



# CITY OF NEWARK CITY COUNCIL

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

## Minutes

Thursday, June 12, 2014

### A. ROLL CALL

Mayor Nagy called the meeting to order at 7:30 p.m. Present were Council Members Collazo, Freitas, and Vice Mayor Apodaca. Council Member Marshall was noted absent.

### B. MINUTES

#### B.1 Approval of Minutes of the special and regular City Council meetings of Thursday, May 22, 2014. **MOTION APPROVED**

Council Member Collazo moved, Council Member Freitas seconded, to approve the Minutes of the special and regular City Council meetings. The motion passed, 3 AYES, 1 ABSTENTION (Apodaca), 1 ABSENT (Marshall).

### C. PRESENTATIONS AND PROCLAMATIONS

#### C.1 Introduction of employee.

Mayor Nagy introduced newly hired Information Systems Specialist, Larry Kezar.

#### C.2 Presentation of the Newark Unified School District Certificated Employee of the Year.

Mayor Nagy and Rotary Club Representative David Zehnder presented a certificate to the Newark Unified School District Certificated Employee of the Year Nancy Kuei.

#### C.3 Commendation to Police Officer of the Year.

Mayor Nagy presented the commendation to Ryan Johnson.

### D. WRITTEN COMMUNICATIONS

### E. PUBLIC HEARINGS

**E.1 Hearing to consider adoption of Master Fee Schedule for Fiscal Year 2014-2015. RESOLUTION NO. 10217**

City Manager Becker gave the staff report recommending approval of the amendments to the Master Fee Schedule.

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

There was no public testimony.

Mayor Nagy closed the public hearing at 7:41 p.m.

Council Member Freitas moved, Vice Mayor Apodaca seconded to, by resolution, amend the Master Fee Schedule for Fiscal Year 2014-2015. The motion passed, 4 AYES, 1 ABSENT (Marshall).

**E.2 Hearing to consider the request by LOV (League of Volunteers), for P-14-12, a planned unit development, and U-14-13, a conditional use permit, to have a circus at the NewPark Mall parking lot (APNS: 901-111-20 & 21) with performances from August 7 through August 11, 2014; and authorization to waive the application fee. MOTIONS-2 APPROVED**

City Manager Becker gave the staff report recommending approval.

Mayor Nagy opened the public hearing at 7:43 p.m.

Shirley Sisk, representing the League of Volunteers, said that she had read Planning Commission Resolution No. 1873 and agreed to the conditions in the resolution.

Mayor Nagy closed the public hearing at 7:45 p.m.

Council Member Freitas moved, Council Member Collazo seconded to by motions: (1) approve Planning Commission Resolution No. 1873 with Exhibit A, pages 1 through 3, the request by LOV (League of Volunteers), for P-14-12, a planned unit development, and U-14-13, a conditional use permit, to have a circus at the NewPark Mall parking lot (APNS: 901-111-20 & 21) with performances from August 7 through August 11, 2014; and (2) authorize a waiver of the application fee. The motion passed, 4 AYES, 1 ABSENT (Marshall).

**E.3 Hearing to consider an 85-unit residential townhome development (Integral Communities) on an approximately 4.28 acre site (APN: 901-0195-039) on the northeast corner of Cedar Boulevard and Mowry School Road: (1) resolution making certain findings and approving an Initial Study/Mitigated Negative Declaration for the Cedar Townhomes project; (2) resolution approving a General Plan Amendment to change the land**

use designation from CC (Community Commercial) to HR (High Density Residential); (3) 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 Tract Map 8166 and approving a rezoning from CC (Community Commercial) to R-1,500 (High Density Residential – 1,500); (4) resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and authorizing the Mayor to sign the attached Affordable Housing Implementation Agreement; (5) resolution authorizing the Mayor to sign a Community Financing Agreement with Newark Atrium Project Owner, LLC (6) resolution approving Tentative Tract Map 8166; and (7) By motion, approving an Architectural and Site Plan Review.

**RESOLUTION NO. 10218  
RESOLUTION NO. 10219  
ORDINANCE INTRODUCED  
RESOLUTION NO. 10220  
RESOLUTION NO. 10221  
RESOLUTION NO. 10222  
MOTION APPROVED**

Assistant City Manager Grindall gave the staff report recommending approval for Integral Communities, Inc. to develop 85 townhomes on a vacant lot at 39850 and 39888 Cedar Boulevard (northeast corner of Cedar Boulevard and Mowry School Road).

Vice Mayor Apodaca requested that the Codes Covenants and Restrictions (CCRs) include education about garbage and recycling. She stated that she was concerned with the aesthetics of the project and requested that the developer discuss the design during the public hearing.

Council Member Freitas agreed with Vice Mayor Apodaca’s comment on the aesthetics.

Mayor Nagy opened the public hearing at 7:53 p.m.

