CITY OF NEWARK
CITY COUNCIL

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

AGENDA

Thursday, May 8, 2014

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

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
B. MINUTES
C. PRESENTATIONS AND PROCLAMATIONS
D. WRITTEN COMMUNICATIONS
E. PUBLIC HEARINGS
F. CITY MANAGER REPORTS
G. CITY ATTORNEY REPORTS
H. ECONOMIC DEVELOPMENT CORPORATION
I. COUNCIL MATTERS
J. SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY
K. ORAL COMMUNICATIONS
L. APPROPRIATIONS
M. CLOSED SESSION
N. ADJOURNMENT

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.

City Council meetings are cablecast live on government access channel 26 and streamed at http://newarkca.pegsteam.com. Agendas are posted pursuant to Government Code Section 54954.2. Supporting materials are available at the Newark Library, in the City Clerk's office or at www.newark.org on the Monday preceding the meeting. For those persons requiring hearing assistance, or other special accommodations, please contact the City Clerk two days prior to the meeting.

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AGENDA

Thursday, May 8, 2014

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

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the regular City Council meeting of Thursday, April 24, 2014. (MOTION)

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

C.2 Proclaiming May 18-24, 2014, as National Public Works Week in Newark. (PROCLAMATION)

C.3 Proclaiming May 18-24, 2014, as National Emergency Medical Services Week in Newark. (PROCLAMATION)

C.4 Proclaiming May 18-24, 2014, as National Police Week in Newark. (PROCLAMATION)

C.5 Presentation by Assembymember Bob Wieckowski on the "State of the State." (PRESENTATION)

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

E.1 Hearing to consider P-14-2, a planned unit development, U-14-3, a conditional use permit, and E-14-4, an environmental determination, for a one-day carnival to be held on August 9, 2014 at NewPark Mall (APN 901-0111-025) in conjunction with the Halal Food & Eid Festival; and authorization to waive the application fee – from Assistant City Manager Grindall. (MOTIONS-2)

E.2 **Hearing to consider the development of approximately 217 residential units (Trumark Homes) on an approximately 21.4 acre project site (Jones Hamilton property) located on the south side of Enterprise Drive east of Willow Street: (1) Resolution making certain findings and adopting the Supplemental Environmental Impact Report to the Environmental Impact Report 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) Resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and authorizing the mayor to sign the Affordable Housing Implementation Agreement; (4) Resolution authorizing the Mayor to sign a Community Financing Agreement with Newark Enterprise Joint Venture, LLC; (5) Resolution authorizing the Mayor to sign a Park Agreement with Newark Enterprise Joint Venture, LLC; (6) Resolution approving TM-12-32, Vesting Tentative Map 8098; (7) By Motion, approving an Architectural and Site Plan Review; and (8) By motion, approving the Schedule of Impact Fees – from Assistant City Manager Grindall. (RESOLUTIONS- 5) (INTRODUCTION OF ORDINANCE) (MOTIONS-2)**

E.3 **Hearing to consider the development of approximately 27 residential units (Trumark Homes) on an approximately 2.14-acre project site (Enterprise Property) located on the north side of Enterprise Drive east of Willow Street: (1) Resolution making certain findings and adopting a Supplemental Environmental Impact Report to the Environmental Impact Report 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 ML (Limited Industrial) to MDR-FBC (Medium Density Residential – Form Based Codes); (3) Resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and approving the Affordable Housing Implementation Agreement; (4) Resolution approving Vesting Tentative Map 8110; (5) Resolution authorizing the Mayor to sign a Community Financing Agreement with Enterprise Joint Venture, LLC; (6) By motion, approving an Architectural and Site Plan Review; and (7) By motion, approving the 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.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 Accepting the bid of Cyber Computers Inc. for the purchase of two Hewlett-Packard DL160 Servers for Public Works Department's CRW Trakit permitting software system, Project No. CIP1043 – from Information Systems Manager Towne. (RESOLUTION)

F.2 Acceptance of work with Rosas Brothers Construction for 2013 Curb, Gutter and Sidewalk Replacement, Project 1042 – from Senior Civil Engineer Fajeau. (RESOLUTION)

F.3 Acceptance of work with VSS International, Inc. for 2013 Street Microsurfacing Program, Project 1041 – from Associate Civil Engineer Tran. (RESOLUTION)

