

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, May 25, 2017

CITY COUNCIL:

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

CITY STAFF:

John Becker
City Manager
Terrence Grindall
Assistant City Manager
Susie Woodstock
Administrative Services Director
Sandy Abe
Human Resources Director
Soren Fajeau
Public Works Director
Jim Leal
Police Chief
David Zehnder
Recreation and Community
Services Director
David J. Benoun
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:

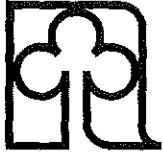
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|-------------------------------------|-------------------------|
| A. ROLL CALL | I. COUNCIL MATTERS |
| B. MINUTES | J. SUCCESSOR AGENCY |
| C. PRESENTATIONS AND PROCLAMATIONS | TO REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS | K. ORAL COMMUNICATIONS |
| 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.



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AGENDA

Thursday, May 25, 2017

- A. ROLL CALL**
- B. MINUTES**
- B.1 Approval of Minutes of the regular City Council meeting of Thursday, May 11, 2017. (MOTION)**
- C. PRESENTATIONS AND PROCLAMATIONS**
- C.1 Presentation of Awards for Students, Teacher, and Classified Employee of the Year. (PRESENTATION)**
- Background/Discussion** – The Newark Unified School District has selected a Student of the Year from each of our local schools. The District has selected a Teacher and Classified Employee of the Year. The Newark Rotary Club will present each individual with a certificate.
- C.2 Proclaiming June as Celebrating Business Month in Newark. (PROCLAMATION)**
- Background/Discussion** – June is Celebrating Business Month in the City of Newark. Chamber President/CEO Valerie Boyle and members of the Newark Chamber of Commerce will accept the proclamation at the meeting.
- D. WRITTEN COMMUNICATIONS**
- E. PUBLIC HEARINGS**
- E.1 Hearing to consider introduction of an ordinance repealing previously adopted Urgency Ordinance 496-U pertaining to accessory dwelling units and a zoning text amendment to Section 17.08.415 (Accessory Dwelling Units), Section 17.16.030(k) (Permitted Uses) and deleting Section 17.08.143 (Efficiency Unit) of the Newark Zoning Code - Assistant City Manager Grindall. (INTRODUCTION OF AN ORDINANCE)**

Background/Discussion – Staff is proposing the amendment of Title 17 (Planning and Zoning) of the Newark Municipal Code to respond to the recent state legislation and to implement policies in the General Plan Housing Element. Senate Bill (SB) 1069, Assembly Bill (AB) 2299, and Assembly Bill (AB) 2406 were all signed by Governor Brown in late September, requiring that cities and counties in California adopt conforming regulations for Accessory Dwelling Units (ADU). The new State regulations are intended to make it easier to create ADUs on single-family residential properties, thereby addressing the shortage of affordable rental units in California.

Accessory Dwelling Units (ADUs), previously known as secondary units, and also known as in-law apartments or granny flats, are an important housing resource in California. ADUs are typically created through the construction of a detached structure in the rear yard, the conversion of existing living space in a single-family home to a separate dwelling unit, or the addition of space to an existing home. Over the last two decades, the State has adopted a number of laws that encourage ADUs and limit the requirements that may be imposed by cities on such units. ADUs are generally regarded as an effective way to increase housing options without changing neighborhood character. They can effectively provide affordable housing for renters, a source of income for homeowners, and a housing resource for extended families, seniors, college students, and others.

On January 12, 2017, the City Council adopted an Urgency Ordinance amending the zoning ordinance to relax regulations on Accessory Dwelling Units. At the time of the Urgency Ordinance adoption there were outstanding policy issues that needed further discussion. On March 23, 2017, the City council received a staff report and discussed the issues raised by the City Council at their January 12, 2017, meeting. The issues were: 1) The potential of requiring owner residence on the property if there is an Accessory Dwelling Unit and 2) the potential limitation of ADUs to a single bedroom.

Based on Council discussion staff is recommending that there not be an owner occupancy requirement. Staff will monitor this issue and consider recommending changes if conditions warrant it. Since the concern about allowing two bedroom units primarily revolves around potential parking issues, staff is recommending that a Standard ADU be allowed to be up to two bedrooms on the condition that an additional off-street parking space is provided. Therefore, staff has prepared the permanent ordinance that does not include a requirement of property owner residence, allows two bedroom units and specifies that a second off-street parking space would be provided.

Since adoption of the urgency ordinance, staff has reviewed it further and has identified an element that is not consistent with the State legislation. The Urgency Ordinance included a provision that a Standard ADU in an area that has an existing parking problem would require a Conditional Use Permit. The State Legislation does not appear to allow this requirement; therefore, this element is not included in the proposed permanent ordinance.

