



CITY OF NEWARK CITY COUNCIL

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

Minutes

Thursday, May 28, 2015

A. ROLL CALL

Mayor Nagy called the meeting to order at 7:33 p.m. Present were Council Members Hannon, Freitas, Bucci, and Vice Mayor Collazo.

B. MINUTES

B.1 Approval of Minutes of the regular City Council meeting of Thursday, May 14, 2015.

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

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Proclaiming June as Celebrating Business Month in Newark.

Mayor Nagy presented the proclamation to President/CEO Valerie Boyle of the Newark Chamber of Commerce.

C.2 Presentation of Awards for Students, Teacher, and Classified Employee of the Year.

Mayor Nagy and members of the Newark Rotary Club presented certificates to the Students, Teacher, and Classified Employee of the Year.

Mayor Nagy called a recess at 7:45 p.m. The meeting resumed at 7:54 p.m.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

E.1 Hearing to consider abandonment of a portion of Hickory Street right-of-way north of Perrin Avenue.

RESOLUTION NO. 10355

City Manager Becker stated that the abandonment would be for the 40-foot wide western half of the existing Hickory Street right-of-way between the Alameda County Flood Control and Water Conservation District (District) property located north of Perrin Avenue to a point approximately 335 feet north of the District boundary. This right-of-way is not used as a public street nor needed for future street purposes. The right-of-way would revert to William Lyon Homes, Inc., as the adjacent property owner.

Mayor Nagy opened the public hearing at 7:56 p.m.

No one came forward to speak.

Mayor Nagy closed the public hearing at 7:56 p.m.

Vice Mayor Collazo moved, Council Member Hannon seconded to by resolution, abandon a portion of Hickory Street right-of-way north of Perrin Avenue. The motion passed, 5 AYES.

E.2 Hearing to consider: (1) a resolution to approve a General Plan Amendment to change the land use designation from P-I (Public Institutional) to S-I (Special Industrial); and (2) a resolution, revoking a planned unit development and a conditional use permit, for a private school at 39201 Cherry Street (APNs: 901-110-68 & 69).

RESOLUTION NO. 10356-10357

Assistant City Manager Grindall stated that in 2014, the City Council approved a General Plan Amendment, a planned unit development, and a conditional use permit to allow Stratford School at 39201 Cherry Street. Stratford School has decided not to pursue the project at that location. The building owner has requested revocation of the previous approvals and restoration of the Special Industrial designation. The original approved use was for a nuts and spice distribution center.

In response to City Council questions, Assistant City Manager Grindall stated that there would not be odor issues for the distribution center since the product is already packaged. Staff is working with Stratford School to identify a new location.

Mayor Nagy opened the public hearing at 8:02 p.m.

The applicant did not attend the meeting. There was no public testimony.

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

Vice Mayor Collazo moved, Council Member Bucci seconded to: (1) by resolution, approve a General Plan Amendment (GPA-15-20) to change the land use designation from P-I (Public Institutional) to S-I (Special Industrial); and (2) by resolution, revoke P-14-23, a planned unit development, and U-14-24, a conditional use permit, for a private school located at 39201 Cherry Street (APNs: 901-110-68 & 69). The motion passed, 5 AYES.

- E.3 Hearing to consider: (1) a planned unit development, and a conditional use permit, to hold SummerFest in the NewPark Mall parking lot on July 11 and 12, 2015, and dates to be determined in 2016 and 2017; and (2) a waiver of the application fees. NewPark Mall is located to the north by Mowry Avenue, to the west by Cedar Boulevard, to the south by Balentine Drive, and to the east by Interstate 880 (Nimitz Freeway).**

**RESOLUTION NO. 10358
MOTION APPROVED**

City Manager Becker gave the staff report recommending approval.

Mayor Nagy opened the public hearing at 8:07 p.m.

Valerie Boyle, representing the Newark Chamber of Commerce, said that she had read the resolutions and agreed to the conditions.

Vice Mayor Collazo stated she would be in touch with Ms. Boyle regarding ideas for the event.

Council Member Bucci stated this has traditionally been held on second weekend of July and that other events are planned around that date. He asked if they would keep that date for the 2016 and 2017 events.

Ms. Boyle stated that the future event dates would be set after the 2015 event. She stated that consistency with the date was important and her intention was to continue with the second weekend in July.

