



# CITY OF NEWARK CITY COUNCIL

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

## Minutes

Thursday, December 8, 2016

### A. ROLL CALL

Mayor Nagy called the meeting to order at 7:41 p.m. Present were Council Members Hannon, Collazo, Bucci, and Vice Mayor Freitas.

### B. MINUTES

#### B.1 Approval of Minutes of the regular City Council meeting of Thursday, November 10, 2016. **MOTION APPROVED**

Council Member Bucci moved, Council Member Collazo seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 5 AYES.

### C. PRESENTATIONS AND PROCLAMATIONS

#### C.1 Declaring the results of the General Municipal Election of November 8, 2016. **RESOLUTION NO. 10573 MOTION APPROVED ORDINANCE NO. 495**

City Clerk Harrington stated that as a result of the General Municipal Election held on November 8, 2016, Alan L. Nagy was re-elected as Mayor for a two year term. Luis Freitas and Sucy Collazo were each re-elected as a member of the City Council for a four year term. Measure GG was approved, enacting a one-half cent sales tax.

Council Member Bucci moved, Council Member Collazo seconded to by resolution, declare the results of the General Municipal Election of November 8, 2016 and by motion, authorize the Mayor to sign the initiative ordinance of the voters of the City of Newark to levy a local transactions and use (sales) tax to be administered by the State Board of Equalization. The motion passed, 5 AYES.

#### C.2 Presentation of election certificates and administration of Oath of Office.

City Clerk Harrington administered the oath of office to Mayor Nagy, Council Member Freitas, and Council Member Collazo.

**C.3 Commending Police Commander Renny Lawson on his retirement.**

Mayor Nagy presented the commendation to Police Commander Renny Lawson.

**C.4 Commending Deputy Fire Marshall Holly Guier on her retirement.**

Mayor Nagy presented the commendation to Deputy Fire Marshall Holly Guier.

Mayor Nagy called a recess at 8:04 p.m. The meeting reconvened at 8:06 p.m.

**D. WRITTEN COMMUNICATIONS****E. PUBLIC HEARINGS****E.1 Hearing to consider a Conditional Use Permit (U-16-16) to allow DeVry University to operate in an existing building located at 8000 Jarvis Avenue (APN: 537-853-38). RESOLUTION 10574**

Assistant City Manager Grindall stated that DeVry University was moving from Fremont to Newark at 8000 Jarvis Avenue. There will be up to 50 students per session and approximately 23 employees. Interior improvements include: classrooms, computer labs, common/study areas, offices, and a reception area. The only change proposed to the building exterior is a wall sign and a sign on the existing monument sign that would be submitted for staff review.

In response to Council Member Hannon, Assistant City Manager Grindall stated that code enforcement could visit the area occasionally to monitor the parking. Council Member Hannon stated a yearly visit would be sufficient.

Council Member Hannon requested that Municipal Code references in future staff reports include the referenced code as an attachment or a description in the report itself.

Mayor Nagy opened the public hearing at 8:10 p.m.

Ray Hashimoto, representing DeVry University, said that he read the resolution and agreed to the conditions.

Mayor Nagy closed the public hearing at 8:12 p.m.

Council Member Bucci moved, Council Member Collazo seconded to, by resolution, approve a conditional use permit (U-16-16) to allow for a college (DeVry University) to operate in an existing building located at 8000 Jarvis Avenue (APN: 537-853-38). The motion passed, 5 AYES.

**F. CITY MANAGER REPORTS**

Council Member Bucci moved, Council Member Collazo seconded, to approve Consent Calendar Items F.1 through F.6, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions. The motion passed, 5 AYES.