Attachment

Action - It is recommended that the City Council hold a public hearing to consider introduction of an ordinance repealing previously adopted Urgency Ordinance 496-U pertaining to accessory dwelling units and a zoning text amendment to Section 17.08.415 (Accessory Dwelling Units), Section 17.16.030 (k) (Permitted Uses) and deleting Section 17.08.143 (Efficiency Unit) of the Newark Zoning Code.

- E.2 Hearing to consider: (1) Introduction of an Ordinance repealing and replacing Chapter 3.24 of the Newark Municipal Code “Development Impact Fees”; (2) Adoption of a Resolution establishing a Public Safety Facility Fee; (3) Adoption of a Resolution establishing a Community Service Facility Fee; (4) Adoption of a Resolution establishing a Transportation Impact Fee; and (5) Adoption of a Resolution authorizing expenditure for preparation of impact fee studies on transportation and public safety and community facilities and amending the biennial budget and capital improvement plan 2016-2018 for fiscal year 2016-2017 - from Assistant City Manager Grindall.**

(INTRODUCTION OF ORDINANCE) (RESOLUTIONS - 4)

Background/Discussion – The City of Newark assesses impact fees on new development to support provision of community facilities and infrastructure. The City’s Public Safety Facility Impact Fee, Community Services Facility Impact Fee and Transportation Impact Fee have not been updated for many years.

The completion of the Civic Center Replacement Feasibility Study and the General Plan Update provided much more detail related to Newark’s facility needs and thus an update of these three fees can now be most effectively accomplished.

The Public Safety Facility Impact Fee provides for Police and Fire facilities and major equipment, such as a police administrative building or a fire station.

The Community Services Facility Impact Fee provides for community facilities such as Council Chambers, City Administration Building, Library and Community Centers.

The Transportation Impact Fee provides for roadway, pedestrian, bicycle, and transit improvements.

Impact Fee Nexus Analysis – In order to identify the appropriate rate to set impact fees, a “nexus” analysis is required to be conducted. The analysis addresses the needed improvements, the estimated cost of the improvements, the share of the needed improvements that are the responsibility of new development, and the division of the new development’s share into a measurement unit “dwelling unit” for residential development and “square foot” for nonresidential development.

The City commissioned the completion of two “nexus” studies to address these fees. Keyser Marston Associates completed a “Public Safety and Community Service

Facilities Development Impact Fee Nexus Study”, dated March 2017 and Hexagon Transportation Consultants completed a “Transportation Impact Fee Nexus Study” dated Mach 28, 2017.

The studies analyzed the cost of providing public infrastructure to future residents and established the maximum rate that can legally be assessed on new development. The Studies also addressed the potential of indexing the fee to account for future inflation in infrastructure costs.

Recommended Fee – Based on the results of the nexus studies, staff is recommending that the fees be set at their legally established maximums for all land uses, except manufacturing and research/development, and multifamily housing. Manufacturing and research/development uses are high value-additive operations and generate higher employment densities and salaries. Therefore, staff recommends that these uses be encouraged with a 50% reduction below the maximum legally supported rate. Furthermore, in order to encourage multi-family construction as guided by our State certified General Plan Housing Element, staff is recommending that the fee for multi-family units be reduced by 30% below the maximum legally supported rate. This type of unit is more affordable “by design” and a reduction in the fee below the legal maximum will encourage this type of development.

Recommended Fees:

	Community Service Facility Fee	Public Safety Fee	Transportation Fee
Single-Family Detached per unit	\$2,311	\$3,451	\$4,974
Townhome per unit	\$2,311	\$3,451	\$2,586
Multi-Family per unit	\$1,156	\$2,071	\$3,084
Commercial/Office per S.F.	\$0.86	\$0.60	\$4.41
Industrial/R&D per S.F.	\$0.18	\$0.25	\$2.41
Warehousing/Distribution per S.F.	\$0.36	\$0.50	\$4.82

Fee Indexing – In order to help ensure that the proposed fee stays current with infrastructure construction costs, the fee would be adjusted annually based on a construction cost index. In addition, staff would monitor community needs and conduct future nexus studies and fee updates if needed.

Fee Waivers – The proposed ordinance and resolutions include provisions for waivers of these fees by the City Council for projects that provide significant community benefits. Such community benefits may include the provision of senior housing, the generation of significant revenue, or the elimination of nuisances. Staff expects that in order to attract beneficial development, it may be necessary to consider few waivers for high revenue generating uses such as hotels, high quality retail, and corporate headquarters in order to attract these uses to Newark. The City Council would have the opportunity to consider the circumstances of any future proposal for a fee waiver.

