



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, April 26, 2018

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the City Council meeting of April 12, 2018. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

- C.1 Presentation by the Farmers and Farmerettes Square Dance Club. (PRESENTATION)**

Background/Discussion – The Farmers and Farmerettes Square Dance Club is a Newark-based group that does exhibition and entertainment square dancing and is also involved with local charities. Don Baker and representatives from the Farmers and Farmerettes will be at the City Council meeting to present a contribution to the Newark Betterment Corporation.

- C.2 Proclaiming May as National Water Safety Month. (PROCLAMATION)**

Background/Discussion – In recognition of the popularity of swimming and other water-related recreational activities, and the resulting need for ongoing public education on safer water practices, the month of May 2017 has been designated as National Water Safety Month.

Recreation and Community Services staff will be at the meeting to accept the proclamation.

- C.3 Proclaiming May 3, 2018, as National Day of Prayer. (PROCLAMATION)**

Background/Discussion – May 3, 2018, has been designated as National Day of Prayer in Newark. Pastor Emeritus Ed Moore will be at the meeting to accept the proclamation.

- C.4 Proclaiming April 2018 as Fair Housing Month in Newark. (PROCLAMATION)**

Background/Discussion – In honor of the 50th anniversary of the passing of the Fair Housing Act, April 2018 has been proclaimed National Fair Housing Month.

Tim Ambrose, president, and Will Doerlich, 2017 past president, representing the Bay East Association of REALTORS®, will accept the proclamation at the meeting.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

- E.1 Hearing to consider property owners' objections to the 2018 Weed Abatement Program and instruction to the Superintendent of Streets to abate the public nuisances - from Deputy Fire Marshal Lee/Maintenance Supervisor Hornbeck. (MOTION)**

Background/Discussion - On March 22, 2018, the City Council adopted Resolution No. 10756 initiating the 2018 Weed Abatement Program and setting a public hearing for April 26, 2018. The annual weed abatement program abates weeds on vacant commercial and industrial properties not maintained by the property owners as directed by the Fire Marshal. Property owners may object in person by attending this hearing or by letter. As of April 19, 2018, no written objections have been received. Several owners have notified staff that they will perform the work themselves. If the weeds on these parcels are not abated in a timely manner, the City's contractor will perform the work in May. This will provide these owners ample time to complete the abatement.

The property owners, as listed on the County Assessor's roll, have been given the required notice of the public hearing date. If objections are received prior to or during the public hearing, the Council should consider the objections; and then, by motion, allow or overrule the objections. The Council may then instruct the Superintendent of Streets to abate the public nuisance on the parcels remaining in the program.

Attachment - None

Action - It is recommended that the City Council, by motion, act upon any objections by property owners to the 2018 Weed Abatement Program, and instruct the Superintendent of Streets to abate the public nuisances.

- E.2 Hearing to consider approval of the NewPark Place Specific Plan and an Addendum to the General Plan Tune Up Draft Program Environmental Impact Report addressing and disclosing the Environmental Impacts of the NewPark Place Specific Plan - from Assistant City Manager Grindall. (RESOLUTIONS-2)**

Project Description - The NewPark Place Specific Plan focuses on revitalizing the Greater NewPark area into a vibrant, active and thriving mixed-use destination. The Specific Plan's Land Use Plan translates this vision into an arrangement of land uses and amenities. The existing NewPark Mall remains the retail focus but residential development up to 1,519 apartment units, hotel development of up to 367 rooms, and up to 500,000 square feet of office development is enabled by the Specific Plan. The Specific Plan includes guidance in the form of plans, policies, development standards, and design guidelines. The Specific Plan covers 115 acres located between Mowry Avenue, Cedar Boulevard, Balentine Drive and Interstate 880. The Specific Plan serves as an extension of the General Plan policies and is both a policy document and a regulatory document. The City Council, Planning Commission, City staff, developers, and the community will use the Specific Plan as a basis to evaluate the merits of individual projects proposed within the Specific Plan boundary.

Background - NewPark Mall opened in 1980 and was, at its height, the key generator of retail sales in Newark and a major sales tax generator for the City. In the past 15 years, regional competition, notably from Union Landing, Fremont Hub, and Pacific Commons, as well as changes in retail shopping trends toward discount stores and online purchases have contributed to a severe decline in sales. Retail sales that were over \$200 Million in 2006 had fallen 35% to \$130 Million by 2012.

