



# CITY OF NEWARK CITY COUNCIL

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

## Minutes

Thursday, July 10, 2014

### A. ROLL CALL

Mayor Nagy called the meeting to order at 7:34 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, June 26, 2014 and the adjourned regular City Council meeting of Monday, June 30, 2014.

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

### C. PRESENTATIONS AND PROCLAMATIONS

#### C.1 Proclamation for the Portuguese Fraternal Society of America Council No. 16 Holy Ghost Festival and 92<sup>nd</sup> Anniversary.

Mayor Nagy presented the proclamation to members of the Portuguese Fraternal Society. Paula Silva invited the public to attend the Holy Ghost 92<sup>nd</sup> Annual Festa from July 24 to 27 at the Newark Pavilion.

#### C.2 Commending Eagle Scout Samuel Englese.

Mayor Nagy presented the commendation to Samuel Englese.

#### C.3 Presentation by Supervisor Richard Valle on Science in the Park.

Supervisor Valle invited the public to attend Science in the Park on Saturday, October 4, 2014 at the Alden E. Oliver Sports Park in Hayward from 9 am to 4 pm.

### D. WRITTEN COMMUNICATIONS

**D.1 Planning Commission referral of a review of U-12-21, a conditional use permit, and P-12-22, a planned unit development, for modifications to a previously approved veterinary surgery center (Ohlone Veterinary Emergency) at 5600 John Muir Drive. MOTION APPROVED**

City Manager Becker stated that the original center was approved for 11,490 square feet. An additional 4,000 square feet is requested to provide space for MRI's, a CT Scanner, Radiology, an enclosed exercise yard and animal wards. Some parking will be removed but the remaining parking on-site exceeds that required for an office building.

Ms. Deborah Rue, D.V.M., as manager of Fideux, LLC., the property owner stated that she was excited about this project.

Council Member Marshall moved, Council Member Collazo seconded to by motion, approve Planning Commission Resolution No. 1881 for the review of U-12-21, a conditional use permit, and P-12-22, a planned unit development, with Exhibit B, pages 1 through 4, for modifications to a previously approved veterinary surgery center (Ohlone Veterinary Emergency) at 5600 John Muir Drive. The motion passed, 4 AYES, 1 ABSENT.

**E. PUBLIC HEARINGS**

**E.1 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 11. CONTINUED**

City Manager Becker recommended that the City Council continue this hearing to July 24 because a quorum could not be established to hear this matter. Council Members Marshall and Collazo own property within the District and would need to recuse themselves and Vice Mayor Apodaca was absent from this meeting.

Council Member Collazo moved, Council Member Marshall seconded to continue the Public Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 11 to the July 24, 2014 City Council meeting at 7:30 p.m. in the City Council Chambers.

**E.2 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 13. RESOLUTION NO. 10254**

City Manager Becker gave the staff report and recommended that the City Council open public hearings E.2 through E.5 simultaneously.

At 7:56 p.m. Mayor Nagy opened public hearings E.2 through E.5 Landscaping and Lighting District Nos. 13, 15, 16, and 17 simultaneously.

No one came forward to speak.

At 7:57 p.m. Mayor Nagy closed public hearings E.2 through E.5, Landscaping and Lighting District Nos. 13, 15, 16, and 17 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. 13, 15, 16, and 17 for the 2014-2015 fiscal year. The motion passed, 4 AYES, 1 ABSENT.

- E.3 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 15. RESOLUTION NO. 10255**
- E.4 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 16. RESOLUTION NO. 10256**
- E.5 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 17. RESOLUTION NO. 10257**

## **F. CITY MANAGER REPORTS**

Council Member Collazo moved, Council Member Marshall seconded, to approve Consent Calendar Items F.1 through F.2, 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 ALB, Inc. for Citywide Park Pathways Resurfacing For ADA Access, Project 1055. RESOLUTION NO. 10258**
- F.2 Approval of plans and specifications, approval of bid withdrawal request from Graham Contractors, Inc., and acceptance of bid and award of contract to VSS International, Inc. for 2014 Street Microsurfacing Program, Project 1064. MOTIONS-2 APPROVED RESOLUTION NO. 10259**

### **NONCONSENT**

- F.3 Authorization for the Mayor to sign Task Order No. 7 to the Joint Powers Agreement with the City of Fremont for Paratransit Services. RESOLUTION NO. 10260**

Recreation and Community Services Director Zehnder gave the staff report recommending that the City continue to contract for paratransit services from the City of Fremont for fiscal year 2014-2015.

Council Member Marshall moved, Council Member Collazo seconded by resolution, to authorize the Mayor to sign Task Order No. 7 to the Joint Powers Agreement with the City of Fremont for Newark Paratransit services. The motion passed, 4 AYES, 1 ABSENT.

**G. CITY ATTORNEY REPORTS**

**H. ECONOMIC DEVELOPMENT CORPORATION**

**I. CITY COUNCIL MATTERS**

**I.1 Designation of a voting delegate and alternate(s) for the Annual Business Meeting of the League of California Cities' Annual Conference.**

**MOTION APPROVED**

City Clerk Harrington stated that if a City Council Member was attending the Annual Business meeting then the City Council would need to designate that person as a voting delegate.

Council Member Freitas moved, Council Member Marshall seconded by motion, to designate Vice Mayor Apodaca as the voting delegate for the Annual Business Meeting of the League of California Cities' Annual Conference. The motion passed, 4 AYES, 1 ABSENT.

**I.2** Mayor Nagy stated that he would adjourn the meeting in memory of Ruth Perry and Ruth Foster. The City Council extended their condolences to both families.

**I.3** Council Member Collazo invited the public to attend the Music at the Grove concert and the Mariachi Festival.

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

**K. ORAL COMMUNICATIONS**

**K.1** John Henneberry quoted from the Mayor's speech given at the April 2014 Newark Chamber of Commerce Luncheon. He provided his interpretation of the Brown Act in

relation to the Chamber's event. Mr. Henneberry outlined his encounter with Council Member Marshall and Officer Neithercutt at a public meeting.

## **L. APPROPRIATIONS**

City Clerk Harrington read the Register of Audited Demands: Check numbers 101831 to 101959.

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

## **M. CLOSED SESSIONS**

**M.1 Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Anticipated Litigation (1 case) – from City Attorney Benoun and Assistant City Manager Grindall.**

**M.2 Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Citizens Committee to Complete the Refuge v. City of Newark et al., Alameda County Superior Court Case No. RG10530015 – from City Attorney Benoun and Assistant City Manager Grindall.**

**M.3 Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Citizens Committee to Complete the Refuge v. City Council of the City of Newark et al., Alameda County Superior Court Case No. RG14709701 – from City Attorney Benoun and Assistant City Manager Grindall.**

At 8:23 p.m. the City Council recessed to a closed session.

At 8:30 p.m. the City Council convened in closed session.

At 9:07 p.m. the City Council reconvened in open session with all Council Members present. Vice Mayor Apodaca was noted absent.

City Attorney Benoun announced that no reportable actions were taken by the City Council in the closed sessions.

## **N. ADJOURNMENT**

At 9:07 p.m. Council Member Marshall moved, Council Member Collazo seconded, to adjourn the City Council meeting in memory of Ruth Perry and Ruth Foster. The motion passed, 4 AYES, 1 ABSENT.

SHEILA HARRINGTON, CITY CLERK