



# CITY OF NEWARK CITY COUNCIL

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4266 • E-mail: [city.clerk@Newark.org](mailto:city.clerk@Newark.org)

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

## AGENDA

Thursday, September 14, 2017

### CITY COUNCIL:

Alan L. Nagy, Mayor  
Mike Bucci, Vice Mayor  
Luis L. Freitas  
Sucy 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  
Michael Carroll  
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:

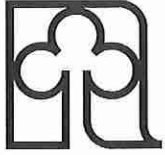
- |                                     |                         |
|-------------------------------------|-------------------------|
| A. ROLL CALL                        | I. COUNCIL MATTERS      |
| B. MINUTES                          | J. SUCCESSOR AGENCY     |
| C. PRESENTATIONS AND PROCLAMATIONS  | 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](http://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, September 14, 2017

**A. ROLL CALL**

**B. MINUTES**

- B.1 Approval of Minutes of the special and regular City Council meetings of Thursday, July 27, 2017. (MOTION)**

**C. PRESENTATIONS AND PROCLAMATIONS**

**C.1 Introduction of Employees.**

**Background/Discussion** – Police Officers Joseph Hunter, Dejuan Johnson, and Public Safety Dispatcher Luz Borja will be introduced at the City Council Meeting.

**C.2 Commending Sriya and Sahith Kudaravalli. (COMMENDATION)**

**Background/Discussion** – Sriya and Sahith Kudaravalli recently spent time at the Clark W. Redeker Newark Senior Center distributing Vial of Life supplies. The vial contains important medical information that can assist emergency personnel in administering proper medical treatment. Commendations have been prepared and will be presented at the City Council meeting.

**C.3 Proclaiming September 14-17, 2017, as Newark Days. (PROCLAMATION)**

**Background/Discussion** – Newark Days, celebrating Newark's 62nd birthday, will be held September 14-17, 2017. A proclamation has been prepared and members of the Newark Days Committee will accept it at the City Council meeting.

**C.4 Presentation of Draft Dumbarton Transportation Corridor Study.**

**Background/Discussion** – A representative from SamTrans will present the Draft Dumbarton Transportation Corridor Study. The Dumbarton Transportation Corridor Study recommends a phased program of operational and infrastructure improvements that enhance mobility between Alameda, San Mateo and Santa Clara counties. The Study examines opportunities to improve auto, transit, bicycle, pedestrian, and other uses of the Dumbarton Bridge and Dumbarton rail bridge, including enhancements to Dumbarton Express Bus (DBX) commuter service. The study also identifies ways to

enhance rail bridge safety on the Bay's waterways and provide connectivity to commuter and intercity rail services by recommending options to preserve and repurpose the rail bridge. Through connections to Capitol Corridor, Altamont Commuter Express, Amtrak and Caltrain, commuters from the South Bay could travel to destinations in the East Bay, Central Valley and beyond.

The study aims to address regional and local mobility issues, including the jobs/housing imbalances in the southern Bay Area that threaten the economic vitality of jobs-rich areas that lack housing alternatives. It will also evaluate infrastructure improvements needed along the bridge approaches on each side of the Bay. The study is available for review at [http://www.samtrans.com/Planning/Planning\\_and\\_Research/DumbartonTransportationCorridorStudy.html](http://www.samtrans.com/Planning/Planning_and_Research/DumbartonTransportationCorridorStudy.html)

## D. WRITTEN COMMUNICATIONS

### D.1 Planning Commission referral of a minor conditional use permit, to establish a large family day care home at 6271 Brittany Avenue – from Deputy Community Development Director Interiano. (REVIEW OPTIONAL)

**Background/Discussion** – Ms. Yalda Hassani has submitted an application for a minor conditional use permit to operate a large family day care home (a facility for up to 14 children) at 6271 Brittany Avenue.

The subject site is zoned R-6000 (Low Density Residential District). Ms. Hassani has been operating a small family day care at this location since January 2016, which allows up to 8 children and now seeks approval to grow her day care to allow up to 14 children. Per the Newark Municipal Code, the Zoning Administrator is the approval authority of large family day care homes. City staff sent a notice of the application to all property owners within 100 feet and received no objections to date.

Staff visited the site and did not find any concerns with using the property as a large day care center and therefore does not believe the increase in children allowed will be a nuisance to the surrounding neighbors.

#### Environmental Review

The request to establish a large family day care home is statutorily exempt from the California Environmental Quality Act(CEQA) per Section 1527(a).

**Update-** At it August 22, 2017 meeting, the Planning Commission chose not to review this “review optional” item.

#### **Attachments**

**Action** – City Council review of this item is optional.

**D.2 Zoning Administrator referral of an Administrative Special Civic Review, for an accessory structure addition to a single-family residence at 38244 Aralia Drive – from Assistant Planner Bowab. (REVIEW OPTIONAL)**

**Background/Discussion** - Jose and Maria Gonzalez, property owners, have submitted an Administrative Special Civic Review application for an accessory structure addition to their residence located at 38244 Aralia Drive.

The subject site is zoned R-7000-SC (Low Density Residential – 7,000 District – Special Civic) and located on the northeast end of Aralia Drive, west of Cedar Boulevard, and east of Birch Grove Community Park. Special Civic Districts were established to assure an orderly development in the vicinity of civic centers, public parks and public buildings. Whenever an application is submitted for a building permit for the erection or alteration of a building or structure in an SC District, design review approval is required.

The project consists of a new 1,000 square foot workshop/storage accessory structure located in the rear of the property. The new exterior building materials, architectural treatments, and colors will match the existing home. The applicant has obtained letters from all the property owners within 50 feet of the subject site stating that they do not object to the project.

The Zoning Administrator has approved the project subject to the following condition: “The owner and/or contractor shall implement all applicable Storm Water Quality Best Management Practices for the duration of all work activity. Additional best management practices may be required by the City Engineer to minimize the pollution of storm water runoff from the project area. A note to this effect shall appear on the building permit plans.”

Environmental Review

This project is categorically exempt from the California Environmental Quality Act (CEQA) per section 15301, Class 1, additions to existing facilities.

**Update** – This item was presented to the Planning Commission at its August 22, 2017 meeting as an informational item.

**Attachments**

**Action** – City Council review of this item is optional.

**D.3 Advice of Planning Commission approval of a conditional use permit for a haunted house attraction to be held from September 28 through November 1, 2017 at 5530 Newpark Plaza - from Associate Planner Mangalam. (REVIEW OPTIONAL)**

**Background/Discussion** - Ms. Tabitha Barron on behalf of ScareCo Inc filed an application for a conditional use permit to operate a seasonal actor driven walkthrough

haunted attraction inside an existing building located at 5530 Newpark Plaza. The existing building is located in Newpark Plaza, on the perimeter of Newpark Mall. The site is bounded by Newpark Mall on the north, Balentine Drive on the east, South Magazine Drive on the west and Cedar Boulevard on the south. The site is zoned Regional Commercial District (CR).

ScareCo Inc has been organizing haunted attractions in the San Francisco Bay Area since 2014 and held one event in Oakland called “Platform 13” and two events in Alameda called “Haunted Hornet”. ScareCo proposes to organize a similar seasonal event in Newark.

The proposal is to create an actor driven walkthrough attraction by installing a freestanding wall panel system utilizing pre-built panels. Lighting, sound and set dressing will be used for the design and effect and there will be live actors throughout the walkthrough. The attraction will hire approximately 25-30 personnel as scare-actors and some of them from the local Newark community.