Mayor Nagy closed the public hearing at 8:16 p.m.

Council Member Freitas moved, Vice Mayor Collazo seconded to: (1) by resolution, approve P-15-14, a planned unit development, and U-15-15, a conditional use permit, to hold SummerFest in the NewPark Mall parking lot on July 11 and 12, 2015, and dates to be determined in 2016 and 2017; and (2) by motion, waive the application fees. The motion passed, 5 AYES.

- E.4 Hearing to consider: (1) adopting a resolution approving P-15-5, a planned unit development, and U-15-6, a conditional use permit, for: (a) reduced side and front yard setbacks for certain unit plans; and (b) the number of garage facades fronting one street to exceed what is allowed by the Form Based Codes; and ASR-15-9, an Architectural and Site Plan Review, for the project building elevations and finding that Vesting Tentative Map 8085 is in substantial conformance; and (2) adopting a resolution approving the second Addendum to the Dumbarton TOD Specific Plan EIR (State Clearinghouse Number 2010042012), for**

development of 542 residential units within the Dumbarton Transit-Oriented Development (TOD) Specific Plan area.**RESOLUTION NO. 10359-10360**

Assistant City Manager Grindall stated that William Lyon Homes seeks further approvals for the development of the Torian parcels within the Dumbarton Transit-Oriented Development (TOD) Specific Plan area. The project proposes the construction of 542 residential units on 42.22 acres located on the west side of Willow Street at the terminus of Central Avenue.

The project proposes the development of a previously analyzed and approved project with minor deviations from the City's Form Based Code for the TOD Specific Plan area. The specific proposed deviations are: (1) Village 3 would include 0' front setbacks in lieu of 10' setbacks for Plan 3. This reduced setback is generally consistent with the attached housing product included in the Village and would eliminate a potential nuisance corridor at the end of the Village's alleys; (2) Residences in Village 4 would have rear yard setbacks of 5.5' in lieu of 10'. The Village 4 rear yards have been designed to wrap around the corner of the residences which results in a greater amount of total rear yard square footage that the minimum required by the Form Based Code and is consistent with the intent of the code; and (3) The garages fronting the public street in Villages 4 would exceed the Form Based Code allowed façade area, however these garages would be split with varied setbacks to address the intent of the Form Based Code to avoid unarticulated frontages.

Assistant City Manager Grindall stated that the Project will be undertaken pursuant to and in conformity with the TOD Specific Plan, and the City and applicant will remain obligated to comply with all applicable mitigation measures and conditions of approval contained within the Environmental Impact Report.

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

Scott Hilk, William Lyon Homes said that he read the resolutions and agreed to the conditions.

In response to Vice Mayor Collazo, Mr. Hilk stated that 5 units were eliminated in order to expand the size of the wetlands.

Mayor Nagy closed the public hearing at 8:26 p.m.

Council Member Bucci asked what the current code permitted for the garage facades.

Assistant City Manager Grindall stated that the Form Based Code discourages most of the units' garages fronting the street. He believed the changes were consistent with the vision of the Form Based Code.

Mr. Hilk stated that for Village 4 the majority of the homes were aligned on an alleyway and meets the Form Based Code. One row of homes that fronts on the street of the central park area exceeds the allowable garage width. This would apply to five homes in the development.

Vice Mayor Collazo moved, Council Member Bucci seconded to by resolutions, (1) approve P-15-5, a planned unit development, and U-15-6, a conditional use permit, for: (a) reduced side and front yard setbacks for certain unit plans; and (b) the number of garage facades fronting one street to exceed what is allowed by the Form Based Codes; and ASR-15-9, an Architectural and Site Plan Review, for the project building elevations and finding that Vesting Tentative Map 8085 is in substantial conformance; and (2) approve the second Addendum to the Dumbarton Transit Oriented Development Specific Plan Environmental Impact Report (State Clearinghouse Number 2010042012), for and approving the development of 542 residential units within the Specific Plan Area, and making findings in support thereof. The motion passed, 5 AYES.

E.5 Hearing on the Housing Element Update 2015 by considering resolutions: 1) approving Housing Element Update 2015 and 2) Finding that the General Plan Tune Up Program Environmental Impact Report addressed the Environmental Impacts of the Housing Element Update 2015. RESOLUTION NO. 10361-10362

Assistant City Manager Grindall stated that the City Council previously approved the Draft Housing Element for submittal to the State Department of Housing and Community Development.

