

CITY OF NEWARK CITY COUNCIL

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4266 • E-mail: cityclerk@Newark.org

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

AGENDA

Thursday, October 13, 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:

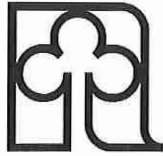
- | | |
|-------------------------------------|-------------------------|
| A. ROLL CALL | I. COUNCIL MATTERS |
| B. MINUTES | J. SUCCESSOR AGENCY |
| C. PRESENTATIONS AND PROCLAMATIONS | TO REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS | K. ORAL COMMUNICATIONS |
| E. PUBLIC HEARINGS | L. APPROPRIATIONS |
| 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. 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.



CITY OF NEWARK CITY COUNCIL

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4266 • E-mail: city.clerk@newark.org

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

AGENDA

Thursday, October 13, 2016

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, September 22, 2016. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

- C.1 Proclaiming October 19, 2016 as Unity Day. (PROCLAMATION)**

Background/Discussion – October 19, 2016 is Unity Day, a day that promotes bullying awareness and prevention. A proclamation has been prepared and members of the Silliman Activity and Family Aquatic Center will accept it at the City Council meeting.

- C.2 Proclaiming October as National Domestic Violence Awareness Month. (PROCLAMATION)**

Background/Discussion – October is National Domestic Violence Awareness Month. A proclamation has been prepared and members of Shelter Against Violent Environments (SAVE) will accept it at the City Council meeting.

- C.3 Presentation of Relay for Life check to the American Cancer Society. (PRESENTATION)**

Background/Discussion – The Newark chapter of Relay for Life will present a check of the donations raised this year to the American Cancer Society. The American Cancer Society puts these donations to work, investing in cancer research and providing free information and services to cancer patients and their caregivers.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.2 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 Introduction of an ordinance and setting a hearing date of November 10, 2016 to amend and add to the Newark Municipal Code Title 15 (Buildings and Construction), Article I (Building Regulations), Chapters 15.08 (Building Code), 15.09 (Residential Code), 15.10 (Mechanical Code), 15.12 (Electrical Code), 15.16 (Plumbing Code), 15.17 (Fire Code), 15.18 (California Referenced Standards Code), 15.20 (California Historical Building Code), 15.21 (California Existing Building Code), 15.22 (California Energy Code), and 15.23 (California Green Building Standards Code) – from Chief Building Official/City Architect Collier and Fire Marshal Terra. (MOTION)(INTRODUCTION OF ORDINANCE)**

Background/Discussion – The State of California has adopted new editions of existing construction codes which will become effective January 1, 2017. These codes include building, residential building, mechanical, electrical, plumbing, reference standards, historical, energy, existing, green building, and fire prevention.

As required by state law, applications for a building permit made after December 31, 2016 will be subject to the new codes. Local jurisdictions have the opportunity to make limited amendments to the new state codes provided the local jurisdiction makes a finding that such modifications are reasonably necessary because of local climatic, geological or topographical conditions. Staff is recommending modifications to some of the state codes.

A large portion of the recommended local amendments relate to the administrative portion of the codes. These administrative amendments will allow the City to carry forward the same administrative standards the City is currently using. Some of the changes merely accommodate new numbering systems. Staff is recommending technical changes to the Building, Residential, Plumbing, Electrical and Fire codes. There are no technical changes recommended to the Mechanical, Reference Standards, Historical Building, Energy, Existing, and Green Building Standards codes. The recommended technical changes to the codes are listed below. Some of the technical changes were incorporated into the Newark Municipal Code (NMC) in previous code cycles, so they are not new to the Ordinance.

California Building Code

Section 104.10.1, Construction in Flood Hazard Areas.

This section is deleted. The City has its own ordinance for construction in flood hazard areas that is in compliance with Federal standards.

Sections 402.5, 404.3, 407.6, 410.7, 419.5, 441.2, 509.4.2.1, and 1029.6.2.3, Automatic Fire Sprinkler Systems.

These various code sections have been modified to complement the City's fire sprinkler ordinance.

Sections 901.7 and 903.2, Automatic Fire Sprinkler Systems.

This item is a continuation of existing NMC standards added in previous code cycles. The City has its own standards for when automatic fire sprinkler systems must be installed in a building. Basically, the City has required sprinklers in new construction when the floor area exceeds 1,000 square feet for a number of years. For single family dwellings, the NMC currently requires fire sprinklers be installed in existing dwellings when additions and/or repairs exceed 80 percent of the value of the existing dwelling prior to the additions and/or repairs. The recommended changes to the NMC are editorial in nature and do not change the actual standards.

Section 1510.7, Spark Arrestors.

This modification of the Building Code is being eliminated. Adding spark arrestors to existing fire place chimneys is no longer necessary. No new wood burning fire place are allowed in the Bay Area, existing wood burning fireplaces are seldom used, and roofs are now, for the most part, fire resistant.

Section 1805.5, Rodent Proofing.