The attraction will run from September 28, 2017 through November 1, 2017 with a soft opening on September 28, 2017. The attraction will be held only on weekends, operating from 7 p.m. to 12 a.m. on Fridays and Saturdays and 7 p.m. to 10 p.m. on Sundays nights. Approximately 350 people are expected to attend daily and at any point of time, there will be no more than 125 people allowed inside the building. There are existing restrooms inside the building and a total of 165 parking spaces will be available for the event. The event is ADA accessible. No alcohol or food will be served at the event. There will be a licensed security officer at the event to the satisfaction of the Police Department.

Per section 17.72.090 of the Newark Municipal Code, the council may call up for review by it any action of the planning commission. The determination to call up for review shall be made by the council at the meeting at which the Notice of Decision is presented to it. If a decision is called up for review by the council, all proceedings shall be stayed in the same manner as the filing of a notice of appeal and the council shall hear and determine the matter in the same manner as an appeal.

#### **California Environmental Quality Act (CEQA) exemption**

This project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15301 Existing Facilities, leasing of existing private structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

**Update-** On August 22, 2017, the Planning Commission held a Public Hearing to consider a Conditional Use Permit for a haunted house attraction and by a vote 4-0-1(absent), approved the conditional use permit.

#### **Attachments**

**Action** –This item is review optional.

**E. PUBLIC HEARINGS****E.1 Approval of Revised Preliminary Engineer's Report, Public Hearing and tabulation of ballots for annexation of Tract 8157 to Zone 2 – Lighthouse of Landscaping and Lighting District No. 19 and, if no majority protest exists, approve the Final Engineer's Report and approve the annexation of Tract 8157 to Zone 2 – Lighthouse of Landscaping and Lighting District No. 19 – from Assistant City Engineer Imai. (RESOLUTIONS-2)**

**Background/Discussion** – Lennar Homes of California, Inc., developers of Tract 8157, located on the northwestern corner of the intersection of Willow Street and Seawind Way, submitted a petition requesting annexation to Landscaping and Lighting District No. 19. On July 27, 2017, City Council adopted Resolution No. 10,680 initiating proceedings for the annexation of Tract 8157 to Zone 2 - Lighthouse of Landscaping and Lighting (L&L) District No. 19, approving the Preliminary Engineer's Report, and declaring its intention to order annexation of Tract 8157 to the assessment district and to levy and collect assessments.

The Preliminary Engineer's Report required minor mathematical corrections to add the maintenance of the street lighting system on Willow Street between Enterprise Drive and Seawind Way to the scope of special benefit improvements to be maintained by Zone 2 – Lighthouse of L&L District No. 19. Based on the Revised Preliminary Engineer's Report, the maximum total district assessment for Fiscal Year 2017-18 for Zone 2 – Lighthouse would be \$3,923.68. In comparison, the initial Preliminary Engineer's Report calculated the maximum total district assessment of \$3,472.96.

The Landscaping and Lighting Act of 1972 instituted procedures for the annexation to established 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 annexation to 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 July 27, 2017, City Council provided notice of a Public Hearing set for September 14, 2017 for the annexation of Tract 8157 to Zone 2 – Lighthouse of L&L District No. 19 and directed ballots be mailed to all affected property owners. Ballots listing the revised proposed assessment amounts were sent to all property owners subject to the proposed assessment.

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 annexation of Tract 8157 to Zone 2 – Lighthouse of L&L District No. 19.

If approved, Zone 2 – Lighthouse of L&L District No. 19 would generate an estimated \$3,923.68 for Fiscal Year 2017-18. However, because of the timing for the annexation, the first levy and collection of assessments would occur in Fiscal Year 2018-19. At that time, and in all future years, the rate of assessment may be increased annually based on the Consumer Price Index or three percent (3%), whichever is greater.

#### **Attachment**

**Action** – It is recommended that the City Council, (1) by resolution, approve the Revised Preliminary Engineer’s Report, (2) hold a Public Hearing for the annexation of Tract 8157 to Zone 2 – Lighthouse of Landscaping and Lighting District No. 19, (3) 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, (4) hear and accept the tabulation results from the City Clerk for the proposed assessment of Zone 2 – Lighthouse of Landscaping and Lighting District No. 19, and (5) if a majority protest does not exist, by resolution, approve the Engineer’s Report and approve the annexation of Tract 8157 to Zone 2 – Lighthouse of Landscaping and Lighting District No. 19.

**E.2 Approval of Revised Preliminary Engineer’s Report, Public Hearing and tabulation of ballots for annexation of the Senior Housing Project to Zone 3 – Senior Housing of Landscaping and Lighting District No. 19 and, if no majority protest exists, approve the Final Engineer’s Report and approve the annexation of the Senior Housing Project to Zone 3 – Senior Housing of Landscaping and Lighting District No. 19 – from Assistant City Engineer Imai. (RESOLUTIONS-2)**

**Background/Discussion** – USA Properties Fund, Inc., developer of the Senior Housing Project, located along the west side of Willow Street between Enterprise Drive and Seawind Way submitted a petition requesting annexation to Landscaping and Lighting District No. 19. On July 27, 2017, City Council adopted Resolution No. 10,681 initiating proceedings for the annexation of the Senior Housing Project to Zone 3 – Senior Housing of Landscaping and Lighting (L&L) District No. 19, approving the Preliminary Engineer’s Report, and declaring its intention to order annexation of the Senior Housing Project to the assessment district and to levy and collect assessments.

The Preliminary Engineer’s Report required minor mathematical corrections to add the maintenance of the street lighting system on Willow Street between Enterprise Drive and Seawind Way to the scope of special benefit improvements to be maintained by Zone 3 – Senior Housing of L&L District No. 19. Based on the Revised Preliminary Engineer’s Report, the maximum total district assessment for Fiscal Year 2017-18 for Zone 3 – Senior Housing would be \$2,720.25. In comparison, the initial Preliminary Engineer’s Report calculated the maximum total district assessment to be \$2,368.68.

The Landscaping and Lighting Act of 1972 instituted procedures for the annexation to established 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 annexation to 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 July 27, 2017, City Council provided notice of a Public Hearing set for September 14, 2017 for the annexation of the Senior Housing Project to Zone 3 – Senior Housing of L&L District No. 19 and directed ballots be mailed to all affected property owners. Ballots listing the revised proposed assessment amounts were sent to all property owners subject to the proposed assessment.

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 annexation of the Senior Housing Project to Zone 3 – Senior Housing of L&L District No. 19.

If approved, Zone 3 – Senior Housing of L&L District No. 19 would generate an estimated \$2,720.25 for Fiscal Year 2017-18. However, because of the timing for the annexation, the first levy and collection of assessments would occur in Fiscal Year 2018-19. At that time, and in all future years, the rate of assessment may be increased annually based on the Consumer Price Index or three percent (3%), whichever is greater.

### **Attachment**

**Action** – It is recommended that the City Council, (1) by resolution, approve the Revised Preliminary Engineer’s Report, (2) hold a Public Hearing for the annexation of the Senior Housing Project to Zone 3 – Senior Housing of Landscaping and Lighting District No. 19, (3) 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, (4) hear and accept the tabulation results from the City Clerk for the proposed assessment of Zone 3 – Senior Housing of Landscaping and Lighting District No. 19, and (5) if a majority protest does not exist, by resolution, approve the Final



Engineer's Report and approve the annexation of the Senior Housing Project to Zone 3 – Senior Housing of Landscaping and Lighting District No. 19.

