



# 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

## Minutes

Thursday, March 27, 2014

### A. ROLL CALL

Mayor Nagy called the meeting to order at 7:30 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, March 13, 2014.

Council Member Freitas moved, Council Member Marshall seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 4 AYES, 1 ABSENT.

### C. PRESENTATIONS AND PROCLAMATIONS

#### C.1 Presentation by the Alameda County Transportation Commission regarding the 2014 Transportation Expenditure Plan.

Executive Director Arthur L. Dao introduced Deputy Director of Planning and Policy Tess Lengyel of the Alameda County Transportation Commission who made a presentation on the 2014 Alameda County Transportation Expenditure Plan. The Transportation Expenditure Plan supports a potential November 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 City Council directed staff to place this on a future agenda.

### D. WRITTEN COMMUNICATIONS

### E. PUBLIC HEARINGS

City Manager Becker stated that a 19 page letter, from the law firm representing the adjacent property owner, was delivered in the afternoon regarding public hearings E.1 and E.2. He recommended that the City Council open the public hearings concurrently, take public comment, and then continue public hearings E.1 and E.2 to the April 10<sup>th</sup> meeting to allow city staff time to review the details of the letter.

The City Council concurred with City Manager Becker's request.

Mayor Nagy opened the public hearings for E.1 and E.2 concurrently.

Gregory Trimarche, Stoel Rives LLP stated that he submitted the 19 page letter and thanked the City Council for continuing the matter.

Wynn Grcich stated that building on toxic land was a concern for everyone. She stated that the City belonged to ICLEI, which would prevent people from being able to sue the City from building on toxic land. She stated there would be health issues after the homes were built.

Margaret Lewis questioned whether the site could be cleaned. She stated there were deed restrictions that prevented digging due to contamination at the site. She stated that Gallade Chemical was an important business in Newark and eminent domain was not right.

Gregg Scott asked where the water would come from for these homes when current residents were asked to reduce water usage. He stated that letters from the Regional Water Control Board doubted that the site could be cleaned up. He stated that he would like an epidemiology report prepared for the site.

Paul Rea stated his concern that soil transported out of the city might blow out. He through a more creative use of Eminent Domain would be to buy houses facing foreclosure and then selling them like the City of Richmond.

Dean Lewis stated 130,000 cubic yards of soil needed to be removed and questioned the process. He stated that the project should be located at Central and Sycamore with access to the railroad.

Wayne Miller stated he was concerned with the volatile compounds in the property. He did not think that it could be cleaned to residential standards. He stated that an inner city, walkable community should be developed.

John Henneberry stated that the project was not transit oriented development. He questioned who would want to buy or rent on toxic land. He thought the site was better suited for commercial use or open space. Gallade Chemicals is a valuable asset to the business community and eminent domain would discourage business development.

Council Member Freitas moved, Council member Collazo seconded to continue Public Hearings E.1 and E.2 to the April 10<sup>th</sup> City Council meeting. The motion passed, 4 AYES, 1 ABSENT.

**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.

- 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.

## **F. CITY MANAGER REPORTS**

Council Member Collazo moved, Council Member Marshall seconded, to approve Consent Calendar Items F.1 through F.3, 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 Acceptance of work with Marina Landscape, Inc. for Lakeshore Park Irrigation Renovation, Project 753. RESOLUTION NO. 10180**
- F.2 Approval of plans and specifications for the 2014 Weed Abatement Program, and award the contract to JJ Landscape Management, Inc. MOTION APPROVED RESOLUTION NO. 10181 CONTRACT NO. 14006**
- 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. RESOLUTION NO. 10182**

## 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. RESOLUTION NO. 10183 CONTRACT NO. 14007**

At 8:43 p.m. Mayor Nagy called a recess to allow staff to resolve the technical difficulties with the video equipment. Mayor Nagy called the meeting back to order at 8:48 p.m.

Assistant City Manager Grindall gave the staff report recommending approval.

Kevin Connell, Vice President of Development and Construction with Rouse properties outlined their vision to revitalize NewPark Mall. They proposed new restaurants, entertainment, retail, and a state of the art theatre. They planned to upgrade the amenities, create new entrance facades, and modernize the interior.

In response to Margaret Lewis, Assistant City Manager Grindall stated that the Greater NewPark Area Master Plan, focused on the surrounding parcels, would be ready this summer.

Margaret Lewis expressed her concern that the city was not looking at the mall and surrounding area as a whole.

John Henneberry requested that the City Council not approve this agreement. He stated that better ideas were needed and that he did not approve public subsidies for private development.

Frankie Addiego stated that the proposed movie theater was too close to existing movie theaters. He suggested focusing on the expansion of the mall and a wide variety of retail.

Tim Jones stated that the sales tax agreement will pay for the improvements. A vibrant mall will benefit the surrounding area.

Council Member Marshall moved, Council Member Freitas seconded to approve a resolution approving the Economic Incentive Agreement with NewPark LP, confirming the non-applicability of the California Environmental Quality Act, and authorizing the Mayor to sign the agreement. The motion passed, 4 AYES, 1 ABSENT.

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

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

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

- I.1** The entire City Council wished Vice Mayor Apodaca's father a speedy recovery.

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

#### **K. ORAL COMMUNICATIONS**

- K.1** Kathy Bray, stated that the League of Women Voters is sponsoring a Y VOTE Contest for all high school students living in the Tri-City area. Students compete by creating an original public service announcement encouraging young people to vote. Submissions are due on May 1st.

- K.2** Wynn Greich compared fluoride in water to untreated industrial waste. She stated that that the fluoridation of water needed to stop and she encouraged people to call United States Representative Jackie Speier's office.

- K.3** Brian Edwards invited the public to attend the Kids Club at Newark Mall on the third Thursday of each month beginning at 11 am.
- K.4** Frankie Addiego complimented Jolie Macias on organizing the fundraiser for the family of fallen Bart officer Tommy Smith.
- K.5** Margaret Lewis cited the February 13 City Council staff report on the budget amendment and questioned the need for the Utility Users Tax.

City Manager Becker stated that the City's budget was currently in good shape; however, when the UUT expires it would create a huge deficit in the budget. He offered to meet with Mrs. Lewis.

- K.6** John Henneberry shared his thoughts on City Council Member Marshall, Officer Neithercutt, city salaries, the city manager's schedule, the Newark Betterment Corporation, and some of the auditor's findings back in 2011.
- K.7** Tim Jones commended the City Council, Police Department and City volunteers on the 21 percent crime reduction in Newark. He stated that the Utility Users Tax helped make that possible.
- K.8** Mayor Nagy also commended the Police Department and the Raven volunteers for the 21 percent crime reduction in Newark.

**L. APPROPRIATIONS**

City Clerk Harrington read the Register of Audited Demands: Check numbers 100900 to 101024.

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**

Mayor Nagy adjourned the meeting at 9:46 p.m.

SHEILA HARRINGTON  
City Clerk