



# CITY OF NEWARK CITY COUNCIL

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

## AGENDA

Thursday, February 22, 2018

**A. ROLL CALL**

**B. MINUTES**

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

**C. PRESENTATIONS AND PROCLAMATIONS**

- C.1 Commending K9 Eliot on his retirement. (COMMENDATION)**

**Background/Discussion** – Eliot is a German Shephard who has served in the Police Department’s K9 Unit for over seven years. Eliot and his canine handler, Officer Britain Jackman, will be at the meeting to accept a commendation for Eliot’s retirement.

**D. WRITTEN COMMUNICATIONS**

- D.1 JS-18-1, a Joint Staff Committee Review, to construct a duplex at 37136 Magnolia Street (APN: 92-61-15) – from Associate Planner Mangalam. (REVIEW OPTIONAL)**

**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. A duplex is a permitted use in the Medium Residential District. Per Section 17.16.200 of Newark Municipal Code, in the Medium Density Residential Districts, all new buildings shall be reviewed by a Joint Staff Committee comprised of the Community Development Director, the Public Works Director, and the Fire Chief or their designated alternatives.

The applicant proposes to build a duplex with one unit on the ground floor and the other unit on the second floor. Each unit consists of a living room, dining room, kitchen, and four bedrooms. The City’s off-street parking requirement 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 proposed duplex meets all of the zoning requirements of the Newark Municipal Code including a maximum coverage of 35% site area, minimum usable open space of 400 square feet/unit, and a minimum landscaping requirement of 25% site area etc.

The appearance of the proposed two-story building as a duplex is minimized by 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 materials consist 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 add six new trees, three in the front yard and three in the rear yard.

#### **Environmental**

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”.

**Update** – At its February 13, 2018 meeting, the Planning Commission, did not call this item up for review.

**Action** – City Council review of this item is optional.

## **E. PUBLIC HEARINGS**

### **E.1 Hearing to consider amendments to the Fiscal Year 2017-2018 Master Fee Schedule to add new Waiver, Minor Use, and Sign Permit Fees – from Deputy Community Development Director Interiano. (RESOLUTION)**

**Background/Discussion** – The City's Master Fee Schedule (MFS) is reviewed annually using an analysis of both direct and indirect costs for the delivery of certain City programs and services. New fees for services have been identified since the last review and are being proposed to add to the existing MFS.

New fees for services associated with the new zoning regulations adopted on January 25, 2018 by the City Council are being proposed. The fee changes are needed to recoup the cost of staff time while not overburdening the general public. The fees will be double if there are existing sanctions on the property.

These additions would be to the Development Enterprise Fund, Section D, as follows:

020-0000	3610	Waiver Fee	\$100 (\$200 w/sanctions)
020-0000	3610	Minor Use Permit	\$100 (\$200 w/sanctions)
020-0000	3610	Sign Permit	\$25 (\$50 w/sanctions)

**Attachments**

**Action** – It is recommended that the City Council, by resolution, amend the 2017-2018 Master Fee Schedule to add new Waiver, Minor Use Permit, and Sign Permit fees.

**F. CITY MANAGER REPORT**

**(It is recommended that Items F.1 through F.8 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 Authorization for the City Manager to sign a Bill of Sale for the sale of retired Police Service Canine Eliot - from Police Chief Carroll. (RESOLUTION)**

**Background/Discussion** – Eliot is an eight and a half year old Police Service Canine who has served in the City of Newark’s K9 program for over seven years, which is two years beyond the minimum term for this assignment. Per Newark Police Department Policy #318 – Police Service Dog Program, “Police service canines which become unsuitable for police service work due to age or physical disability shall be retired from active duty. Upon retirement of a police service canine, the current handler of the canine will receive an option to purchase the canine from the City of Newark for a nominal amount (\$1.00).”

A request dated January 25, 2018 from K9 Officer Britain Jackman states that he wishes to purchase Police Service Canine Eliot from the City of Newark. The Police Department recommends the sale of Eliot to Officer Jackman for the amount of \$1.00. A Bill of Sale and sales receipt have been prepared for this transaction. The Bill of Sale states that the title of the canine will be given to Officer Jackman, who will be solely responsible for all expenses and any liability that may be accrued from the date and time of sale stated in the agreement.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, authorize the City Manager to sign a Bill of Sale for the sale of retired Police Service Canine Eliot.