**E.3 Hearing to consider approval of a General Plan Amendment to incorporate by reference the Union City/Newark Local Hazard Mitigation Plan: Volume 1 and Newark's portion of Volume 2 into the General Plan – from Assistant City Manager Grindall. (RESOLUTION)**

**Background/Discussion** – In 2016 the Cities of Union City and Newark and special districts within their operational areas embarked on a planning process to prepare for and lessen the impacts of specified natural hazards by creating the Union City/Newark Multijurisdictional Hazard Mitigation Plan (LHMP). Responding to federal mandates in the Disaster Mitigation Act of 2000, the partnership was formed to create a uniform hazard mitigation strategy that can be consistently applied and used to ensure eligibility for specified grant funding success.

The LHMP addresses the hazards that can affect an area, setting clear goals, identifying appropriate actions and following through with an effective mitigation strategy. Mitigation encourages long-term reduction of hazard vulnerability and can reduce the enormous cost of disasters to property owners and all levels of government. Mitigation can also protect critical community facilities, reduce exposure to liability, and minimize post-disaster community disruption.

The LHMP presents the accumulated information in a unified framework to ensure a comprehensive and coordinated plan covering the entire Union City/Newark Operational Area. Each jurisdiction has been responsible for the review and approval of their individual sections of the Plan. On July 27, 2017 the City Council approved the Union City/Newark Local Hazard Mitigation Plan: Volume 1 and Newark's portion of Volume 2.

**General Plan Amendment** - When federal officials declare a disaster area, the federal government pays 75% of the disaster costs. The rest of the costs are shared by the state and the affected local government. However Assembly Bill 2140 includes a provision that if a local jurisdiction's Local Hazard Mitigation Plan is incorporated into its General Plan by reference, no local match would be required. If the approved plan is incorporated into the General Plan Environmental Hazards Element, Newark would not be responsible to provide a local match for declared disaster response costs.

It is recommended to incorporate the LHMP to the General Plan and add the following language to the General Plan Environmental Hazards Element: "The Local Hazard Mitigation Plan, as it may be amended from time to time, is included by reference into the General Plan Environmental Hazards Element."

**Attachment**

**Action** - It is recommended that the City Council, by resolution, approve a General Plan Amendment (GP-17-13) to incorporate the Union City/Newark Local Hazard Mitigation Plan: Volume 1 and Newark's portion of Volume 2 into the Newark General Plan Environmental Hazards Element by reference.

**E.4 Hearing to consider a planned unit development, an environmental determination, vesting tentative tract map 8387, a conditional use permit, and a waiver of certain fees for a proposed eight-lot, sixteen-unit, multi-family residential townhome-style subdivision at 37243 and 37257 Filbert Street – from Assistant Planner Bowab. (RESOLUTIONS-2) (MOTION)**

**Background/Discussion** – SRAJ Development Inc. has submitted an application for a 16-unit residential condominium project. The project area is a vacant lot that is approximately 41,709 square feet (0.96 +/- acre) in size and is bounded by a railway right-of-way to the north, multi-family residential to the west, a single-family residence the south and Filbert Street on the east. The subject site is zoned R-2500 (Medium Density Residential) with a Medium Density Residential general plan land use designation.

The project consists of six 3-story townhome-style buildings with 2 to 3 units per building. Each unit is approximately 1,960 square feet, with 4 bedrooms, 3.5 bathrooms, an attached 2-car garage, and a private balcony. Vehicular access will be off of one driveway on Filbert Street. The architectural design and character is influenced by Craftsman and Mediterranean Eclectic styles with a variety of colors, finishes, and textures to provide the units a unique look while still maintaining a cohesive, complimentary whole. Each unit was designed with a distinct main entry porch, articulated roof lines, pop-outs and balconies to avoid large expanses of blank walls. Exterior materials consist of stucco, stone veneer, trim treatments, decorative columns, knee brackets, wood balcony railings, and a/c unit screens. Careful attention was given to the street side elevations to provide the streetscape with visual interest and attractiveness. All units along the Filbert Street were designed with street facing porch entryways and the driveway is to include decorative pavers. In addition, due to the proximity of a single-story, single-family home on the south side of the project, the proposed buildings were setback 20 feet from the south property line.

There is a common open space area located on the north side of the site with amenities to include barbeque grills, picnic tables, a children's play area (for ages 2-5 years), trellises, and a gazebo. A masonry wall, ranging from 6 feet to 12 feet high, will be built along the perimeter of the project, including along the railroad right-of-way side of the site. Enhanced landscaping will be planted along the interior perimeter wall to discourage graffiti. Enhanced landscaping will also be installed along the entire front of the site along with street improvements. Five uncovered guest parking spaces and ring style bicycle parking racks will be provided.

A community meeting was held by the applicant on Thursday November 3, 2016. The notice was sent to property owners within a 300 foot radius around the project site. Two adjacent property owners were in attendance and in support of the project.

Planned Unit Development and Conditional Use Permit Findings

The Findings given in the draft resolution of approval contains language that comes from the Newark Municipal Code, Sections 17.40.050 (Planned Unit Development Permit – Permit procedure) and 17.72.070 (Use Permits – Action by Planning Commission) and are supported by the application materials on file, this staff report and the supporting exhibits attached.

Further elaboration for each finding is as follows:

*a. That the proposed location of the planned unit development is in accord with the objectives of the zoning title and the purposes of the district in which the site is located.*

The zoning for the site is R-2500 (Medium Density Residential). Section 17.16.020 of Newark Municipal Code states that R residential districts are included in the zoning title to reserve appropriately located areas for family living at a reasonable range of population densities consistent with sound standards of public health and safety; to reserve areas appropriate by location and character for high density multifamily dwellings; and to assure adequate light, air, privacy and open space for each dwelling. There are 16 residential condominium units proposed on an approximate 43,222 square foot site, which meets the residential land use requirement of the district as well as the minimum site area of 2,500 square feet per dwelling unit.

*b. That the proposed location of the planned unit development and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

The townhomes are proposed on a site zoned for medium density residential, there is no reason to anticipate any detrimental or injurious effects of the project.

*c. That the standards of population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space, off-street parking and off-street loading facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the zoning title.*

Numerous conditions of approval are incorporated into the project in order to ensure the desired environment of stable and desirable character consistent with the objectives of the zoning title.

*d. That the standards of population density, site area and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space, and off-street parking and off-street loading facilities will be such that the development will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload utilities.*

The proposed development meets the off-street parking requirements for residential uses as well as guest parking as required by Newark Municipal Code. There is only one proposed curb-cut off Filbert Street into the development site. The project is conditioned to relocate utilities and provide storm drain improvements to ensure the new residential development will not overload existing utilities. Existing public streets are adequate to accommodate the usage of 16 additional residential units at the proposed location.

*e. That the combination of different dwelling types and/or the variety of land uses in the development will complement each other and will harmonize with existing and proposed land uses in the vicinity.*

The development site is bounded by a railway right-of-way to the north, multi-family residential to the west, a single-family residence the south and a single-family residence across Filbert Street on the east. Thus, the proposed residential condominiums will be compatible with the surrounding residential uses.

*f. That the proposed location of the conditional use is in accord with the purposes of the zoning title and the purposes of the district in which the site is located.*

The zoning for the site is R-2500 Medium Density Residential and multi-family dwellings are a permitted use in this district.

*g. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

Townhome-style condominiums are proposed in a medium density residential district. There is no reason to anticipate any detrimental or injurious effects of the project. Numerous conditions of approval are incorporated into the project in order to ensure the desired environment of stable and desirable character for the site and the neighboring area.

*h. That the proposed conditional use will comply with each of the applicable provisions of Chapter 17.72 (Use Permits).*

Numerous conditions of approval are incorporated into the project in order to ensure that the planning of the project site will be in compliance with city code requirements.

