



CITY OF NEWARK CITY COUNCIL

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

Minutes

Thursday, January 14, 2016

A. ROLL CALL

Mayor Nagy called the meeting to order at 7:37 p.m. Present were Council Members Hannon, Freitas, Bucci, and Vice Mayor Collazo.

B. MINUTES

B.1 Approval of Minutes of the regular City Council meeting of Thursday, December 10, 2015.

Vice Mayor Freitas 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 Introduction of employees.

Mayor Nagy introduced the following newly hired or promoted city employees: Senior Equipment Mechanic Brian Lewis, Maintenance Supervisor Neal Hornbeck, Associate Civil Engineer Diana Cangco, Senior Accountant Krysten Lee, and Police Officer Timothy Prakash.

C.2 Commending William Spinola for his service on the Alameda County Mosquito Abatement District.

Mayor Nagy read a commendation for William M. Spinola who has served as Newark's representative on the Alameda County Mosquito Abatement District since the early 1980s. Mr. Spinola was not able to attend the meeting.

C.3 Presentation on City Service.

The City Council and Mayor Emeritus Smith presented a commendation to Mayor Nagy. On January 15, 2016 Mayor Nagy will hold the record for longest serving Council Member in the City of Newark

At 8:05 p.m. Mayor Nagy called a recess. At 8:25 p.m. the meeting resumed.

C.4 Union Sanitary District presentation on their services and proposed rate changes.

Director Pat Kite, Newark's representative on the Union Sanitary District Board, introduced General Manager Paul Eldredge. General Manager Eldredge provided a general overview of the District and its services as well as information regarding currently proposed rate increases.

D. WRITTEN COMMUNICATIONS

D.1 Notice of Planning Commission's decision to amend the E-Z 8 Motel Conditional Use Permit to include a Settlement Agreement condition.

REVIEW OPTIONAL

Mayor Nagy announced that his home was within 1000 feet of this item and would recuse himself from the item. Mayor Nagy exited the City Council Chambers.

Vice Mayor Freitas chaired this portion of the meeting.

City Manager Becker stated that due to a high level of criminal activity occurring at the E-Z 8 Motel, city staff and E-Z 8 representatives held a series of meetings to arrive at a solution that did not require revocation of the conditional use permit. The Planning Commission held a number of public hearings and adopted a resolution amending the use permit to include a Settlement Agreement. This agreement requires E-Z 8 to enact and maintain numerous independent security measures.

City Manager Becker stated that pursuant to the Municipal Code, the Council could either: (1) call the matter for review, or (2) decline to review the matter, which would allow the Planning Commission's amendment to the use permit stand.

Jerry Cannon, on behalf of E-Z 8 came forward at the request of Council Member Hannon.

Council Member Hannon stated that the motel was very close to being closed. He told Mr. Cannon that businesses must be conducted in manners that are a benefit to the city not a detriment. He stated that he hoped there were no further issues with the motel.

Council Member Hannon moved, Council Member Collazo seconded to decline to review this matter. The motion passed, 4 AYES, 1 RECUSED (Nagy).

Mayor Nagy returned to the City Council Chambers.

D.2 Planning Commission referral of proposed changes to the City of Newark Street Names Theme Map to allow for a “Bay Features” theme for the Dumbarton Transit Oriented Development area and a “Bay Animals” theme for the areas known as Sanctuary and Area 4 in the General Plan.

RESOLUTION NO. 10443

City Manager Becker stated that since 1963, the City has had a policy for the systematic naming of streets, adopting categories and names for various geographic sections of the City in a Street Name Themes Map.

The approved theme for the Dumbarton Transit Oriented Development (TOD) area is currently “Trees”. The proximity of the Dumbarton TOD to the San Francisco Bay lends itself more to “Bay Features” themed streets.

The current theme approved for the Sanctuary housing development is “California History”. He recommended “Bay Animals” for street names. The developers for all of these parcels have been consulted on these themes and they agree on their usage.

Richard Dominguez stated that one of the names should be after the salt harvest mouse.

Vice Mayor Freitas moved, Council Member Collazo seconded by resolution, to approve a change to the Street Names Theme Map to allow for a “Bay Features” theme for the Dumbarton Transit Oriented Development area and a “Bay Animals” theme for the areas known as Sanctuary and Area 4 in the General Plan. The motion passed, 5 AYES.

