

# 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, January 28, 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  
  
Peggy A. Claassen  
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:

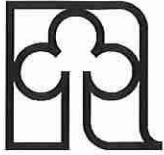
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|-------------------------------------|-------------------------|
| A. ROLL CALL                        | I. COUNCIL MATTERS      |
| B. MINUTES                          | J. SUCCESSOR AGENCY     |
| C. PRESENTATIONS AND PROCLAMATIONS  | TO REDEVELOPMENT 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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## AGENDA

Thursday, January 28, 2016

**A. ROLL CALL**

**B. MINUTES**

- B.1 Approval of Minutes of the special and regular City Council meetings of Thursday, January 14, 2016. (MOTION)**

**C. PRESENTATIONS AND PROCLAMATIONS**

- C.1 Commending Public Works Director Claassen on her retirement. (COMMENDATION)**

**Background/Discussion** – Public Works Director Peggy Claassen is retiring after 12 years of dedicated service to the City of Newark. A commendation will be presented to her at the City Council meeting.

- C.2 Presentation by the Newark Library. (PRESENTATION)**

**Background/Discussion** – Branch Manager Adina Aguirre will provide a report covering the last quarter of 2015 at the Newark Library. The report will include checkout and program statistics and highlights of special programs at the library.

- C.3 Presentation by the Newark Soccer Club. (PRESENTATION)**

**Background/Discussion** – The Newark Soccer Club has been operating in the City of Newark since 1974. The Club will give a presentation on their history and anticipated growth in the future.

**D. WRITTEN COMMUNICATIONS**

**E. PUBLIC HEARINGS**

**F. CITY MANAGER REPORTS**

**(It is recommended that Items F.1 through F.4 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 Second reading and adoption of an ordinance amending Chapter 17.04 (General Provisions) of Title 17 (Zoning) by adding Section 17.04.050 (Permissive Code) to the Newark Municipal Code – from Assistant City Manager Grindall and City Clerk Harrington. (ORDINANCE)**

**Background/Discussion** – On January 14, 2016, the City Council introduced an ordinance amending Chapter 17.04 (General Provisions) of Title 17 (Zoning) by adding Section 17.04.050 (Permissive Code) to the Newark Municipal Code. This ordinance expressly declares that the Newark Zoning Ordinance is a permissive zoning code and that if the use is not expressly permitted then such use is unlawful.

**Attachment**

**Action** - It is recommended that the City Council, by an ordinance amend Chapter 17.04 (General Provisions) of Title 17 (Zoning) by adding Section 17.04.050 (Permissive Code) to the Newark Municipal Code.

- F.2 Second reading and adoption of an ordinance amending Chapter 5.36 (Medical Marijuana Dispensaries) of Title 5 (Business Licenses and Regulations) of the Newark Municipal code to clarify and affirm the prohibition of commercial cultivation of medical marijuana – from City Manager Becker and City Clerk Harrington. (ORDINANCE)**

**Background/Discussion** – On January 14, 2016, the City Council introduced an ordinance amending Chapter 5.36 (Medical Marijuana Dispensaries) of Title 5 (Business Licenses and Regulations) of the Newark Municipal Code to clarify and affirm the prohibition of commercial cultivation of medical marijuana. Cultivation for non-commercial, personal purposes by qualified patients and primary caregivers would be permitted by this ordinance.

**Attachment**

**Action** - It is recommended that the City Council, by an ordinance amend Chapter 5.36 (Medical Marijuana Dispensaries) of Title 5 (Business Licenses and Regulations) of the Newark Municipal Code to clarify and affirm the prohibition of commercial cultivation of medical marijuana.

**F.3 Designation of New Depository for City Funds – Administrative Services  
Director Woodstock. (RESOLUTION)**

**Background/Discussion** – In January of 1971, Bank of America was designated as a depository for public funds for the City of Newark by resolution of the City Council. In October of 2015, Bank of America, notified staff that they will no longer service municipal depository accounts and that the City account will be terminated in April 2016. Bank of America cited changing liquidity requirements for public funds as the reason for terminating several of their municipal depositories, including the City of Newark.