The State has recommended the addition of two programs: a) a Fair Housing Ordinance - a clear statement of the City's commitment to work to eliminate housing discrimination and to continue to comply with State and Federal law; and b) a Reasonable Accommodation Ordinance - establishing a process to allow flexibility in the Zoning Code to accommodate access for the disabled.

In response to Council questions, Assistant City Manager Grindall stated that the Reasonable Accommodation Ordinance could allow certain approvals at the staff level. This would return at a future meeting for approval.

Council Member Bucci stated that he would like to see the City obtain project funds through the One Bay Area Grant.

Council Member Hannon stated that he would like to see the City Council and School Board committee discuss the problem of children living in poverty. He also suggested an article in the Newark News describing resources related to code enforcement for substandard buildings and agencies that could help with housing issues.

In response to Mayor Nagy, Assistant City Manager Grindall stated that new housing is constructed and landscaped to use less water than older buildings.

Mayor Nagy opened the public hearing at 8:48 p.m.

No one came forward to speak.

Mayor Nagy closed the public hearing at 8:49p.m.

Council Member Bucci moved, Vice Mayor Collazo seconded to by resolutions: 1). approve the amendment of the General Plan by replacing the Housing Element with the Housing Element Update 2015 and 2) certifies that the environmental impacts of the Housing Element Update 2015 were addressed in the General Plan Tune Up Program Environmental Impact Report. The motion passed, 5 AYES.

F. CITY MANAGER REPORTS

Vice Mayor Collazo moved, Council Member Bucci seconded, to approve Consent Calendar Items F.1 through F.3, 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 to commit funds for managing waste and recycling. ORDINANCE NO. 488**
- F.2 Approval of the final map for Tract 8166, an 85-unit residential townhome development (K. Hovnanian at Cedar Lane, LLC) located at the northeast corner of Cedar Boulevard and Mowry School Road. RESOLUTION NO. 10363 CONTRACT NO. 15022**
- F.3 Amendment of the 2014-2016 Biennial Budget and Capital Improvement Plan for Fiscal Year 2014-2015 for General Revisions RESOLUTION NO. 10364**

NONCONSENT

F.4 Direction to file Annual Reports and intention to order improvements for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, and 17 and setting June 25, 2015 as the public hearing date.

RESOLUTION NO. 10365-10366

Vice Mayor Collazo recused herself from this item because she owns property within Landscaping and Lighting District Nos. 10 and 11. Vice Mayor Collazo left the City Council Chambers at 8:51 p.m.

City Manager Becker gave the staff report recommending approval.

Council Member Freitas moved, Council Member Hannon seconded to by resolutions, direct the filing of annual reports for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 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 June 25, 2015. The motion passed, 4 AYES, 1 RECUSED (Collazo).

Vice Mayor Collazo returned to the City Council Chambers at 8:56 p.m.

F.5 Authorization for the Mayor to sign a Contractual Services Agreement with Group 4 Architecture, Research + Planning, Inc., to complete a Civic Center Replacement/Relocation Feasibility Study, and approval of an amendment to the 2014-1016 Biennial Budget to fund the study.

**RESOLUTION NO. 10367
CONTRACT NO. 15023**

Assistant City Manager Grindall stated that the existing Civic Center and Library are antiquated, functionally obsolete, and have an extensive maintenance backlog. He proposed replacing the buildings either on the existing site or at another location such as the Community Center site or land adjacent to the Silliman Center.

He recommended Group 4 Architecture, Research + Planning, Inc., for a feasibility study, to be funded from the Community Development Maintenance Fee. The study would have specific tasks: (1) Identifying a program of uses; (2) School District Coordination and City space needs assessment; (3) site identification and analysis; (4) developing a conceptual site plan, building diagrams; (5) developing a project cost model and schedule; (6) an assessment of funding sources; (7) recommendations and action plan; and (8) Final report.

Eric Hentschke requested that the second community meeting in December be moved in order to get more community input before it is brought forward to the City Council. Assistant City Manager Grindall stated that the community meeting would occur before the City Council considered the matter.

