



CITY OF NEWARK CITY COUNCIL

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

Minutes

Monday, June 30, 2014

A. ROLL CALL

Mayor Nagy called the adjourned 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, June 12, 2014.

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

C. PRESENTATIONS AND PROCLAMATIONS

D. WRITTEN COMMUNICATIONS

D.1 Planning Commission referral of a review of a conditional use permit (U-82-48) and a planned unit development (P-82-49) for a trellis feature to be added to an existing building (Isla Restaurant) at 5720 Mowry School Road. MOTION APPROVED

City Manager Becker gave the staff report recommending approval.

Joangel Pare, stated that she read Planning Commission Resolution No. 1880 and agreed to the conditions.

Council Member Freitas moved, Council Member Marshall seconded to, by motion, approve Planning Commission Resolution No. 1880, with Exhibit B, page 1 through 4, for a review of a conditional use permit (U-82-48) and a planned unit development (P-82-49) for a trellis feature to be added to an existing building (Isla Restaurant) at 5720 Mowry School Road. The motion passed, 5 AYES.

E. PUBLIC HEARINGS

**E.1 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 1. RESOLUTION NO. 10239**

City Manager Becker gave the staff report and recommended that the City Council open public hearings E.1 through E.5 simultaneously.

At 7:35 p.m. Mayor Nagy opened public hearings E.1 through E.5 Landscaping and Lighting District Nos. 1, 2, 4, 6, and 7 simultaneously.

No one came forward to speak.

At 7:36 p.m. Mayor Nagy closed public hearings E.1 through E.5, Landscaping and Lighting District Nos. 1, 2, 4, 6, and 7 simultaneously.

Council Member Marshall moved, Council Member Collazo seconded, to approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District Nos. 1, 2, 4, 6, and 7 for the 2014-2015 fiscal year. The motion passed, 5 AYES.

**E.2 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 2. RESOLUTION NO. 10240**

**E.3 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 4. RESOLUTION NO. 10241**

**E.4 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 6. RESOLUTION NO. 10242**

**E.5 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 7. RESOLUTION NO. 10243**

**E.6 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 10. RESOLUTION NO. 10244**

Vice Mayor Apodaca and Council Member Collazo recused themselves because they each own property within District No. 10 and exited the City Council Chambers.

City Manager Becker gave the staff report recommending approval.

Mayor Nagy opened the public hearing at 7:37 p.m.

There was no public testimony.

Mayor Nagy closed the public hearing at 7:38 p.m.

Council Member Freitas moved, Council Member Marshall seconded to by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 10 for the 2014-2015 fiscal year. The motion passed, 3 AYES, 2 RECUSED.

Vice Mayor Apodaca and Council Member Collazo returned to the City Council Chambers.

E.7 Hearing to consider property owners' objections and confirmation of the Superintendent of Streets' report concerning weed abatement assessments.
MOTION APPROVED
RESOLUTION NO. 10245

City Manager Becker gave the staff report recommending approval.

Mayor Nagy opened the public hearing at 7:39 p.m.

There was no public testimony.

Mayor Nagy closed the public hearing at 7:40 p.m.

Vice Mayor Apodaca moved, Council Member Marshall seconded to, by motion, act upon any objections by property owners for assessments on their parcels for the 2014 Weed Abatement Program and, by resolution, confirm the Superintendent of Streets' report concerning weed abatement assessments. The motion passed, 5 AYES.

F. CITY MANAGER REPORTS

Council Member Collazo moved, Council Member Marshall seconded, to approve Consent Calendar Items F.1 through F.5, 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, 5 AYES.

CONSENT

- F.1 Second reading and adoption 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 Tract Map 8166 from CC (Community Commercial) to R-1,500 (High Density Residential – 1,500).**
ORDINANCE NO. 475

- F.2 Authorization for the City Manager to sign a lease agreement with Child, Family, & Community Services, Inc. for use of the Jerry Raber Ash Street Park Building #2 for the operation of a Head Start Preschool.**

**RESOLUTION NO. 10246
CONTRACT NO. 14025**

- F.3 Authorization for the Mayor to sign a Lease Agreement with Viola Blythe Community Service Center of Newark, Inc. for use of the Jerry Raber Ash Street Park Building #1 for the operation of a food and clothing distribution center.**

**RESOLUTION NO. 10247
CONTRACT NO. 14026**

- F.4 Authorization for the Mayor to sign Task Order No. 8 to the Joint Powers Agreement with the City of Fremont for Case Management services.**

**RESOLUTION NO. 10248
CONTRACT NO. 09044**

- F.5 Amendment of the 2012-2014 Biennial Budget and Capital Improvement Plan for Fiscal Year 2013-2014 for General Revisions. RESOLUTION NO. 10249**

NONCONSENT

- F.6 Calling and giving notice of the holding of a General Municipal Election on Tuesday, November 4, 2014, for the election of certain officers of the City of Newark.**

**MOTION APPROVED
RESOLUTION NO. 10250**

City Clerk Harrington gave the staff report recommending approval.

Vice Mayor Apodaca moved, Council Member Collazo seconded to, by motion, approve the estimated cost of \$600 to be paid by each candidate at the time nomination papers are filed for his/her Statement of Qualifications and, by resolution calling for the holding of a General Municipal Election to be held on Tuesday, November 4, 2014, for the election of certain officers; requesting the Alameda County Board of Supervisors to consolidate the General Municipal Election with the General Election to be held on November 4 2014; and request services of the Registrar of Voters. The motion passed, 5 AYES.

F.7 Adoption of a resolution placing an extension of the existing City of Newark Utility Users Tax on the November 4, 2014 Election Ballot for voter consideration and related election procedures and consideration of the Ballot Measure language and participation in Ballot Arguments.