In 2013, the City in partnership with mall ownership began the transformation and modernization of the Mall, leading to the AMC Movie Theater, restaurant pavilion, and interior upgrades. This \$100 million dollar investment is showing substantial progress in mall vibrancy. However, retail is evolving and single purpose enclosed malls are continuing to face serious challenges. Fortunately, the mall property owners are ready to invest in evolving to meet the trends. They have approached the City with a vision of reviving the area as a vibrant mixed-use destination that would include restaurants, entertainment and residential uses to complement the retail space. In order to guide this project, the City embarked on a Specific Plan process. The vision behind the Specific Plan is to transform the Greater NewPark Mall into a premier vibrant urban place through thoughtful land use design, which includes modern, inviting pedestrian-oriented streets, generous retail opportunities, dining venues, residential areas, community spaces, enhanced sidewalks, bicycle lanes, and transit facilities. Creating a premier Bay Area and local destination will rejuvenate the regional retail uses within the mall itself and in the surrounding area.

Specific Plan Process - Numerous meetings with property owners were held to develop the Specific Plan vision and land plan which balanced the community vision with market realities. In May of 2017 a Public Workshop with the Planning Commission and City Council was held to review the land plan and development vision. After Council and Commission review, the detailed Specific Plan was prepared. On February 12, 2018 the Draft Plan was provided to the Planning Commissioners and City Council Members and made available on the City's website and social media. On March 1, 2018, a public work session with the Planning Commission and City Council was held to review the detailed Draft Specific Plan. At the March 1st work session the City Council raised some questions and requested

additions and clarifications to the document in response to comments. These changes included:

- A discussion of design guidelines for parking garages was added.
- A recommendation that the housing units should use high quality finishes was included.
- A recommendation that parking technology to indicate vacant space locations was added.
- A discussion of lighting was added.
- The discussion of the parking standards was clarified to make clear that residential parking would meet zoning standards and would be separated from retail parking.
- A discussion of potential options for the provision of affordable housing was included.

Environmental Analysis - An Addendum to the General Plan Tune Up EIR was prepared to provide information regarding: the history of the project; the description of the proposed project; standards for adequacy under the California Environmental Quality Act (CEQA) and State CEQA Guidelines; and a description of the format, content and processing of the Addendum. In December of 2013, the City of Newark certified an Environmental Impact Report (EIR) for the General Plan Update. (State Clearinghouse Number. 2013012052).

The Proposed Specific Plan is an implementation of the General Plan. An Initial Study (IS) was conducted to determine whether the Specific Plan would result in any new or more substantial impacts from those identified in the prior adopted General Plan Tune Up EIR. The Initial Study is attached. Consistent with the General Plan vision for the Greater NewPark Focus Area, the Specific Plan focuses on revitalization of the Greater NewPark area into a vibrant, active and thriving mixed-use destination. The Specific Plan Land Use Plan translates this vision into an arrangement of land uses and amenities. Both Specific Plan, and the existing General Plan, enable up to 1,519 housing units, hotel development of up to 367 rooms, and up to 500,000 square feet of office development. The proposed Specific Plan, because it is consistent with the envisioned development in the approved EIR, would have similar impacts than the approved General Plan Update. It will not introduce new or more significant impacts that were not previously disclosed in the General Plan Update EIR. Based on the conclusions of the Initial Study, an Addendum to the approved EIR is the appropriate CEQA-compliance document for the Specific Plan.

On March 27, 2018, the Newark Planning Commission recommended that the City Council approve the NewPark Place Specific Plan and the Addendum to the General Plan Tune Up EIR addressing the impacts of the NewPark Place Specific Plan. After that meeting, staff met with Rouse Properties and agreed to an addition to the Specific Plan to encourage local hiring and apprenticeship programs. The following paragraph will be added to page 12 of Appendix B: NewPark Place Specific Plan Policies:

Category: Economic and Workforce Development – Measure ED-1, In order to gain further economic development benefits from the Specific Plan, it is suggested that developers make reasonable attempts to: (1) Provide career opportunities for area youth in the construction industry by employing local apprentices enrolled in a California State Certified Apprenticeship Program; (2) To pay area standard wages to construction workers employed on projects enabled by the Specific Plan; and (3) Strive toward a goal of a minimum of 30% of the construction work force from the local Tri- City Region. Developers/Builders will offer to meet with representatives of the Construction Trade Unions, prior to submitting a Specific Project to the City of Newark, to discuss how best to meet these objectives.