**CONSENT**

- F.1 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8098 - Glass Bay (TH-HW Newark, LLC), a 217-unit residential subdivision at 8400 Enterprise Drive in the Dumbarton Transit-Oriented Development Specific Plan project area. RESOLUTION NO. 10575  
CONTRACT NO. 16051**
- F.2 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8157 - Lighthouse (Lennar Homes of California, Inc.), an 88-unit residential subdivision at 37521 Willow Street in the Dumbarton Transit-Oriented Development Specific Plan project area. RESOLUTION 10576  
CONTRACT NO. 16052**
- F.3 Approval of the 2017 Local Appointments List. MOTIONS (3) APPROVED**
- F.4 Acceptance of the Annual Report on Newark Development Impact Fees for Fiscal Year 2015-2016 in accordance with Government Code Section 66006(b). MOTION APPROVED**
- F.5 Approval of Agreements and Documents Associated with Authoring the State Board of Equalization to administer the Transactions and Use Tax.  
RESOLUTION NO. 10577 Agreements  
RESOLUTION NO. 10578 Records Examination  
RESOLUTION NO. 10579 Budget Amendment**
- F.6 Authorization for the City to accept the U.S. Department of Homeland Security, California Governor's Office of Emergency Services (Cal OES) 2015 State Homeland Security Grant. RESOLUTION NO. 10580**

**NONCONSENT****F.7 Approval of solid waste collection and recycling services maximum rates for 2017 with an increase of 1.6% over 2016 maximum rates.****RESOLUTION NO. 10581**

Administrative Services Director Woodstock stated that the City's agreements with Republic Services, Inc., for solid waste collection and recycling and with BLT Enterprises of Fremont for waste transfer services, include provisions for an annual adjustment set by formula based on relevant consumer price indices. The City sets the maximum limits for the rates and the final rates are set by Republic Services. She noted that the 1.02% increase in the staff report was incorrect and should have been reported as 1.6%; however, the remainder of the numbers and calculations were correct. Effective January 1, 2017 the rates will increase 1.6%.

In response to Council comments, Administrative Services Director agreed that future rate increases could be presented showing the current rate and the proposed rate, the bulky waste pick up service could be advertised more, offering smaller carts for seniors would be considered in future negotiations.

Council Member Hannon moved, Council Member Collazo seconded to by resolution, establish the maximum rates for solid waste collection and recycling services for Calendar Year 2017. The motion passed, 5 AYES.

**F.8 Approval of Measure D Expenditure Plan and Amendment of the 2016-2018 Biennial Budget and Capital Improvement Plan for Fiscal Year 2016-2017.****RESOLUTION NO. 10582**

Administrative Services Director Woodstock stated that the City has unspent revenue from Measure D which may only be used for municipal recycling programs. The Alameda County Waste Management Authority (StopWaste.org) requires an Expenditure Plan for the City.

She recommended an Expenditure Plan for a consultant to prepare a long-term diversion plan, assist with the development of the commercial organics collection program and audit the material stream reports from the franchise hauler. The Alameda County Waste Management Authority approved the proposed plan at their meeting today.

In response to Council comments, Administrative Services Director Woodstock stated that she would look into their ideas of a possible rebate program and a community garden and see if the funds could be used for those purposes.

Council Member Hannon moved, Council Member Bucci seconded to, by resolution, approve the Measure D Expenditure Plan and amend the 2016-2018 Biennial Budget for Fiscal Year 2016-2017. The motion passed, 5 AYES.

**G. CITY ATTORNEY REPORTS****G.1 Claim of Rajnesh Kumar.****MOTION APPROVED**

City Attorney Benoun gave the staff report recommending denial of the claim.

Council Member Freitas moved, Council Member Collazo seconded to by motion, deny the claim and authorize staff to inform the claimant of such denial. The motion passed, 5 AYES.

**H. ECONOMIC DEVELOPMENT CORPORATION****I. CITY COUNCIL MATTERS****I.1 Appointment of Mayor Pro Tempore and authorization for the Mayor Pro Tempore to sign and endorse checks, warrants, and other instruments.****MOTION APPROVED  
RESOLUTION NO. 10583**

Mayor Nagy recommended the appointment of Council Member Bucci as Mayor Pro Tempore. He complimented Vice Mayor Freitas for his service

Council Member Collazo moved, Council Member Hannon seconded to, by motion, appoint Council Member Bucci as Mayor Pro Tempore; The motion passed 4 AYES, 1 ABSTENTION (Bucci).