#### Environmental Review

A sound and vibration study (Exhibit B) was prepared by Wilson Ihrig due to the proximity of the adjacent railroad right-of-way. The project is conditioned to meet the interior and exterior noise standards of the General Plan and to construct a recommended 12 foot high block wall along the perimeter property line adjacent to the railroad right-of-way.

This project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15332 (In-Fill Development Projects). A biological assessment (Exhibit C) was prepared by LSA Associates, Inc. to ensure this site does not contain any sensitive habitats and will not result in any significant adverse biological impacts.

#### Recommendation

Staff believes this project will be beneficial for the City and recommends approval of the proposed eight-lot, sixteen-unit, multi-family residential townhome-style subdivision project, subject to the conditions of approval listed in the attached resolution.

In addition, staff also recommends waiving the Art in Public Places and Private Development impact fee due to the applicant agreeing to provide a Historical Marker to identify historical significance to the site.

**Update** – At its August 22, 2017 meeting, the Planning Commission approved: (1) Resolution No. 1945, for P-17-05, a planned unit development, E-17-06, environmental determination, and U-17-08, a conditional use permit, for a proposed eight-lot, sixteen-unit, multi-family residential townhome-style subdivision at 37243 and 37257 Filbert Street (APN(s) 092-0131-001-09, 092-0131-002-04 AND 092-0131-003), with Exhibits A, B and C; (2) Resolution No. 1946, for TTM-17-07, vesting tentative tract map 8387, Exhibit A; and (3) by motion, recommending that the City Council waive the Art in Public Places and Private Development impact fee. The Planning Commission recommended an additional condition to remove and replace the existing rear block wall, which is included in the attached resolution.

#### **Attachments**

**Action** – It is recommended that the City Council, by resolutions: (1) approve P-17-05, a planned unit development, E-17-06, environmental determination, and U-17-08, a conditional use permit to allow for a proposed eight-lot, sixteen-unit, multi-family residential townhome-style subdivision at 37243 and 37257 Filbert Street (APN(s) 092-0131-001-09, 092-0131-002-04 AND 092-0131-003); (2) approving vesting tentative tract map 8387 and subdivision and zoning variances thereto; and (3) by motion, waive the Art in Public Places and Private Development impact fee.

**E.5 Hearing to consider a planned unit development, a conditional use permit, an addendum to the Dumbarton Transit Oriented Development (TOD) Specific Plan Program Environmental Impact Report (PEIR) (SCH No. 2010042012) and the subsequent Initial Study/Mitigated Negative Declaration (IS/MND) for the SHH/FMC project (SCH No. 2014012056), for a proposed five-story mixed-use hotel and retail space at 37445 Willow Street – from Assistant Planner Bowab. (RESOLUTIONS-2)**

**Background/Discussion** - Villa Developers & Investment, LLC has submitted an application for a five-story hotel and retail mixed use project. The project area is approximately 53,140 square feet (1.22 +/- acres) in size, after right-of-way land dedication. The property is currently vacant and is bounded by Enterprise Drive to the north, Willow Drive to the east, planned medium density residential to the west, and planned affordable senior housing to the south. The subject site is zoned R-FBC (Commercial Retail – Form Based Code).

The five-story commercial project will include a 146-room hotel and an 8,300 square foot grocery/retail space. The proposed project will include approximately 168,440 square feet of floor area and be approximately 80 feet in height. The grocery/retail component will be located on the ground level along with shared parking on the ground and 2<sup>nd</sup> level. The hotel will operate on all 5 floors with guest rooms starting on the 3<sup>rd</sup> floor. The grocery/retail amenities will include elevated pedestrian enhanced walkways and outdoor seating areas with tables. Hotel amenities will include a lobby, an outdoor pool, a pool deck, a small recreation area, 3 fire pits, 2 lounge areas, 2 balconies, a restaurant, 2 bars, 3 meeting rooms, and 2 kitchens.

The architectural design and layout of the project was carefully designed as a gateway development for the Dumbarton Transit-Oriented Development (TOD) Specific Plan area. This project will be the first commercial development in the area and is pedestrian oriented with amenities activating the street front. The hotel entrance is located on the corner of the development facing the round-a-bout entrance to the TOD Specific Plan area. The modern design consists of undulating roof lines, an articulating façade, a large granite and glass pop-out feature, a metal canopy and awnings, and various types of granite stone, glass, and cement elements. In addition, due to the proximity of future planned residential to the west of the proposed project, no windows or openings are proposed on the west side of the building close to the property line. This will ensure the project won't be a nuisance to future residents by restricting the view of the garage and loading areas.

#### Planned Unit Development and Conditional Use Permit Findings

The Findings given in the draft resolution of approval contains language that comes from the Newark Municipal Code, Sections 17.40.050 (Planned Unit Development Permit – Permit procedure) and 17.72.070 (Use Permits – Action by Planning Commission) and are supported by the application materials on file, this staff report and the supporting exhibits attached.

Further elaboration for each finding is as follows:

- a. *That the proposed location of the planned unit development is in accord with the objectives of the zoning title and the purposes of the district in which the site is located.*  
This location was planned for a commercial development as part of the TOD Specific Plan and the hotel and retail use fits under the approved zoning district.
- b. *That the proposed location of the planned unit development and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*  
The hotel, restaurant and retail space shall be a complement to the area and the residents by reducing vehicular trips and providing retail options within walking and biking distance.
- c. *That the standards of population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space, off-street parking and off-street loading facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the zoning title.*  
The building is being designed to fit the urban setting which was and is envisioned for the TOD area. The design and layout of the building have taken into account the proposed surrounding uses and will be compatible with the area.
- d. *That the standards of population density, site area and dimensions, site coverage, yard spaces, heights of structures, distances between structures, usable open space, and off-street parking and off-street loading facilities will be such that the development will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload utilities.*

Access to the site will be by a driveway off of Enterprise Drive and from Willow Street through the adjacent parking lot. There is a recorded easement to allow access to the site through the adjacent parking lot of the affordable senior housing site to the south. Enterprise Drive will be the main entrance to the parking garage and the hotel is not expected to generate traffic that exceeds the level of service of that roadway.

Hotels are required to provide one-off street parking space for each employee, plus one additional parking space for each guest room or for each two beds, whichever is greater. For retail, a minimum of three parking spaces per one thousand square feet of floor area is required. Based on this ratio, the project is required to have 181 parking spaces. A parking study, by Fehr & Peers, and a Transportation Demand Management (TDM) Plan, by Hexagon Transportation Consultants, Inc., were prepared to allow for a reduction in parking for this project. The study and plan concluded if all recommended TDM measures are implemented by the project, the required parking spaces may be reduced by 35%. This project is conditioned to implement the TDM measures in the attached TDM Plan and to re-evaluate the TDM Plan annually for the life of the project.

- e. *That the combination of different dwelling types and/or the variety of land uses in the development will complement each other and will harmonize with existing and proposed land uses in the vicinity.*

There are a variety of uses surrounding this location, which include senior housing, multifamily and single family uses. The commercial location on this property and across the street on Enterprise Drive are part of a larger design to provide neighborhood services to the numerous housing units planned as part of the specific plan.

- f. *That the proposed location of the conditional use is in accord with the purposes of the zoning title and the purposes of the district in which the site is located.*

The proposed use is in line with the proposed TOD Specific Plan.

- g. *That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

There are several conditions related to this project to minimize any potential negative impacts of the development. Staff does not believe there will be any negative impacts of the general public within the vicinity.

- h. *That the proposed conditional use will comply with each of the applicable provisions of Chapter 17.72 (Use Permits).*

Staff has reviewed the project and it is in compliance with the provisions of Section 17.72.