Kevin Fryer, Integral Communities, stated that he read the resolutions and agreed to the conditions. He stated that the exhibits do not fully represent the project design. He reviewed the exhibits and noted that they have received a good response from their home building partners.

Council Member Collazo cited the Dusterberry project in Fremont as an example of the design that she would like to see for this project.

Margaret Lewis stated that she was concerned with the affordable housing units that would be built at the SHH location within the Dumbarton Transit Oriented

Development. The site need to be cleaned up and she had concerns about the safety of the roundabout. She did not believe that housing would work at that location.

Mayor Nagy closed the public hearing at 8:04 p.m.

The City Council discussed design enhancements for the project.

Assistant City Manager Grindall suggested that the City Council approve the project with the exception of the Architectural and Site Plan Review. The applicant could make modifications to the design and return at a future City Council meeting for separate approval.

Kevin Fryer stated that he agreed with the suggestion and would work with staff on the design.

Council Member Freitas moved, Council Member Collazo seconded to, by motion:

(1) Adopt a resolution making certain findings and adopting an Initial Study/Mitigated Negative Declaration for the Cedar Townhomes project;

(2) Adopt a resolution approving an amendment to the Land Use Element of the General Plan to change land use designation from CC (Community Commercial) To HR (High Density Residential);

(3) Introduce 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);

(4) Adopt a Resolution approving an alternative means of compliance with the Inclusionary Housing Ordinance for the Cedar Townhomes Project; making findings related to the use of an Alternative Means Of Compliance; and authorizing the Mayor to sign the Affordable Housing Obligation Satisfaction Agreement;

(5) Adopt a resolution authorizing the Mayor to sign a Community Financing Agreement with Newark Atrium Project Owner, LLC;

(6) Adopt a resolution approving Vesting Tentative Tract Map 8166; and

(7) By motion, the Architectural and Site Plan Review will be revised and considered at a future City Council meeting. The motion passed, 4 AYES, 1 ABSENT (Marshall).

- E.4 Hearing to consider the development of 15 single family lots with construction of a detached dwelling on each lot (Mission Peak Homes) at 38517 Birch Street, on the west side of Birch Street north of Moores Avenue (APN: 092A-2356-037). A private road would provide access to each lot. The existing church complex would be demolished: (1) Adopting a resolution making certain findings and approving E-13-30, an Initial Study/Mitigated Negative Declaration; (2) adopting a resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance; approving the Affordable Housing Implementation Agreement for the Birch Street project and authorizing the Mayor to sign the Affordable Housing Implementation Agreement; (3) By motion, approving P-13-29, a planned unit development, and U-13-28, a conditional use permit, and (4) adopting a resolution approving TTM-13-27, Tentative Tract Map 8165.**

**RESOLUTION NO. 10223  
RESOLUTION NO. 10224  
MOTION APPROVED  
RESOLUTION NO. 10225**

Assistant City Manager Grindall gave the staff report recommending approval for Mission Peak Homes to develop 15 single-family detached homes at 38517 Birch Street.

Vice Mayor Apodaca requested that the Codes Covenants and Restriction (CCR) that are approved administratively by staff include education on garbage and recycling.

Assistant City Manager Grindall stated that all future CCRs will include the education requested by Vice Mayor Apodaca.

Mayor Nagy opened the public hearing at 8:22 p.m.

Tom Quaglia Mission Peak Homes stated that he had read the resolutions and agreed to the conditions.

Mayor Nagy closed the public hearing at 8:25 p.m.

Vice Mayor Apodaca moved, Council Member Collazo seconded to, by motion:

(1) Adopt a resolution making certain findings and adopting an Initial Study/Mitigated Negative Declaration for the Birch Street Residential Project;

(2) Adopt a resolution approving an alternative means of compliance with the Inclusionary Housing Ordinance for the Birch Street Project; making findings supporting the use of an alternative means of compliance, and authorizing the Mayor to sign the Affordable Housing Implementation Agreement;

(3) By motion, approve P-13-29, a planned unit development, and U-13-28, a conditional use permit, and

(4) Adopt a resolution approving Tentative Tract Map 8165. The motion passed, 4 AYES, 1 ABSENT.

## **F. CITY MANAGER REPORTS**

John Henneberry requested that Consent Calendar Item F.5 be removed for separate consideration.

