



# CITY OF NEWARK CITY COUNCIL

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

## 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 Grcich 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 Grcich 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.