Based on the information presented in the staff report and the attached documents, staff believes that the NewPark Place Specific Plan will benefit the City by revitalizing this area and recommends approval of the Addendum to the General Plan Tune Up Draft Program EIR, with the addition of Measure ED-1, and the NewPark Place Specific Plan.

Attachments

Action – It is recommended that the City Council by resolutions: (1) approve an Addendum to the General Plan Tune Up Draft Program Environmental Impact Report addressing and disclosing the Environmental Impacts of the NewPark Place Specific Plan and (2) approve the NewPark Place Specific Plan.

F. CITY MANAGER REPORT

(It is recommended that Item F.1 be acted on unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT

- F.1 Authorizing the replacement of three Automatic License Plate Recognition (ALPR) systems and declaration of Neology as the single source vendor – from Lieutenant Kimbrough. (RESOLUTION)**

Background/Discussion- The 2016-2018 Biennial Budget includes funding for the replacement of three Automatic License Plate Recognition (ALPR) systems. The current ALPR systems are mounted on patrol vehicles and used to locate and identify stolen vehicles and wanted persons utilizing optical characters recognition technology. The average life cycle for this type of equipment is 5-7 years based on its 24/7 use and exposure to the elements. The existing systems were purchased in 2013 and have recently experienced software and camera failures. Staff is recommending that Neology be declared a single source vendor for this purchase.

In accordance with the Single Source Exemption in the City’s Purchasing Ordinance, formal bidding procedures are not required in the event the City Council, by resolution, makes certain findings and declarations that:

1. Formal bids would work in incongruity and would be unavailing in affecting the final results; and
2. Formal bids would not produce any advantage to the City; or,
3. It is practically impossible to obtain what is required through the formal bidding process; or,
4. The product sought or a significant portion thereof is the subject of a patent and cannot be purchased from any source other than the holder of the patent.

The single source exemption is appropriate for this purchase under paragraphs 1 and 2. There is only one vendor that can provide a system compatible with our existing equipment. Since that is the case, it is incongruous, or not appropriate, to require a formal bid for the purchase since only one manufacturer could bid and it would be useless (unavailing), failing to achieve the desired result (i.e. competitive, multiple bids assuring the best use of public funds). Formal bids would not produce any advantage to the City, but would instead result in an extraneous use of public funds to lead to the same result. It is impossible, in a practical sense, to obtain competitive bids through a formal bidding process since only a single manufacturer could meet the City’s needs for replacement of the ALPR systems.

The City has received a proposal from Neology in the amount of \$59,989.06 (including tax) to provide three (3) ALPR systems and full on-site warranty repair for all equipment and software for the next five years. This purchase is on the current equipment replacement list for Fiscal Year 2017-2018; therefore, no additional funding is required.

Action – It is recommended that the City Council, by resolution, authorize the replacement of three Automatic License Plate Recognition (ALPR) systems and declare Neology as the single source vendor.

NONCONSENT

- F.2 Authorizing the Mayor to sign a Contractual Services Agreement with Rhoades Planning Group to conduct the Old Town Specific Plan, Streetscape Design and Project Schematic Design and approval of a budget amendment – from Assistant City Manager Grindall. (RESOLUTION)**

Summary – Staff is proposing to contract for professional services to conduct the Old Town Specific Plan, Streetscape Design, and Project Schematic Design project. This project will develop a Specific Plan to guide the transformation of the Old Town area into a vibrant mixed use area with attractive ground floor retail with residential above. The plan would address unique development challenges of fragmented ownership and

the need to blend with surrounding single family neighborhoods. Specialized development standards to guide development would be identified. Schematic designs for the Old Town Streetscape Improvements would also be included. Streetscape improvements are a key to improving the area and catalyzing development.

