

# 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, February 11, 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:

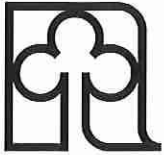
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|-------------------------------------|-------------------------|
| A. ROLL CALL                        | I. COUNCIL MATTERS      |
| B. MINUTES                          | J. SUCCESSOR AGENCY     |
| C. PRESENTATIONS AND PROCLAMATIONS  | TO REDEVELOPMENT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

Items listed on the agenda may be approved, disapproved, or continued to a future meeting. Many items require an action by motion or the adoption of a resolution or an ordinance. When this is required, the words **MOTION**, **RESOLUTION**, or **ORDINANCE** appear in parenthesis at the end of the item. If one of these words does not appear, the item is an informational item.

The attached *Agenda* gives the *Background/Discussion* of agenda items. Following this section is the word *Attachment*. Unless "none" follows *Attachment*, there is more documentation which is available for public review at the Newark Library, the City Clerk's office or at [www.newark.org](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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City Council Chambers

## AGENDA

Thursday, February 11, 2016

### A. ROLL CALL

### B. MINUTES

- B.1 Approval of Minutes of the special and regular City Council meetings of Thursday, January 28, 2016. (MOTION)

### C. PRESENTATIONS AND PROCLAMATIONS

- C.1 Proclaiming February Teen Dating Violence Awareness and Prevention Month. (PROCLAMATION)

**Background/Discussion** – Safe Alternatives to Violent Environments (SAVE) has requested a proclamation to raise awareness on teen dating violence and prevention. A representative from SAVE will accept the proclamation at the meeting.

### D. WRITTEN COMMUNICATIONS

- D.1 Planning Commission referral of a minor conditional use permit, to establish a large family day care home at 36632 Port Anchorwood Place – from Assistant City Manager Grindall. (REVIEW OPTIONAL)

**Background/Discussion** – Ms. Sonia Landa has submitted an application for a minor conditional use permit to establish a large family day care home (a facility for up to 14 children) at 36632 Port Anchorwood Place.

The subject site is located on a cul-de-sac and is zoned R-6,000 (Low-Density Residential – 6,000 District). Ms. Landa currently operates a small family day care home (a facility for up to eight children) at site. City staff sent a notice of this application to the 15 property owners within a 100-foot radius of the subject site. Staff received one objection letter from a neighboring resident who expressed concern over potential noise, traffic, and parking impacts. Immediately after this letter was received, staff sent a letter back to the neighboring resident informing him that if he wished to provide additional input before the decision on the application was made, he could either request a hearing before the Zoning Administrator or he could contact the Zoning Administrator for an informal meeting. Staff did not receive any further

communication from the neighbor and after careful review, approved the application with the attached conditions of approval.

The Zoning Administrator (ZA) has approved SFD2015-001, a minor conditional use permit, with Exhibit A, pages 1 through 2, to establish a large family day care home at 36632 Port Anchorwood Place, subject to the conditions in the attached ZA letter.

#### Environmental Review

This request to establish a large family day care home is statutorily exempt from the California Environmental Quality Act (CEQA) per Section 15274(a).

#### **Attachment**

**Update** – At its January 26, 2016 meeting, the Planning Commission chose not to review this “review optional” item.

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

### **D.2 Planning Commission referral of a minor conditional use permit, to establish a large family day care home at 36353 Shorehaven Place – from Assistant City Manager Grindall. (REVIEW OPTIONAL)**

**Background/Discussion** – Ms. Stacy Kelly has submitted an application for a minor conditional use permit to establish a large family day care home (a facility for up to 14 children) at 36353 Shorehaven Place.

The subject site is located on a cul-de-sac and is zoned R-8,000 (Low-Density Residential – 8,000 District). Ms. Kelly has been operating a small family day care home (a facility for up to eight children) at the site since 2003 and she now wishes to expand the daycare operation to allow for more 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 the 17 property owners within a 100-foot radius of the subject site. Staff did not receive any comments on the proposal. The application was approved by the Zoning Administrator with the attached conditions of approval.

