



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, October 24, 2019

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the City Council meeting of October 10, 2019.
(MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

Background/Discussion – Police Officers Brandon McCuin, Jacob Langenstein, and Accountant Ivan Quon will be at the City Council meeting to be introduced to the City Council.

- C.2 Eden I&R (Information and Referral), Inc. Executive Director DeJung will give a presentation on their services. (PRESENTATION)**

Background/Discussion – Alison DeJung is the Executive Director of Eden I&R, Inc. Located in Hayward, Eden I&R, Inc. is the nonprofit agency designated by the California Public Utilities Commission to be the provider of the 211 service for Alameda County. 211 is the free, three-digit dialing code available 24/7 in multiple languages to connect people to critical health, housing, human service, and disaster preparedness and response information. Ms. DeJung will give a brief presentation (draft copy attached) on 211 including recent enhancements, as well as additional services now available.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

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 to amend the 2018-2020 Biennial Budget to add a Vehicle Abatement Officer position in the Police Department – from Police Chief Carroll. (RESOLUTION)

Background/Discussion – A Vehicle Abatement Officer position was added to the Employee Classification Plan and Memorandum of Understanding between the City of Newark and the Newark Association of Miscellaneous Employees and approved by City Council on June 27, 2019 (Resolution Numbers 10,940 and 10,941). Due to a clerical error, a budget amendment was not requested at that time. Staff recommends that the 2018-2020 Biennial Budget be amended now in the amount of \$99,465 for Fiscal Year 2019-2020.

Attachment – Resolution

Action - Staff recommends that the City Council, by resolution, amend the 2018-2020 Biennial Budget to add a Vehicle Abatement Officer position in the Police Department.

F.2 Authorizing the City Manager to execute a Contractual Services Agreement with ACC Environmental Consultants to provide Hazardous Material Abatement Construction Observation, Sampling and Monitoring Services for the New Civic Center, Project 1188 – from Chief Building Official/City Architect Collier. (RESOLUTION)

Background/Discussion – The New Civic Center, Project 1188, will require pre-abatement and demolition investigation, sampling and hazardous material abatement oversight. The City issued a Request for Proposals (RFP) for Hazardous Material Abatement Construction Observations, Sampling and Monitoring services in July 2019 and received a total of four responses. The submitted responses were required to include a not to exceed cost for all required services. The four proposers and respective proposed not to exceed costs through the RFP were:

<u>Proposer</u>	<u>Not to Exceed Cost</u>
Essel Environmental Engineering & Consulting	\$30,865.00
ACC Environmental Consultants	\$44,471.00
*Terracon Consultants, Inc.	\$45,642.00
Millennium Consulting Associates	\$61,080.00

*Terracon Consultants, Inc. only provided a unit rate for performing construction observation and monitoring services. Therefore, for evaluation purposes staff used the RFP-provided schedule of 30 days to estimate the total cost.

Essel Environmental Engineering & Consulting’s proposal did not submit prior project experience, personnel resumes, or client references, all of which were requested in the RFP. Therefore their qualifications for completing the desired scope of services were not clearly demonstrated. Their fee also indicated they did not fully understand the volume of testing and monitoring required for this project.

ACC Environmental Consultants (ACC) provided the most clear and comprehensive proposal which outlined their cost drivers and assumptions and demonstrated a full understanding of the requested scope of services. ACC has highly qualified project staff and extensive relevant project experience. Based on staff’s evaluation, ACC is the firm most qualified to provide the best value to the City for the requested services.

The Community Development Department will undertake an extensive community engagement process to determine the best future use of the existing library building and site. The scope of services could be expanded under this proposed contract to include observation and monitoring of demolition of the existing library building should the City ultimately elect this option.

The approved budget for the New Civic Center, Project 1188 has sufficient funding for all services under this proposed agreement.

Attachments – Resolution, Contractual Services Agreement

Action – Staff recommends that the City Council, by resolution, authorize the City Manager to execute a Contractual Services Agreement with ACC Environmental Consultants to provide Hazardous Material Abatement Construction, Sampling and Monitoring services for the New Civic Center, Project 1188.

NONCONSENT

F.3 Receive Evaluation Report and Consider Joining the East Bay Community Energy (“EBCE”) Community Choice Aggregation (“CCA”) – from City Manager Benoun.

(MOTION) (RESOLUTION) (INTRODUCTION OF ORDINANCE)

Introduction – City staff seeks City Council direction regarding a policy determination on whether to join the recently formed East Bay Community Energy (EBCE) Community Choice Aggregation (CCA) program.

In 2015, all the cities within the County (excluding the City of Alameda which operates its own municipal electric utility) were asked by Alameda County to consider forming the EBCE. A steering committee that included a representative from each

city, including Newark, met on multiple occasions and developed a Joint Powers Agreement that authorized the creation of East Bay Community Energy Authority. After discussing the possibility of joining EBCE during several Council meetings and a workshop, the Council decided against joining. The staff report from the November 10, 2016, City Council meeting is attached to provide background information and context.