This condition is being removed from the Ordinance and will be replaced by the adoption of Appendix F of the Building Code.

California Residential Code

Sections R105.3.1.1 and R322, Construction in Flood Hazard Areas.

These sections are deleted. The City has its own ordinance for construction in flood hazard areas that is in compliance with Federal standards.

Section R301.1.3.2.1, Engineering Required.

This item is a continuation of existing NMC standards added in previous code cycles. The California Residential Code allows the Building Official to require drawings for dwellings taller than two stories be designed by an licensed professional. The recommended NMC change is to increase the standard to capture dwellings taller than one story. This is the standard the City has been using for years.

R313, Automatic Fire Sprinkler Systems.

This item is a continuation of existing NMC standards added in previous code cycles. The California Residential Code requires automatic fire sprinkler systems in all new one and two dwellings and townhouses, regardless of floor area, but does not require sprinklers for any size addition or remodel. For one and two family dwellings and townhomes, the NMC currently requires fire sprinklers be installed in existing dwellings when additions and/or repairs exceed 80 percent of the value of the existing dwelling prior to the additions and/or repairs. Newly proposed is the requirement that new structures accessory to one and two

family dwellings and townhouses be equipped with fire sprinklers when the area exceeds 1,000 square feet.

R326.1 Swimming Pools.

The Residential Code does not adequately address the construction of swimming pools so a section has been added to the Residential Code referencing the California Building Code for the standards governing swimming pools.

R1000, Wood Burning Fireplaces

This section was added to complement existing Bay Area wide prohibition on new wood burning fire places.

California Plumbing Code

Section 412.3, Privacy in Public Multiple Accommodation Toilet Rooms.

This item is a continuation of existing NMC standards added in previous code cycles. It is generally understood that persons using water closets or urinals in multiple accommodation toilet rooms be afforded some degree of privacy. The current California Plumbing Code and California Building Code do not specifically address this issue. Some designers have in the past proposed designing multiple accommodation toilet rooms without privacy partitions around water closets or placing urinals in full view of persons outside the toilet room. It is being recommended that minimum standards be added to the code to provide privacy to users of water closets and urinals in multiple accommodation toilet rooms.

Section 713.0, Connection to Public Sewer Systems.

The plumbing code provides a number of exceptions to having to connect waste lines to a public sewer. The code allows for private septic systems. The recommended change does not allow for private septic systems. All waste lines must connect to Union Sanitary District sewer system mains.

Section 1101.12, Roof Drainage.

This section is being added to complement requirements in the City's storm water permit.

California Fire Code

Formatting:

This portion of the ordinance is currently located Chapter 15.32, Article II, Miscellaneous Regulations. A more appropriate location is in Chapter 15.17 under Article I which covers adoption of the various construction codes. As such, the chapter on Fire Prevention has been renamed "Fire Code" and moved to Chapter 15.17.

Section 5614, Safe and Sane Fireworks.

This item is a continuation of existing NMC standards added in previous code cycles. Because of a major change to the California Fire Code it was appropriate to reformat the City's fireworks ordinance. The City's safe and sane fireworks ordinance remains unchanged except for minor editing and numbering changes. No technical changes are being recommended.

Appendix D, Fire Department Access.

Appendix D has been a part of the ordinance for several code cycles. The Fire Department is recommending adopting the appendix without modifications. The current ordinance includes larger turn-around dimensions which are no longer needed because of the actual equipment used in the City.

California Electrical Code

Article 310.106(B), Conductor Material.

This item is a continuation of existing NMC standards added in previous code cycles. Aluminum wire used for circuit wiring has been removed. Aluminum house wiring has a history of starting fires if not installed properly.

Chapter 15.12.140, Maintenance Permits.

The standard is being removed because no maintenance permits have been obtained in the last two decades.

California Existing Building Code

This code has not been formally adopted in previous code cycles by the City Council. It is a code that the City is obligated to enforce. Staff is recommending adoption of this code along with some appendices and amendments. All the appendices relate to seismic upgrading to existing structures. The amendments relate to flood hazard areas which are covered in the City's Flood Ordinance.

Attachments

Action – It is recommended that the City Council, by motion, set a public hearing date of November 10, 2016, for adoption of the codes and introduce an ordinance to amend the Newark Municipal Code Title 15 (Buildings and Construction), Article I (Building Regulations), 15.08 (Building Code), 15.09 (Residential Code), 15.10 (Mechanical Code), 15.12 (Electrical Code), 15.16 (Plumbing Code), 15.17(Fire Code), 15.18 (California Reference Standards Code), 15.20 (California Historical Building Code), 15.21 (California Existing Building Code), 15.22 (California Energy Code), and 15.23 (California Green Building Standards Code).

