

Wynn Greich stated that the UUT was meant to be a temporary tax and should end. She spoke against hiring the consultant. She referenced the employee pay cuts in the City of Hayward and suggested the same action in Newark.

City Manager Becker stated that since the UUT passed, there have been zero findings in the audits. He noted that city staff has gone without salary increases for six years.

Council Member Marshall moved, Council Member Collazo seconded to, by resolution, authorize the Mayor to sign an agreement with Godbe Research for consultant services for public opinion sampling and evaluation of possible public support for the extension of the existing City of Newark Utility User Tax. The motion passed, 5 AYES.

**G. CITY ATTORNEY REPORTS**

**H. ECONOMIC DEVELOPMENT CORPORATION****I. CITY COUNCIL MATTERS****I.1 Reappointment of Carol McCarty to the Tri-City Elder Coalition Volunteer Community Board. RESOLUTION NO. 10178**

Mayor Nagy recommended the reappointment of Carol McCarty to the Tri-City Elder Coalition Volunteer Community Board for a two year term.

Council Member Freitas moved, Vice Mayor Apodaca seconded to by resolution, reappoint Carol McCarty to the Tri-City Elder Coalition Volunteer Community Board. The motion passed, 5 AYES.

**I.2 Reappointments to the Senior Citizen Standing Advisory Committee and declaration of vacancies. RESOLUTION NO. 10179 MOTION APPROVED**

Mayor Nagy stated that the terms of Senior Citizen Standing Advisory Committee Members Mel Nunes, Carol Hewitt, Faye Hall, Carol McCarty, Elwood Ballard, and Rick Arellano will expire on April 14, 2014. He recommended reappointing Committee Members Hall, McCarty, Ballard, and Arellano. Committee Members Nunes and Hewitt are not seeking reappointment and he recommended directing the City Clerk to post a vacancy notice.

Vice Mayor Apodaca moved, Council Member Marshall seconded to, by resolution, approve the reappointment of Faye Hall, Carol McCarty, Elwood Ballard, and Rick Arellano to the Senior Citizen Standing Advisory Committee, for a term to expire on April 14, 2016 and by motion declare vacancies on the Senior Citizen Standing Advisory Committee and direct the City Clerk to post a vacancy notice. The motion passed, 5 AYES.

**J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY****K. ORAL COMMUNICATIONS**

**K.1** Frankie Addiego requested pictures or stories for the book that he is writing on Newark.

**K.2** Wynn Greich invited the public to attend the March against Fluoride in San Francisco on March 22. She noted that the Alameda County Water District was considering a water shortage ordinance. She provided a document from the City of East Palo Alto on

conduct at City Council meetings. She stated that people who act like Mr. Henneberry get thrown out of those meetings.

- K.3** Margaret Lewis stated that the audit findings she referenced earlier in the meeting was on a State website. She shared her memory of the budget reduction impacts on the parks before the Utility User Tax and the public response.
- K.4** John Henneberry called Mayor Nagy an idiot and stated that there was nothing honorable about him. Mr. Henneberry shared his thoughts on the library, city salaries, the city manager's work schedule, the Newark Betterment Corporation, City Council Member Marshall, and Officer Neithercutt.
- K.5** Tim Jones stated that outbursts and insults from the audience were counterproductive. He stated people should be removed from the chambers when they were disruptive to the meeting. He spoke in support of the Newark Betterment Corporation.

**L. APPROPRIATIONS**

City Clerk Harrington read the Register of Audited Demands: Check numbers 100793 to 100899.

Council Member Freitas moved, Council Member Collazo seconded, to approve the Register of Audited Demands. The motion passed, 5 AYES.

**M. CLOSED SESSION**

**N. ADJOURNMENT**

At 8:25 p.m. Mayor Nagy adjourned the City Council meeting.

**C.1 Presentation by the Alameda County Transportation Commission regarding the 2014 Transportation Expenditure Plan. (PRESENTATION)**

**Background/Discussion** – The Alameda County Transportation Commission (Alameda CTC) will provide a presentation regarding the 2014 Alameda County Transportation Expenditure Plan. The Transportation Expenditure Plan (TEP) supports a potential November 4, 2014 ballot measure that would augment and extend the existing half-cent sales tax for transportation in Alameda County, for a 30-year term to fund the transportation programs and projects described in the 2014 Plan. The Alameda CTC is seeking the support of all local jurisdictions for the TEP and the ballot measure. A formal action may be considered by the City Council at a future meeting.