E. PUBLIC HEARINGS

E.1 Public Hearing to consider Z-15-33, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to add Section 17.04.050 “Permissive Code” to Chapter 17.04 “General Provisions”. ORDINANCE INTRODUCED

City Manager Becker recommended that the City Council adopt an ordinance that expressly declares that the Newark Zoning Ordinance is a “permissive” zoning code and make it clear that if a use is not permitted then such use is unlawful.

Mayor Nagy opened the public hearing at 9:13 p.m.

No one came forward to speak.

Mayor Nagy closed the public hearing at 9:14 p.m.

Council Member Hannon moved, Council Member Bucci seconded to introduce 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. The motion passed, 5 AYES.

E.2 Public Hearing to consider U-15-30, a Conditional Use Permit, for a preschool (Little Scholar's Preschool) at 5472A Central Avenue (Palms on Central Shopping Center). RESOLUTION NO. 10444

City Manager Becker stated that Cheryl Figone and Sonu Sidhu have applied to locate a preschool at 5472A Central Avenue, within the Palms on Central Shopping Center. The facility will be able to support up to 25 children and will operate Monday through Friday from 8:30 a.m. to 6:30 p.m. On Saturday they will open from 10:30 a.m. to 3:30 p.m.

Mayor Nagy opened the public hearing at 9:16 p.m.

Cheryl Figone stated that she read the resolution and agreed to the conditions.

Mayor Nagy closed the public hearing at 9:17 p.m.

Council Member Collazo moved, Council Member Bucci seconded to approve by resolution, U-15-30, a Conditional Use Permit, for a preschool (Little Scholar's Preschool) to locate at 5472A Central Avenue (Palms on Central Shopping Center). The motion passed, 5 AYES.

E.3 Canceled Public Hearing to consider Gateway Station West, a 589-unit residential project within the Dumbarton Transit Oriented Development Specific Plan area located at the western edge of the City. The City Council will consider: (1) by resolution, adopting a Supplemental Environmental Impact Report to the Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan; (2) by introduction of an ordinance, approving rezoning for an approximately 41-acre area (APNs: 537-852-9, 537-852-10 and 537-852-11) from MT-1 (High Technology Park District) to MDR-FBC (Medium Density Residential – Form Based Codes) and HDR-FBC (High Density Residential – Form Based Codes); (3) by resolution, approving a planned unit development and a conditional use permit; (4) by resolution, approving Vesting Tentative Map 8099; (5) by motion, approving an Architectural and Site Plan Review; (6) by resolution, authorizing the Mayor to sign a Community Financing Agreement with Dumbarton Area 2, LLC.

City Manager Becker announced that after posting the agenda, it was discovered that there was an issue with the project that requires further study and review. As a result this public hearing is cancelled and this project will be considered at a future City Council meeting.

F. CITY MANAGER REPORTS

Council Member Hannon removed F.4 for separate consideration.

Council Member Collazo moved, Council Member Hannon seconded, to approve Consent Calendar Items F.1 through F.3 and F.4, 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 Authorization for the purchase of four (4) new, replacement vehicles for the Public Works Department from Wondries Fleet Group.
RESOLUTION NO.10445**
- F.2 Second reading and adoption of an ordinance rezoning 68.55 acres of Vesting Tentative Tract Map 8270 from R-6000 (Low Density Residential) to LDR-FBC (Low Density Residential – Form Based Codes) and 3 acres from R-6000 (Low Density Residential) to POS-FBC (Parks and Open Space – Form Based Codes) for the Sanctuary Project, 386 single family units at the northwest corner of Cherry Street and Stevenson Boulevard.
ORDINANCE NO. 489**
- F.3 Acceptance of work with VSS International, Inc. for 2015 Street Slurry Seal Program, Project 1094.
RESOLUTION NO. 10446**
- F.5 Acceptance of bid and award of contract to Kimberlite Corporation DBA Sonitrol for the Silliman Activity and Family Aquatic Center Video Surveillance System and associated budget amendment.
RESOLUTION NO. 10447
CONTRACT NO.**

NONCONSENT

F.4 Acceptance of the Comprehensive Annual Financial Report (CAFR) for the period ending June 30, 2015. MOTION APPROVED

Council Member Hannon thanked city staff for their fiscal oversight. He mentioned the Utility Users Tax exemption for seniors and low income residents. He suggested public outreach in multiple languages that the exemption is available for those who are qualified.

Council Member Hannon moved, Council Member Collazo seconded, via motion, to accept the Comprehensive Annual Financial Report. The motion passed 5 AYES.