#### Environmental Review

The addendum to the existing Dumbarton Transit Oriented Development (TOD) Specific Plan Program Environmental Impact Report (PEIR) and the subsequent Initial Study/Mitigated Negative Declaration (IS/MND) for the SHH/FMC project was prepared by HELIX Environmental Planning, Inc. The addendum concludes this proposed modified project will have similar, and in most cases lesser, impacts than the previous approved SHH/FMC project because the project site has now been graded.

The addendum was made available to the public beginning July 25, 2017. We received one comment letter from Alameda County Water District (Exhibit E) and have attached a response letter (Exhibit F) that addresses all their comments.

#### Recommendation

Staff believes this project will be beneficial for the City and recommends approval of the proposed five-story mixed-use hotel and retail space project, subject to the conditions of approval listed in the attached resolution.

**Update** – At its August 22, 2017 meeting, the Planning Commission approved: (1) Resolution No. 1947, for P-17-01, a planned unit development, and U-17-02, a conditional use permit, for a proposed five-story mixed-use hotel and retail space at 37445 Willow Street (APN 092-0115-011-03) with Exhibits A, C and D; and (2) Resolution No. 1948, for E-17-03, an addendum to the Dumbarton Transit Oriented Development (TOD) Specific Plan Program Environmental Impact Report (PEIR) (SCH No. 2010042012) and the subsequent Initial Study/Mitigated Negative Declaration (IS/MND) for the SHH/FMC project (SCH No. 2014012056), for a proposed five-story mixed-use hotel and retail space at 37445 Willow Street (APN 092-0115-011-03), with Exhibit B.

#### **Attachments**

**Action** – It is recommended that the City Council, by resolutions: (1) approve P-17-01, a planned unit development, and U-17-02, a conditional use permit to allow for a proposed five-story mixed-use hotel and retail space at 37445 Willow Street (APN 092-0115-011-03); and (2) making certain findings and adopting an addendum to the Dumbarton Transit Oriented Development (TOD) Specific Plan Program Environmental Impact Report (PEIR) (SCH No. 2010042012) and the subsequent Initial Study/Mitigated Negative Declaration (IS/MND) for the SHH/FMC project (SCH No. 2014012056), to allow for a proposed five-story mixed-use hotel and retail space at 37445 Willow Street (APN 092-0115-011-03).

#### **E.6 Public Hearing to Consider: (1) Introduction of an Ordinance Adding Chapter 5.40 (Special Event Permit) to Title 5 (Business Licenses and Regulations) of the Newark Municipal Code to Require a Permit for Special Events Held in the City of Newark; and (2) Adoption of a Resolution to Amend the Master Fee Schedule to Include a Special Event Permit Processing Fee – from City Manager Becker and City Attorney Benoun. (INTRODUCTION OF ORDINANCE)(RESOLUTION)**

**Summary** – Several large special events have recently been held that have generated significant police responses, as well as traffic and noise complaints from surrounding residents. In light of these events and the complaints associated with them, staff recommends that the City Council introduce an ordinance that would require hosts of these special events to obtain a special event permit from the City. This permitting process would allow the City to require that the hosts comply with certain conditions



that would assure the safety of the members of the public attending the event and minimize adverse effects on the surrounding community. Staff also recommends that the Council adopt a resolution establishing a fee to process the permit applications.

**Background/Discussion** – Staff recognizes that special events are an important part of the life of a healthy and vibrant community. However, such events may have a negative effect on surrounding residents and businesses if the host of the event fails to take appropriate measures for security, traffic control, crowd control, parking and other health and safety impacts.

A recent example includes the Holi Festival that was held at Newark Junior High School earlier this year. The host of that event contacted City staff only three days before the event. The host represented that while there would be over 1,000 attendees there would not be any traffic or parking concerns because attendees would be coming and going from the event throughout the day.

However, the Newark Police Dispatch Center received 15 telephone calls from citizens living within the vicinity of Newark Junior High School, complaining about the noise and parking issues related to the event. The telephone calls came from residents living on Bennington Drive, Newark Blvd, Dalewood Drive, Barnard Street, Vinewood Avenue, Sandalwood Street, Lafayette Avenue, and Casey Court. The parking complaints focused on overflow parking into surrounding neighborhoods. Newark Police towed one car that was blocking a driveway on Lafayette Avenue. The noise complaints stemmed from the use of the PA system at the event.

This is not the first time an event of this magnitude received complaints. In the fall of 2015, a Ganesh Festival was held at the NewPark Mall parking lot and a Nicaraguan Festival was held at Swiss Park the same weekend. The Ganesh Festival (a four day event) drew crowds estimated by Newark Police to be in excess of 7,000 people. This resulted in extreme congestion on and around Mowry Avenue and overflow parking into surrounding neighborhoods. Also, the Newark Police dispatch center received nearly 30 calls from residents complaining about the loud music and noise emanating from the event.

That same weekend the Nicaraguan Festival drew an estimated crowd of 800-900 people. That event resulted in intoxicated attendees getting into fights, which required mutual aid from the Fremont Police Department to quell the fights and disperse the crowd.

Because of these past events and given that they are likely to happen again, staff recommends that the Council adopt an ordinance that would require special event hosts to obtain a permit from the City before the event begins so that these events can be better planned and regulated.

### Summary of Recommended Ordinance

A draft ordinance has been prepared by staff for Council review and consideration. In summary, the draft ordinance would not only require all special events to be vetted through a permitting process, but it would also make it unlawful for any permittee to violate the terms and conditions of the permit and would authorize the Newark Police Department to shut down any special event if any of the conditions are violated. Staff believes these key provisions would give the City the ability to better regulate situations such as the ones discussed above.

Other material provisions of the draft ordinance include the following:

Intent of Ordinance (Section 5.40.010). The intent of the ordinance is to ensure that special events are properly planned, do not adversely affect the surrounding community, and do not become a drain on police resources. At the same time, the City recognizes that these types of events play an important role in the life of a healthy and vibrant community and that the City has no intent on discouraging such events when they are properly planned and do not amount to a public safety concern.

Definition of Special Event (Section 5.40.020). The draft ordinance defines a “special event” as an activity that, due to the anticipated amount of attendees or the nature of the event, is not compatible with the generally intended use of the property. Special events typically require issuance of temporary ABC licenses, require traffic control procedures due to large anticipated traffic, require extraordinary police services in order to protect public safety, or the event results in impacts to adjacent property, such as amplified entertainment or parking. Under the draft ordinance, events such as the Holi Festival, Ganesh Festival, and Nicaraguan Festival would require issuance of a special event permit, whereas other activities that occur at those venues (where the events described above have been held), such as weddings or receptions, would not require a special event permit.

Exclusions (Section 5.40.020). There are numerous exclusions to the definition of a “special event” such as City sponsored events (Newark Days for example), events held at private residences that do not require extraordinary police services, events held at religious institutions or members-only facilities that do not require extraordinary police services, events that are consistent with existing use permits, and other events that already obtain other special permits, such as parade permits, use permits, or encroachment permits.

Application for Permit (Section 5.40.040). The draft ordinance requires that any person or organization that wants to host a special event must first submit an application to the Police Department at least 45 days prior to the event. The applicant would need to disclose specific information regarding the event, such as the contact information of the sponsor, the proposed date and location, estimated number of persons that will attend, whether alcohol or food will be sold, whether any sound

amplification equipment will be used, employment of any security guards, a parking plan, and a floor plan, among others.