F.4 Second reading and adoption of an ordinance amending Title 17 (Zoning) of the Newark Municipal Code 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) – from City Clerk Harrington. (ORDINANCE)

F.5 Endorsement of Measure AA the Alameda County Healthcare Services Tax on the June 3, 2014 ballot – from City Clerk Harrington. (RESOLUTION)

F.6 Approval of an agreement for participation in the Alameda County Operational Area Emergency Management Organization – from City Manager Becker. (RESOLUTION)

NONCONSENT

F.7 Direction to file Annual Reports and intention to order improvements for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7 and 10 and setting date of public hearing – from Senior Civil Engineer Fajeau. (RESOLUTIONS-2)

F.8 Direction to file Annual Reports and intention to order improvements for Landscaping and Lighting District Nos. 11, 13, 15, 16, and 17 and setting date of public hearing – from Senior Civil Engineer Fajeau. (RESOLUTIONS-2)

F.9 Presentation by Godbe Research on the results of public opinion sampling and evaluation of possible public support for an extension of the existing City of Newark Utility User Tax – from City Manager Becker. (MOTION)

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, 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 24, 2014

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

A. ROLL CALL

Mayor Nagy called the meeting to order at 7:33 p.m. Present were Council Members Collazo, Freitas, and Marshall. Vice Mayor Apodaca was noted absent.

B. MINUTES

B.1 Approval of Minutes of the regular City Council meeting of Thursday, April 10, 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 (Collazo), 1 ABSENT (Apodaca).

C. PRESENTATIONS AND PROCLAMATIONS

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

Mayor Nagy announced that he would present the Nation Day of Prayer Proclamation first. Mayor Nagy presented the proclamation to Deacon Wedl from St. Edward Catholic Church.

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

Mayor Nagy presented the proclamation to members of the Newark Senior Citizen Standing Advisory Committee.

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

Mayor Nagy presented the proclamation to Senior Recreation Supervisor Beireis.

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

Mayor Nagy presented the proclamation to Florinda Cleto and the residents of Newark Gardens.

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

Kuwaza Imari, stated that in 2004, county voters approved Measure A, a half-cent sales and use tax to provide for additional financial support for healthcare services. 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.

City Manager Becker stated that a resolution would be placed on the next agenda for the City Council to consider endorsing the Measure.

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.

RESOLUTION NO. 10193 to 10196
CONTRACT NO. 14008 to 14009
ORDINANCE INTRODUCED
MOTION APPROVED

Assistant City Manager Grindall gave the staff report recommending approval. This project fulfills the grocery store and senior housing requirement from the Torian project. The senior housing project would be completed in lieu of the inclusionary housing requirement. He stated that there were no significant environmental impacts associated with the project and that the soils would be cleaned up to residential standards. He noted that the resolution approving the vesting tentative map was amended with minor edits.

Mayor Nagy opened the public hearing at 7:54 p.m.

Mark Butler, Integral Communities, LLC, said that he read the recommended actions and agreed to the conditions.

Frankie Addiego stated that he wanted to acknowledge, for the record, comments made by the public at previous meetings regarding hazardous soils.

Mayor Nagy closed the public hearing at 8:02 p.m.

Council Member Freitas moved, Council Member Collazo seconded to:

1) Adopt Resolution No. 10193 making certain findings and adopting an Initial Study and Mitigated Negative Declaration for 88 Townhomes, 75 Affordable Housing Units, and a 15,000 square foot commercial building within the Dumbarton Transit Oriented Development Specific Plan;

2) Introduce an ordinance amending Title 17 (Zoning) of the Newark Municipal Code being the City of Newark Zoning ordinance by changing the zoning of a specified area in the City of Newark;

3) Adopt Resolution No. 10194 approving an alternative means of compliance with the Inclusionary Housing Ordinance for the SHH Project; making findings related to the use of an Alternative Means of Compliance and authorize the Mayor to sign the Affordable Housing Obligation Satisfaction Implementation Agreement;

4) Adopt Resolution No. 10195 approving Vesting Tentative Map 8157, with the amendments as provided by Assistant City Manager Grindall;

5) Adopt Resolution No. 10196 authorizing the Mayor to sign a Community Financing Agreement with SHH Project Owner, LLC;

6) Approve, by motion, ASR-13-23, an Architectural and Site Plan Review, with Exhibit A, pages 1 through 31.