Council Member Collazo moved, Council Member Hannon seconded, by resolution, to authorize the new Mayor Pro Tempore to sign and endorse checks, warrants, and other instruments. The motion passed, 5 AYES.

**I.2 Appointments of City Council Members to agencies, boards, commissions, and committees. RESOLUTION NO. 10584**

Mayor Nagy stated that the City Council Member appointments would remain the same for the upcoming year. The assignments for 2017 are as follows:

Alameda County Fire Advisory  
Commission

Council Members Bucci and  
Collazo – delegate and alternate

Alameda County Library Advisory  
Commission

Council Members Collazo and Mayor  
Nagy – delegate and alternate

Alameda-Contra Costa Transit District Policy Advisory Committee	Council Members Bucci and Hannon – delegates
Alameda County Transportation Commission	Council Members Freitas and Collazo – delegate and alternate
Alameda County Waste Management Authority Board/Stopwaste.org	Council Members Hannon and Freitas – delegate and alternate
Association of Bay Area Governments (ABAG)	Council Member Bucci and Mayor Nagy – delegate and alternate
Community Development Advisory Committee	Mayor Nagy and Council Member Freitas – delegates
Dumbarton Rail Policy Advisory Committee	Mayor Nagy and Council Member Bucci – delegate and alternate
Newark City Council – Board of Education Liaison Committee	Council Members Hannon and Collazo – delegates
Tri-City Elder Coalition	Mayor Nagy - delegate
Senior Citizen Standing Advisory Committee	Mayor Nagy delegate and chairperson
Southern Alameda County Geographic Information System Authority	Mayor Nagy - delegate Council Member Bucci - alternate
Tri-City Waste Facility Financing	Mayor Nagy and Council Member Hannon – Authority delegates

Council Member Collazo moved, Council Member Hannon seconded to, by resolution, approve the appointments to the various agencies, boards, commissions, and committees. The motion passed, 5 AYES.

Mayor Nagy announced that there would be a special City Council meeting on Tuesday, December 13, 2016 at 6:00 p.m.

Mayor Nagy announced that he would adjourn the City Council meeting in memory of Dave Tanner.

Luis Freitas stated that former Newark resident Richard Dollinger passed away and he extended his sympathies.

Council Member Collazo encouraged everyone to shop in Newark. She wished the community a Merry Christmas and Happy New Year.

Vice Mayor Bucci wished Happy Holidays to everyone. He stated that the tree lighting on Monday was a great event.

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

**K. ORAL COMMUNICATIONS**

No one came forward to speak.

**L. APPROPRIATIONS**

**Approval of Audited Demands for the City Council meeting of December 8, 2016. MOTION APPROVED**

City Clerk Harrington read the Register of Audited Demands: Check numbers 109430 to 109655.

Council Member Freitas moved, Council Member Collazo seconded, to approve the Register of Audited Demands. The motion passed, 5 AYES.

**M. CLOSED SESSION**

**M.1 Closed session for conference with Labor Negotiators pursuant to California Government Code Section 54957.6. Agency designated representatives: Human Resources Director Abe and Assistant City Manager Grindall, Employee Group: the Newark Police Association – from City Attorney Benoun and Human Resources Director Abe.**

**M.2 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(2), Anticipated Litigation: One case – from Human Resources Director Abe and City Attorney Benoun.**

**M.3 Closed Session for Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Thimon v. City of Newark et al.; Alameda County Superior Court Case No. HG15756417– from City Attorney Benoun.**

At 8:38 p.m. the City Council recessed to a closed session.

At 8:47 p.m. the City Council convened in closed session.

At 9:45 p.m. the City Council reconvened in open session with all Council Members present.

**N. ADJOURNMENT**

At 9:45 p.m. Council Member Collazo moved, Vice Mayor Bucci seconded, to adjourn the regular City Council meeting in memory of Dave Tanner. The motion passed, 5 AYES.