Staff was recently approached by EBCE staff and County representatives to reconsider joining EBCE. Should the Council want Newark to join EBCE, and to initiate EBCE service in 2021, then it will need to take immediate action, including passing a motion to authorize the City Manager to sign a PG&E form, enacting a resolution that would authorize the City of Newark to join the EBCE Joint Powers Authority, and introducing an ordinance that would implement a Community Choice Aggregation Program.

Background/Discussion – EBCE is a Community Choice Aggregation (CCA) program. EBCE is a not-for-profit CCA that currently consists of the County of Alameda and 11 cities within the County. All eligible cities in the County are members except for Newark and Pleasanton. However, Pleasanton, along with Tracy, recently took action to start the process of joining EBCE.

EBCE operates by purchasing electricity for its customers, with PG&E continuing to deliver that electricity, maintain the grid, and handle customer billing. In 2002, Assembly Bill 117 was passed in response to the California electricity crisis of 2000 and 2001. AB 117 allows local governments to administer energy efficiency programs using funds collected from electric ratepayers and allows EBCE to purchase wholesale electricity to service its citizens and businesses. AB 117 was intended as a form of direct access, allowing communities to purchase electricity directly and thus force investor-owned utilities (IOUs), such as PG&E, to compete for electricity customers' business. CCAs can also invest in greener energy than the California Renewables Portfolio Standards (first passed in 2002) required for retail sellers of electricity.

California Public Utilities Commission (“CPUC”) decisions describe CCAs as follows: “Cities and counties have become increasingly involved in implementing energy efficiency programs, advocating for their communities in power plant and transmission line siting cases, and developing distributed generation and renewable resource energy supplies. The CCA program takes these efforts one step further by enabling communities to purchase power on behalf of the community.” (D04 12 046 and D05 041.)

EBCE was established in October, 2016, and began providing service in June, 2018. EBCE is a joint powers authority run by board members from each participating jurisdiction and has a Community Advisory Committee that represents the community. All revenue in excess of direct operating costs received by EBCE must be used for the benefit of EBCE consumers, either as cash reserves for liquidity and risk management purposes, or reinvested Countywide to create jobs, programs, and power projects.

The City Council previously considered whether to join EBCE and declined after expressing concerns regarding EBCE's initial startup costs, ability to compete with PG&E, and governance structure.

EBCE and the County recently contacted City staff regarding the possibility of having Newark reconsider joining EBCE. In response to this outreach, City staff reengaged Mr. Mike Pretto of Aspen Environmental Group to conduct further analysis. Mr. Pretto previously served as the City's consultant in 2016 when the City was asked to consider joining EBCE.

Mr. Pretto's updated report is attached. In summary, Mr. Pretto concludes that:

- (1) CCAs in general are making considerable progress throughout the State, including:
 - a. Increasing the number of CCAs throughout the State from 2 in 2016 to 19 today;
 - b. Providing greener, more greenhouse gas ("GHG") free energy at lower prices;
 - c. CCA's are actively engaged at the CPUC and State legislative level;
 - d. CCA's are growing in financial strength by accumulating significant cash reserves;
- (2) The EBCE in particular has made considerable progress, including:
 - a. Establishing a 1.5% discount to PG&E's electrical generation rates for its "Bright Choice" option (this would result in approximately \$450,000 per year savings to Newark residents and businesses, which would also cause slightly lower revenue from the City's Users Utility Tax by an estimated \$20,000 per year);
 - b. Achieving "Bright Choice" renewable levels superior to PG&E's (41% renewable vs. 37% for PG&E, and 85% GHG-free vs 78% for PG&E);
 - c. Providing a 100% GHG-free "Brilliant Choice" option at the same price as PG&E, and a "Renewable 100" option priced \$0.01 per kWhr higher than PG&E
 - d. Building cash reserves (\$62 million in cash on hand as of June 30, 2019);
 - e. Entering into multiple long-term power purchase agreements, including projects in Alameda County; and
 - f. Achieving a high level of customer retention (4% overall opt out rate).
- (3) Many of the Council's concerns that were expressed in 2016 when the City elected to not join the EBCE appear to have been addressed within the past few years as follows:
 - a. Regarding the voting structure and concern that larger cities could dominate the EBCE board, no weighted voting has been triggered;
 - b. Regarding concerns that EBCE electrical generation rates potentially being higher than PG&E's, EBCE's rates have been set at 1.5% below PG&E generation-related rates under the "Bright Choice" option; and

- c. Regarding potential financial exposure to the City, it would be free for Newark to join the EBCE at this point in time.
- (4) There are many benefits to Newark residents and business to joining, including:
- a. A total and collective reduction of \$450,000 per year in PG&E bills;
 - b. Greener power at lower cost; and
 - c. Newark would have more influence on purchasing power through the EBCE as opposed to PG&E or the CPUC.

The CPUC requires that any City that would like to receive CCA service by 2021 must join a CCA in 2019. Thus, if Newark would like to begin receiving service from EBCE starting in 2021, the Council must take action immediately. If Newark does not vote to join until 2020, then service would not begin until 2022. This new requirement is designed to ensure that CCAs have procured sufficient energy generation to meet demand for the coming year and fulfill their resource adequacy obligations.

