



# 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, March 24, 2016**

### CITY COUNCIL:

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

### 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:

- |                                     |                         |
|-------------------------------------|-------------------------|
| 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, March 24, 2016

At 6:30 p.m. the City Council will plant a tree for Arbor Day in the City Hall parking lot.

**A. ROLL CALL**

**B. MINUTES**

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, March 10, 2016. (MOTION)**

**C. PRESENTATIONS AND PROCLAMATIONS**

**C.1 Introduction of employees.**

**Background/Discussion** – The following newly hired city employees will be introduced at the City Council meeting:

Administrative Support Specialist Rebecca Hibbs  
Building Inspector Kenneth Wood  
Police Dispatcher Spencer Elmore.

**C.2 Proclaiming March 29, 2016 as Welcome Home Vietnam Veterans Day. (PROCLAMATION)**

**Background/Discussion** – Dear Vietnam Vet" (DVV) is a non-profit organization whose purpose is to write letters of thanks to Vietnam Veterans for their patriotic service. They have requested that March 29, 2016 be proclaimed as Welcome Home Vietnam Veterans Day. A proclamation has been prepared and will be presented at the meeting.

**D. WRITTEN COMMUNICATIONS**

**E. PUBLIC HEARINGS**

- E.1 Hearing to consider: (1) P-16-4, a planned unit development and U-16-5, a conditional use permit for two corridor access lots on Sunset Avenue (APN: 92A-465-56); and (2) ASR-16-6, an Architectural and Site plan**



**Review for two single family homes at 7731 and 7733 Sunset Avenue –  
from Assistant City Manager Grindall. (RESOLUTION)(MOTION)**

**Background/Discussion** - Mr. Abdul Durrani has submitted an application to create two corridor access lots upon which he proposes to construct two single-family dwelling units. Attached is Exhibit A, pages 1 through 9.

The creation of the corridor access lots requires Planning Commission and City Council approval of a planned unit development and a conditional use permit. Given the constraints of this lot, corridor access is necessary to access the rear portion of the lot. The Zoning Code requires that in low density residential districts, corridor access lots shall have not less than the minimum site area required for permitted uses in its respective zoning district, exclusive of corridor area, and a corridor with a width of not less than twenty feet for its entire length, subject to securing a conditional use permit and a planned unit development permit. The corridor width requirement may be shared by more than one lot, subject to conditional use permit and planned unit development permit review.

The twenty-one foot wide corridor access leads to Parcel 1 with a 3,619 square foot, two-story home, and Parcel 2, with a 3,742 square foot, two-story home. Both homes provide large family, living, and dining rooms, along with 5-bedrooms and a loft. The design of both homes is identical, with a stucco exterior, concrete “S-style” tile roofing, and a ground-floor bay window feature off of the living room.

The applicant held a community meeting on November 9, 2015 to discuss this proposal with residents within 300 feet of the property. The meeting was well attended and no one spoke against the project. If the Planning Commission approves this project, it will be submitted, along with the Tentative Parcel Map, to the City Council for their review and approval.

The proposed project is categorically exempt from the California Environmental Quality Act per Section 15303, “New Construction or Conversion of Small Structures”, Class 3. This allows for the construction and location of a single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

**Attachment**

**Update** – At its meeting of February 23, 2016, the Planning Commission approved Resolution No. 1929, for a P-16-4, planned unit development and U-16-5, a conditional use permit for two corridor access lots on Sunset Avenue (APN: 92A-465-56); and by motion, approved ASR-16-6, an Architectural and Site plan Review for two single family homes at 7731 and 7733 Sunset Avenue, with Exhibit A, pages 1 through 9.

**Action** - It is recommended that the City Council: (1) by resolution approve P-16-4, a planned unit development and U-16-5, a conditional use permit for two corridor access lots on Sunset Avenue (APN: 92A-465-56); and (2) by motion, approve ASR-16-6, an

Architectural and Site plan Review for two single family homes at 7731 and 7733 Sunset Avenue, with Exhibit A, pages 1 through 9.

**E.2 Public Hearing, per the Tax and Equity Fiscal Responsibility Act, to consider the issuance of revenue bonds by the California Municipal Finance Authority (CMFA), for and on behalf of USA Properties Fund Inc., in an amount not to exceed \$17,000,000, for a 75 unit multi-family, rental housing facility located at 37433 Willow Street; and authorizing the execution of a Joint Exercise of Powers Agreement relating to the CMFA – from Assistant City Manager Grindall. (RESOLUTION)**

**Background/Discussion** – In 2014, the City Council approved Resolution No. 10193 providing for 75 affordable housing units as part of the SHH Project within the Dumbarton Transit Oriented Development. The housing, now entitled Newark Station Senior Apartments, will be located at 37433 Willow Street. USA Properties Fund, Inc. the owner and operator of the facilities has requested that the City Council conduct a Tax and Equity Fiscal Responsibility Act Hearing, execute a Joint Powers Agreement with the California Municipal Finance Authority (Authority), and approve the issuance of revenue bonds by the Authority.

USA Properties Fund, Inc. has requested that the California Municipal Finance Authority (CMFA) serve as the municipal issuer of the Bonds in an aggregate principal amount not to exceed \$17,000,000 of tax-exempt revenue bonds. The proceeds of the Bonds will be used for the acquisition, construction, improvement, and equipping of a 75-unit multifamily rental housing facility (the “Project”) to be owned and operated by the borrower and located at 37433 Willow Street.