Background/Discussion – Old Town is the historic heart of Newark. Its street grid pattern reflects the original design of the Town Plan from 1878. Its land use pattern was already well-established by the time Newark incorporated in 1955. The area includes a diversity of uses, including detached housing units, retail stores, restaurants, service businesses, light industry, public buildings, and churches. Old Town includes important and treasured businesses but much of it is underutilized or vacant.

The core of the Old Town area was rezoned to mixed use on the recommendations of the Infill Housing Study in 2008. However, small lots with disparate ownership have prevented any implementation of the zoning regulation. Old Town Newark was designated as a Priority Development Area by the Association of Bay Area Governments (ABAG) in 2007, enhancing its competitive position for attracting regional transportation dollars for improvements. Several specific properties in Old Town have been identified as Housing Opportunity Sites in the Newark Housing Element. Further consolidation of these properties is encouraged to create more viable development sites. New housing on such sites should enhance the existing mix of units in the area and should include market-rate and affordable units.

This Specific Plan will be project focused with a significant level of architectural detail to demonstrate the feasibility of potential projects. Identified key development sites should include a schematic level design and financial analysis. Regulations will need to be carefully crafted to encourage lot consolidation and to streamline the development process for projects that fulfil the Specific Plan vision while imposing barriers to the development of incompatible development.

Community input from previous planning efforts showed an interest in new development following architectural styles that are common in Old Town, such as Victorian, Craftsman and Mission Revival. This idea is the starting point for the design.

Streetscape improvements could include improved street lighting, new street furnishings such as benches, seating areas, trees, landscaping, and an entrance element. The streetscape improvements would follow a historic theme and help strengthen the definition of the area. Parking and circulation improvements will also be studied. This could include the development of a shared parking lot for use by area businesses, and opportunities to calm traffic on Thornton Avenue. Crosswalks and bike lanes would be included to make the area safer and more inviting for pedestrians and bicyclists.

This planning effort would include significant community outreach, in particular to business owners and property owners in Old Town. There would be public meetings

with the City Council and a public open house to show the draft plan and receive community input.

The key element of this project is to extend beyond traditional planning studies to analyze and advance the actual design of private development as well as to create a design for public improvements that is detailed enough to allow the City to be highly competitive for grant funds to complete the improvements. A robust stakeholder and community input process is also an important element. The detailed work scope and consultant qualifications are attached.

A Request for Qualifications (RFQ) was published seeking a consultant to prepare a Specific Plan and prepare documentation to disclose environmental impacts of the Specific Plan. Nine architectural and planning firms responded, after interviewing the most qualified firms, three firms were invited to submit a proposal to provide these professional services. Rhoades Planning Group was the most responsive and cost competitive proposal.

It is anticipated that the work would begin in May and will require 12 months to complete. The total contract cost is \$351,040. The 2016- 2018 Biennial Budget includes \$160,000 for this effort; a budget amendment would be needed to transfer \$191,040 dollars from unallocated reserves to the project in the Capital Improvement Plan. The City collects a development impact fee, known as the the Community Development Maintenance Fee, to support the updating and implementation of the General Plan and Zoning Ordinance. This project was identified in the General Plan and is eligible for these funds.

Attachment

Action- It is recommended that the City Council, by resolution, authorize the Mayor to sign a Contractual Services Agreement with Rhoades Planning Group, and amending the 2016-2018 Biennial Budget for Fiscal Year 2017-2018.

F.3 Update on the Draft 2018-2020 Capital Improvement Plan with project funding recommendations – from Public Works Director Fajeau.

(INFORMATIONAL)

Background/Discussion – As part of the 2018-2020 Biennial Budget and Capital Improvement Plan preparation, the Public Works Department is coordinating the development of the Capital Improvement Plan (CIP) budget component. The CIP development process commenced in November with a call for projects to all City departments. During the February 22, 2018 City Council meeting, staff provided a summary of the proposed projects submitted, prioritization criteria for project selection, available funding sources, and recommended modifications with respect to ongoing maintenance projects. This informational item is intended to be an overview of staff recommendations for actual project funding in the CIP. The projects have been grouped by funding source.

