

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

AGENDA

Thursday, April 11, 2019

CITY COUNCIL:

Alan L. Nagy, Mayor
Sucy Collazo, Vice Mayor
Luis L. Freitas
Michael K. Hannon
Mike Bucci

CITY STAFF:

David J. Benoun
City Manager
Terrence Grindall
Assistant City Manager
Sandy Abe
Human Resources Director
Soren Fajeau
Public Works Director
Michael Carroll
Police Chief
David Zehnder
Recreation and Community
Services Director
Kristopher J. Kokotaylo
Interim City Attorney
Sheila Harrington
City Clerk

Welcome to the Newark City Council meeting. The following information will help you understand the City Council Agenda and what occurs during a City Council meeting. Your participation in your City government is encouraged, and we hope this information will enable you to become more involved. The Order of Business for Council meetings is as follows:

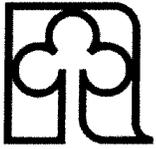
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|-------------------------------------|------------------------|
| A. ROLL CALL | I. COUNCIL MATTERS |
| B. MINUTES | J. SUCCESSOR AGENCY |
| C. PRESENTATIONS AND PROCLAMATIONS | K. ORAL COMMUNICATIONS |
| D. WRITTEN COMMUNICATIONS | L. APPROPRIATIONS |
| E. PUBLIC HEARINGS | M. CLOSED SESSION |
| F. CITY MANAGER REPORTS | N. ADJOURNMENT |
| G. CITY ATTORNEY REPORTS | |
| H. ECONOMIC DEVELOPMENT CORPORATION | |

Items listed on the agenda may be approved, disapproved, or continued to a future meeting. Many items require an action by motion or the adoption of a resolution or an ordinance. When this is required, the words **MOTION**, **RESOLUTION**, or **ORDINANCE** appear in parenthesis at the end of the item. If one of these words does not appear, the item is an informational item.

The attached *Agenda* gives the *Background/Discussion* of agenda items. Following this section is the word *Attachment*. Unless "none" follows *Attachment*, there is more documentation which is available for public review at the Newark Library, the City Clerk's office or at www.newark.org. Those items on the Agenda which are coming from the Planning Commission will also include a section entitled *Update*, which will state what the Planning Commission's action was on that particular item. *Action* indicates what staff's recommendation is and what action(s) the Council may take.

Addressing the City Council: You may speak once and submit written materials on any listed item at the appropriate time. You may speak once and submit written materials on any item **not** on the agenda during *Oral Communications*. To address the Council, please seek the recognition of the Mayor by raising your hand. Once recognized, come forward to the lectern and you may, but you are not required to, state your name and address for the record. Public comments are limited to five (5) minutes per speaker, subject to adjustment by the Mayor. Matters brought before the Council which require an action may be either referred to staff or placed on a future Council agenda.

No question shall be asked of a council member, city staff, or an audience member except through the presiding officer. No person shall use vulgar, profane, loud or boisterous language that interrupts a meeting. Any person who refuses to carry out instructions given by the presiding officer for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.



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Thursday, April 11, 2019

- A. ROLL CALL
- B. MINUTES
- B.1 Approval of Minutes of the City Council meeting of March 28, 2019. (MOTION)
- C. PRESENTATIONS AND PROCLAMATIONS
- C.1 Commending Karen Moraida on her retirement. (COMMENDATION)
- Background/Discussion** – Senior Recreation Supervisor Karen Moraida is retiring after more than 29 years of stellar services to the Newark community. Mayor Nagy will present a commendation to Mrs. Moraida at the City Council meeting.
- C.2 Proclaiming April 7 – 13, 2019 as National Crime Victims’ Rights Week. (PROCLAMATION)
- Background/Discussion** – April 7 – 13 is National Crime Victims’ Rights Week. A proclamation has been prepared and a representative from the Alameda County District Attorney’s Office Victim/Witness Assistance Division will accept it at the meeting.
- D. WRITTEN COMMUNICATIONS
- E. PUBLIC HEARINGS
- E.1 Public Hearing and tabulation of ballots for formation of Zone 2 – Sanctuary of Landscaping and Lighting District No. 4 including an increase of the Maximum Assessment Rate and, if no majority protest exists, approve the Final Engineer’s Report, the formation of Zone 2 – Sanctuary of Landscaping and Lighting District No. 4, and an increase to the Maximum Assessment Rate – from Assistant City Engineer Imai. (RESOLUTION)
- Background/Discussion** – LS-Newark, LLC (Landsea Homes), master developer of Tract 8270, located on the northwestern corner of the intersection of Stevenson Boulevard and Cherry Street, submitted a petition requesting the formation of Zone 2 –