The motion passed, 4 AYES, 1 ABSENT.

F. CITY MANAGER REPORTS

Council Member Collazo moved, Council Member Marshall seconded, to approve Consent Calendar Items F.1 through F.6, that the resolutions and ordinance be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions and ordinance. The motion passed, 4 AYES, 1 ABSENT.

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. MOTION APPROVED

F.2 Adoption of the 2014-2019 Five-Year Forecast. RESOLUTION NO. 10197

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. ORDINANCE NO. 473

F.4 Adopting a Compensation Plan for certain positions in the Exempt Service Employee Group and revoking previously adopted plans. RESOLUTION NO. 10198

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. RESOLUTION NO. 10199 CONTRACT NO. 13022

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. RESOLUTION NO. 10200 CONTRACT NO. 14010

NONCONSENT

F.7 Review of the Draft 2014-2015 and 2015-16 Capital Improvement Plan. INFORMATIONAL ONLY

Senior Civil Engineer Fajeau outlined the draft Capital Improvement Plan. He stated that the final Capital Improvement Plan would be scheduled for a City Council meeting in June.

Mayor Nagy directed staff to include the dates when projects were added to the Capital Improvement Plan.

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. RESOLUTION NO. 10201 CONTRACT NO. 14011

City Manager Becker stated that the cities of Newark and Union City contract with the Alameda County Fire Department (ACFD) for fire and emergency response services. The service has been excellent; however both Cities are concerned with their lack of control over the costs of their contracts and the medical benefit given to the employee and their families upon retirement after a minimum of five years of service. Former Newark Fire Department employees will qualify for the retiree medical benefit when they pass their fifth anniversary on May 1, 2015. The medical benefit is fully paid by ACFD with no financial contributions made by active employees or retirees.

City Manager Becker recommended contracting with Citygate Associates, LLC (Citygate) to perform a Fire Services Alternatives Study. Several options will be evaluated including: 1)Remaining with ACFD; 2)Forming a new, joint fire department 3)Forming a new Joint Powers Agency, Fire Services District, or similar entity; and 4)Contracting for fire services from another entity.

ACFD Chief Rocha stated that ACFD will work with Citygate Associates LLC on this study.

Council Member Marshall requested that staff look into private provider options for fire services.

Council Member Freitas moved, Council Member Marshall seconded to, by resolution, authorize 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. The motion passed, 4 AYES, 1 ABSENT.

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 . **MOTION APPROVED RESOLUTION NO. 10202**

Mayor Nagy recommended that the City Council approve a meeting recess in August and authorize the City Manager, or his designee, to approve administrative matters in August.

Council Member Marshall moved, Council Member Collazo seconded to, by motion, approve a City Council summer meeting recess during the month of August 2014 and, by resolution, authorize the City Manager, or his designee, to take action on certain administrative matters on behalf of the City of Newark during the recess. The motion passed, 4 AYES, 1 ABSENT.

I.2 The entire City Council extended their good wishes and prayers to Vice Mayor Apodaca's family.

I.3 Council Member Collazo encouraged the public to honor the seniors in the community.

I.4 Council Member Freitas congratulated the Mayor on the State of the City speech. He also thanked staff for their work on the Lakeshore Park Pathway project.

I.5 Council Member Marshall thanked Senior Civil Engineer Fajeau for his work on the Capital Improvement Plan.

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

K. ORAL COMMUNICATIONS

No one came forward to speak.

L. APPROPRIATIONS

City Clerk Harrington read the Register of Audited Demands: Check numbers 101169 to 101302.

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

M. CLOSED SESSION

N. ADJOURNMENT

Mayor Nagy adjourned the meeting at 8:36 p.m.

C.1 Introduction of employees.

Background/Discussion – Recently hired General Laborer Brandon Gordon and recently promoted Building Mechanic I Jose Rodriguez will be at the meeting to be introduced to the City Council.

C.2 Proclaiming May 18-24, 2014, as National Public Works Week in Newark. (PROCLAMATION)

Background/Discussion – May 18-24, 2014, has been designated National Public Works Week in Newark. A member of the Public Works Department will be at the meeting to accept the proclamation.

