



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, September 8, 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:

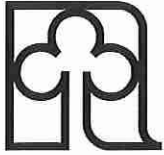
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|-------------------------------------|-------------------------|
| A. ROLL CALL | I. COUNCIL MATTERS |
| B. MINUTES | J. SUCCESSOR AGENCY |
| C. PRESENTATIONS AND PROCLAMATIONS | TO REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS | K. ORAL COMMUNICATIONS |
| 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. 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, September 8, 2016

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, July 28, 2016. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

- C.1 Proclaiming September 15-18, 2016, as Newark Days. (PROCLAMATION)**

Background/Discussion – Newark Days, celebrating Newark’s 61st birthday, will be held September 15-18, 2016. A proclamation has been prepared and members of the Newark Days Committee will accept it at the City Council meeting.

D. WRITTEN COMMUNICATIONS

- D.1 Zoning Administrator referral of ASC-16-15, an Administrative Special Civic Review, for an addition and façade change to a single-family residence at 35669 Lundy Drive – from Assistant Planner Bowab. (REVIEW OPTIONAL)**

Background/Discussion – The subject site is on the south side of Lundy Drive, west of Channel Drive, and backs up to Lakeshore Park. Because the property is zoned R-8000-SC (Low Density Residential – 8,000 District – Special Civic), design review approval is required. The project consists of replacing an existing rectangular balcony with a semi-circle balcony, an enclosed 118 square foot sunroom addition and changing the exterior building materials from wood paneling to stucco. The applicant has obtained letters from all the property owners within 100 feet of the subject site stating that they do not object to the project.

The Zoning Administrator has approved the project subject to the following condition: “The owner and/or contractor shall implement all applicable Storm Water Quality Best Management Practices for the duration of all work activity. Additional best management practices may be required by the City Engineer to minimize the pollution of storm water runoff from the project area. A note to this effect shall appear on the building permit plans.”

Environmental Review

This project is categorically exempt from the California Environmental Quality Act (CEQA) per section 15301, Class 1, additions to existing facilities.

Attachment

Update – This item was presented to the Planning Commission at its August 23, 2016 meeting as an informational item.

Action – City Council review of this item is optional.

E. PUBLIC HEARINGS**E.1 Hearing to consider a planned unit development, a conditional use permit, and a Tentative Tract Map 8340 to construct a 14-unit condominium project (Merida Place) at 36731 Sycamore Street (APN: 92-21-15-3) – from Associate Planner Mangalam. (RESOLUTIONS-2)**

Background/Discussion – Mr. Joe Wu has submitted a request to construct a 14-unit condominium project at 36731 Sycamore Street. Attached to the resolution for the planned unit development and conditional use permit is Exhibit A, pages 1 through 43. Attached to the resolution for the Tentative Tract Map is Exhibit A, pages 1 through 9.

The vacant, triangular property is about 36,120 square feet (.83 +/- acres) and on the north side of Filbert Street. It is zoned R2500 (Medium Density Residential – 2,500). The applicant requests approval to develop the site with 14 residential condominium units. The site is bordered by single family homes to the north; Union Pacific railroad tracks to the west; an apartment complex to the south; and Sycamore Street to the east.

The proposal consists of four, three-story buildings, with vehicular ingress/egress to the site via a driveway along Sycamore Street. Each building design has extensive wall and roof articulation to avoid a boxy appearance. Exterior materials consist of stucco walls and tile roofing and incorporate wrought iron balcony features. While the builds are sited perpendicular to Sycamore Street, the building elevations facing Sycamore Street have a good deal of articulation and the balcony features are clearly visible.

Noise and Vibration Study

A “Noise and Vibration Study” was performed by Vibro-Acoustic Consultants, along with façade recommendations. This was done to determine if the City’s acceptable noise levels (interior limit of 45 LDN and exterior of 60 LDN) can be met with mitigation measures. LDN represents the day-night average noise level.