Application/Effective Date – The updated fees would not apply to approved projects that have a Development Agreement or Vesting Tentative Map unless the provisions of the documents allow the application of such fees increases. The new fees would become effective 60 days from their formal adoption.

Budget Amendment

The fees studies are to be funded from the respective impact fee account. The attached budget amendment resolution authorizes this expenditure.

Attachments

Action -- Staff recommends that the Council hold a Public Hearing to consider: (1) Introduction of an Ordinance repealing and replacing Chapter 3.24 of the Newark Municipal Code “Development Impact Fees”; (2) Adoption of a Resolution establishing a Public Safety Facility Fee; (3) Adoption of a Resolution establishing a Community Service Facility Fee; and (4) Adoption of a Resolution establishing a Transportation Impact Fee; and (5) Adoption of a Resolution authorizing expenditure for preparation of impact fee studies on transportation and public safety and community facilities and amending the biennial budget and capital improvement plan 2016-2018 for fiscal year 2016-2017.

F. CITY MANAGER REPORT

(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 plans and specifications, acceptance of bid and award of contract to Ocean Blue Environmental Services, Inc. for Storm Drain Trash Capture Devices (Phase 2), Project 1122 – from Public Works Director Fajeau. (MOTION)(RESOLUTION)**

Background/Discussion – This project involves the installation of additional full trash capture devices in storm drain inlets for the purpose of reducing trash in the municipal separate storm sewer system. Installation of these devices will contribute to meeting trash reduction requirements under the Municipal Regional Stormwater Permit issued to the City by the Regional Water Quality Control Board.

Bids for the project were opened on May 15, 2017 with the following results:

Bidder	Amount
Ocean Blue Environmental Services, Inc.	\$ 129,431.25

United Storm Water Inc.	141,600.00
Engineer's Estimate	\$ 185,000.00

The 2016-2018 Biennial Budget includes sufficient funding for this project. Staff recommends that the project be awarded to the lowest responsible bidder, Ocean Blue Environmental Services, Inc.

Attachment

Action – It is recommended that the City Council, by motion, approve the plans specifications and by resolution, accept the bid and award the contract to Ocean Blue Environmental Services, Inc. for Storm Drain Trash Capture Devices (Phase 2), Project 1122.

F.2 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8310 – Phase II Bayshores (CDCG Group Holdings Bayshores, L.P.), an 86-unit residential subdivision at 37555 Willow Street in the Dumbarton Transit-Oriented Development Specific Plan project area – from Associate Civil Engineer Cangco. (RESOLUTION)

Background/Discussion – On November 29, 2012, the City Council approved Vesting Tentative Tract Map 8085 for a 553-unit residential subdivision at 37555 Willow Street, generally located on the west side of Willow Street near Central Avenue. The Vesting Tentative Tract Map was subsequently amended on February 28, 2013, by the City Council for a 547-unit residential subdivision. On April 28, 2016, the first phase of the project was approved by the City Council. This project, Tract 8310, is the second phase of the development for an 86-unit subdivision. The developer, CDCG Group Holdings Bayshores, L.P., has submitted the required fees, bonds, and other documents for approval of the Final Map for Tract 8310.

The Final Map dedicates additional street rights-of-way for Seawind Way and Quiet Cove Way. The developer has executed a Subdivision Improvement Agreement and has posted a Performance Bond in the amount of \$1,484,000 and a Materials Bond in the amount of \$742,000. The bonds will guarantee construction of the private streets and improvements on Seawind Way, Quiet Cove Way, and Hickory Street.

The Final Map for Tract 8310 has been reviewed and found to be in conformance with Vesting Tentative Tract Map 8085 and the Conditions of Approval, and is now ready for City Council approval. Recording of the Final Map and issuance of subsequent permits and approvals for construction activity will be at the discretion of the City Engineer.

Financial Impact – The estimated annual maintenance of the street improvements associated with Tract 8310 is \$2,000 for street sweeping and pavement maintenance.

The street lights and landscaping on Seawind Way and Quiet Cove Way will be maintained by the Landscaping and Lighting District and HOA respectively.

Attachment

Action – It is recommended that the City Council, by resolution, approve the Final Map and Subdivision Improvement Agreement for Tract 8310 – Phase II Bayshores (CDCG Group Holdings Bayshores, L.P.), an 86-unit residential subdivision at 37555 Willow Street in the Dumbarton Transit-Oriented Development Specific Plan project area.

NONCONSENT

- F.3 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, 17, and 18 and setting date of public hearing – from Public Works Director Fajeau. (RESOLUTIONS-2)**

Background/Discussion – The City Council has previously created Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17 and 18 to provide for the operation and maintenance of certain landscaping and lighting improvements. These districts are as follows:

Landscaping and Lighting District No. 1: Central Avenue between Filbert Street and Willow Street - Provides for the maintenance of median landscaping on Central Avenue between Filbert Street and Willow Street and buffer landscaping adjacent to the Alameda County Flood Control channel immediately west of Filbert Street, and for the maintenance and operation of median street lights along this portion of Central Avenue.