The Zoning Administrator (ZA) has approved MUP-15-34, a minor conditional use permit, with Exhibit A, pages 1 through 2, to establish a large family day care home at 36353 Shorehaven Place, subject to the conditions in the attached ZA letter.

#### Environmental Review

This request to establish a large family day care home is statutorily exempt from the California Environmental Quality Act (CEQA) per Section 15274(a).

**Attachment**

**Update** – At its January 26, 2016 meeting, the Planning Commission chose not to review this “review optional” item.

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

**D.3 Planning Commission referral of a minor conditional use permit, to establish a large family day care home at 36475 Christine Street – from Assistant City Manager Grindall. (REVIEW OPTIONAL)**

**Background/Discussion** – Ms. Alicia Reed has submitted an application for a minor conditional use permit to establish a large family day care home (a facility for up to 14 children) at 36475 Christine Street.

The subject site is located near the intersection of Christine Street and Mayhews Landing Road and is zoned R-6,000 (Low-Density Residential – 6,000 District). Ms. Reed has been operating a small family day care home (a facility for up to eight children) at this home since January 2015, after obtaining State licensing for the small daycare in December 2014. City staff sent a notice of this application to the 12 property owners within a 100-foot radius of the subject site. A neighboring resident contacted staff and expressed concern over the safety of children and potential traffic congestion. After meeting with both the applicant and the concerned neighbor, the Zoning Administrator approved the application with some project-specific conditions of approval. In addition to leaving the driveway available to parents for the drop-off and pick-up of children, a condition was added to prohibit the applicant or any of her employees from parking at the curb in front of the home, in order to provide an additional parking space for parents’ vehicles. Other conditions of approval for the project include having the applicant stagger the drop-off and pick-up of children and to advise parents to obey all traffic laws, including speed limits.

The Zoning Administrator (ZA) has approved MUP-14-53, a minor conditional use permit, with Exhibit A, pages 1 through 2, to establish a large family day care home at 36475 Christine Street, subject to the conditions in the attached ZA letter.

Environmental Review

This request to establish a large family day care home is statutorily exempt from the California Environmental Quality Act (CEQA) per Section 15274(a).

**Attachment**

**Update** – At its January 26, 2016 meeting, the Planning Commission chose not to review this “review optional” item.

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

**E. PUBLIC HEARINGS****F. CITY MANAGER REPORTS**

**(It is recommended that Items F.1 through F.3 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)**

**CONSENT**

**F.1 Approval of the allocation of anticipated Community Development Block Grant jurisdiction improvement project funds for Fiscal Year 2016-2017 – from Assistant City Manager Grindall. (MOTION)**

**Background/Discussion** – The City of Newark’s anticipated allotment of Community Development Block Grant (CDBG) funds for Fiscal Year 2016-2017 is still unknown. In order to meet the deadlines for approval by HUD, Newark needs to allocate the funds at this time. Staff is using an estimate of \$106,857 for planning purposes. This estimate is based on the most recent information from HUD. Actual funding could be greater or smaller than this amount. Newark’s CDBG funds are allocated by formula into three primary categories—General Administration (\$7,800), Housing Rehabilitation (\$36,873), and Jurisdiction Improvement Projects (\$106,857).

The General Administration funds are used to reimburse the city for the expense of administering the CDBG funds. The Housing Rehabilitation funds are dedicated to two county-run programs that assist qualified homeowners with repairs to their homes (the Minor Home Repair Program and the Owner Rehabilitation Program). The Jurisdiction Improvement Project funds are available to the city for qualifying projects.

The Community Development Advisory Committee (CDAC) met on January 27, 2016 to review the status of CDBG projects and to determine the recommended allocation of Jurisdiction Improvement Project funds for Fiscal Year 2016-2017. The CDAC voted unanimously to recommend that the City Council allocate all of the funds to the City’s Park Pathways Resurfacing for ADA Access Project No. 1109. This project will improve accessibility in City parks by removing ADA tripping hazards on City park pathways.

**Action** – It is recommended that the City Council, by motion, approve the allocation of anticipated CDBG jurisdiction improvement project funds for Fiscal Year 2016-2017 to the City’s Park Pathways Resurfacing for ADA Access Project No. 1109.