The report determined that the noise levels at the site from railway activities will decrease to 60 LDN approximately 45-feet to the east of the western property line. Therefore, all

facades within 45 feet of the western property line would need to conform with the City of Newark's standards and the 2010 California Building Code. Facades further away from the western property line are exposed to 60 LDN or less and require no further modifications.

Buildings 2 and 3 fall within the 45 foot range and will be required to install a minimum of 5/8-inch thick insulated windows. As the noise level must be met with closed windows, mechanical ventilation is required. A forced heat A/C system will be installed to meet this requirement for those units within 45 feet of the western property line. In addition, an 8-foot high block wall will be constructed along the western property line to further buffer noise from the rail activity.

Environmental

The proposed project is categorically exempt from the California Environmental Quality Act per Section 15332, Class 32, "In-Fill Development Projects".

Update – At its meeting of August 9, 2016, the Planning Commission: 1) approved Resolution No. 1937, approving P-16-11, a planned unit development, and U-16-12, a conditional use permit, for a 14-unit condominium project at 36731 Sycamore Street with Exhibit A, pages 1 through 43; and (2) approved Resolution No. 1938, approving TTM-16-10, Tentative Tract Map 8340 with Exhibit A, pages 1 through 9.

Attachments

Action – It is recommended that the City Council: (1) adopt a resolution approving P-16-11, a planned unit development and U-16-12, a conditional use permit; and (2) adopt a resolution approving Tentative Tract Map 8340 and subdivision and zoning variances thereto for a 14-unit condominium project at 36731 Sycamore Street.

- E.2 Hearing to consider a conditional use permit and a planned unit development for property located at 6826 and 6844 Mayhews Landing Road, to facilitate subdivision of approximately 1.41 acres of land by Parcel Map No. 10261, by allowing 5 foot side setbacks and lots a minimum of 45 feet wide while maintaining 6,000 square foot lot minimums consistent with R-6000 (Low Density Residential – 6000 district) – from Associate Planner Mangalam. (RESOLUTION)**

Background/Discussion – The property owner of 6844 Mayhews Landing Road has been working with the City of Newark on a parcel map for APN 092-0005-029-09. In the process of review, staff determined that a planned unit development (PUD) would be appropriate to facilitate the development consistent with the Zoning District.

The property is approximately 66,316 square feet (1.52 +/- acres) and on the south side of Mayhews Landing Road between Sycamore Street and Mulberry Street. There are four (4) existing houses on the site. It is zoned R6000 (Low Density Residential – 6,000) and is bordered by single family homes on all sides. The parcel map would

create parcels for the each 4 existing homes and one vacant parcel for future construction of a single family home.

The Zoning Ordinance requires the lots in R-6000, Low Density Residential districts to be a minimum of 60 feet wide with side yards to be ten percent of the width of the site. The proposed planned unit development allows narrower lots of a minimum of 45 feet wide with 5 foot side yards but maintains the requirement that the site area is a minimum of 6,000 square feet. These changes will still meet the Zoning District's purpose and will be consistent with the surrounding neighborhood. A planned unit development (PUD) is a conditional use and hence, both a planned unit development and a conditional use permit are required for this proposal.

Property owners within a 100-foot radius were notified of the project and various queries were received regarding the proposal. None of the property owners were opposed to the proposal.

Attached to the resolution for the conditional use permit and the planned unit development is Exhibit A, pages 1 and 2.

Environmental

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15303, Class 3b, New Construction or Conversion of Small Structures.

Update – At its meeting of August 9, 2016, the Planning Commission approved Resolution No. 1939, approving U-16-13, a conditional use permit and P-16-14, a planned unit development to APN(s) 092-0005-029-04 AND 092-0005-029-09, located at 6826 and 6844 Mayhews Landing Road with Exhibit A, pages 1 and 2.

