

# 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, March 22, 2018

### CITY COUNCIL:

Alan L. Nagy, Mayor  
Michael K. Hannon, Vice Mayor  
Luis L. Freitas  
Sucy Collazo  
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  
  
Michael Carroll  
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:

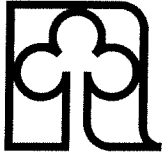
- |                                     |                         |
|-------------------------------------|-------------------------|
| A. ROLL CALL                        | I. COUNCIL MATTERS      |
| B. MINUTES                          | J. SUCCESSOR AGENCY     |
| C. PRESENTATIONS AND PROCLAMATIONS  | 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](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, March 22, 2018

**A. ROLL CALL**

**B. MINUTES**

- B.1 Approval of Minutes of the City Council meetings of March 1 and March 8, 2018. (MOTION)**

**C. PRESENTATIONS AND PROCLAMATIONS**

- C.1 Proclaiming March as American Red Cross Month in Newark. (PROCLAMATION)**

**Background/Discussion** – The President of the United States has proclaimed March as American Red Cross Month across the country. A member of the American Red Cross Leadership Council will accept the proclamation at the meeting.

- C.2 Proclaiming March 22, 2018, as Arbor Day in Newark. (PROCLAMATION)**

**Background/Discussion** – In recognition of our continued dedication and commitment to the management of tree resources, the City of Newark has been named a Tree City U.S.A. for the thirty-first consecutive year by the National Arbor Day Foundation. An effective urban tree management program requires an on-going maintenance program, along with a program of renewal that includes planting new trees. In celebration of Arbor Day, a public tree planting will be held before the City Council meeting at the grass area in front of Civic Center Park.

Maintenance Supervisor Neal Hornbeck will accept the proclamation at the meeting.

**D. WRITTEN COMMUNICATIONS**

**E. PUBLIC HEARINGS**

**E.1 Public Hearing to review the Joint Staff Committee’s approval of a duplex at 37136 Magnolia Street – from Associate Planner Mangalam. (MOTION)**

**Background/Discussion** – Mr. and Mrs. Li, property owners, have submitted an application to construct a duplex at 37136 Magnolia Street.

The subject site is on the north side of Magnolia Street, approximately 200 feet east of Graham Avenue. It is zoned as R-2500 (Medium Density Residential – 2,500 District) and has a Medium Density Residential General Plan Land Use Designation. Per Newark Municipal Code Section 17.16.200, in the medium density residential districts, all new buildings shall be reviewed by the Joint Staff Committee comprising of the Community Development Director, the Public Works Director, and the Fire Chief or their designated alternatives. The purpose of the review is to promote the preservation of the visual character of Newark, the stability of land values and investments, public safety, and general welfare by preventing the erection of structures or additions of alterations thereto of unsightly or obnoxious appearance or which are not properly related to their sites, adjacent uses, circulation in the vicinity, and by preventing the indiscriminate clearing of property, excessive grading and the unnecessary destruction of trees.

The applicant proposes to build a duplex, which is a permitted use in medium residential district. The proposed duplex includes one unit on the ground and other on the second floor. Each unit will consist of a living, dining, kitchen and four bedrooms. The proposed duplex meets or exceeds all the zoning requirements of Newark Municipal Code as follows:

	<u>Required</u>	<u>Provided</u>
Front yard	20 feet	47 feet
Side Yard	5 feet	5 feet and 10 feet
Rear Yard	10 feet	20 feet
Max.Height	30 feet	23 feet 4 inches
Max. Coverage	35%	33.13%
Min. Landscaping	25% of lot area	36.74%

The City’s off-street parking requirement of two parking spaces per unit, plus one guest parking, is satisfied by the provision of two attached single-car garages, two uncovered spaces (i.e., one garage space and one uncovered space per unit) and an uncovered guest parking space.

The appearance of the proposed two-story building as a duplex is minimized with a single porch ‘gabled entry’ on the front side. The City’s multi-family residential design guidelines’ objective of minimizing the appearance of the attached garage is aided by

providing vehicular entry from the side instead of the front. In addition, there is a false window with shutters on the garage wall facing the street. Exterior wall material consists of a combination of siding and stucco with composition shingle roof. The 20 foot front yard between uncovered parking spaces and the right-of-way will be landscaped. There is also a proposed 4 foot high wall to screen the proposed parking spaces from street view. The applicant proposes to replace three existing trees and add three new trees to the subject site.