Sanctuary of Landscaping and Lighting (L&L) District No. 4 to include Tract 8270 and the underlying Tracts 8417, 8418, 8419 and 8420, approving the Preliminary Engineer's Report, and increasing the Maximum Assessment Rate.

The Landscaping and Lighting Act of 1972 instituted procedures for the formation of maintenance districts for the purpose of financing the costs and expenses of landscaping and lighting of public areas. In 1996, California voters approved Proposition 218 which, in part, established new procedural requirements related to the establishment of Landscaping and Lighting Maintenance Districts. These procedural requirements include holding a public hearing, mailing of notices to all affected property owners in advance of the public hearing, the balloting process, and the tabulation of ballots.

At its meeting on February 14, 2019, the City Council approved the preliminary engineers report, adopted a resolution of intention for the formation of Zone 2 – Sanctuary of L&L District No. 4, provided notice of a Public Hearing set for April 11, 2019 and directed ballots be mailed to all affected property owners.

In accordance with the procedural requirements of Proposition 218, notices of the Public Hearing and ballots were sent to all property owners subject to the proposed assessment at least 45 days prior to the date of the Public Hearing for the formation of Zone 2 – Sanctuary of L&L District No. 4. During the Public Hearing, all interested parties will have the opportunity to hear and have heard, all comments regarding the proposed assessment and ballot proceedings. Property owners have until the close of the Public Hearing to submit a completed ballot. At the conclusion of the Public Hearing, ballots will be opened, tabulated and weighted by the proposed assessment amount on each affected property and the results will be announced.

A majority protest exists if the weighted number of ballots received in opposition to the proposed assessment exceed the weighted number of ballots in favor of the assessment. If a majority protest does not exist, City Council may consider adopting a resolution approving the formation of Zone 2 – Sanctuary of L&L District No. 4.

If approved, the maximum assessment for Zone 2 – Sanctuary of L&L District No. 4 would be \$48,486.24, which equates to a maximum assessment of \$194.06 for each single-family residence within Zone 2 - Sanctuary. In all future years, the rate of assessment for improvements associated with Zone 2 – Sanctuary may be increased annually based on the Consumer Price Index or three percent (3%), whichever is greater. The existing L&L District No. 4 does not allow for an annual inflation rate to be applied to the maximum assessment rate of the existing District. Therefore, the maximum assessment rate for improvements associated with the original L&L District No. 4 will not be adjusted.

Attachment – Resolution; Final Engineer's Report

Action – It is recommended that the City Council, (1) hold a Public Hearing for the formation of Zone 2 – Sanctuary of Landscaping and Lighting District No. 4, (2) after

conclusion of the public input portion of the public hearing, close the balloting period and direct the City Clerk to tabulate all ballots received, (3) hear and accept the tabulation results from the City Clerk for the proposed assessment of Zone 2 – Sanctuary of Landscaping and Lighting District No. 4, and (4) if a majority protest does not exist, by resolution, approve the Final Engineer’s Report and approve the formation of Zone 2 – Sanctuary of Landscaping and Lighting District No. 4 and approve an increase to the Maximum Assessment Rate.

