



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, October 23, 2014

A. ROLL CALL

Mayor Nagy called the 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, October 9, 2014.

Council Member Marshall moved, Council Member Collazo seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 5 AYES.

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Commending Newark Days Committee members.

Mayor Nagy presented the commendation to members of the Newark Days Committee.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

E.1 Hearing for the Prima Project, a 281 unit residential development at 5699 Mowry Avenue. The City Council will consider: (1) an Initial Study and Mitigated Negative Declaration; (2) a General Plan amendment to change the land use designation from CC (Community Commercial) to MR (Medium Density Residential); (3) introduction of an Ordinance to amend Title 17 (Zoning) of the Newark Municipal Code to change the zoning for an approximately 10 acre portion of Vesting Tentative Map 8208 from CC (Community Commercial) to R-2500 (Medium Density Residential – 2,500); (4) approving a planned unit development, and, a conditional use permit, (5) a Vesting Tentative Map 8208 for a 281 unit residential development at 5699 Mowry Avenue, with Exhibit A, pages 1 through 42; and (6) making a finding that the Prima Project provides a benefit to the community in excess of those required by the impacts of the project and payment of the Housing Impact Fee and granting a waiver of the Housing

Impact Fee.**RESOLUTION NO. 10281
RESOLUTION NO. 10282
RESOLUTION NO. 10283
RESOLUTION NO. 10284
RESOLUTION NO. 10285
ORDINANCE INTRODUCED
MOTION APPROVED IMPACT FEE USE**

Mayor Nagy announced that his home is within 500 feet of this item and recused himself. Mayor Nagy left the City Council Chambers. Vice Mayor Apodaca chaired this portion of the City Council meeting.

Assistant City Manager Grindall gave a presentation (On file with the City Clerk) that reviewed the history, benefits, and financial impacts of the project. Prima Residential and Mowry Capella, LLC would build up to 281 residential units (mixture of condominiums, townhomes and detached homes) at 5699 Mowry Avenue. He stated that the project would not be feasible without a housing impact fee waiver. He outlined the community benefits, such as removing the Motel 6 and vacant retail space, as justification for the housing impact fee waiver.

Vice Mayor Apodaca expressed her concern with waiving the housing impact fee and noted the need for affordable housing in Newark. She asked staff if the \$4 million in other impact fees could be utilized for affordable housing.

Assistant City Manager Grindall outlined the fees and stated that they could not be used directly for affordable housing. He clarified that where legally possible; those fees could be applied towards an affordable housing project. For example, the park impact fee could be applied towards a park for an affordable housing project.

Vice Mayor Apodaca opened the public hearing at 7:58 p.m.

Kelly Snyder, representing the applicant, stated that they agreed to the conditions.

Peter Pau, project property owner, stated that he tried for nine years to make retail work at that location. He stated that he would be losing money on this transaction.

Frankie Addiego stated he supported the project and requested that the City Council vote yes.

Theresa Dias stated that she supported the project, but not the housing impact fee waiver. She stated that her mother moved away from Newark because there wasn't affordable housing. She stated the fee would leverage additional money from other sources.

Margrith Reichmuth, representing Swiss Park, stated that Swiss Park has existed since 1935. They were concerned that the future residents would complain about the happy noise generated by Swiss Park and cause the closure of Swiss Park.

Mary Florio stated that she lived nearby the project and supported approval. She stated that she was glad Motel 6 shut down.

Laurie Walton, Director of Saint James Episcopal Church in Fremont, stated that she frequently gets calls from people looking for affordable housing. She stated that she supported the project, but not the housing impact fee waiver.

Twee Fontera stated that she supported the project, but not the housing impact fee waiver. She stated that her parents commute from Modesto to help her because they cannot afford to live in Newark.

Anthony Federico, East Bay Housing Organizations, stated that his organization preserves, protects and expands affordable housing. New housing construction is growing and should be shared across all income levels. He requested that the City Council apply some or all of the fee to the project or require the fee in stages.

Robina Grimes, Newark Gardens resident, shared how she has benefitted from affordable housing in Newark.

Annie Wang, Newark Gardens resident, stated that the waiting list to apply for Newark Gardens is closed. She stated that more affordable housing is needed in Newark.

Robert Fuslin, Manager of Swiss Park, requested that a noise disclosure be included in the Codes, Covenants and Restrictions for the homes.

Richard Dominguez stated that he in support of the project and that he hoped the other motel in the area would close too.