The Joint Staff Committee, using the standards set forth in design guidelines, and the goals, objectives and standards of the Newark General Plan, approved the design review for the proposed duplex.

Per the requirements of Newark Municipal Code Section 17.16.200(E), a report of the Committee's decision was rendered to the Planning Commission and City Council. The Planning Commission did not call this item up for review. On February 22, 2018, the City Council opted to call this item up for a public hearing. Per Newark Municipal Code Section 17.26.200(E), if a decision is called up for review, all proceedings shall be stayed in the same manner as the filing of a notice of appeal, and the matter shall be heard in the same manner as an appeal.

The proposed project is categorically exempt from the California Environmental Quality Act per Section 15303, Class 3b, "New Construction or Conversion of Small Structures - A duplex or similar multi-family residential structure, totaling no more than four dwelling units".

Since this project meets or exceeds all zoning standards, the review of the project is to be based on its design. Staff believes the design elements included in the project and its consistency with Multifamily Design Guidelines make it a positive addition the community and recommend that the City Council affirm the Joint Staff Committee's decision and approve the project.

#### **Attachment**

**Action** – It is recommended that the City Council, by motion, affirm the Joint Staff Committee's decision and approve the project.

## **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 Approval of plans and specifications, acceptance of bid, and award of contract to SpenCon Construction, Inc. for 2018 Citywide Accessible Pedestrian Curb Ramps, Project 1167 – from Senior Civil Engineer Tran. (MOTION)(RESOLUTION)**

**Background/Discussion** – This project will upgrade 38 curb ramps to meet current ADA standards at various locations located throughout the City.

Bids for the project were opened on February 27, 2018 with the following results:

<b>Bidder</b>	<b>Amount</b>
SpenCon Construction, Inc.	\$ 152,000.00
Rosas Brothers Construction	186,200.00
Mercoza Engineering	199,500.00*
Golden Bay Construction, Inc.	201,970.00
California Highway Construction Group, Inc.	207,100.00
J.J.R. Construction, Inc.	214,016.00
JD Partners Concrete	224,200.00
Sposeto Engineering, Inc.	227,620.00
Armando Jacobo	250,800.00
dba AJ's Concrete & Landscape Contractors	
Kerex Engineering, Inc.	274,550.00
FBD Vanguard Construction, Inc.	334,894.00
 Engineer's Estimate	 \$ 240,000.00

\* Corrected for mathematical error

The 2016-2018 Biennial Budget includes sufficient funding for this project in Fiscal Year 2017-2018. This project will be funded through a combination of Transportation Development Act (TDA) Article 3 special grant funds and Alameda County Measure B/BB Sales Tax funds.

Staff recommends that this project be awarded to the lowest responsible bidder, Spencon Construction, Inc.

**Attachment**

**Action** – It is recommended that the City Council, by motion, approve the plans and specifications and by resolution, accept the bid and award the contract to SpenCon Construction, Inc. for 2018 Citywide Accessible Pedestrian Curb Ramps, Project 1167.

**F.2 Initiation of the 2018 Weed Abatement Program and setting April 26, 2018 for a public hearing - from Deputy Fire Marshal Lee and Maintenance Supervisor Hornbeck. (RESOLUTION)**

**Background/Discussion** – The annual weed abatement program abates weeds on vacant commercial and industrial properties not maintained by the property owners as directed by the Fire Prevention Staff. The abatement work consists of tractor mowing, supplemented with manual labor to clear weeds abutting fences and remove debris to facilitate the tractor work. There are approximately 132 industrial, residential, and commercial parcels that have large areas of vacant ground that host seasonal weeds that could become a fire hazard. These parcels are located throughout the City.

Property owners have the option to make their own arrangements for weed and debris removal. They must get the work completed prior to the schedule set for the City's contractor. The City's contractor is scheduled to perform weed abatement work in May and June. Property owners will be asked to return a pre-paid postcard to the City indicating that they will abate their own weeds. Alameda County Fire Department staff will inspect the properties prior to the abatement of the weeds. This provides sufficient opportunity for the property owners to perform their own work. All properties that the City performs the abatement work on will be assessed the full cost of that work, including administration costs.