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.2 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT

- F.1 Approval of a Contractual Services Agreement with Surf to Snow Environmental Resource Management, Inc. for Municipal Regional Stormwater NPDES Permit inspection services in an amount not to exceed \$50,000 and authorization to amend the 2018-2020 Biennial Budget and Capital Improvement Plan for fiscal year 2019-2020 to provide additional funding for said services – from Assistant City Engineer Imai.**

(RESOLUTION)

Background/Discussion – The City is obligated to conduct annual inspections of stormwater treatment measures and facilities throughout the City, as detailed in the San Francisco Bay Regional Water Quality Control Board’s (Water Board) Municipal Regional Stormwater NPDES Permit (MRP), under which the City is a permittee. Under MRP Provisions C.3 and C.4, inspections include Operation and Maintenance (O&M) programs, industrial and commercial site measures as well as response and resolution to violations or deficiencies.

In response to current workload demands and lack of dedicated stormwater staff to address State mandated stormwater requirements, the Public Works Department prepared and initiated an open and competitive Request for Proposals (RFP) for stormwater inspection services, in accordance with the City’s Purchasing Rules and Regulations. RFPs were sent to firms that expressed interest, aggregated with outreach lists from neighboring agencies with experience in similar RFPs. The RFP specified that selection would be made based on quality and completeness of submissions as well as a firm’s experience with engagements of similar scope and complexity, satisfaction of previous clients, and proposed rate schedules.

Stormwater inspection services pertain to O&M verification inspections of more than 30 sites with stormwater treatment and hydromodification management measures and

inspections of Best Management Practices (BMPs) at more than 60 industrial and commercial facilities. The number of sites requiring inspections is an ever-growing list as the City continues to develop. Contractual services as needed would allow for dedicated inspections and timely enforcement, as City staff advance private development and capital improvement projects that benefit the community. Related duties include, but may not be limited to, enforcement against and resolution of violations and deficiencies, GIS data provision, and public outreach.

Staff received two proposals, which were evaluated on completeness, demonstration of former experience with the required scope of services, satisfaction of previous clients, and proposed rate schedules. Staff is recommending the selection of Surf to Snow Environmental Resource Management, Inc. (S2S) to provide on-call stormwater inspection services.

The contractual services agreement for on-call stormwater inspection services with S2S is in an amount not to exceed \$50,000. The agreement would be for the remainder of the 2018-2019 fiscal year, beginning on April 12, 2019, and expiring on June 30, 2020, renewable for two (2) additional one (1) year terms upon mutual consent of the City and selected consultant, subject to available funding. Under the terms of the agreement, the selected firm will provide the requested services based upon the adopted compensation rates.

Staff requests authorization to amend the 2018-2020 Biennial Budget and Capital Improvement Plan to add \$25,000 to fiscal year 2019-2020 for on-call stormwater inspection services.

Attachments – Resolution; Contractual Services Agreement

Action – It is recommended that the City Council, by resolution, approve the Contractual Services Agreement with Surf to Snow Environmental Resource Management, Inc. for Municipal Regional Stormwater NPDES Permit inspection services in an amount not to exceed \$50,000 and amend the 2018-2020 Biennial Budget and Capital Improvement Plan for fiscal year 2019-2020 to provide additional funding for said services.

F.2 Approval of a Contractual Services Agreement with West Coast Arborists, Inc. in an amount not to exceed \$955,000 for remaining fiscal year 2018-2019 and fiscal year 2019-2020 Tree Maintenance Services – from Assistant Maintenance Superintendent Hornbeck. (RESOLUTION)

Background/Discussion – The City of Newark regularly utilizes outside consultants to perform ongoing maintenance of City trees located in parks, streets and City-owned properties. The Maintenance Division of the Public Works Department prepared and released an open and competitive Request for Proposals (RFP) for 2019-2020 Tree Maintenance Services in accordance with the City's Purchasing Rules and Regulations. The RFP specified that selection would be made based on the quality and completeness of proposals, experience of staff and management team, proposed methodology, quality control program, satisfaction of previous clients and quality of referenced work, proficiency

with billing practices, financial stability of company, quality of equipment, tools and uniforms, and proposed rate schedules/estimated cost for services.