- F.2 Approval to reclassify the Information Systems Manager position to Senior Information Systems Manager by amending the Employee Classification Plan, the Compensation and Benefit Plan for City Officials and the Management, Supervisory, and Professional Employee Group and the 2014-2016 Biennial Budget to add the position and funding for the position of Senior Information Systems Manager and to delete the position and funding of Information Systems Manager – from Human Resources Director Abe. (RESOLUTIONS -3)**

**Background/Discussion** – The Administrative Services Department has proposed the reclassification of the Division Chief for Information Systems (IS) to a Senior Manager level. The proposed reclassification reflects the position's independent leadership, highly technical and rapidly evolving expertise, and the scope and magnitude of services provided to all employees citywide.

With the rapid pace of technological advances and new systems requirements, the level and scope of IS Manager responsibilities have evolved to a Senior Manager level. The IS Division Chief serves as the City's top technical expert and liaison. Due to the ever increasing technical expertise required and the unique demands of such rapidly evolving technology, the position must lead the IS Division with a high level of independence and timeliness. As proposed, the Senior Information Systems Manager position independently plans, directs, and administers the City's technology and telecommunications infrastructure, equipment, applications and services. The position's responsibility level is further distinguished by the scope and magnitude of services provided to all employees citywide. The IS Division provides and supports the tools and infrastructure necessary for optimizing customer service delivery, transparent communications, community access, and participation.

Based on the distinguishing characteristics and internal salary relationships, the recommended monthly salary range for Senior Information Systems Manager is \$8,912 to \$12,920 (Range 17), ten percent above the salary range for Information Systems Manager.

#### **Attachments**

**Action** - It is recommended that the City Council approve by resolutions: (1) amending Resolution No. 2505, the Employee Classification Plan, to create one new class specification entitled Senior Information Systems Manager; (2) amending Resolution No. 10401, the Compensation and Benefit Plan for City Officials, and the Management, Supervisory and Professional Group, to add one new classification entitled Senior Information Systems Manager; and (3) amending Resolution 10235, the 2014-2016 Biennial Budget to add one Senior Information Systems Manager position and delete one Information Systems Manager position.

**F.3 Amendment of the 2014-2016 Biennial Budget and Capital Improvement Plan for Fiscal Year 2015-2016 for General Revisions – from Administrative Services Director Woodstock. (RESOLUTION)**

**Background/Discussion** – Fiscal Year 2015-2016 is the second year in the City’s two-year budget cycle. As part of the mid-cycle budget review, a number of revisions are proposed to the annual budget. These revisions have been identified where changes have occurred since the adoption of the budget document on June 22, 2014.

The budget amendment includes significant increases to several of the major revenue sources including property tax, sales tax, transient occupancy tax, and fees from development and construction services. These increases are based on last year’s performance and the economic trends.

The expenditure modifications to the General Fund operating budget for Fiscal Year 2015-2016 include:

- increases in technology/telecommunications costs
- increases in legal fees
- a marketing consultant to create outreach material
- adding positions or increasing hours to existing positions for Police, Human Resources, Recreation, and Public Works.
- increase in the cost of utilities
- increase in training and software costs in Police and Public Works.

In other funds, expenditure modifications are all offset by fund balance in each of those funds. The adjustments to those funds include:

- increase in Workers Compensation Costs
- increase in rent for the use of Hetch Hetchy property at the Maintenance Yard.
- year-end transfer station contract reconciliation.

The last item on the amendment is to transfer \$2,000,000 from the unallocated fund balance into the unrestricted Capital Reserve Fund. At this time there are sufficient funds in the unallocated fund balance to allow for the rebuilding of the Capital Reserve Fund.

Exhibit A lists the adjustments to the budget revenues, expenditures and transfer. Exhibit B lists the adjustments to the budget position table.

**Attachments**

**Action** - It is recommended that the City Council, by resolution, amend the 2014-2016 Biennial Budget and Capital Improvement Plan for Fiscal Year 2015-2016.