Tony Doot stated he was in support of the project and the fee waiver. He stated that property values will increase, sales tax will grow, and the police will not need to respond to the Motel 6 anymore.

Rick Dominguez stated that he supported the project and shared his experience growing up in the neighborhood with the motels.

Mark Gonzales stated that the developers should not be responsible for subsidized housing and the real solution for the homeless is to take them in.

Dean Lewis stated that the developer has developed \$1 billion in real estate over the last 10 years. He stated the developer should make the affordable housing part of the project. He didn't think the city could build the required affordable housing after waiving the fee.

Mr. Qwong stated that he lives near the project and was concerned with the traffic on Cedar Boulevard. He requested the speed limit be reduced, that the proposed sound wall be built to a height of at least 10 feet tall, and that an acoustical engineer check the wall after it has been installed.

Margaret Lewis stated that she supports the comments previously made by her husband. She stated that affordable housing combined into the market rate housing is good for everyone.

Tim Jones stated that retail has failed at the location for many decades resulting in a blighted appearance. He highlighted the benefits of the project to the entire city. He requested that the City Council approve the project.

David Smith, Mayor Emeritus, stated that the motels attracted an element that was not anticipated when the City Council approved them. Retail has not worked in the location and the solution is residential. He encouraged the City Council to approve the project as presented.

Vice Mayor Apodaca closed the public hearing at 9:01 p.m.

In response to Council questions Assistant City Manager Grindall stated that noise disclosures would be attached to the property in the sale documents and CCRs.

Assistant City Engineer Fajeau stated that the Cedar Boulevard curve and the new entrance to project were reviewed in both directions. Based on the stopping sight distance, no safety issues were anticipated.

Vice Mayor Apodaca stated that a Housing Impact Fee Waiver was bad policy and set a precedent. She requested that the City Council consider utilizing the other impact fees to facilitate affordable housing. She further requested that the City Council vote on each item separately.

Council Member Collazo moved, Council Member Marshall seconded to by resolution, make certain findings and adopt an Initial Study and Mitigated Negative Declaration for 281 dwelling units at 5699 Mowry Avenue The Prima Project. The motion passed, 4 AYES, 1 RECUSED (Nagy).

Council Member Marshall moved, Council Member Collazo seconded to by resolution approve an amendment to the Land Use Element of the General Plan from CC (Community Commercial) to MR (Medium Density Residential). The motion passed, 4 AYES, 1 RECUSED (Nagy).

Council Member Collazo moved, Council Member Marshall seconded to introduce an ordinance to amend Title 17 (Zoning), Section 17.44.010 of the Newark Municipal Code to change the zoning for an approximately 10 acre portion of Vesting Tentative

Map 8208 from CC (Community Commercial) to R-2500 (Medium Density Residential – 2,500). The motion passed, 4 AYES, 1 RECUSED (Nagy).

Council Member Collazo moved, Council Member Marshall seconded to by resolution, approve P-14-16, a planned unit development, and U-14-17, a conditional use permit, for a 281-unit residential development (Prima Residential) at 5699 Mowry Avenue. The motion passed, 4 AYES, 1 RECUSED (Nagy).

Council Member Collazo moved, Council Member Marshall seconded to by resolution, approve Vesting Tentative Map 8208 and Subdivision and Zoning Variances thereto. The motion passed, 4 AYES, 1 RECUSED (Nagy).

Council Member Marshall moved, Council Member Collazo seconded to by resolution, make a finding that the Prima Project provides a benefit to the community in excess of those required by the impacts of the project and payment of the Housing Impact Fee and granting a waiver of the Housing Impact Fee. The motion passed, 3 AYES, 1 RECUSED (Nagy), 1 NO (Apodaca).

Council Member Collazo moved, Council Member Marshall seconded to by motion, direct staff to use utilize the impact fees to facilitate affordable housing, as is legally allowed. The motion passed, 4 AYES, 1 RECUSED (Nagy).

At 9:21 p.m. Vice Mayor Apodaca called for a recess

At 9:35 p.m. Mayor Nagy resumed the City Council meeting.

E.2 Introduction of an Ordinance amending Chapter 17.18 (Affordable Housing Program) of the Newark Municipal Code by exempting residential additions from the Housing Impact Fee. ORDINANCE INTRODUCED

Assistant City Manager Grindall stated that the application of the Affordable Housing Impact Fee to residential additions could create a disincentive to invest in existing neighborhoods. He recommended that the Affordable Housing Program be amended to exempt additions to existing residential dwellings from payment of the fee.