Staff received a total of five (5) proposals on or before March 26, 2019 from the following proposers:

Arboricultural Specialists, Inc. dba The Professional Tree Care Company
Arborists Now, Inc.
Bay Area Tree Specialists
New Image Landscape Company
West Coast Arborists, Inc.

Proposals from each of these entities were subsequently evaluated based on the selection criteria listed above. West Coast Arborists, Inc. provided the most comprehensive proposal that satisfied these selection criteria, including the most competitive rate schedules/estimated cost for services. West Coast Arborists, Inc. has previously provided excellent service of a similar nature to the City and based on staff's analysis would provide the best overall value to the City for current tree maintenance service needs. Staff is therefore recommending the selection of West Coast Arborists, Inc. to provide tree maintenance services for the remainder of fiscal year 2018-2019 and for fiscal year 2019-2020.

The Contractual Services Agreement would begin on April 15, 2019, and expire on June 30, 2020, with options for renewal of up to four (4) additional one (1) year terms upon mutual consent of the City and selected consultant as authorized by the Public Works Director, subject to available funding levels to be approved by the City Council. Under the terms of the agreement, West Coast Arborists, Inc. would provide the requested services in the amount not to exceed \$955,000 combined for remaining fiscal year 2018-2019 and fiscal year 2019-2020 based upon the adopted compensation rates. Renewal contract prices may be increased annually by the consumer price index identified in the agreement.

The 2018-2020 Biennial Budget and Capital Improvement Plan has sufficient funding for all tree maintenance services under this agreement.

Attachments – Resolution; Contractual Services Agreement

Action – It is recommended that the City Council, by resolution, approve the Contractual Services Agreement with West Coast Arborists, Inc. in an amount not to exceed \$955,000 for remaining fiscal year 2018-2019 and fiscal year 2019-2020 Tree Maintenance Services.

NONCONSENT

F.3 Authorization and direction for: (1) the Chief Building Official/City Architect to issue a Notice of Award to Webcor Construction, LP dba Webcor Builders; and (2) the City Manager to negotiate and enter into an agreement, in a form acceptable to the City Attorney, with Webcor Builders to provide Design/Build Construction and Design Services for

the New Civic Center, Project 1188 in an amount not to exceed \$72,321,027 – from Chief Building Official/City Architect Collier. (RESOLUTION)

Background/Discussion – In November, 2016, Newark voters approved a one-half percent general sales tax to fund general city services including the construction of a new Civic Center comprising of three buildings to house the Library, Police Department, and City Administration.

In 2017, the City elected to use the Design/Build model for the construction of the New Civic Center Project. As discussed in previous City Council meetings the Design/Build model of project delivery is different from the traditional Design/Bid/Build model the City has utilized in all prior construction projects. The Design/Build model allowed the City to select an architect who provided a design along with bridging documents for the New Civic Center and then select a Design/Build Entity to complete the design, prepare construction documents, and construct the New Civic Center. This type of project delivery model allows the City to select a prequalified Design/Build Entity based on the “best value” to the City.

In April, 2017, the City entered into an agreement with Heller Manus Architects to provide design services for the New Civic Center Project. Heller Manus prepared a feasibility study and then worked with different City departments, including the Newark Police Department and library employees, to refine the program previously provided in the feasibility study and to develop the original schematic design concept. The City Council approved the schematic design following a presentation by staff. Heller Manus then proceeded to complete the bridging documents used in the Request for Proposals for the Design/Build services.