C.3 Proclaiming May 18-24, 2014, as National Emergency Medical Services Week in Newark. (PROCLAMATION)

Background/Discussion – May 18-24, 2014, has been designated National Emergency Medical Services Week in Newark. A member of the Alameda County Fire Department will be at the meeting to accept the proclamation.

C.4 Proclaiming May 18-24, 2014, as National Police Week in Newark.

(PROCLAMATION)

Background/Discussion – May 18-24, 2014, has been designated National Police Week in Newark. A member of the Police Department will be at the meeting to accept the proclamation.

C.5 Presentation by Assembymember Bob Wieckowski on the "State of the State." (PRESENTATION)

Background/Discussion – Assemblymember Bob Wieckowski will give a presentation on the current "State of the State" and how recent laws and the budget affect cities.

E.1 Hearing to consider P-14-2, a planned unit development, U-14-3, a conditional use permit, and E-14-4, an environmental determination, for a one-day carnival to be held on August 9, 2014 at NewPark Mall (APN 901-0111-025) in conjunction with the Halal Food & Eid Festival; and authorization to waive the application fee – from Assistant City Manager Grindall. (MOTIONS-2)

Background/Discussion – Mr. Irfan Rydhan has made an application for a carnival during the Halal Food & Eid Festival planned for August 9, 2014. This will be the Second Halal Food & Eid Festival at NewPark Mall and will include a wide variety of different cuisine from around the world including Indian, Pakistani, Middle Eastern, Arab, Mediterranean, African as well as American. There will also be a large bazaar featuring vendors selling a wide variety of items such as clothing, jewelry, gifts, toys and artwork from around the world. There will also be carnival rides and games for children and families. The Festival will be located in the same general area where the Farmers Market is held every weekend. The applicant, a nonprofit organization, has also requested a fee waiver.

Events like circuses and carnivals are not considered permitted uses in this Regional Commercial zoning district, so they require Planning Commission and City Council approval. As these events can attract large crowds, this process allows conditions of approval to be established in order to assure a safe and orderly event.

The proposed project is categorically exempt from the California Environmental Quality Act per section 15304, Class 4(e), minor temporary use of land having negligible or no permanent effect on the environment.

Attachment

Update – At its meeting of April 22, 2014, the Planning Commission approved Resolution No. 1866 with Exhibit A, for P-14-2, a planned unit development, U-14-3, a conditional use permit, and E-14-4, an environmental determination, for a one-day carnival to be held on August 9, 2014 at NewPark Mall (APN 901-0111-025) in conjunction with the Halal Food & Eid Festival.

Action – It is recommended that the City Council, by motions: (1) approve Resolution No. 1866, with Exhibit A, for P-14-2, a planned unit development, U-14-3, a conditional use permit, and E-14-4, an environmental determination, for a one-day carnival to be held on August 9, 2014 at NewPark Mall (APN 901-011-025) in conjunction with the Halal Festival; and (2) authorize a waiver of the application fee.

RESOLUTION NO. 1866

RESOLUTION APPROVING P-14-2, A PLANNED UNIT DEVELOPMENT, U-14-3, A CONDITIONAL USE PERMIT, AND E-14-4, AN ENVIRONMENTAL DETERMINATION, FOR A ONE-DAY CARNIVAL TO BE HELD ON AUGUST 9, 2014 AT NEWPARK MALL IN CONJUNCTION WITH THE HALAL FOOD & EID FESTIVAL

WHEREAS, Mr. Irfan Rydhan has filed with the Planning Commission of the City of Newark application for P-14-2, a planned unit development, U-14-3, a conditional use permit, and E-14-4, an environmental determination, for a one-day carnival to be held on August 9, 2014 at NewPark Mall in conjunction with the Halal Food & Eid Festival; and

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in The Argus on April 11, 2014, and mailed as required, and the Planning Commission held a public hearing on said application at 7:00 p.m. on April 22, 2014, at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council grant this application as shown on Exhibit A, subject to compliance with the following conditions:

a. This approval shall be for one day, August 9, 2014, between the hours of 12:00 p.m. (noon) and 8:00 p.m., with a reasonable amount of time for set-up prior to opening and for clean-up after closing, as determined by the Community Development Director.