Review of Permit Application and Conditional Approval. Upon receipt of a completed application, the Police Department will forward it to all affected departments, such as Fire, Community Development, Risk Management, and the City Manager’s Office. The Chief of Police would be empowered to attach conditions that are reasonably required to assure public safety. These conditions include requiring the applicant to obtain a food permit from the County Health Department or a license from the California Department of Alcoholic Beverage Control (“ABC”), requiring the applicant to hire a licensed security guard(s), providing a refundable deposit towards extraordinary police service costs, limiting the use of sound amplification equipment, and such other conditions that are reasonably necessary to protect public health and safety. An exhaustive list of conditions can be found in Section 5.40.060.

Issuance of Permit (Section 5.40.050). Within 21 days of receiving a completed application, the Chief of Police may issue the permit that contains some conditions outlined above. The event host would be obligated to post a copy of the permit and its conditions at the event.

Denial of Permit (Section 5.40.070). The Chief of Police has the ability under the draft ordinance to deny the application if the site is inadequate for the event, if the event will have adverse impacts to residential areas, or if there are not enough public safety officers to ensure the safety of participants or attending public, among others. If the application is denied, the applicant can appeal to the City Manager for further review.

Application Fee [Section 5.40.040(B)]. The draft ordinance requires the applicant to pay a processing fee of one hundred dollars (\$100). The proposed fee takes into account the time it would reasonably take to process an application and is consistent with what other jurisdictions impose. Also, the draft ordinance exempts non-profit organizations that serve Newark residents from paying the application fee.

If the Council approves the special event ordinance, then staff recommends that the City engage in a marketing campaign so that local organizations and venues become aware of this new permitting process. This campaign would include adding an explanation and link to the application on the City’s website and distribution of informational pamphlets to local venues and organizations that explain the permitting process and explain which events require a permit and those that do not require a permit.

### **Attachments**

**Action** – For the reasons outlined above, staff recommends that the Council open a public hearing, receive testimony from the public, and consider staff’s recommendation to: (1) introduce an ordinance adding Chapter 5.40 (Special Event Permit) to Title 5 (Business Licenses and Regulations) of the Newark Municipal Code

to require a permit for special events held in the City of Newark and (2) adopt a resolution to amend the Master Fee Schedule to include a special event permit processing fee.

## **F. CITY MANAGER REPORT**

**(It is recommended that Items F.1 through F.9 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 Report on administrative actions during August recess – from City Manager Becker. (MOTION)**

**Background/Discussion** – At the April 27, 2017, meeting the City Council adopted Resolution No. 10,623 authorizing the City Manager, or Acting City Manager, to act on certain administrative matters, which should not be deferred until the next regularly scheduled meeting of the City Council. The City Council also directed the City Manager to report to the City Council after the recess on all such actions.

Administrative matters on which action was taken during the recess are noted in Exhibit A.

#### **Attachment**

**Action** - It is recommended that the City Council, by motion, reaffirm the City Manager's, or Acting City Manager's, action on the matters listed in Exhibit A.

#### **F.2 Authorization for the purchase of a 2018 Ford F-250 Truck as a replacement vehicle for the Maintenance Division of the Public Works Department through Downtown Ford Sales with outfitting by Classic Graphics – from Maintenance Supervisor Connolly. (RESOLUTION)**

**Background/Discussion-** The 2016-2018 Biennial Budget for Fiscal Year 2017-2018 includes funding for the replacement of the City of Newark Maintenance Division's existing Landscape Inspection truck through the City's Equipment Replacement Program. This truck is used to transport tools, equipment, and landscape debris throughout the City. The existing vehicle has reached the end of its useful life and is currently non-operational. Authorization is requested to participate in an intergovernmental procurement process for the purchase of one (1) 2018 Ford F-250 Truck from Downtown Ford Sales.

An intergovernmental procurement process (also known as a "piggyback") is an alternative option to Newark's formal bidding process. By piggybacking onto another agency's contract, the City would save the cost and time associated with the formal bid process but be able to be assured of competitive set prices established by another

agency's formal bidding process. Staff did obtain comparison quotes from Ford for fleet pricing which is representative of pricing through local dealerships, but that pricing was determined to not be competitive.

Upon completion of a formal bidding process, the State of California entered into a master contract and a procurement contract with Downtown Ford Sales for the purchase of new vehicles. This contract is in effect through February 21, 2018, and includes a provision to allow other agencies to participate.

The competitive process used by the State of California has been reviewed by the Public Works Department and satisfies the City's requirements for the proposed vehicle purchases. Based upon the State of California contract with Downtown Ford Sales, the purchase cost for the new Maintenance Division truck would be \$31,000. The vehicle purchase cost does not include outfitting of vehicle by Classic Graphics which is estimated not to exceed \$7,000. The outfitting is based on specialized vendor quotes.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, authorize the purchase of a 2018 Ford F-250 Truck as a replacement vehicle for the Maintenance Division of the Public Works Department through Downtown Ford Sales with outfitting by Classic Graphics.

**F.3 Authorization for the purchase of a 2018 Ford F-350 Cab/Chassis with a Scelzi Utility Body as a replacement vehicle for the Maintenance Division of the Public Works Department through Downtown Ford Sales with outfitting by Classic Graphics – from Maintenance Supervisor Connolly.**  
**(RESOLUTION)**

**Background/Discussion-** The 2016-2018 Biennial Budget for Fiscal Year 2017-2018 includes funding for the replacement of one the City of Newark Building Maintenance Section's existing vehicles through the City's Equipment Replacement Program. This vehicle is used to transport furniture, fixtures, and tools throughout the City and the existing vehicle has reached the end of its useful life. Authorization is requested to participate in an intergovernmental procurement process for the purchase of one (1) 2018 Ford F-350 Cab/Chassis with a Scelzi Utility Body from Downtown Ford Sales.

An intergovernmental procurement process (also known as a "piggyback") is an alternative option to the City's formal bidding process. By piggybacking onto another agency's contract, the City would save the cost and time associated with the formal bid process but be able to be assured of competitive set prices established by another agency's formal bidding process. Staff did obtain comparison quotes from Ford for fleet pricing which is representative of pricing through local dealerships, but that pricing was determined to not be competitive.

Upon completion of a formal bidding process, the State of California entered into a master contract and a procurement contract with Downtown Ford Sales for the purchase of new vehicles. This contract is in effect through February 21, 2018, and includes a provision to allow other agencies to participate.

The competitive process used by the State of California has been reviewed by the Public Works Department and satisfies the City's requirements for the proposed vehicle purchases. Based upon the State of California contract with Downtown Ford Sales, the purchase cost for the vehicle with a Scelzi Utility Body would be \$45,000. The vehicle cost does not include outfitting of vehicle by Classic Graphics which is estimated not to exceed \$500. The outfitting is based on specialized vendor quotes.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, authorize the purchase of a 2018 Ford F-350 Cab/Chassis with a Scelzi Utility Body as a replacement vehicle for the Maintenance Division of the Public Works Department through Downtown Ford Sales with outfitting by Classic Graphics.

#### **F.4 Authorization for the Mayor to sign a Memorandum of Understanding with developers in the Dumbarton Transit Oriented Development Specific Plan Area regarding future reimbursement of waterline extension costs – from Public Works Director Fajeau. (RESOLUTION)**

**Background/Discussion** – The City Council has approved several residential developments totaling more than 1,500 new residential units within the Dumbarton Transit Oriented Development Specific Plan Area. Subsequent to the City's approval of the specific plan and the first two individual development projects, the Alameda County Water District (ACWD) identified the need for a waterline extension on Willow Street to ensure overall redundancy, reliability, and performance of the water supply system in and around the project area. The total cost for this waterline extension is estimated to be \$1,380,000.