Attachments

Action – It is recommended that the City Council, adopt a resolution approving a conditional use permit (U-16-13) and a planned unit development (P-16-14) to APN(s) 092-0005-029-04 AND 092-0005-029-09, located at 6826 and 6844 Mayhews Landing Road, to facilitate subdivision of approximately +/- 1.41 acres of land by Parcel Map No. 10261, by allowing 5 foot side setbacks and lots a minimum of 45 feet wide while maintaining 6,000 square foot lot minimums consistent with R-6000 (Low Density Residential – 6000 District).

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 Report on administrative actions during August recess – from City Manager Becker. (MOTION)

Background/Discussion – At the May 12, 2016, meeting the City Council adopted Resolution No. 10,498 authorizing the City Manager, or Acting City Manager, to act on certain administrative matters, which should not be deferred until the next regularly scheduled meeting of the City Council. The City Council also directed the City Manager to report to the City Council after the recess on all such actions.

Administrative matters on which action was taken during the recess are noted in Exhibit A.

Attachment

Action - It is recommended that the City Council, by motion, reaffirm the City Manager's, or Acting City Manager's, action on the matters listed in Exhibit A.

F.2 Amendment to the Conflict of Interest Code for Nonelected Officials and Designated Employees – from City Clerk Harrington. (RESOLUTION)

Background/Discussion – The Political Reform Act of 1974 requires local government agencies to review its Conflict of Interest Code biennially. The Conflict of Interest Code lists each employee position that makes or participates in the making of governmental decisions. Employees in these positions are identified as “designated employees.” Consultants that make or participate in making governmental decisions on behalf of the City must also file disclosure forms.

The review has been completed and there is a need to amend Appendix A, Designated Positions and Disclosure Categories, because of organizational changes that have occurred since the 2014 review. Appendix A to the Code shows the recommended changes with strikeout formatting for deletions and underscore formatting for additions.

Attachment

Action - It is recommended that the City Council, by resolution, amend the City's Conflict of Interest Code for Nonelected Officials and Designated Employees.

F.3 Resolution declaring October 1, 2016 as Bay Day – from City Manager Becker. (RESOLUTION)

Background/Discussion – Bay Day is a newly dedicated annual celebration of the San Francisco Bay. The Association of Bay Area Governments has requested that all cities and counties in the Bay Area pass resolutions declaring October 1, 2016 as Bay Day in recognition of this valuable resource that defines our region. In future years, Bay Day will be celebrated on the first Saturday of October.

Attachment

Action - It is recommended that the City Council, by resolution, declare October 1, 2106 as Bay Day in the City of Newark.

F.4 Authorization for the purchase of two (2) new 2017 Ford SUV Utility Interceptors as replacement patrol vehicles for the Police Department from Folsom Lake Ford and outfitting by Classic Graphics and Lehr and amend the Biennial Budget and Capital Improvement Plan 2016-2018 for Fiscal Year 2016-2017 – from Maintenance Supervisor Connolly. (RESOLUTION)

Background/Discussion – The Newark Police Department is in need of two (2) new patrol vehicles to replace patrol vehicles that have reached the end of their useful life. Authorization is requested to participate in an intergovernmental procurement process for the purchase of two (2) 2017 Ford SUV Utility Interceptors.

An intergovernmental procurement process (also known as a “piggyback”) is an alternative option to Newark’s formal bidding process. By piggybacking onto another agency’s contract, the City would save the cost and time associated with the formal bid process but be able to be assured of competitive set prices established by another agency’s formal bidding process.

Upon completion of a formal bidding process, the State of California entered into a master contract and a procurement contract with Folsom Lake Ford for the purchase of new vehicles. This contract is in effect through June 29, 2017, and includes a provision to allow other agencies to participate.

The competitive process used by the State of California has been reviewed by the Public Works Department and satisfies the City’s requirements for the proposed vehicle purchases.

Based upon the State of California contract with Folsom Lake Ford, the combined purchase cost for both vehicles will be \$81,000. The vehicle cost does not include outfitting of the replacement patrol vehicles which is estimated not to exceed \$37,500. The outfitting is based on specialized vendor quotes.