b. The volume levels of all sound equipment and speakers associated with this project shall not exceed levels determined to be acceptable by the Community Development Director.

c. All lighting shall be directed on-site so as not to create glare off-site.

d. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 11:00 p.m. and 7:00 a.m.

e. Garbage and recycling pick-up shall be coordinated with Republic, Inc. so that a sufficient number of dumpsters are available on-site and picked-up to ensure no refuse, garbage or recycling is stored outdoors except within the approved trash and recycling dumpsters. Prior to the issuance of a permit, the developer shall submit written evidence of Republic, Inc. approval.

f. The site and its improvements shall be maintained in a neat and presentable condition, to the satisfaction of the Community Development Director. This shall include, but not be limited to, repainting surfaces damaged by graffiti and site clean-up. Graffiti

removal/repainting and site clean-up shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site during construction shall remain graffiti free.

g. Within 24 hours of the conclusion of the final performance on August 9, 2014, all structures and improvements brought to the subject site associated with this project shall be removed and the NewPark Mall parking lot returned to its original, pre-carnival condition, to the satisfaction of the Community Development Director.

h. The event staff shall direct patrons to park their vehicles in the NewPark Mall parking lot.

i. The event staff shall submit evidence of approval from the County Health Department for the proposed food and beverage sales. There shall be no alcoholic beverage sales.

Engineering Division

j. The event staff shall implement all applicable Best Management Practices (BMPs) from the California Best Management Practice Handbook for Construction Activities to prevent the pollution or contamination of stormwater runoff from the project area. Additional BMPs may be required by the City Engineer, as necessary, to minimize the pollution of stormwater runoff from the project area. The following notes shall be added to the final plans:

-Any stockpiled materials with the potential to pollute stormwater runoff shall be properly contained and covered to prevent any such pollution.

-The parking lot and drive aisles shall be cleaned daily or as required by the City Engineer to remove accumulated trash and debris generated from the project area. Migration of trash and debris into the public right-of-way is prohibited and will be strictly enforced.

-Water-tight waste receptacles shall be placed around the site as necessary to minimize litter, to the satisfaction of the City Engineer.

-Any liquid spills associated with the proposed project must be cleaned immediately and prevented from entering the storm drain system.

-Temporary sanitary facilities shall be managed and maintained at all times, placed away from drainage facilities and traffic circulation, and secured to prevent overturning.

-Tallow bins appropriately sized to collect used cooking oil from the cooking area must be provided and disposed of by a licensed grease hauler. Used cooking oil is prohibited in any storm drain.

-Food truck grey water or liquid waste shall be prohibited from being discharged to the on-site storm drain system. All grey water or liquid waste shall be off-

hauled to a licensed facility that accepts the waste or discharged to the sanitary sewer system, subject to approval by Union Sanitary District.

-All applicable Best Management Practices from the California Stormwater Quality Best Management Practices Handbook for Construction Activities shall be implemented, as necessary, to minimize stormwater pollution to the satisfaction of the City Engineer.

Alameda County Fire Department

k. Prior to the event, the applicant shall obtain a "Carnival and Fairs" permit from the Alameda County Fire Department.

General

n. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The developer shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval.

o. If any condition of this conditional use permit and a planned unit development be declared invalid or unenforceable by a court of competent jurisdiction, this conditional use permit and a planned unit development shall terminate and be of no force and effect, at the election of the City Council on motion.

p. This conditional use permit and a planned unit development shall be given a public hearing before the City Council for the Council's review and approval.

q. Prior to the submittal for tent permit review, all conditional use permit and a planned unit development conditions of approval of this project, as approved by the City Council, shall be printed on the plans.

r. The developer hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.

s. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other

exactions. The developer is hereby further notified that the 90-day approval period in which the developer may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the developer will be legally barred from later challenging such exactions.

t. The Applicant shall provide six portable restrooms onsite during this event.

The Commission makes the findings prescribed in Newark Municipal Code Sections 17.40.050 and 17.72.070, and directs a Notice of Decision be mailed to the applicant and filed with the City Clerk who shall present said Notice to the City Council pursuant to Newark Municipal Code Section 17.72.080.

This Resolution was introduced at the Planning Commission's April 22, 2014 meeting by Commissioner Bridges, seconded by Vice-Chairperson Hannon, and passed as follows:

AYES: Aguilar, Bridges, Hannon, Nillo and Otterstetter.