Staff met with representatives from three local banks: Fremont Bank, EastWest Bank, and US Bank. Each bank provided information regarding their services and knowledge of municipal banking. US Bank demonstrated the greatest understanding of municipal banking services, including the understanding of why Bank of America is exiting the market, and that US Bank has made the conscious choice to remain in the public sector banking business. US Bank is able to offer all daily banking services, fraud protection services and reporting requirements as well as the wire transfers and electronic transactions. They also demonstrated a clear understanding of State and Federal laws for public funds and the collateral requirements public funds.

With the updated banking services model that US Bank is proposing, we expect a reduction from the current banking fees, the exact amount will be determined as we finalize the transition. The City currently pays about \$20,000 per year to Bank of America in banking fees.

Upon approval, staff will coordinate with US Bank to establish a transition plan to ensure all banking functions are transferred out of Bank of America prior to the termination date.

**Action** - It is recommended that the City Council, by resolution, designate US Bank as the depository for public funds of the City of Newark and authorize the Administrative Services Director to execute all documents necessary to establish banking services.

**F.4 Authorization for the Mayor to sign Contractual Services Agreements  
with CSG Consultants, Inc., MNS Engineers, Inc., and Kier & Wright Civil  
Engineers & Surveyors, Inc. for on-call engineering services – from  
Associate Civil Engineer Cangco (RESOLUTION)**

**Background/Discussion** – On October 22, 2015, the City Council authorized an amendment to the 2014-2016 Biennial Budget to address increased needs for development related services in the Public Works Department. This budget amendment included an additional \$125,000 for on-call consultant plan review and inspection services to supplement staff within the Engineering Division. Duties of the consultant(s) could include, but may not be limited to the following:

- Civil Plan Checking: Review of development plans and associated studies for building permits and subdivision review process.
- Surveying: Ground topographic survey and mapping, boundary line survey, preparation of legal descriptions, review of parcel maps, final maps, lot line adjustments, abandonment documents, and records of survey.
- Public Works Inspection: Inspections associated with encroachment permits, subdivision agreements, and private development permits. Inspections include paving, utility installations, compaction, and other infrastructure for both public and private street improvements.

In November 2015, staff issued a Request for Qualifications and Proposals for these on-call engineering services. A total of seven proposals were received and evaluated by staff based on the consultants' professional experience and qualifications, evidence of prior success and satisfaction of previous clients, scheduling and availability, ability to address all needs, and fees.

Based on the evaluation process, staff recommends awarding contracts to CSG Consultants, Inc., in an amount not to exceed \$55,000; MNS Engineers, Inc., in an amount not to exceed \$55,000; and Kier & Wright Civil Engineers & Surveyors, Inc., in an amount not to exceed \$15,000. Multiple contracts will allow for flexibility with the distribution of assignments among the consultants in order to best serve the development community. It is recommended that contract language allow for increases above the designated not-to-exceed amount for a given contract, so long as the total combined expenditure from all three contracts does not exceed the total approved funding limit of \$125,000, or any increases thereto as may be approved by the City Council at a future date. It is further recommended that each of the contractual services agreements be established for an initial two-year period with options to renew each contract for up to two additional one-year terms, subject to available funding.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, authorize the Mayor to sign Contractual Services Agreements with CSG Consultants, Inc., MNS Engineers, Inc., and Kier & Wright Civil Engineers & Surveyors, Inc. for on-call engineering services.

### **NONCONSENT**

#### **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.

City staff is currently working with our Annual Purchase Agreement (APA) vendor, Knorr, to replace the heater at a cost of thirty thousand dollars (\$30,000); we are anticipating additional cost due to field conditions.

**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 January 28, 2016. (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.