RESOLUTION NO. 10251

City Manager Becker gave the staff report recommending that the City Council approve the ballot language as presented and place an ordinance on the November 4, 2014 ballot extending the existing Utility Users Tax. The tax rate would be reduced from 3.5% to 3.25% effective January 1, 2016. The tax would be extended for a period of 5 years and will expire on December 31, 2020. An exemption will be provided for low-income residents and seniors age 70 and older. The City Attorney will be directed to prepare the impartial analysis of the measure. The Mayor will be designated to author and sign a ballot argument on behalf of the City Council for the measure along with four other community members. Rebuttal arguments will be allowed and, if there is an argument submitted in opposition to the measure, the Mayor will be authorized to author and sign a rebuttal argument, along with four other community members.

John Henneberry stated that he opposed the Utility Users Tax and the ballot language. He suggested changing the ballot question to “some seniors” or “seniors over 70”. He speculated that the questions used by Godbe Research impacted the survey results. He questioned the agreement with Rouse properties for NewPark Mall since a fiscal emergency was declared in 2010.

Tim Jones stated that the previous speaker misrepresented the agreement with Rouse Properties. He stated that he supported the Utility Users Tax and outlined the services the community received as a direct result of that funding.

Council Member Collazo moved, Vice Mayor Apodaca seconded to approve a resolution directing the submission to the voters of the City of Newark a question relating to the extension of the utility users tax at the general municipal election to be held on November 4, 2014. The motion passed, 5 AYES.

**F.8 Approval of First Amendment to the Transfer Services Agreement between the Cities of Newark and Union City and BLT Enterprises of Fremont, LLC, and associated budget amendments. RESOLUTION NO. 10252
CONTRACT NO. 07044**

Administrative Services Director Woodstock stated that BLT expressed concerns regarding the City’s delivery obligations under the current Agreement. The chief concern was the interpretation of the definition of recyclable material and repercussion of a load not meeting the disputed definition. The proposed amendment to the agreement relieves the City of any past liability and clarifies the City and BLT’s obligations under the Agreement going forward.

Administrative Services Director Woodstock stated that the settlement would increase rates by approximately 4%. She proposed to pay for the increase for calendar year 2014 from the Waste Augmentation Fund. The settlement costs will be included in the rate setting process for the 2015 calendar year rates.

Council Member Freitas moved, Council Member Collazo seconded to, by resolution, (1) authorize the Mayor to sign the First Amendment to the Service Agreement between the Cities of Newark and Union City and BLT Enterprises of Fremont, LLC, and (2) approve a budget amendment to the 2012-2014 Biennial Budget for Fiscal Year 2013-2104 and (3) approve a budget amendment to the 2014-2016 Biennial Budget for Fiscal Year 2014-2015. The motion passed, 5 AYES.

F.9 Approval of First Amendment to the Collection of Solid Waste and Collection and Processing of Source Separated Recyclable Materials, Organic Materials and Construction and Demolition between the City of Newark and Allied Waste Services of North America LLC.

**RESOLUTION NO. 10253
CONTRACT NO. 13002**

Administrative Services Director Woodstock stated that the First Amendment to the Franchise Agreement will establish the Construction and Demolition (C&D) processing procedures and the hauling of C&D residue to the Transfer Station. The Amendment will change the residue level for all materials from a required 10% residue level to a goal of a 10% residue level. If any rate adjustment is necessary, it will occur during the annual rate adjustments.

Council Member Freitas moved, Council Member Marshall seconded to, by resolution, authorize the Mayor to sign the First Amendment to the Agreement for Collection of Solid Waste and Collection and Processing of Source Separated Recyclable Materials, Organic Material and Construction and Demolition between the City of Newark and Allied Waste Services of North America LLC. The motion passed, 5 AYES.

G. CITY ATTORNEY REPORTS

G.1 Claim of Meher Homi Press.

MOTION APPROVED

City Attorney Benoun gave the staff report recommending denial of the claim.

Council Member Collazo moved, Council Member Marshall seconded, to deny the claim and directed staff to notify the claimant of such denial. The motion passed, 5 AYES.

H. ECONOMIC DEVELOPMENT CORPORATION**I. CITY COUNCIL MATTERS**

- I.1 The entire City Council wished the community a safe Independence Day.
- I.2 Council Member Collazo invited the community to attend the First Annual Mariachi Festival on Sunday, July 20, 2014 at Shirley Sisk Grove from 2 to 5 p.m.
- I.3 Council Member Marshall commended the Silliman Center staff. He noted that he reviewed his Allied Waste bill and agreed with the comments that Dean Lewis made at a previous meeting regarding the timing of the bill.

Administrative Services Director Woodstock stated that staff was still looking into the billing matter with Allied Waste.

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

- I.1 David Romero thanked the Fire Department and Royal Ambulance for saving his life on June 15.
- I.2 John Henneberry discussed his encounter with Council Member Marshall and Police Officer Neithercutt in 2012. He compared Mayor Nagy to other historical elected officials such as Adolph Hitler and Richard Nixon. Mr. Henneberry quoted sections from the Brown Act. He shared his interpretation of the law.

Mayor Nagy stated that he disagreed with Mr. Henneberry's interpretation of the Brown Act.

- I.3 Tim Jones invited the City Council and public to attend National Night Out on August 5, details are available on the city website. He stated it was disheartening to see City Council Members insulted at meetings.

L. APPROPRIATIONS

City Clerk Harrington read the Register of Audited Demands: Check numbers 101737 to 101830.

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

M. CLOSED SESSION

N. ADJOURNMENT

At 8:40 p.m. Mayor Nagy adjourned the City Council meeting.