Mayor Nagy opened the public hearing at 9:38 p.m.

Wynn Greich spoke in favor of exempting the Housing Impact Fee from residential additions.

Mayor Nagy closed the public hearing at 9:42 p.m.

Council Member Freitas moved, Council Member Marshall seconded to introduce an ordinance amending the Chapter 17.18 (Affordable Housing Program) of the Newark Municipal Code Section 17.18.030(B) (Housing Fee) and Section 17.18.040(D) (Damaged Property) exempting residential additions from the Housing Impact Fee. The motion passed, 5 AYES.

- E.3 Hearing to consider: (1) Adopting a resolution approving a General Plan Amendment (GP-14-21) to change the land use designation from S-I (Special Industrial) to P-I (Public and Institutional); and (2) by motion, approving Planning Commission Resolution No. 1884, for P-14-23, a planned unit development and U-14-24, a conditional use permit, for a private school (Stratford School) to be located at 39201 Cherry Street (APNs: 901-110-68 & 69). This project also includes temporary modular school rooms and offices for the 2014/15 school year.**

**RESOLUTION NO. 10286
MOTION APPROVED**

Assistant City Manager Grindall gave the staff report recommending approval for a private elementary and middle school at 39201 Cherry Street. The traffic impact analysis recommended improvements that will be required to be met by the applicant to the satisfaction of the Public Works Department.

Mayor Nagy opened the public hearing at 9:48 p.m.

Clay Stringam representing Stratford School stated that they agreed to the conditions.

Mayor Nagy closed the public hearing at 9:51 p.m.

Council Member Marshall moved, Council Member Collazo seconded to: (1) by resolution, approve a General Plan Amendment (GP-14-21) to change the land use designation from S-I (Special Industrial) to P-I (Public and Institutional); and (2) by motion, approve Planning Commission Resolution No. 1884, approving P-14-23, a planned unit development and U-14-24, a conditional use permit, with Exhibit A, pages 1 through 5, for a private school (Stratford School) to located at 39201 Cherry Street (APNs: 901-110-68 & 69), including temporary modular school rooms and offices for the 2015/16 school year. The motion passed, 5 AYES.

F. CITY MANAGER REPORTS

Vice Mayor Apodaca moved, Council Member Collazo 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, 5 AYES.

CONSENT

- F.1 Acceptance of work with Stevens Creek Quarry, Inc., for Lakeshore Park Seawall Replacement, Project 755. RESOLUTION NO. 10287**

F.2 Cancellation of the November 27, 2014, City Council meeting.**MOTION APPROVED****G. CITY ATTORNEY REPORTS****G.1 Claim of Veronica Walter.****MOTION APPROVED**

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

Council Member Freitas moved, Council Member Collazo seconded to by motion, deny the claim and authorize staff to inform the claimant of such denial. The motion passed, 5 AYES.

H. ECONOMIC DEVELOPMENT CORPORATION**I. CITY COUNCIL MATTERS****I.1 Reappointment of Janet Drews and Jeff Aguilar to the Planning Commission. RESOLUTION NO. 10288**

Mayor Nagy recommended the reappointment of Janet Drews and Jeff Aguilar to the Planning Commission.

Council Member Collazo moved, Vice Mayor Apodaca seconded to by resolution, approve the reappointment of Janet Drews and Jeff Aguilar to the Newark Planning Commission, for a term to expire on December 31, 2018. The motion passed, 5 AYES.

I.2 Mayor Nagy announced that he would adjourn the meeting in memory of William McCammon, former Chief of the Alameda County Fire Department. The entire City Council extended their condolences.

I.3 Council Member Collazo invited the public to the Day of the Dead celebration at the Mexico Tortilla Factory.

I.4 Council Member Freitas reminded the public to vote on Tuesday, November 4, 2014.

I.5 Council Member Marshall stated the Candle Lighters Ghost House was open in Fremont which was a fundraiser for community groups in the tri-cities.

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

K. ORAL COMMUNICATIONS

- K.1** Wynn Greich noted that October was Breast Cancer Awareness month and stated her belief that additives in drinking water cause breast cancer. She requested that fluoride and chloramine be banned as additives to water.

L. APPROPRIATIONS

City Clerk Harrington read the Register of Audited Demands: Check numbers 102751 to 102881.

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

At 10:06 p.m. Mayor Nagy adjourned the City Council meeting in memory of William McCammon.

SHEILA HARRINGTON
City Clerk