Vice Mayor Apodaca moved, Council Member Collazo seconded, to approve Consent Calendar Items F.1 through F.4 and F.6 through F.11 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 Approval of plans and specifications, acceptance of bid and award of contract to Ghilotti Bros., Inc. for 2014 Asphalt Concrete Street Overlay Program, Project 1063.**  
**MOTION APPROVED**  
**RESOLUTION NO. 10226**  
**CONTRACT NO. 14021**
- F.2 Authorization for the Police Chief to sign an amendment to the agreement with All City Management Services for the contracting of school crossing guards, extending the term of said agreement.**  
**RESOLUTION NO. 10227**  
**CONTRACT NO. 11029**
- F.3 Establishment of the Fiscal Year 2014-2015 Appropriations Limit.**  
**RESOLUTION NO. 10228**
- F.4 Establishment of amount of revenue from property taxes necessary to support City departments for Fiscal Year 2014 - 2015** **RESOLUTION NO. 10229**
- F.6 Acceptance of contract with Pacheco Brothers Gardening, Inc., for Jerry Raber Ash Street Park Turf Renovation, Project 1067.** **RESOLUTION NO. 10230**
- F.7 Authorization for the City Attorney to sign a Certification and Mutual Indemnification Agreement with the County of Alameda.**

**RESOLUTION NO. 10231  
CONTRACT NO. 14022**

- F.8 Authorization for the purchase of updated and supplemental geographic information system software licenses and installation support services, and to declare Environmental Systems Research Institute, Inc. as the single source vendor. RESOLUTION NO. 10232**
- F.9 Authorization for the purchase of a new Street Sweeper from Municipal Maintenance Equipment, Inc. RESOLUTION NO. 10233  
CONTRACT NO. 14023**
- F.10 Authorization for the Mayor to sign an agreement with *The Argus* for legal advertising services for Fiscal Year 2014-2015. RESOLUTION NO. 10234  
CONTRACT NO. 14024**
- F.11 Adoption of the 2014-2016 Biennial Budget and Capital Improvement Plan. RESOLUTION NO. 10235**

## **NONCONSENT**

- F.5 Approval of Investment Policy. RESOLUTION NO. 10236**

John Henneberry outlined his research on the Newark Betterment Corporation. He asked how much the City has invested or given funding to the Newark Betterment Corporation (NBC).

City Manager Becker stated that no money from the General Fund has been used for NBC. NBC receives contributions from a variety of sources.

Council Member Freitas moved, Council Member Collazo seconded to, by resolution, approve the City's Investment Policy. The motion passed, 4 AYES, 1 ABSENT.

- F.12 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. RESOLUTION NO. 10237-10238**

Council Member Collazo announced that she would recuse herself from this item since she owns property in Landscaping and Lighting District No. 11. She left the City Council Chamber.

City Manager Becker gave the staff report recommending approval.

Vice Mayor Apodaca moved, Council Member Freitas seconded to by resolutions, direct the filing of annual reports for Landscaping and Lighting District Nos. 11, 13, 15, 16, and 17 in accordance with the provisions in the Landscaping and Lighting Act of 1972 and confirm the intent to order the improvements by setting the date for the annual public hearings for these districts for July 10, 2014. The motion passed, 3 AYES, 1 RECUSED (Collazo), 1 ABSENT (Marshall).

Council Member Collazo returned to the City Council Chambers.

**G. CITY ATTORNEY REPORTS**

**H. ECONOMIC DEVELOPMENT CORPORATION**

**I. CITY COUNCIL MATTERS**

- I.1** Mayor Nagy stated that he would adjourn the meeting in memory of Clark Redeker who served on the first Newark City Council and was the third Mayor for the City.
- I.2** Mayor Nagy stated that he would also adjourn the meeting in memory of Vice Mayor Apodaca's father, Dan Apodaca.
- I.3** The City Council extended their condolences to both families.
- I.4** Vice Mayor Apodaca thanked everyone for their support.

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

**K. ORAL COMMUNICATIONS**

- K.1** Dean Lewis requested that the City Council look into the billing practices of Republic Services. His invoice dated May 28 was not received until June 9 and was due on June 17, 2014. He stated that the location off Central that he suggested for the Dumbarton Transit Oriented Development was being turned into a storage facility. He thought the City Council would regret not using that location.
- K.2** Sandra Mascardo stated a number of reasons why she thought that fireworks should be banned in Newark.
- K.3** John Henneberry shared his thoughts on attempting to contact the City auditors from 2011, the Newark Betterment Corporation funding, the Library, league, expanding library hours, city salaries, Council Member Marshall, Officer Neithercutt.

- K.4** Tim Jones stated that illegal fireworks are the problem and not the Safe and Sane type that that City allows to be sold for community group fundraisers. He stated that Mr. Henneberry's allegations regarding NBC had no proof. He requested that Mr. Henneberry quit being rude in the City Council Chambers. He stated that the library participates in National Night Out and always does a nice job.

**L. APPROPRIATIONS**

City Clerk Harrington read the Register of Audited Demands: Check numbers 101545 to 101736.

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

**M. CLOSED SESSION**

**N. ADJOURNMENT**

At 8:57 p.m. Mayor Nagy adjourned the meeting in memory of Dan Apodaca and Clark Redeker.

SHEILA HARRINGTON  
City Clerk