Gas Tax funded projects. The estimated budget for the City’s various gas tax funds in the 2018-2020 biennial budget period is approximately \$9.12 million. Staff is recommending \$4.71 million for ongoing street pavement, concrete repair, street tree maintenance, and other ongoing street maintenance programs that are funded with outside gas tax resources. The Lindsay Tract Street and Storm Drainage Improvements project is estimated at \$3.5 million. The remaining funds are recommended for street and landscape projects. The total list of projects recommended for funding are as follows:

<u>Project Title</u>	<u>Estimated Cost</u>
Street Asphalt Concrete Overlay Program (2019 and 2020)	\$ 3,000,000
Curb, Gutter and Sidewalk Replacement (2019 and 2020)	\$ 800,000
Street Tree Maintenance (2019 and 2020)	\$ 600,000
Citywide Accessible Pedestrian Ramps (2019 and 2020)	\$ 120,000
Traffic Calming Measures (2019 and 2020)	\$ 100,000
Traffic Signals – LED Lamp/Accessory Replacement (2019 and 2020)	\$ 60,000
Thermoplastic Street Striping (2019 and 2020)	\$ 30,000
Lindsay Tract Street and Storm Drainage Improvements	\$ 3,500,000
Thornton Avenue Pavement Overlay (Federal funding = \$592,000)	\$ 308,000
Citywide Traffic Signal Street Name Signs	\$ 75,000
Mowry Avenue Median Landscaping	\$ 260,000
Cedar Boulevard Landscape Improvements	\$ 120,000
	<u>Total</u> \$ 8,973,000

This project list for gas tax funded projects would total approximately \$8,973,000. This would leave a balance of \$150,000. The Mowry Avenue Backup Wall and Landscape Improvements, which has an estimated cost of \$900,000, was considered, but is not recommended for funding at this time.

Capital Fund projects. The estimated Capital Fund balance for the 2018-2020 Biennial Budget is \$8.2 million. Staff is recommending a variety of building, park and vehicle new purchase projects for funding. This includes a significant investment in the roof and mechanical systems at the Community Center and Annex to ensure preservation of these existing assets. The complete recommended list of projects is as follows:

<u>Project Title</u>	<u>Estimated Cost</u>
Community Center/Annex Roof Replacement	\$ 1,660,000
Community Center Annex HVAC System	\$ 232,000
Community Center HVAC System Overhaul	\$ 800,000
Fire Station No. 27 Cherry Street – Painting	\$ 32,000
Fire Station No. 27 Cherry Street – Roofing	\$ 55,000
Fire Station No. 29 Ruschin Drive – Painting	\$ 23,000
Service Center – Rear Garage Overhang Repairs	\$ 75,000
Service Center Buildings – Painting	\$ 80,000
Silliman Activity Center – Carpet Replacement	\$ 45,000

Virtual History Museum	\$ 60,000
Citywide Work Station Replacement	\$ 20,000
Lakeshore Park Tree Project	\$ 50,000
Mayhews Landing Park and Bridgepoint Park Tree Project	\$ 50,000
Newark Boulevard Overpass Tree Project	\$ 48,000
Lakeshore Park Well Rehabilitation and Pump Replacement	\$ 75,000
Birch Grove Park Tennis Court Resurfacing	\$ 95,000
Jerry Raber Ash Street Park Basketball Court Resurfacing	\$ 40,000
Citywide Trash Capture Devices (Phase 3)	\$ 230,000
Community Development New Vehicle	\$ 25,000
Police Department Captain Vehicle	\$ 48,000
Police Department – Patrol Vehicles (3)	\$ 180,000
Public Works Service Center Vehicles (2)	<u>\$ 68,000</u>
	Total \$ 3,991,000

The total estimated cost for all projects funded with Capital Funds would be \$3,991,000. This would leave a Capital Fund balance of approximately \$4.2 million. The following projects were considered but are not proposed for funding at this time:

<u>Project Title</u>	<u>Estimated Cost</u>
Citywide Bus Shelters	\$ 2,400,000
Fire Station No. 27 Cherry Street – Fencing	\$ 75,000
Fire Station No. 29 Ruschin Drive – Fencing	\$ 65,000
Silliman Activity Center Energy Conservation Measures	\$ 200,000