**F.2 Approval to add two Child Care Instructor positions by amending the 2016-2018 Biennial Budget – from Recreation and Community Services Director Zehnder and Human Resources Director Abe. (RESOLUTION)**

**Background/Discussion** – The City of Newark State Licensed Child Care program, held at the Newark Community Center Annex building, is a year-round comprehensive preschool curriculum program for children ages 3-5 years. The program is licensed to accept up to 48 children so long as a teacher to student ratio of 1:12 is maintained. Current staffing includes: 1 full-time Child Care Lead Instructor, 2 full-time Child Care Instructors and 2 PST PERS Preschool Instructors. The program operates 11 hours per day, 5 days per week exclusive of City holidays.

In 2013, as a cost-savings measure, 2 full-time Child Care Instructor positions were converted to 2 PST PERS Preschool Instructors. This was followed by the retirement of the long-time Child Care Supervisor position which was not back-filled. These staffing reductions initially saved the City funds. As the program enrollment steadily increased, maintaining proper teacher to student ratios became increasingly difficult. Due to regularly scheduled staff vacations and unplanned sick days, we are relying more and more on a combination of PST and administrative staff, including a Senior Recreation Supervisor, in order to stay in compliance with State Licensing requirements.

For Fiscal Year 2017-2018, staffing challenges continue to affect our ability to maintain enrollment at previous levels. During fiscal year 2016-2017, weekly average enrollment was 43. Halfway through this fiscal year, weekly average enrollment is 36. This is mainly due to an extended absence of one PST PERS Preschool Instructor who was on medical leave from August 30 – October 30. In order to remain within State Licensing requirements, we were forced to turn away students, thus significantly reducing program revenue.

The net cost to add these two positions for the remainder of Fiscal Year 2017-2018 is approximately \$25,000 (new full time position salaries less current PST salaries). For Fiscal Year 2018-2019, the net cost is approximately \$87,000. Staff projects that approximately half the cost of adding these positions will be offset by an anticipated July 1, 2018 fee increase and our ability to consistently maximize student enrollment.

#### **Attachment**

**Action** - It is recommended that the City Council approve by resolution: amend the 2016-2018 Biennial Budget to add two Child Care Instructor positions.

### **F.3 Approval of the allocation of anticipated Community Development Block Grant (CDBG) Jurisdiction Improvement Project funds for fiscal year 2018-19 – from Associate Planner Sofia Mangalam. (MOTION)**

**Background/Discussion** – The City of Newark’s anticipated allotment of Community Development Block Grant (CDBG) funds for fiscal year 2018-19 is still unknown. However, in order to meet the deadlines for approval by the U.S. Department of Housing and Urban Development (HUD), Newark needs to allocate the funds at this time.

Therefore, we are using an estimate of \$165,509 for planning purposes. This estimate is based on the last year funding amount. Actual funding could be greater or smaller than this amount. Newark's CDBG funds are allocated by formula into three primary categories – General Administration (\$7,800), Housing Rehabilitation (\$40,459) and Jurisdiction Improvement Projects (\$117,250).

The General Administration funds are used to reimburse the City for the expense of administering the CDBG funds. The Housing Rehabilitation funds are dedicated to two county-run programs that assist qualified homeowners with repairs to their homes (the Minor Home Repair Program and the Owner Rehabilitation Program). The Jurisdiction Improvement Project funds are available to the City for qualifying projects.

The Community Development Advisory Committee (CDAC) met on January 25, 2018 to review the status of CDBG projects and to determine the recommended allocation of Jurisdiction Improvement funds for fiscal year 2018-19. At that meeting, the CDAC voted unanimously to recommend that the City Council allocate \$117,250 to the Citywide ADA Compliance Improvements. This project would address ADA compliance needs at City-owned parks, facilities, and parking lots as identified in the City's Disabled Access Transition Plan. The scope of work could include ADA parking accessibility, pathway and sidewalk repairs, curb ramp installations and upgrades, and other exterior surface improvements. These improvements would provide accessibility benefits for the entire community.

**Action** - It is recommended that the City Council, by motion, approve the allocation of anticipated CDBG Jurisdiction Improvement Project funds of estimated \$117,250 for fiscal year 2018-19 to the Citywide ADA Compliance Improvements.