The developers with approved and currently active projects in the specific plan area are agreeable to completing installation of this waterline extension at such time as required by ACWD. These developers have agreed to ultimately spread the total cost among all property owners in the specific plan area by using a pro-rata share based on the site area associated with each development. The developers collectively entered into a formal Waterline Agreement and a subsequent First Amendment to Waterline Agreement to set forth the terms for construction of the waterline extension and the distribution of overall final construction costs. Developers with current projects underway will fund construction of the waterline extension. Property owners of future developments will reimburse the current developers at the time those future developments are approved by the City.

The City was not a party to these agreements. However, in order to assist the current developers with ensuring reimbursement of the waterline extension costs from property owners of future development projects, the current developers have requested approval of a supplemental Memorandum of Understanding (MOU) with the City. This MOU, in

short, states that the City would agree to require as a condition of approval for future projects in the specific plan area that reimbursement for the waterline extension will be made by the property owner of a new development based on the designated pro-rata share, prior to the approval of any final map or issuance of any building permit thereunder. The City would not be a participant in the cost of this waterline extension and this MOU would not obligate the City to assume any responsibility for notifying, invoicing, or collecting any amounts from an individual property owners. All property owners with current developments within the specific plan area have signed the MOU.

#### **Attachment**

**Action** – It is recommended that the City Council, by resolution, authorize the Mayor to sign a Memorandum of Understanding with developers in the Dumbarton Transit Oriented Development Specific Plan Area regarding future reimbursement of waterline extension costs.

#### **F.5 Authorization for the Mayor to sign an agreement with Alameda County for participation in the Alameda County Urban County Community Development Block Grant Program for Fiscal Year 2017-2018 – from Assistant Planner Mangalam. (RESOLUTION)**

**Background/Discussion** – Each year the City of Newark receives funding under the United States Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program. This grant provides funding for activities benefiting low- and moderate-income persons, including public works projects, planning studies, and housing rehabilitation and repair.

Newark's funds are disbursed through Alameda County. The County oversees Newark's use of the funds in order to ensure that all appropriate federal government requirements are met. This arrangement is established and governed each year by a pair of agreements, one between Alameda County and HUD, and one between the City and Alameda County. A copy of the agreement between Newark and Alameda County is attached. By approving this resolution, the City Council will authorize the Mayor to sign the agreement between the City of Newark and Alameda County, thereby continuing the City's participation in the CDBG program.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, authorize the Mayor to sign an agreement with Alameda County for participation in the Alameda County Urban County Community Development Block Grant (CDBG) Program for the 2017-2018 fiscal year.

**F.6 Initiation of proceedings for annexation of Tract 8098 to Zone 4 – Glass Bay of Landscaping and Lighting District No. 19, approval of the Preliminary Engineer’s Report, declaration of intention to order annexation of Tract 8098 to the assessment district, and setting of public hearing date on November 9, 2017 – from Assistant City Engineer Imai.**  
**(RESOLUTION)**

**Background/Discussion** – On December 13, 2016 the City Council approved the formation of Landscaping and Lighting District No. 19 (Resolution No. 10,585), located to the west of Willow Street between Seawind Way and Central Avenue. TH-HW Newark, LLC (Trumark Homes), developer of Tract 8098 – Glass Bay, located on the southeastern corner of the intersection of Willow Street and Enterprise Drive, has submitted a petition requesting annexation to Landscaping and Lighting District No. 19.

Because the landscaping and lighting improvements associated with Tract 8098 will provide a different level of service and benefit to the parcels within Tract 8098 than to the parcels currently within Landscaping and Lighting District No. 19, Tract 8098 will annex to, or join, Landscaping and Lighting District No. 19 as “Zone 4 – Glass Bay” to differentiate it from the existing zones listed below:

- Zone 1 – Bayshores
- Zone 2 – Lighthouse
- Zone 3 – Senior Housing

A separate assessment rate will be calculated for each zone based on the distinct level of service and special benefit provided to each zone by the landscaping and lighting improvements within Landscaping and Lighting District No. 19.

A Preliminary Engineer’s Report has been prepared and is attached for City Council review. The annexation of Tract 8098 to Zone 4 – Glass Bay of Landscaping and Lighting District No. 19 is recommended for consideration by the City Council at a Public Hearing on November 9, 2017. Approval of the Preliminary Engineer’s Report and adoption of a Resolution would start the required 45-day noticing period for the Public Hearing.

The Landscaping and Lighting Act of 1972 allows local government to finance the costs and expenses of landscaping and lighting of public areas. Annexation of Tract 8098 to Zone 4 – Glass Bay of Landscaping and Lighting District No. 19 would provide for:

- I. The maintenance of the landscaping, landscape irrigation system, and street lighting system within the planter strips, median, and traffic circles on Willow Street, from its intersection with Enterprise Drive to the southern boundary of Tract 8098
- II. The maintenance of the landscaping, landscape irrigation system, and street lighting system within the planter strips, median, and traffic circles on Enterprise Drive, from its intersection with Willow Street to the eastern boundary of Tract 8098



- III. The maintenance of an “in-tract” street lighting system along the following public street frontages: Back Bay Road, Bay Landing Road, Bay Crest Road, Blue Anchor Way, Bluff Way and Seawind Way
- IV. The maintenance of a trash capture device located along the Enterprise Drive frontage of Tract 8098
- V. The maintenance of trash capture devices located within the “in-tract” public rights-of-way

Maintenance of landscape improvements along the “in-tract” public street frontages within the Tract 8098 will be the responsibility of the developer and eventually the Homeowner’s Association of Tract 8098.

Based on the Preliminary Engineer’s Report, the maximum assessment for Fiscal Year 2017-18 for Zone 4 – Glass Bay would be \$91.14 for each single-family unit within Tract 8098, for a total district assessment of \$19,777.38. To cover rising energy and water rates, the maximum assessment rate would be adjusted annually based on the Consumer Price Index or three percent (3%), whichever is greater. The annual assessment rate would be less than or equal to the adjusted maximum assessment rate established for that fiscal year.

In accordance with Proposition 218, a parcel’s assessment for any certain improvement shall be based on the proportional special benefit conferred on that parcel by that improvement. As discussed in the Engineer’s Report, while trash capture devices provide a certain level of special benefit to the parcels within Zone 4 – Glass Bay, they also provide a general benefit to the City of Newark as a whole by reducing the amount of trash and contaminants in our streams and bay. The City’s contribution for the general benefits from the trash captured devices is \$4,636.80.

#### **Attachment**

**Action** – It is recommended that the City Council, by resolution: (1) initiate proceedings for the annexation of Tract 8098 to Zone 4 – Glass Bay of Landscaping and Lighting District No. 19, (2) approve the Preliminary Engineer’s Report, (3) declare the intention to order the annexation of Tract 8098 to the assessment district, and (4) set the Public Hearing date on November 9, 2017.

#### **F.7 Adopting a Compensation Plan for Certain Positions in the Exempt Service Employee Group to amend the Hourly Wage Rate Schedule for Part-Time, Seasonal, and Temporary (PST) Classifications, and Revoking Resolution No. 10,570 – from Human Resources Director Abe. (RESOLUTION)**

**Background/Discussion** – The Schedule of Part-time, Seasonal, and Temporary (PST) Classifications provides a list of hourly wage rates for temporary positions. Due to a scheduled increase in the California minimum wage and the recently negotiated salary for Public Safety Dispatcher, this schedule was reviewed to identify recommendations

for minimum wage compliance and for the maintenance of equitable internal compensation relationships.