Tim Jones stated that he works at city hall and that they need to get the message out to the public that the building needs to be replaced. The building has multiple water leaks when

it rains, air gaps in the windows, bathroom issues, undrinkable water, and malfunctioning thermostats. The library also leaks water when it rains.

Mayor Nagy stated that the library was undersized for the population size of Newark.

Council Member Freitas moved, Vice Mayor Collazo seconded to authorize the Mayor to sign a contractual Services Agreement with Group 4 Architecture, Research + Planning, Inc., to complete a Civic Center Replacement/Relocation Feasibility Study, and approval of an amendment to the 2014-1016 Biennial Budget to fund the feasibility study. The motion passed, 5 AYES.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

I.1 Appointments to the Senior Citizen Standing Advisory Committee.

RESOLUTION NO. 10368

Mayor Nagy recommended the appointments of Gloria Wilson, Glen Wickizer, Kathleen Lemos, and Tamara Tucker to the Senior Citizen Standing Advisory Committee.

Vice Mayor Collazo moved, Council Member Bucci seconded to by resolution, approve the appointments to the Senior Citizen Standing Advisory Committee. The motion passed, 5 AYES.

I.2 Recommendation from the Senior Citizen Standing Advisory Committee to rename the Newark Senior Center in memory of Clark W. Redeker.

RESOLUTION NO. 10369

Mayor Nagy stated that the Senior Citizen Standing Advisory Committee recommended that the City Council consider naming the Newark Senior Center in memory of Clark W. Redeker. The proposed name is “Clark W. Redeker Senior Center.” Mr. Redeker was a member of Newark’s first City Council and served the community in a number of capacities throughout his life.

Woody Ballard stated that Clark Redeker served the city for 75 years. He stated that it would be a great tribute to name the building in Mr. Redeker’s honor and a boost to the senior community.

The City Council shared their memories of Clark Redeker.

Council Member Bucci moved, Vice Mayor Collazo seconded to, by resolution, rename the Newark Senior Center in memory of Clark W. Redeker. The motion passed, 5 AYES.

Vice Mayor Collazo congratulated the volunteers who were honored at the City's annual Volunteer Recognition Dinner. She stated that the Music at the Grove concert series would begin in June, including the second annual Mariachi Festival. The Relay for Life Movies in the Park begins this Saturday at Community Park.

Council Member Bucci congratulated Bernie Nillo who was named the Volunteer of the Year and all the nominees. He stated that Book of Life would be the featured movie this Saturday for Movies in the Park to benefit Relay for Life.

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

K. ORAL COMMUNICATIONS

Alicia Marquez Gonzales of the Newark National Little League requested that the City Council reconsider the limit on fireworks booths for nonprofits. She stated that the Little League would like to be eligible for a fireworks booth for fundraising purposes.

Mayor Nagy asked staff to research the matter.

L. APPROPRIATIONS

Approval of Audited Demands for the City Council meeting of May 15, 2015.

City Clerk Harrington read the Register of Audited Demands: Check numbers 104669 to 104787.

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

M. CLOSED SESSION

M.1 Closed Session for Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Anticipated Litigation (1 case) – from City Attorney Benoun.

M.2 Closed session for conference with Labor Negotiators pursuant to California Government Code Section 54957.6. Agency designated

representatives: Human Resources Director Abe and Assistant City Manager Grindall; Employee Groups: the Newark Police Association, the Newark Association of Miscellaneous Employees; City Officials and the Management, Supervisory, and Professional Employee Group; and the Confidential Employee Group – from City Attorney Benoun and Human Resources Director Abe.

At 9:27 p.m. the City Council recessed to a closed session.

At 9:41 p.m. the City Council convened in closed session.

At 11:07 p.m. the City Council reconvened in open session with all Council Members present.

City Attorney Benoun announced for Closed Session M.1, the City Council authorized and directed City staff to extend a confidential settlement offer to a potential litigant. The approval action, voting tally, and substance of the agreement will be disclosed to any person upon inquiry if the potential litigant accepts the settlement offer and the settlement becomes final.

N. ADJOURNMENT

At 11:07 p.m. Mayor Nagy moved, Council Member Freitas seconded to adjourn the City Council meeting. The motion passed, 5 AYES.

SHEILA HARRINGTON
City Clerk