Park Impact Fees. The estimated fund balance for Park Impact Fees beginning July 1, 2018 is approximately \$5.7M. The following park improvement projects which were identified in the Citywide Parks Master Plan as high-priority projects, are recommended for funding:

<u>Project Title</u>	<u>Estimated Cost</u>
Skate Park at Sportsfield Park - Phase 2 (Construction)	\$ 1,141,000
Sportsfield Park All-Weather Turf Fields, etc. – Phase 2 (Construction)	<u>\$ 4,791,000</u>
	Total \$ 5,932,000

The total cost for these two identified high-priority projects is slightly above the projected fund balance. This can be resolved with additional Park Impact Fee revenue that is anticipated to be received during the 2018-2019 Fiscal Year in advance of project construction, or supplemented with unallocated Capital Funds.

The Dog Park at Newark Community Park is currently under design and is anticipated to be funded entirely with Measure WW Grant Program Funds through the East Bay Regional Park District. The following park projects were in consideration in the approved Citywide Parks Master Plan but are recommended for funding at this time:

Project Title	Estimated Cost
Cedar Boulevard Linear Park 2	\$ 850,000
Civic Center Park Restroom	\$ 300,000
Community Park Updated Restroom	\$ 321,000
Dog Park at Birch Grove Park – Phase 2 (Construction)	\$ 505,000
Jerry Raber Ash Street Park Sport Facilities Improvements	\$ 96,000
Shirley Sisk Gove Improvements	\$ 2,079,000

The following large-scale projects, while listed in the CIP, are anticipated to be funded with alternative sources and will not impact Capital Fund resources:

<u>Project Title (with funding source)</u>	<u>Estimated Cost</u>
Central Avenue Railroad Overpass (Measure B, Measure BB)	\$ 29.3M
New Civic Center (Measure GG)	\$ 74.0M
Bayside TOD Transit Station and Overcrossing, Design (Impact Fees)	\$ 0.7M
Bayside TOD Transit Station and Overcrossing, Construction (Measure BB)	\$ 11.5M

A work session to present the draft Capital Improvement Plan as part of the overall 2018-2010 Biennial Budget document is scheduled for May 24, 2018.

Attachment - None

Action – This item is informational only.

F.4 Consider opposing a potential State Ballot Measure known as the Tax Fairness, Transparency, and Accountability Act of 2018 – City Manager Becker. (RESOLUTION)

Background/Discussion – The Tax Fairness, Transparency, and Accountability Act of 2018 (Initiative) is currently under circulation for signatures and may be considered as a State ballot measure at the November election. The Initiative would change how state and local governments impose taxes, fees, and other charges. If approved, the Initiative would be applied retroactively to January 1, 2018 and may void any local measures that do not meet the new regulation.

The Initiative is sponsored by the California Business Roundtable (CBRT), an organization that claims membership from some of the state’s largest companies including: Wells Fargo, KB Homes, 7-11, Albertsons, and others. Since January 1, 2018, the CBRT has received over \$4 million in contributions towards this effort. The American Beverage Association Political Action Committee has been a top contributor.

Currently, there must be a two-thirds vote of the City Council to place a tax initiative on the ballot. General taxes, which is any tax levied by a local government for any purpose requires a majority vote of the electorate. Special taxes, which is any tax levied by a local government for a specified purpose, requires a two-thirds vote of the electorate. Fee increases, generally may be approved by a majority of the City Council and do not require

voter approval. (Exceptions include Proposition 218 property related fees which require voter approval.)

This Initiative broadens the definition of what taxes and fees would require approval by a two-thirds supermajority vote of the City Council for new revenue measures. It would also require two-thirds approval of the electorate to raise new taxes or of the City Council to raise new fees.

Key elements of the Initiative regarding taxes include:

- Requiring two-thirds approval of the City Council before a tax can be placed on the ballot;
- Eliminating local authority to impose a tax for general purposes by majority vote;
- Expanding the definition of a tax to include payments voluntarily made in exchange for a benefit received, which may include local franchise fees;
- Prohibiting any tax to be placed on the ballot unless it either specifically identifies by binding and enforceable limitation how it can be spent, with any change requiring re-approval by the electorate, or states in a separate stand-alone segment of the ballot that the tax revenue is intended for “unrestricted revenue purposes”;
- Requiring tax measures to be consolidated with the regularly scheduled general election for members of the City Council, unless an emergency is declared by a unanimous vote of the City Council.