Landscaping and Lighting District No. 2: Jarvis Avenue and Newark Boulevard adjacent to Dumbarton Technology Park and Four Corners shopping centers - Provides for the maintenance of Jarvis Avenue and Newark Boulevard median island and in-tract buffer landscaping and landscape irrigation systems adjacent to and within the boundaries of Tract 5232, the Dumbarton Industrial Park, and the Four Corners shopping centers.

Landscaping and Lighting District No. 4: Stevenson Boulevard and Cherry Street adjacent to New Technology Park - Provides for the maintenance of Stevenson Boulevard median island landscaping from the Nimitz Freeway to the railroad tracks west of Cherry Street and maintenance of median island and up to 50 feet of greenbelt landscaping adjacent to Cherry Street and the future interior loop streets within the boundaries of New Technology Park, and the maintenance of landscaping across the Newark Unified School District property on Cherry Street.

Landscaping and Lighting District No. 6: Cedar Boulevard, Duffel Redevelopment Area No. 2 - Provides for the maintenance of all street landscaping within the public right-of-way, and landscaping and landscape irrigation systems within easement areas and developed properties in Redevelopment Area No. 2 at Cedar Boulevard and Stevenson Boulevard plus the Stevenson Station Shopping Center.

Landscaping and Lighting District No. 7: Newark Boulevard, Rosemont Square Shopping Center - Provides for the maintenance of buffer landscaping and the landscape irrigation system within the public right-of-way and easement areas for Rosemont Square Shopping Center.

Landscaping and Lighting District No. 10: Consolidated District - Provides for the maintenance of landscaping and landscape irrigation systems within the right-of-way and easement areas for all of the Inactive Subdistricts.

Landscaping and Lighting District No. 11: Edgewater Drive medians - Provides for the maintenance of landscaped medians on Edgewater Drive.

Landscaping and Lighting District No. 13: Citation Homes and Bren Development/Thornton Avenue - Provides for maintenance of the landscaping and lighting irrigation systems for Thornton Avenue, Cedar Boulevard, Willow Street, and other streets within these subdivisions. This district was relieved from the responsibility for maintenance of median landscaping on Thornton Avenue in May 1997. This district is therefore now an inactive district.

Landscaping and Lighting District No. 15: Robertson Avenue at Iris Court - Provides for the maintenance of the landscaping and irrigation systems on Robertson Avenue at Iris Court.

Landscaping and Lighting District No. 16: Kiote Drive in Tract 6671 - The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement along the street frontage of Kiote Drive in Tract 6671 and the landscaping, irrigation system, recreation facilities, and storm drainage pump station and filtration system for the mini-park common area.

Landscaping and Lighting District No. 17: Newark Boulevard and Mayhews Landing Road in Tract 7004 – The maintenance of landscaping and the landscape irrigation system within the public right-of-way of the Newark Boulevard and Mayhews Landing Road frontages of Tract 7004.

Landscaping and Lighting District No. 18: Cedar Boulevard median on the frontage of Tract 8130 – The maintenance of landscaping and the landscape irrigation system within the Cedar Boulevard median area along the frontage of Tract 8130 between Central Avenue and Smith Avenue.

In the opinion of bond counsel, Brown Act amendments requiring two hearings for increasing assessments do not apply to the annual budget hearings unless there is an addition to the improvements or a change in the formula for allocating the cost among benefited properties. Neither of these cases applies for each of the above districts and the annual public hearings are simply to adopt a budget for the upcoming year.

Upon conclusion of the annual public hearings, the assessments for the cost of the work are added to the tax bills for those property owners included within the boundaries of the particular Landscaping and Lighting District. Excess funds, or funds collected for which no work was done, can be carried over from one year to the next.

Attachment

Action - It is recommended that the City Council, by resolutions, direct the filing of annual reports for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, and 18 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 22, 2017.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

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

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

Approval of Audited Demands for the City Council meeting of May 11, 2017. (MOTION)

M. CLOSED SESSION

- M.1 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Name of Case: Valencia et al. v. City of Newark et al.; United States District Court, Northern District of California, Case No. 4:16-CV-04811-SBA – from City Attorney Benoun.**

Background/Discussion – City Attorney Benoun has requested that the City Council convene in closed session pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Case: *Valencia et al. v. City of Newark et al.*; United States District Court, Northern District of California, Case No. 4:16-CV-04811-SBA.

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.