Design-Build Selection Process

The City is now ready to select a Design/Build Entity to provide design and construction services for the construction of the New Civic Center. In August, 2018, staff solicited Statements of Qualifications from Design/Build Entities. The following seven entities responded:

- Blach Construction with ELS Architects
- C/S Broward Builders with JKAE/Arrington Architects
- Hensel Phelps Construction with Fentress Architects
- Pankow Construction with Noll & Tam Architects
- Roebbelen Construction with Nichols Architects
- Swinerton Builders with LPA Architects
- Webcor Builders with Perkins+Will Architects

Staff evaluated their qualifications and interviewed the top four scoring teams. After the interview, staff invited the three top ranked firms to submit formal proposals. The top three firms were Webcor Builders/Perkins+Will Architects, C/S Broward/JKAE/Arrington Architects, and Blach Construction/ELS Architects. Pursuant to the RFP and the Public Contract Code statutes allowing local agencies to undertake design-build projects, staff held up to three confidential meetings with each of the proposers culminating in formal presentations by the finalists. A panel consisting of the City Manager, Chief Building Official/City Architect, Project Assistant, Assistant City Manager, Public Works Director,

Police Chief, Newark Librarian, and Library Maintenance Supervisor conducted interviews with, and received presentations from, all three proposers. The proposals were reviewed and scored as required by the RFP. Based on the scores, the proposals, design enhancements, price, qualifications of personnel, design and construction experience and their ability to work collaboratively with City staff the Design/Build Entity of Webcor Builders and Perkins+Will Architects was the design-build team that the panel determined will provide the best value to the City.

Staff anticipated during the design process that repurposing the existing library to house non-essential police activities would result in a cost savings. However, Webcor Builders offered an option of including those non-essential activities in the new Police Building that would result in a cost savings of \$1.6 million over repurposing the old library. Notwithstanding the significant cost savings, the Police Department highly desires combining all police activities and functions into a single new building. This option is recommended by staff and is included in Webcor Builders' proposal.

Cost

Besides ranking the highest in design enhancements, qualifications of personnel, design and construction experience and ability to work collaboratively with City staff, Webcor Builders offered the lowest price of the three proposers. Webcor Builders' price is \$72,321,027. The prices from the three proposers for comparable work are:

Webcor Builders	\$72,321,027
C/S Broward	\$72,561,905
Blach Construction	\$73,039,008

Project Funding

In addition to the Design-Builder's construction cost there are other costs, commonly referred to as "soft costs" of approximately \$9,500,000 for a total anticipated project cost of approximately \$85,500,000 including a \$3,600,000 contingency for construction.

The City has adequate funding to pay for the Civic Center. The project is being funded primarily by the issuance of bonds paid for with the proceeds from the Measure GG sales tax approved by Newark voters in 2016. Additional funding will be provided by City Development Impact Fees, accumulating Measure GG tax revenue received prior to actual bond issuance, Art In Public Places fees, and Measure D funds. Measure D funds are generated through disposal surcharge collected at the Altamont and Vasco Road landfills and distributed by the Alameda County Source Reduction and Recycling Board. A portion of Measure D funds allocated to the City of Newark will be used for Bay Friendly rated landscaping, LEED Certification, and designated building materials with high recycled content.

Staff is currently working with NHA Advisors – a financial consulting service that the City has used in the past to assist with the funding of the construction of the Silliman Center – to finalize the bond issuance process. Staff anticipates returning to the City Council in July for bonding approval.

The Request for Proposals requires that a Notice of Award be issued by the City to the selected Design/Build Entity. For the reasons identified above, staff recommends that the City Council authorize and direct the Chief Building Official/City Architect to issue the Notice of Award. Following issuance of the Notice of Award, the Design/Build Entity has ten (10) business days to provide the required documents listed in the Request for Proposals to the City. After all required documents have been received by the City, the Agreement can be executed by the City Manager with the consent of the City Attorney.

Attachments – Resolution; Notice of Award; Presentation drawings

Action – It is recommended that the City Council, by resolution: (1) authorize and direct the Chief Building Official/City Architect to issue a Notice of Award to Webcor Construction LP dba Webcor Builders; and (2) authorize and direct the City Manager to negotiate and enter into an agreement, in a form acceptable to the City Attorney, with Webcor Builders to provide Design-Build Construction and Design Services for the New Civic Center, Project 1188 in an amount not to exceed \$72,321,027.