These vehicles were originally budgeted in the Equipment Replacement Fund for Fiscal Year 2015-16. The budget lapsed as of June 30, 2016 into the Equipment Replacement fund balance. A budget amendment is necessary to reallocate the \$118,500 from fund balance back to an expenditure account.

Action - It is recommended that the City Council, by resolution, authorize the purchase of two (2) new 2017 Ford SUV Utility Interceptors as replacement patrol vehicles for the Police Department from Folsom Lake Ford and outfitting by Classic Graphics and Lehr and amend the Biennial Budget and Capital Improvement Plan 2016-2018 for Fiscal Year 2016-2017.

NONCONSENT

F.5 Adoption of a Resolution establishing a policy that the revenues generated by Measure GG shall be directed towards replacement of the Police Operations/Emergency Operations Center, the Library, and the Administration Building – from City Manager Becker. (RESOLUTION)

Background/Discussion – In May, 2015, the City Council directed City staff to study the potential replacement of the existing library, police operations facility, Council chambers, and the City administrative offices. The City retained Group 4 Architecture to study this issue. Numerous stakeholder interviews were held. In addition, two community meetings and three City Council work sessions were held in order to solicit public feedback on this proposed project. These efforts – spanning over the course of a year – culminated with Group 4 Architecture recommending the replacement of these facilities on the existing site.

The final report further recommended that the City proceed with detailed planning for this new Civic Center in order to provide seismically safe, energy efficient, accessible, and cost-effective facilities that would serve the citizens of Newark with needed public safety, administrative, cultural, and educational services.

Group 4 Architecture estimated that the cost to replace these facilities is \$64 million dollars. Several options of funding sources were evaluated, including issuing a General Obligation Bond, issuing a Special Tax Bond, increasing the Transient Occupancy Tax, or adopting a one-half cent sales tax increase. The consultant concluded that a one-half cent local sales tax or a General Obligation Bond could provide the necessary funding for this project.

In response to these conclusions, the Council directed staff to retain a polling consultant to evaluate possible public support for a revenue measure. The City retained Godbe Research to conduct a public opinion poll and the results were presented to the Council in June of this year. In summary, the results indicated considerable support for a sales tax measure to fund a new library building, police operations facility, and City administrative offices. This support was tied to improved public safety service and enhanced library services for all age groups.

In July the Council adopted a resolution placing a local one-half cent sales tax increase on the November 8, 2016, General Election. The Registrar has titled this measure as “Measure GG”.

Currently the sales tax rate in Newark is 9.5%. In 2012, California voters passed Proposition 30, a temporary ¼ cent sales tax increase to fund education. This temporary

sales tax increase sunsets in December of this year, which means that, starting January 1, 2017, sales tax in Newark will reduce from 9.5% to 9.25%. If Measure GG passes, then the sales tax rate for most items sold in Newark would be 9.75%.

Measure GG is a general sales tax, which means that if a majority of voters vote in favor of the measure then the City could use the revenue for any legitimate governmental purpose. If adopted, then the revenue will be deposited into the City's General Fund and the ultimate use of those monies would be at the discretion of the Council. However, the Council can adopt a policy statement at this time providing a guideline for its use.

Attached is a proposed resolution establishing a policy that revenue generated from Measure GG should fund the Civic Center project, specifically the replacement of the seismically unsafe police operations/emergency operations center with a new center that can provide updated crime-fighting technology, replacement of the aging library building with a new library building that will meet safety codes and provide space for senior and children's programming, and replacement of the administration building that can better serve the public. Staff recommends that the Council adopt this resolution to demonstrate the Council's intention to use the revenue generated by Measure GG to fund this Civic Center project.

Attachment

Action - It is recommended that the City Council, by resolution, establish a policy that revenues generated by Measure GG shall be directed towards replacement of the police operations/emergency operations center, the library, and the administration building.

- 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 September 8, 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, 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.