The first recommendation is based on the recently negotiated salary range for full-time Public Safety Dispatchers. The Police Department employs both full-time and PST dispatchers as needed during staff vacancies, vacations, and other absences. This compliment of full-time and PST dispatchers facilitates appropriate staffing levels in the most cost effective manner by reducing the need for overtime. A 4% adjustment to the hourly pay rate for PST Public Safety Dispatchers is recommended effective September 16, 2017 for pay equity.

The second recommendation is needed for compliance with State minimum wage legislation. Effective January 1, 2018, the California minimum wage will increase from \$10.50 to \$11 per hour. As a result, starting January 1, 2018, the starting pay for some temporary positions will need to be increased by \$0.50 per hour.

Because the negotiated salary adjustment for Public Safety Dispatcher took effect recently, staff recommends that the adjustment for hourly pay rate for PST Public Safety Dispatchers take effect the next pay period, which begins on September 16, 2017. Also, because the state law minimum wage increase commences January 1, 2018, staff recommends that the adjustments for those temporary positions take effect on January 1, 2018.

Accordingly, a draft resolution has been prepared that would implement the 4% adjustment for PST Public Safety Dispatchers the next pay period and start the \$0.50 per hour increase for some temporary positions on January 1, 2018. The attached resolution would also revoke the previously adopted resolution that established the existing pay schedule (Resolution 10,570).

**Action** - It is recommended that the City Council, by resolution, adopt Compensation Plans for certain positions in the Exempt Service Employee Group to amend the Hourly Wage Rate Schedule for Part-Time, Seasonal, and Temporary (PST) Classifications, and revoke Resolution No. 10,570.

**F.8 Amendment of the 2016-2018 Biennial Budget and Capital Improvement Plan for Fiscal Year 2017-2018 for Capital Improvement Plan Budget Rollover and Budget Revisions – from Administrative Services Director Woodstock. (RESOLUTION)**

**Background/Discussion** – Fiscal Year 2017-2018 is the second year in the City’s two-year budget cycle. Two actions are needed as the new budget year begins: rollover of approved Capital Improvement Plan (CIP) projects and revisions to the operating budget where deficiencies have been identified.

The budgeted projects in the CIP that are ongoing require re-appropriation for each fiscal year. The amount for each project reflects the remaining balance for the projects. Projects

that have been completed or have been combined with another project are closed and not include in this ongoing list. The capital budget amendments include rolling over \$11.95 million in projects. Exhibit A shows the budgeted CIP projects that require rollover of appropriations.

The Fiscal Year 2017-2018 operating budget was approved in June of 2016 and amended in February of 2017. There is a need for additional revisions at this time. There are several reasons for these revisions such as contractual changes since the budget adoption, unforeseen increases in necessary professional services and other increases in costs of services. The amendment includes a total of \$2.17 million in additional expenditures. The expenditures are offset by a combination of using the projected budget surplus of \$1.4 million and a transfer of \$0.8 million from the unallocated fund balance. Exhibit B is a table of the operating budget amendments. The following are the larger expenditure increases included in Exhibit B:

\$1,660,000 -The cost of the salary and benefit adjustments in the July 2017 contractual agreements.

\$ 350,000 -The increase in cost of claims for Workers Compensation.

\$ 76,000 - The increase in costs of Legal Professional Services.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, amend the 2016-2018 Biennial Budget and Capital Improvement Plan for Fiscal Year 2017-2018 for Capital Improvement Plan budget rollover and budget revisions.

**F.9 Authorization for the purchase of a replacement pool slide at the Silliman Family Aquatic Center, declaration of Whitewater West Industries, Ltd. as the single source manufacturer, and amendment of the 2016-2018 Biennial Budget and Capital Improvement Plan for Fiscal Year 2017-2018 – from Recreation and Community Services Director Zehnder and Public Works Director Fajeau. (RESOLUTION)**

**Background/Discussion** – The Public Works Department and the Recreation and Community Services Department are coordinating an extensive maintenance project planned during the upcoming winter season at the Silliman Family Aquatic Center to re-plaster the lap pool, lazy river, and activity pool, and complete other important maintenance work. As part of this project, staff is recommending that the existing large blue open-flume slide at the lazy river pool be removed and replaced with a new slide at the same location. The blue slide is an original piece of equipment and is now 13 years old. Recent inspections have been performed on all slides by the State of California’s Division of Occupational Safety and Health (DOSH), better known as Cal/OSHA. As a result of these inspections, DOSH inspectors and staff have concluded that the fiberglass tube sections of the blue slide need to be replaced.

The original slide was manufactured by Whitewater West Industries, Ltd. The Aquatic Center lazy river pool slide area was designed and built to accommodate this specific slide with floor footing locations, all structural support members, and other pool features established accordingly. The most cost-effective approach for replacement of the slide is to install a new slide at the same location utilizing all existing structural support members. Any new slide that varies from the original design would require extensive footing and support structure modifications that would add significantly to the cost for replacement.

The City entered into a contract with Aquatic Design Group for design consultant services to assist with the upcoming maintenance project at the Aquatic Center. Aquatic Design Group has extensive experience and a high level of expertise in the design and placement of aquatic slides and play structures for both indoor and outdoor facilities. Based on Aquatic Design Group's knowledge and analysis of the North American manufacturers, replacement of the existing slide with the same slide from the original manufacturer is clearly the most cost effective investment. A new pool slide from any of the other manufacturer would require either extensive modifications to the footings and structural members or a completely new design with re-engineered fiberglass slide molds to attempt to match the existing infrastructure. It is estimated by Aquatic Design Group that either of these options would result in an overall increased cost of 50% or more above the cost of a basic replacement using the original molds and support structures. As a result, staff is recommending purchase of a replacement slide from Whitewater West Industries, Ltd. at this time. Furthermore, given the identified constraints of the existing pool infrastructure and the lack of any other viable slide replacement options, staff is recommending that Whitewater West Industries, Ltd. be declared a single source manufacturer for this purchase.

In accordance with the Single Source Exemption in the City's Purchasing Ordinance, formal bidding procedures are not required in the event the City Council, by resolution, makes certain findings and declarations that:

1. Formal bids would work an incongruity and would be unavailing in affecting the final results; and
2. Formal bids would not produce an advantage to the City; or,
3. It is practically impossible to obtain what is required through the formal bidding process; or,
4. The product sought, or a significant portion thereof, is the subject of a patent and cannot be purchased from any source other than the holder of the patent.

The single source exemption is appropriate for this recommended purchase under paragraphs 1., 2., and 3. There is only one manufacturer to provide a suitable replacement pool slide. Since that is the case, it is incongruous, or not appropriate, to require a formal bid for the purchase since only one manufacturer could bid and it

would be useless (unavailing), failing to achieve the desired result (i.e. competitive, multiple bids assuring the best use of public funds). Formal bids would not produce an advantage to the City, but would instead result in an extraneous use of public funds to lead to the same result. It is impossible, in a practical sense, to obtain competitive bids through a formal bidding process since only a single manufacturer could meet the City's needs for replacement of the slide.

The estimated purchase and delivery price for the replacement open-flume slide with translucent sections is \$95,000. Recreation and Community Services Department and Public Works Department staff would coordinate the final slide details with the project consultant and manufacturer prior to actual purchase. The 2016-2018 Biennial Budget and Capital Improvement Plan does not include a project for slide replacement and therefore a budget amendment would be necessary for this equipment purchase. It is recommended that Capital Improvement Fund Reserves be utilized.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, authorize the purchase of a replacement pool slide at the Silliman Family Aquatic Center, declare Whitewater West Industries, Ltd. as the single source manufacturer, and amend the 2016-2018 Biennial Budget and Capital Improvement Plan for Fiscal Year 2017-2018.

#### **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 September 14, 2017. (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, 5<sup>th</sup> 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.