F.6 Declaration of emergency expenditure for replacement of heater for Lazy River at Silliman Activity and Family Aquatic Center. RESOLUTION NO. 10448

City Manager Becker stated that the heater equipment for the Lazy River at the Silliman Activity and Family Aquatic Center failed and cannot be repaired. He estimated that it would cost approximately \$40,000 to replace and will take 6 to 10 weeks to build and install. It has to be custom built and has unique piping.

In the interest of public convenience and safety, he recommended that the City Council declare that an emergency exists which will allow staff to proceed with the repairs.

Vice Mayor Freitas moved, Council Member Bucci seconded to make a finding and adopt a resolution declaring an emergency exists as a result of equipment failure of the heater for the Lazy River at Silliman Activity and Family Aquatic Center and the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property and authorize the City Manager to sign documents necessary for the repair. The motion passed, 5 AYES.

F.7 Introduction of an Ordinance amending Chapter 5.36 (Medical Marijuana Dispensaries) to Title 5 (Business Licenses and Regulations) of the Newark Municipal Code Clarifying and Affirming that Commercial Cultivation of Medical Marijuana is Prohibited in the City of Newark. ORDINANCE INTRODUCED

City Manager Becker stated that recent changes in state law requires the City to determine whether to regulate or ban commercial cultivation of medical marijuana by March 1. The City Council banned medical marijuana dispensaries in 2011. The Newark Zoning Ordinance does not authorize the commercial cultivation of marijuana in any zoning district. He recommended that the Council introduce an ordinance making it clear that commercial cultivation of medical marijuana is prohibited.

Council Member Hannon moved, Council Member Bucci seconded to introduce 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. The motion passed, 5 AYES.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

I.1 Appointment of Eric Hentschke to the Alameda County Mosquito Abatement District. RESOLUTION NO. 10449

Mayor Nagy announced that he would appoint Eric Hentschke to replace William M. Spinola as Newark's representative to the Alameda County Mosquito Abatement District.

Vice Mayor Freitas moved, Council Member Collazo seconded to, by resolution, approve the appointment of Eric Hentschke to the Alameda County Mosquito Abatement District, for a term to expire on January 31, 2018. The motion passed, 5 AYES.

The entire City Council congratulated Mayor Nagy for his record breaking service on the City Council.

Council Member Hannon requested that the City Council adjourn the meeting in memory of Dave Vickers and Marilyn Mascsak. The City Council extended their condolences.

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

J.1 Resolution of the City of Newark acting as the Successor Agency to the Newark Redevelopment Agency adopting and endorsing the Recognized Obligation Payment Schedule for the period of July 2016 to June 2017 (ROPS 16-17). RESOLUTION NO. SA 2016-1

Administrative Services Director Woodstock stated that the only obligation remaining from the dissolution of the Newark Redevelopment Agency is the loan from the City to the Newark Redevelopment Agency. The outstanding debt on the loan is \$356,235. The Successor Agency can request \$153,326 in Fiscal Year 2016-2017 for repayment of the loan. The City can be reimbursed for administrative costs in the amount of \$9,464 in Fiscal Year 2016-2017.

Mayor Nagy thanked Administrative Services Director Woodstock for all of her work to ensure that this money was paid back.

Council Member Collazo moved, Council Member Bucci seconded to, by resolution, adopt and endorse the Recognized Obligation Payment for the period of July 2016 to June 2017 (ROPS 16-17). The motion passed, 5 AYES.

K. ORAL COMMUNICATIONS

Gregory Lemos stated that his neighbor was upset that he had to get a permit for repair work on his house.

Angela Akridge stated that the Newark Parks Foundation has filed for nonprofit status. They will be attending the February 11 City Council meeting to advocate for parks, open space, and recreation.

Woody Ballard thanked Mayor Nagy for his service and dedication.

L. APPROPRIATIONS

Approval of Audited Demands for the City Council meeting of January 14, 2016. MOTION APPROVED

City Clerk Harrington read the Register of Audited Demands: Check numbers 106419 to 106663.

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

M. CLOSED SESSION

M.1 Closed session pursuant to Government Code Section 54957 Public Employee Performance Evaluation Title: City Manager.

The Closed Session was held at a special meeting before the regular City Council meeting.

N. ADJOURNMENT

At 9:58 p.m. Mayor Nagy adjourned the meeting in memory of Dave Vickers and Marilyn Mascsak.