If necessary, an additional fall program will be scheduled to abate seasonal weeds, like tumbleweeds and re-growth of weeds that occur during the summer months. Prior to any supplemental fall weed abatement work, the City will provide written notices to the affected property owners. A second public hearing for the fall program is not required.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, finding and declaring that weeds growing on specified properties are seasonal and recurrent nuisances; and rubbish, refuse, and dirt upon parkways, sidewalks, or private property in the City of Newark are public nuisances and must be abated, and setting April 26, 2018 for a public hearing.

### **F.3 Authorization for the Mayor to sign an Amendment to extend the Auditing Services Agreement with Badawi & Associates – from Administrative Services Director Woodstock. (RESOLUTION)**

**Background/Discussion** – Various financing covenants and government grants require an annual audit by an independent Certified Public Accountant (CPA), of the financial transactions and records of the City.

In 2009, the City awarded the contract for independent auditing services to the firm of Caporicci and Larson. This company was acquired by a larger accounting firm and subsequently divided. Since the award of this contract, three (3) different firms have prepared the City's annual audit. The last assignment of the contract was in 2012 to Badawi & Associates. They have satisfactorily prepared six (6) annual audits for the City.

The term of the existing contract ended with the completion of the Fiscal Year 2017 audit. The attached amendment will extend the contract one (1) additional year. The rate schedule for the services will remain the same as 2016-17 rate schedule, \$64,577 for the full audit. There is sufficient funding in the existing budget and proposed funding in the next budget for these audit services.

#### **Attachment**

**Action** - It is recommended that the City Council, by resolution, the Amendment to the Agreement between the City of Newark and Badawi & Associates to authorize a one (1) year extension.

**F.4 Acceptance of subdivision improvements for Tract 8130 – Timber (Timber Street LLC – Trumark Homes), a 164-unit residential subdivision on the east side of Cedar Boulevard near Central Avenue – from Assistant City Engineer Imai. (RESOLUTION)**

**Background/Discussion** – On April 24, 2014, Timber Street LLC (Trumark Homes), entered into a Subdivision Agreement with the City of Newark to construct improvements associated with Tract 8130 – Timber, a 164-unit residential subdivision located on the east side of Cedar Boulevard near Central Avenue. These improvements included construction of a new traffic signal at the intersection of Cedar Boulevard and Robertson Avenue, a new precast concrete wall on the west side of Cedar Boulevard and a new landscaped median on Cedar Boulevard. Trumark Homes provided a Performance Bond in the amount of \$1,682,000 and a Materials Bond in the amount of \$841,000, to guarantee construction of these improvements.

In April 2017, because Trumark Homes had completed over 80% of the required improvements, City Council approved the partial release of these bonds to an amount equal to twenty percent (20%) of the original bond amounts (Resolution No. 10,618). The public improvements are now complete and Trumark Homes is requesting that the bonds for this work be released.

Trumark Homes has provided a Warranty Bond in the amount of \$168,200 for the correction of any defective materials or workmanship in the completed public improvements for a one-year maintenance period. On-site improvements for the common benefit of all homeowners will be owned and maintained by the Shade at Timber Homeowners Association.

#### **Attachment**

**Action** – It is recommended that the City Council, by resolution accept subdivision improvements for Tract 8130 – Timber (Timber Street LLC – Trumark Homes), a 164-unit residential subdivision on the east side of Cedar Boulevard near Central Avenue.

**NONCONSENT****F.5 Approval of Conceptual Master Plan for the dog park at Newark Community Park, Project 1109 - from Assistant City Engineer Imai.****(RESOLUTION)**

**Background/Discussion** – The Citywide Parks Master Plan, adopted by the City Council in June 2017, identified new dog parks at Newark Community Park and Birch Grove Park as high priority projects. In October 2017, the City Council approved a Contractual Services Agreement with Robert Mowat Associates for professional design services for these two dog parks.