F.4 Approval of a resolution recognizing the importance of a complete count of residents in the 2020 U.S. Census – from Assistant City Manager Grindall. (RESOLUTION)

Background/Discussion – Each decade the federal government conducts a Census of the population of the United States of America. This is a Constitutional requirement. The next Census will be conducted in 2020. An accurate count of the population is of critical importance, as it determines political representation on a federal, state and local level. Population counts, as determined by the Census, are also a key factor in calculating the amount of funding that is distributed to communities from federal, state and county governments as well as philanthropic funding for social programs and services.

Newark could potentially risk forgoing significant funding if its residents are not counted because Newark is poised to pass the 50,000 population mark that will enable substantially greater Community Development Block Grant (CDBG) funding and federal transit funding. Newark's population was estimated to be 47,467 in January of 2018. Since that time, 480 homes have been completed in Newark. An estimated 3.2 people occupy each home. Thus, staff estimates that the City's population is now approximately 49,000. Based on the homes under construction or in development, staff estimates that Newark will cross the 50,000 population mark before Census day, April 1, 2020, but likely by a small margin. It is imperative that every resident of Newark is counted.

Estimates indicate that the 2010 Census undercounted nearly 100,000 Californians. An accurate and complete count poses challenges due to several factors. The housing affordability crisis has forced more Californians to move into hard-to-count unconventional housing and overcrowded dwellings or into homelessness. Some communities are mistrustful of the government and many lack the internet access required to complete the Census.

For the first time, the Census is a digital census and more than 75 percent of California households will be receiving an invitation to complete their census form online, even though many households lack broadband or digital literacy.

Of particular concern is that the executive branch of the federal government is attempting to include a citizenship question on the Census. The United States Supreme Court will consider this issue and the outcome is uncertain. The Constitution requires that all **residents** are counted regardless of citizenship. Federal law protects the privacy of people who fill out the Census. Despite these facts, the potential inclusion of this question may discourage people from accurately completing the Census. The City, with its partners in the County and State, want to stress that all **residents** should be included in the Census and that all information is strictly **confidential**.

Community Development staff have to be actively engaged with the Census Bureau to ensure that its address lists are accurate and that new development areas are captured in the Census. Staff will continue to work to ensure that all residents reply to the Census. Staff intends to utilize the digital billboards located in Newark to inform the population and coordinate with the Newark Library to reach hard to count residents and residents without computer access. Staff will continue to work to assure that the 2020 Census accurately counts all of our residents. Staff will brief the City Council in the future regarding this issue.

The League of California Cities is encouraging all California cities to adopt a resolution recognizing the importance of the 2020 U.S. Census. Staff has prepared the attached resolution for consideration by the City Council.

Attachment - Resolution

Action - It is recommended that the City Council approve a resolution recognizing the importance of a complete count of residents in the 2020 U.S. Census.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

**I.1 Reappointing Senior Citizen Standing Advisory Committee members –
from Mayor Nagy. (RESOLUTION)**

Background/Discussion – Members of the Newark Senior Citizen Standing Advisory Committee (Committee) have terms that expire on April 14, 2019. Kathleen Lemos, Eileen McDonald, and Glen Wickizer have each requested a two year reappointment.

Mayor Nagy has agreed to reappoint Kathleen Lemos, Eileen McDonald, and Glen Wickizer to the Senior Citizen Standing Advisory Committee for terms expiring April 14, 2021. The appointments should be confirmed by the City Council.

Attachment - Resolution

Action - It is recommended that the City Council, by resolution, reappoint Kathleen Lemos Eileen McDonald, and Glen Wickizer to the Senior Citizen Standing Advisory Committee.

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

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

Approval of Audited Demands.

(MOTION)

M. CLOSED SESSION

N. ADJOURNMENT

Pursuant to Government Code 54957.5: Supplemental materials distributed less than 72 hours before this meeting, to a majority of the City Council, will be made available for public inspection at this meeting and at the City Clerk's Office located at 37101 Newark Boulevard, 5th Floor, during normal business hours. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection.

For those persons requiring hearing assistance, please make your request to the City Clerk two days prior to the meeting.