**NONCONSENT****F.4 Authorization for the Mayor to sign a Contractual Services Agreement with RRM Design Group, to complete a Zoning Ordinance update and amending the 2014-2016 Biennial Budget – from Assistant City Manager Grindall. (RESOLUTION)**

**Background/Discussion** – Staff is proposing to conduct a comprehensive “overhaul” of the Zoning Ordinance which would result in a modern, intuitive, and more effective document. The ordinance includes regulations for setbacks, height, landscaping, signage, parking, hazardous materials storage, form based codes, transition overlay districts, and historical resources. Newark’s existing Zoning Ordinance was originally adopted in 1965 and has been amended numerous times over the years. It has never received a comprehensive review and update since the original adoption. The current zoning ordinance contains 24 separate zoning districts that regulate uses throughout the community. Each district’s regulations describe the intent of each district, the uses permitted by right or conditional use, and the development standards for each district.

The scope of the project will include complete replacement of Title 17 (Zoning) of the Newark Municipal Code with a modern user-friendly code, as well as modifications to the Zoning Map to bring each property’s zoning designation into conformance with the General Plan. An electronic, printable, internet friendly and amendable Zoning Map would be created. Graphics would be used to clearly demonstrate concepts.

The following are major components of the Zoning Ordinance that are to be incorporated into the update:

- Restructure and consolidate zoning districts into a more concise set of districts.
- Review permitted and conditional uses for appropriateness.
- Divide conditional uses into Major and Minor Use Permits, with the Minor Use Permits approved on a staff level.
- Procedures would be revised to more efficiently guide development to desired outcomes.
- The development standards for each district would be evaluated and revised as necessary.
- Specific site design standards based on the location of development and the desired character of development would be developed. This is most critical in the Old Town Area.
- All definitions would be reviewed and revised accordingly.
- Consistency would be ensured throughout the zoning ordinance.



- Parcels would be rezoned, as needed, to the appropriate zoning district based on equivalency of the old and new districts and consistency with the General Plan.

Community Involvement: Three public Planning Commission work sessions and a community meeting would be held to gather input from residents, property owners and businesses. Property owners whose zoning designation was proposed to be modified would be notified by mail. Prior to formal adoption there would be a Public Hearing before the Planning Commission and a Public Hearing before the City Council.

In November of 2015, the City initiated a Request for Qualification (RFQ) process to develop a list of potential consultants who could conduct the Zoning Update. Seven submissions were received and five teams were interviewed by staff. After interviewing consultants, the City determined that RRM Design Group was most qualified and had the clearest vision of what the Zoning Update should encompass.

The attached contract includes a detailed work plan. The not-to-exceed cost for the effort is \$197,560. The update process is expected to require 8 months to complete.

This effort would help to maintain effective planning regulations and thus the cost is appropriately to be funded from the Community Development Maintenance Fee. This impact fee was established in 2010 to fund Community Development activities that promote the orderly development of Newark. No General Fund resources would be used for the Zoning Update contract. A budget amendment is necessary to transfer the Community Development Maintenance Fee Unallocated Fund Balance to the Consulting Services account.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, authorize the Mayor to sign a Contractual Services Agreement with RRM Design Group to complete a Zoning Ordinance Update and amending the 2014-2016 Biennial Budget.

#### **F.5 Status Report on emergency expenditure for replacement of heater for Lazy River at Silliman Activity and Family Aquatic Center – from Maintenance Supervisor Connolly. (INFORMATIONAL)**

**Background/Discussion** – At the January 14, 2016 City Council meeting, the City Council made a finding and adopted a resolution declaring an emergency existed as a result of heater failure for the Lazy River at Silliman Activity and Family Aquatic Center and the public interest and necessity demanded the immediate expenditure of public money to safeguard life, health or property. The heater failure impacted the ability to control the temperature of the Lazy River, creating a public safety concern.

The California Public Contract Code Section 22050 requires that a report be provided to the City Council after the emergency declaration reporting on the status of the actions related to the expenditure. Following is a current status report for the heater replacement.

The heater has been order from the manufacturer, Lochinvar, and the vendor (Knorr Systems) estimates the installation to occur the week of February 15, 2016.

**Action** – Informational only.

**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 February 11, 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.