The first of two Community Workshops took place on Saturday, December 9, 2017 with preliminary design alternatives presented for each park based on the specific site locations identified in the Citywide Parks Master Plan. Residents in attendance at this workshop were largely opposed to the installation of a dog park at Birch Grove Park as identified in the Citywide Parks Master Plan. The primary reason cited for opposition was concern over the loss of existing prime open park space for ongoing passive uses. Based on the number of comments and feedback received from residents prior to and at the workshop, staff has suspended any further design development of the dog park at Birch Grove Park until alternative locations can be properly analyzed.

In contrast, the dog park site location at Newark Community Park was strongly supported by workshop attendees. Two preliminary design “bubble diagram” alternatives for the dog park at Newark Community Park were presented to attendees for their feedback. During the workshop, attendees expressed an overwhelming preference for Option ‘A’. The primary differences between the two alternatives were the inclusion of two social seating platforms in the large dog park and separation of social plazas in Option ‘A’.

Based on the input received during the initial Community Workshop and further discussions with staff, Robert Mowat Associates developed a Preliminary Conceptual Master Plan for the dog park at Newark Community Park. The Preliminary Conceptual Master Plan was first presented to the City Council at its meeting on February 8, 2018 and then at the second of two Community Workshops held on Tuesday, February 27, 2018. Attendees of the second workshop continued to show their support of the dog park at Newark Community Park and were given the opportunity to express their preferences on a variety of design features, the results of which are listed below:

- Attendees favored the use of vinyl-clad chain link fencing in combination with decorative columns around the perimeter of the park
- Attendees were in favor of the inclusion of play elements/agility equipment
- Attendees preferred metal as opposed to canvas shade structures
- Attendees expressed the desire for multiple water fountains in the large dog park



A significant amount of time was also spent discussing the surface material of the dog park. As presented at the Workshop, the various surface material alternatives each have benefits and disadvantages. These are summarized in the table below:

SURFACING	UP-FRONT COST	MAINTENANCE	POTENTIAL BENEFITS & CONCERNS
BARE EARTH	Least up-front costs	Lowest level of maintenance	<ul style="list-style-type: none"> <li>+ Low costs and maintenance</li> <li>- Mud in rainy season</li> <li>- Dust in dry season</li> </ul>
DECOMPOSED GRANITE	More up-front costs	Lower level of maintenance	<ul style="list-style-type: none"> <li>+ Lower maintenance costs</li> <li>+ Does not require irrigation</li> <li>+ Would not require temporary closure of dog park for surface restoration</li> <li>- Can be dusty in dry season</li> <li>- Should not be installed on slopes</li> <li>- Large quantity will trigger stormwater requirements</li> </ul>
NATURAL TURF	Less up-front costs	Highest level of maintenance	<ul style="list-style-type: none"> <li>+ Gentler on paws</li> <li>+ Cooler surface temperatures</li> <li>- Will likely require closure during portions of the year for re-seeding or rest</li> <li>- Requires daily irrigation</li> <li>- Higher maintenance costs</li> </ul>
SYNTHETIC TURF	Most up-front costs	Higher level of maintenance	<ul style="list-style-type: none"> <li>+ Eliminates need for re-seeding</li> <li>- Requires daily wash down</li> <li>- Potential for odor</li> <li>- Surface can get hot</li> <li>- Large quantity will trigger stormwater requirements</li> </ul>

The attendees of Community Workshop #2 expressed a preference for a combination of both decomposed granite and natural turf. Such a combination of surface materials would allow dog park users to enjoy the benefits of turf while allowing a portion of the park to remain open while turf areas are closed down annually for maintenance.

Based on the input received during Community Workshop #2 and further discussions with staff, Robert Mowat Associates developed a Final Conceptual Master Plan for the dog park at Newark Community Dog Park (attachment) for City Council review and approval. The Conceptual Master Plan includes separated fence-enclosed areas with double-gated entries for both small and large dogs, two social seating platforms in the large dog park, social plazas and shaded seating areas, dog play/agility equipment, perimeter landscaping and other amenities.

**Fiscal Impact** – Based on the layout and amenities reflected in the Final Conceptual Master Plan, Robert Mowat Associates has developed a preliminary cost estimate of \$470,000 for construction of the dog park at Newark Community Park. Two add alternate bid items have also been identified which could possibly bring the total cost to \$504,000. The add alternate bid items include additional shade structures and decorative concrete columns along the perimeter fence.