F.2 Approval of Community Development Department reorganization and addition of Deputy Community Development Director and Economic Development Manager positions – from Assistant City Manager Grindall. (RESOLUTIONS- 5)

Background/Discussion – The Community Development Department has had extremely limited staffing for more than a decade. There has only been three planning professionals: a Community Development Director, a Planning Manager, and a Planner. The limited planning staffing has left the Department extremely vulnerable to an illness or vacant position. The bare bones staffing has meant slower responses to the public, and slower processing of development applications. The Department has also been unable to devote

the appropriate attention to economic development, community marketing, and housing issues. Newark has not had a position devoted to economic development activity for many years; these important activities were conducted by department management when time was available.

Recently, due to difficulties in finding qualified staff and urgent workload issues, the Community Development Department under-filled the vacated Planning Manager position with an Associate Planner. This left the direct supervisory role for all staff being with the Assistant City Manager/Community Development Director. This approach was intended as an interim solution to address the backlog in planning activity. It was envisioned at that time that a more permanent solution would be developed.

It is proposed that the Community Development Department be reorganized to provide increased service, resilience, and succession opportunities. A new Deputy Community Development Director position would be created to directly supervise planning, community preservation, and administrative staff. An Economic Development Manager position would be created to work directly with the Assistant City Manager/Community Development Director to advance economic development activities and community marketing.

This additional staffing would respond to the heavy workload, allow for major General Plan Zoning Code initiatives such as the ongoing zoning update, and the Old Town Specific Plan. The added staffing would allow for faster processing times, allow for more proactive affordable housing efforts, and expand community marketing and business retention/attraction efforts. These positions will allow the Director to focus on high level projects/plans and economic development and community marketing. The Deputy Community Development Director position provides succession for the director level and would serve as the Director in his/her absence.

The City collects a developer impact fee, entitled Community Development Maintenance Fee, which is intended to support the update and implementation of the General Plan and Zoning Ordinance. It has been used for consultant activities but the fee also allows support for City staff's efforts to maintain and implement these documents. An adjustment would be made in the activity codes of existing staff to separate out the activities that are eligible for impact fee funding. Impact fee funds would be used to support the eligible activities of existing and proposed staff. A budget amendment would be needed to adjust activity codes for planning staff to reflect the level of activity on General Plan and Zoning maintenance and implementation. As a result of the adjustment in activities by position, there would only be a nominal net increase in General Fund resources required.

Attachments

Action – It is recommended that the City Council approve, by resolutions: (1) amending Resolution No. 2505, Employee Classification Plan, to add one new classification entitled Deputy Community Development Director; (2) amending Resolution No. 10401, the Compensation and Benefit Plan for City Officials and The Management, Supervisory, and Professional Employee Group to add one new classification, entitled Deputy Community Development Director; (3) amending Resolution No. 2505, Employee Classification Plan,

to add one new classification entitled Economic Development Manager, (4) amending Resolution No. 10401, The Compensation And Benefit Plan For City Officials And The Management, Supervisory, And Professional Employee Group to add one new classification, entitled Economic Development Manager; (5) amending the 2016-2018 Biennial Budget to revise the planning activity, add the Community Development Maintenance activity, add one Economic Development Manager position and one Deputy Community Development Director position, revise activity allocations of existing community development staff and amend the budget for the activities.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

I.1 Reappointment of Faye Hall to the Tri-City Elder Coalition Volunteer Community Board – from Mayor Nagy. (RESOLUTION)

Background/Discussion – The Tri-City Elder Coalition Volunteer Community Board (TCEC) is appointed with representation from senior services providers, non-profit organizations, cultural and faith groups, government, and business. The Board meets 4 times a year and oversees TCEC’s mission and initiatives. The appointment of Faye Hall to the Tri-City Elder Coalition Volunteer Community Board will expire in November. Ms. Hall has requested a two year reappointment.

Attachment

Action - It is recommended that the City Council, by resolution, reappoint Faye Hall to the Tri-City Elder Coalition Volunteer Community Board.

I.2 Reappointment of Council Member Hannon to the Housing Commission of the Housing Authority of the County of Alameda – from Mayor Nagy. (RESOLUTION)

Background/Discussion – Council Member Michael Hannon is the City’s representative on the Housing Commission of the Housing Authority of the County of Alameda (Housing Authority). Council Member Hannon’s term expires on December 31, 2016 and he has requested a four-year reappointment.

The Alameda County Housing Authority administers a number of federal programs that provide low-cost rental housing or rental assistance for low-income families, the elderly, people with disabilities and veterans. The Alameda County Board of Supervisors

(Supervisors) is the Housing Authority's Governing Board and the reappointment of Council Member Hannon will require final approval by the Supervisors.

Attachment

Action - It is recommended that the City Council, by resolution, reappoint Council Member Hannon to the Housing Commission of the Alameda County Housing Authority.

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 October 13, 2016. (MOTION)

M. CLOSED SESSION

- M.1 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(2), Anticipated Litigation: Two cases – 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: two cases.

- M.2 Closed session pursuant to Government Code Section 54957 Public Employee Performance Evaluation Title: City Attorney.**

Background/Discussion – City Attorney Benoun has requested that the City Council convene in closed session pursuant to Government Code Section 54957 for a performance evaluation.

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, 5th 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.