**F.4 Acceptance of work with Rosas Brothers Construction for 2017 Curb, Gutter, and Sidewalk Replacement, Project 1143 – from Senior Civil Engineer Tran. (RESOLUTION)**

**Background/Discussion** – On May 11, 2017, the City of Newark awarded a contract to Rosas Brothers Construction for 2017 Curb, Gutter, and Sidewalk Replacement, Project 1143 with the options to renew annually for up to three additional years. The project provided replacement of damaged sidewalk, curb and gutter, and other concrete repairs at various locations located throughout the City. In addition, the project upgraded curb ramps to meet current ADA standards along those streets included in last year's asphalt concrete overlay project.

This project was completed on time and within the original budget using a combination of Alameda County Measure B/BB Sales Tax funds, Vehicle Registration Fee funds, and the Traffic Congestion Relief Fund.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, accept the work with Rosas Brothers Construction for 2017 Curb, Gutter, and Sidewalk Replacement, Project 1143.

**F.5 Acceptance of work with G. Bortolotto & Company, Inc. for Enterprise Drive Complete Streets and Road Diet, Project 1066 – from Senior Civil Engineer Cangco. (RESOLUTION)**

**Background/Discussion** – On June 22, 2017, the City Council awarded a contract to G. Bortolotto & Company, Inc. for Enterprise Drive Complete Streets and Road Diet, Project 1066. The project rehabilitated Enterprise Drive between Filbert Street and Wells Avenue and added Class II bike lanes in each direction.

The project was completed on time and within budget using gas tax, Traffic Congestion Relief Fund, and an approved federal grant.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, accept the work with G. Bortolotto & Company, Inc. for Enterprise Drive Complete Streets and Road Diet, Project 1066.

**F.6 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8311 – Phase III Bayshores (William Lyon Homes, Inc.), an 82-unit residential subdivision at the intersection of Willow Street and Central Avenue in the Dumbarton Transit-Oriented Development Specific Plan project area – from Senior Civil Engineer Cangco. (RESOLUTION)**

**Background/Discussion** – On November 29, 2012, the City Council approved Vesting Tentative Tract Map 8085 for a 553-unit residential subdivision at 37555 Willow Street, generally located on the west side of Willow Street near Central Avenue. The Vesting Tentative Tract Map was subsequently amended on February 28, 2013 by the City Council for a 547-unit residential subdivision. On April 28, 2016, the first phase of the project was approved by the City Council. The second phase, Tract 8310, was later approved by City Council on May 25, 2017. This project, Tract 8311, is the third and final phase of the development for an 82-unit subdivision. The developer, William Lyon Homes, Inc., has submitted the required fees, bonds, and other documents for approval of the Final Map for Tract 8311.

The Final Map dedicates additional public street right-of-way for Central Avenue. The developer has executed a Subdivision Improvement Agreement and has posted a Performance Bond in the amount of \$4,658,000 and a Materials Bond in the amount of \$2,329,000. The bonds will guarantee construction of the new public street, private streets internal to the subdivision, and public improvements on Willow Street and Hickory Street.

The Final Map for Tract 8311 has been reviewed and found to be in conformance with Vesting Tentative Tract Map 8085 and the Conditions of Approval, and is now ready for City Council approval. Recording of the Final Map and issuance of subsequent permits and approvals for construction activity will be at the discretion of the City Engineer.

The estimated annual maintenance of the street improvements associated with Tract 8311 is \$13,500 for street sweeping and pavement maintenance. The street lights and

landscaping along Central Avenue and Hickory Street will be maintained by Landscaping and Lighting District No. 19 and the homeowners association.

**Attachment**

**Action** – It is recommended that the City Council, by resolution, approve the Final Map and Subdivision Improvement Agreement for Tract 8311 – Phase III Bayshores (William Lyon Homes, Inc.), an 82-unit residential subdivision at the intersection of Willow Street and Central Avenue in the Dumbarton Transit-Oriented Development Specific Plan project area.