The Citywide Parks Master Plan included an opinion of probable costs of \$315,648 for a dog park at Newark Community Park. However, it should be noted that the Citywide Parks Master Plan did not account for the addition of buffer landscaping around the perimeter of the dog park, nor did it include such amenities as shade structures, play/agility equipment, or social plazas. It also made the assumption that the surfacing would be comprised entirely of decomposed granite, but did not account for the cost of related stormwater treatment measures necessary to meet State regulatory requirements. For further comparison, the following table separates out the cost for perimeter landscaping and stormwater treatment measures from the Final Conceptual Master Plan.

	Citywide Parks Master Plan	Final Conceptual Master Plan
Perimeter Landscaping	n/a	\$65,600
Stormwater Treatment	n/a	\$13,000
Dog Park	\$315,648	\$391,400
<b>TOTAL</b>	<b>\$315,648</b>	<b>\$470,000</b>

Construction of the dog park at Newark Community Park will be included in the upcoming Fiscal Year 2018-2020 Biennial Budget and Capital Improvement Plan and is anticipated to be funded entirely with Measure WW funds. Measure WW was approved by voters in Alameda and Contra Costa counties in 2008 and makes funds available to cities for high priority community park projects.

### Maintenance Costs

It is estimated that the dog park at Newark Community Park will result in approximately \$20,500 of additional parks maintenance costs per year. In addition, re-sodding the natural grass surface within the dog park could add up to an additional \$25,000 per year in maintenance costs, depending on the frequency at which it is required. An estimated 322 additional hours of maintenance staff time per year would also be required to maintain the dog park.

### **Attachments**

**Action** – It is recommended that the City Council, by resolution approve the Final Conceptual Master Plan for the dog park at Newark Community Park, Project 1109.

## **F.6 Presentation and Overview of the Draft Five-year Forecast 2018-2023 – from Administrative Services Director Woodstock. (PRESENTATION)**

**Background/Discussion** – The Five-Year Forecast 2018-2023 is being submitted to the City Council for review. The Five-Year Forecast is the first of a two document series which make up the budget cycle. The second document is the Biennial Budget and Capital Improvement Plan 2018-2020.

On February 8, 2018, the City Council held a work session with staff to review the current budget and discuss the priorities for the next two year budget cycle. Information discussed at the work session has been incorporated into the Five-year Forecast.

The Five-Year Forecast document is broken into three major sections. These include (1) the Development Forecast, (2) the Economic and Financial Forecast, and (3) the Strategic Plan. The Development Forecast contains an overview of area-wide development trends, analysis of key local indicators and a forecast for new development in Newark. The Economic and Financial Forecast contains an overview of national, state and local economic trends, expenditure and revenue budget projections for the next five years and an overview of significant budget issues. The Strategic Plan section contains an outline of the two-year budget process and a summary of the City's Strategic Plan which include the Critical Issues, Strategies and Action Items.

### **Attachment**

**Action** – No action is required on this item. The adoption of the Five-Year Forecast will be scheduled for a future meeting.

## **G. CITY ATTORNEY REPORTS**

## **H. ECONOMIC DEVELOPMENT CORPORATION**

**I. CITY COUNCIL MATTERS**

- I.1 Reappointing Senior Citizen Standing Advisory Committee members; declaring a vacancy on the Committee and authorizing the City Clerk to post a notice of vacancy – from Mayor Nagy. (RESOLUTION)(MOTION)**

**Background/Discussion** – Members of the Newark Senior Citizen Standing Advisory Committee (Committee) have terms that expire on April 14, 2018. Dolores Powell, Elwood Ballard, Sandra Arellano, and Rick Arellano have each requested a two year reappointment. Faye Hall is not seeking another term.

The City Clerk is seeking authorization to post a notice of the upcoming vacancy.

**Attachment**

**Action** - It is recommended that the City Council, 1) by resolution, reappoint Dolores Powell, Elwood Ballard, Sandra Arellano, and Rick Arellano to the Senior Citizen Standing Advisory Committee; and 2) by motion, declare a vacancy on the Senior Citizen Standing Advisory Committee, and direct the City Clerk to post the notice of vacancy.

**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 March 22, 2018. (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.