If the City Council would like to receive CCA service through EBCE starting 2021, then the City Council will need to take the following actions immediately:

- (1) Pass a motion directing the City Manager to sign a PG&E form that would request electric usage in Newark be provided to EBCE so that EBCE can conduct a technical analysis;
- (2) Adopt a resolution to join the EBCE's Joint Powers Authority; and
- (3) Introduce an Ordinance that would implement a Community Choice Aggregation Program.

If the City Council takes the foregoing action, then the EBCE Board would need to vote to include Newark in the joint powers authority at its November meeting. The EBCE Authority would then file an amended implementation plan with the CPUC before December 31, 2019.

If the City joins EBCE, then the City Council can appoint a representative to sit on the EBCE Board of Directors beginning in 2020. EBCE would begin community outreach to the Newark community later in 2020, including hosting community meetings, attending community events (such as Newark Days), meeting with community stakeholders (such as the Chamber of Commerce), and any other community outreach the Council deems appropriate. The outreach would include "How to Read Your Bill" tutorials at public places, such as the library and Silliman Center. Enrollment in EBCE would most likely start in Spring 2021 with enrollment reflected on customer PG&E bills within 1-3 billing cycles thereafter.

Prior to launch of the program and as required under State law, the EBCE would give customers two (2) notices within sixty (60) days indicating that he/she can "opt-out" of the upcoming program. If the customer does not opt-out, then, pursuant to State law, the

customer would be automatically enrolled in the new energy program. After enrollment, the customer should receive two (2) additional notices, both indicating that she/he can opt-out at no cost. Examples of previously used notifications are attached.

Conclusion – On the one hand, there are many benefits to joining EBCE, including local control over the purchase of electricity, lower greenhouse gas emissions, and less expensive electrical rates. Previous concerns about the lack of reliability and cost effectiveness appear to be minimized because, as outlined in the attached report from 2016, there has been more than a year of stable operation and the EBCE electrical generation rates are 1.5% lower than PG&E’s electrical generation rates. On the other hand, there are concerns about the governance structure of EBCE, although to date no weighted EBCE vote has ever been called.

Staff recommends that the Council: (1) receive this report; (2) review the attached memorandum from the City’s consultant; (3) review the previous staff report; and (4) consider joining EBCE. If the Council would like Newark to join the EBCE, then it will need to take the aforementioned action.

Attachments:

- 1 – Staff report from Newark City Council meeting held on Nov. 10, 2016
- 2 – Report from Aspen Environmental Group, City’s consultant, dated October 11, 2019
- 3 – Sample Residential Letter Notice and Sample Residential Postcard
- 4 – Resolution
- 5 – Ordinance
- 6 – Draft meeting presentation from City Manager
- 7 – Draft meeting presentation from Aspen Environmental Group.

Action – Staff recommends that the City Council receive this report and consider whether Newark should join EBCE. Should the City Council decide to vote on joining, a motion should be made to:

- 1) Introduce an Ordinance authorizing the implementation of a Community Choice Aggregation Program pursuant to California Public Utilities Code Section 366.2;
- 2) Adopt a Resolution approving an Agreement to Participate in a Joint Powers Agency For Community Choice Aggregation Program In Alameda County; and
- 3) Authorize the City Manager to execute a PG&E form that would request electric usage in the City of Newark be provided to EBCE for technical analysis purposes.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS**I.1 Approval of appointment of Planning Commissioner Aguilar to the
Community Development Advisory Committee – from Mayor Nagy.
(RESOLUTION)**

Background/Discussion – The Community Development Advisory Committee (CDAC) is an appointed committee that provides recommendations to the City Council for the use of Community Development Block Grant funds and to the Community Development Director on priorities for the use of Housing funds.

The CDAC consists of two City Council Members, two Planning Commissioners and the balance from the community. Planning Commissioner Bernie Nillo passed away in May, which has created the need for a new Planning Commission representative to the CDAC. Mayor Nagy recommends that Planning Commissioner Jeff Aguilar fill this vacancy.

Attachment - Resolution

Action - It is recommended that the City Council, by resolution, appoint Planning Commissioner Jeff Aguilar to the Community Development Advisory Committee.

**J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY****K. ORAL COMMUNICATIONS****L. APPROPRIATIONS**

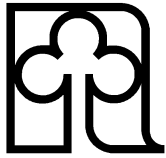
Approval of Audited Demands.

(MOTION)

M. CLOSED SESSION**M.1 Closed session pursuant to Government Code Section 54957
Public Employee Performance Evaluation
Title: City Manager.****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.



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7:30 p.m.
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AGENDA

Thursday, October 24, 2019

CITY COUNCIL:

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

CITY STAFF:

David J. Benoun
City Manager

Michael Carroll
Police Chief

Soren Fajeau
Public Works Director

David Zehnder
Recreation and Community
Services Director

Helen Que-Garcia
Acting Human Resources Dir.

Kristopher J. Kokotaylo
Interim City Attorney

Krysten Lee
Finance Manager

Steven M. Turner
Community Development Dir.

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:

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