NOES: None.

ABSENT: Drews and Fitts.

s/Terrence Grindall
TERRENCE GRINDALL, Secretary

s/Bernie Nillo
BERNIE NILLO, Chairperson

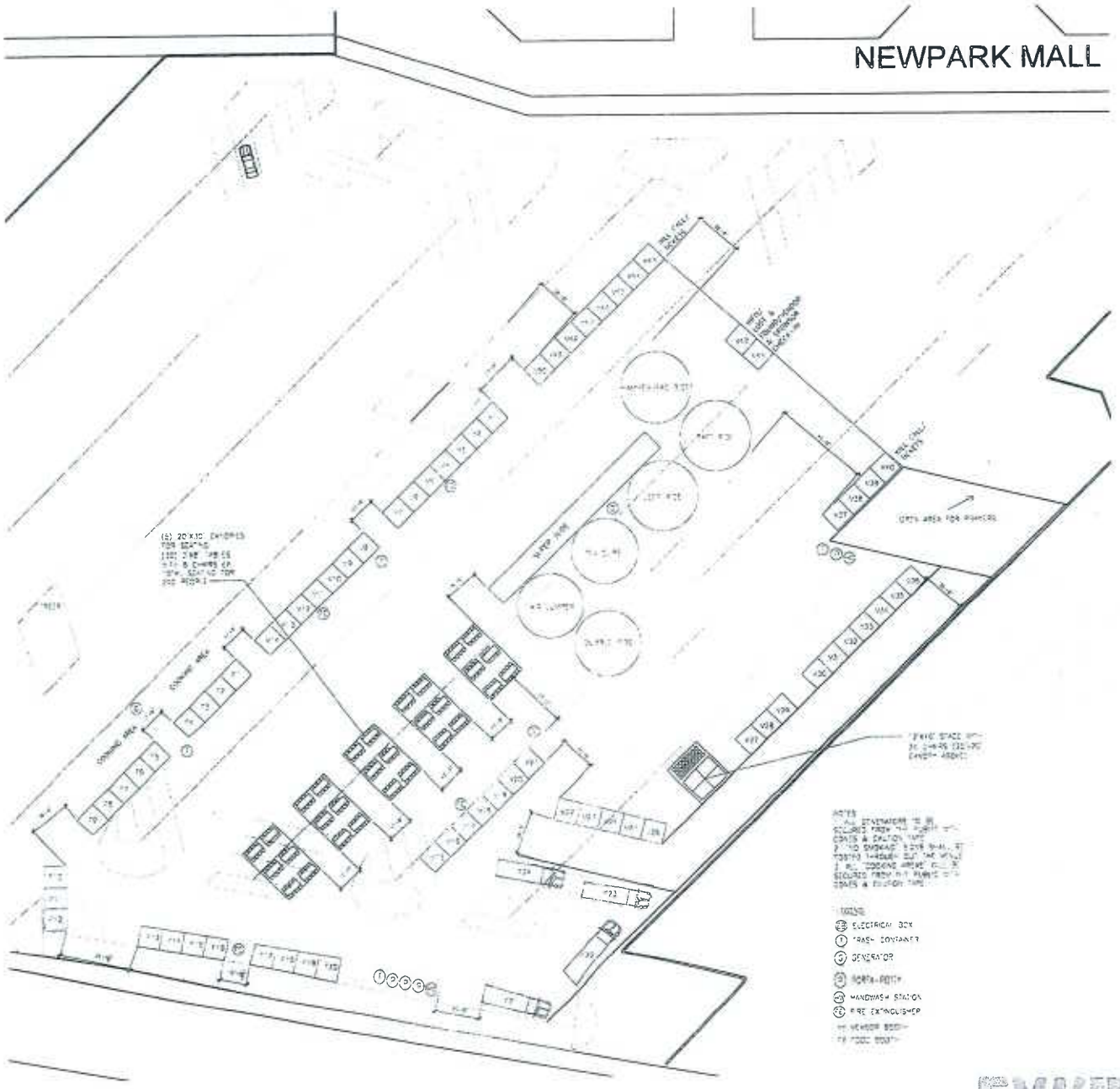

EXHIBIT A