Key elements of the Initiative restricting the ability of the City to impose fees or charges, other than those subject to Proposition 218, by:

- Prohibiting a fee or charge from being imposed, increased or extended unless approved by two-thirds vote of the City Council;
- Requiring a fee or charge proposed by initiative to be subject to a two-thirds vote of the electorate.
- Narrows the legal threshold from “reasonable” to “actual” costs for fees applied to local services, permits, licenses, etc. The measure authorizes new avenues to challenge “actual” costs by enabling a payor to also second-guess in court whether they are “reasonable.” Opens up further litigation and debate by replacing the existing standard that fees and charges bear a “fair and reasonable relationship to the payors burdens and benefits” with a more rigorous “proportional to the costs created by the payor” standard.
- Increases the legal burden of proof for the City from “preponderance of evidence” (more likely than not) to “clear and convincing evidence” (high probability) to establish that a levy, charge or other exaction is: (1) not a tax, (2) the amount is no more than necessary to cover the actual costs, and (3) the revenue is not being used for other than its stated purpose.

The League of California Cities opposes this Initiative and is requesting cities to adopt resolutions in opposition of the Initiative. There would be significant negative fiscal impact on the City because of increased restrictions on opportunities to raise revenue. The Initiative would also add significant complexity to the City’s process for implementing fees.

Attachment

Action - It is recommended that the City Council, by resolution, oppose The Tax Fairness, Transparency, and Accountability Act of 2018.

G. CITY ATTORNEY REPORTS

G.1 Claim of James Ferris – from City Clerk Harrington. (MOTION)

Background/Discussion – On March 22, 2018, the City received a claim from James Ferris in the amount of \$3,000.00 alleging damage to property as a result of police action.

The claim and all relevant information were forwarded to Bickmore Risk Services, the City's insurance administrator, who recommends that it be denied.

Attachment – None

Action - It is recommended that the City Council, by motion, deny the claim and authorize staff to inform the claimant of such denial.

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

I.1 Appointment to the Senior Citizen Standing Advisory Committee – from Mayor Nagy. (RESOLUTION)

Background/Discussion –Faye Hall recently stepped down from the Newark Senior Citizen Standing Advisory Committee (Committee). Mayor Nagy will be recommending the appointment of Stanley Keiser to a two year term on the Committee.

Attachment

Action - It is recommended that the City Council, by resolution, appoint Stanley Keiser to a two year term on the Senior Citizen Standing Advisory Committee.

I.2 Consideration of City Council's summer meeting recess during the month of August 2018 – from Mayor Nagy. (MOTION)(RESOLUTION)

Background/Discussion – Since 1994 the City Council has approved a summer meeting recess during the month of August. Mayor Nagy would like the City Council to consider a summer recess again this year during August.

The City Council may authorize the City Manager, or his designee, to approve any administrative matters that might occur during the month of August that cannot be deferred until September for City Council action. The general types of administrative matters that might require action are:

Acceptance of completion of work on City projects
 Approval of agreements as needed for budgeted projects and services
 Approval of plans and specifications
 Award of contracts for budget projects
 Denial of claims

The City Manager would report all such actions taken during the month of August to the City Council at the first regular meeting in September.

Attachment

Action - It is recommended that the City Council, by motion, approve a City Council summer meeting recess during the month of August 2018 and, by resolution, authorize the City Manager, or his designee, to take action on certain administrative matters on behalf of the City of Newark during the recess.

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 April 26, 2018. (MOTION)

M. CLOSED SESSION

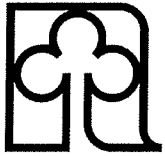
**M.1 Conference with Legal Counsel – Anticipated Litigation
 Government Code Section 54956.9(d)(4) (Initiation of Litigation)
 Number of Potential Cases: 1**

Background/Discussion – The City Attorney has requested that the City Council convene in closed session pursuant to Government Code Section 54956.9(d)(4).

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.



CITY OF NEWARK CITY COUNCIL

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

AGENDA

Thursday, April 26, 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. 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.