The California Municipal Finance Authority (CMFA) was created in 2004 pursuant to a joint exercise of powers agreement to promote economic, cultural and community development, through the financing of economic development and charitable activities throughout California. The CMFA assists local governments, non-profit organizations and businesses with the issuance of taxable and tax-exempt bonds aimed at improving the standard of living in California. To date, over 200 municipalities have become members of CMFA.

In order for all or a portion of the Bonds to qualify as tax-exempt bonds, the City of Newark must conduct a Tax and Equity Fiscal Responsibility Act Hearing (the “TEFRA Hearing”) providing for the members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project.

**Execution of the Joint Exercise of Powers Agreement**

In order for the CMFA to have the authority to serve as the issuer of the bonds for the Project, it is necessary for the City of Newark to become a member of the CMFA. Attached to this report is a copy of the Joint Exercise of Powers Agreement to be executed by the City Manager.



The Joint Exercise of Powers Agreement provides that the CMFA is a public entity, separate and apart from each member executing such agreement. The debts, liabilities and obligations of the CMFA do not constitute debts, liabilities or obligations of the members executing such agreement.

The Bonds to be issued by the CMFA for the Project will be the sole responsibility of the Borrower, and the City will have no financial, legal, liability, or responsibility for the Project or the repayment of the Bonds for the financing of the Project. All financing documents with respect to the issuance of the Bonds will contain clear disclaimers that the Bonds are not obligations of the City or the State of California, but are to be paid for solely from funds provided by the Borrower.

There are no costs associated with membership in the CMFA and the City, by the terms of the JPA, will not be exposed to any financial liability by reason of its membership in the CMFA. In addition, participation by the City in the CMFA will not impact the City's appropriations limits and will not constitute any type of indebtedness by the City. Outside of holding the TEFRA hearing, adopting the required resolution and executing the Joint Exercise of Powers Agreement of the CMFA, no other participation or activity of the City or the City Council with respect to the issuance of the Bonds will be required.

The Joint Exercise of Powers Agreement expressly provides that any member may withdraw from such agreement upon written notice to the Board of Directors of the CMFA. The City following its execution of the Joint Exercise of Powers Agreement, could, at any time following the issuance of the Bonds, withdraw from the CMFA by providing written notice to the Board of Directors.

### **Fiscal Impact**

The Board of Directors of the California Foundation for Stronger Communities, a California non-profit public benefit corporation (the "Foundation"), acts as the Board of Directors for the CMFA. Through its conduit issuance activities, the CMFA shares a portion of the issuance fees it receives with its member communities and donates a portion of these issuance fees to the Foundation for the support of local charities. With respect to the City of Newark, it is expected that a portion of the issuance fee attributable to the City will be granted by the CMFA to the general fund of the City. The funds may be used for any lawful purpose of the City. The Borrower will be the beneficiary of the CMFA's charitable donation through a 25% reduction in issuance fees.

### **Summary**

In light of the foregoing, and in order to support affordable housing, staff recommends that the City conduct the TEFRA Hearing, execute the Joint Exercise of Powers Agreement of the CMFA, and adopt the resolution in favor of the issuance of the Bonds by the CMFA.

**Attachment**

**Action** - It is recommended that after the close of the TEFRA Hearing, the City Council, by resolution, authorize and direct the execution of a Joint Exercise of Powers Agreement relating to the California Municipal Finance Authority and approving the issuance of revenue bonds by the Authority for the purpose of financing or refinancing the acquisition, construction improving and equipping of certain facilities at 37433 Willow Street for the benefit of USA Properties Fund, Inc., or an affiliate thereof.

**F. CITY MANAGER REPORTS**

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

**CONSENT****F.1 Introduction of an ordinance amending the Newark Municipal Code by repealing Chapter 2.20 Redevelopment Agency – from City Clerk Harrington. (ORDINANCE)**

**Background/Discussion** – In 1975, the City Council established a Redevelopment Agency to prepare and implement plans for improvement, rehabilitation, and development of certain areas within the city. In June of 2011, the California State Legislature approved and the Governor signed Assembly Bill 1X26 which dissolved all redevelopment agencies in the State of California. There was a legal challenge and the California Supreme Court upheld AB 1X26.

All Redevelopment Agencies in the State of California were disbanded, and no longer exist as public bodies. Successor Agencies were formed and given the authority, rights, duties, and obligations formerly held by the Redevelopment Agency. The purpose of the Successor Agency is to make payments on the former Redevelopment Agency enforceable obligations and close the efforts of the former Redevelopment Agency. The only obligation remaining from the dissolution of the Newark Redevelopment Agency is the loan from the City to the Newark Redevelopment Agency. Newark's Successor Agency was formed on January 12, 2012. The Successor Agency has been requesting and receiving repayments on the loan per the Health and Safety Code requirements.

As a result of these actions, it is no longer necessary to include the Redevelopment Agency in the Newark Municipal Code.

**Attachment**

**Action** - It is recommended that the City Council, by ordinance, amend the Newark Municipal Code by repealing Chapter 2.20 Redevelopment Agency.

**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 March 24, 2016. (MOTION)**

**M. CLOSED SESSION**

**M.1 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(b), Anticipated Litigation: One case – from Human Resources Director Abe and 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(b), Anticipated Litigation: one case.

**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.