**F.7 Acceptance of public improvements for Tract 8028 (Casa Bella), a 14-unit residential townhome-style subdivision at 6249 Thornton Avenue, west of Newark Boulevard – from Public Works Director Fajeau. (RESOLUTION)**

**Background/Discussion** – Public improvements have been completed for Tract 8028 (Casa Bella), a 14-unit residential townhome-style subdivision located on the north side of Thornton Avenue, approximately 570 feet west of Newark Boulevard. The public improvements were limited to placement of new driveways, sidewalk removal and replacement, utility connections, and frontage landscaping on Thornton Avenue. On-site improvements for the common benefit of all homeowners will be owned and maintained by the Casa Bella Newark Homeowners Association.

**Attachment**

**Action** – It is recommended that the City Council, by resolution, accept the public improvements for Tract 8028 (Casa Bella), a 14-unit residential townhome-style subdivision located on the north side of Thornton Avenue, approximately 570 feet west of Newark Boulevard.

**F.8 Authorization for the purchase of a replacement light control board for the Silliman Family Aquatic Center, and declaration of Syserco, Inc., as the single source vendor – from Maintenance Supervisor Connolly. (RESOLUTION)**

**Background/Discussion-** The 2016-2018 Biennial Budget and Capital Improvement Plan includes funding in Fiscal Year 2017-2018 for the replacement of a light control board at the Silliman Family Aquatic Center. The existing light control board no longer functions properly and has reached the end of its useful life. The light control board is used to program lighting at the Silliman Family Aquatic Center via Alerton, which is a proprietary energy management system serviced solely by Syserco, Inc. The purchase of a replacement light control board to match the existing board is necessary to avoid significant and costly modifications to the existing backbone energy management system and associated infrastructure. Staff is recommending that Syserco, Inc., 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 recommended purchase under paragraphs 1., 2., 3., and 4. There is only one manufacturer to provide a suitable replacement light control board. 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 light control board.

#### **Attachment**

**Action** – It is recommended that the City Council, by resolution, authorize the purchase of a replacement light control board for the Silliman Family Aquatic Center and declare Syserco, Inc., as a single source vendor.

## **NONCONSENT**

### **F.9 Overview of the 2018-2020 Capital Improvement Plan – 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. Projects have been submitted and have been reviewed by staff. This informational item is intended to provide a summary of the proposed projects submitted, prioritization criteria for project selection, available funding sources, and recommended modifications in approach to CIP with respect to ongoing maintenance projects.



The general purpose of the CIP for each Biennial Budget is to identify and prioritize capital improvement projects for potential funding. Projects can include streets, park, and building construction as well as specific maintenance projects for existing infrastructure. Feasibility studies and master plans to help identify and quantify future projects are typically included in the CIP. Major acquisitions of new equipment that would fall outside of a department's operating budget can also be included. In general, any project as defined above with an expenditure of \$5,000 or more is included in the CIP.

During the previous 2016-2018 CIP review process, the City Council approved modifications to the City's approach to project selection methodology. In addition to ensuring that projects satisfy at least one of the five critical issues from the City's Strategic Plan, projects are now categorized into three priority levels, as follows:

Priority Level 1 (Mandatory): Projects that meet a federal, State, or local legal or regulatory requirement, satisfy a critical risk management issue to ensure citizen safety, or serve to preserve and protect the City's existing assets and public infrastructure.

Priority Level 2 (Necessary): Projects that are considered necessary but not mandatory as they would not clearly address a critical legal, safety, or asset-protection need. Projects at this level could be funded by a consensus priority opinion of the City Council for the benefit of the community. This can also include projects that would provide a local funding matching for outside funding sources, provide a definitive service level increase, or would complete the final phase of a multi-phased project. Feasibility studies and Master Plans are also categorized as Priority Level 2.

Priority Level 3 (Desirable): All other projects that do not satisfy Level 1 or Level 2 criteria.

For the past five budget cycles, many ongoing general maintenance needs were funded through the CIP as projects in order to minimize impacts on the operating budget. This included projects such as "Citywide Building Roof Repairs," "Citywide Playground Surfacing," and "Citywide Street Signs." These and many other similar general maintenance projects did not have a specific scope of work identified, but were essentially placeholders to ensure that there was a minimum amount of funding to maintain the City's infrastructure. Funding was commonly saved over a period of two years or more in a given project category to address maintenance needs as those needs developed. Over time, this became cumbersome in terms of the number of project listings. Given the improved economy and overall budget conditions, staff is now recommending that the Maintenance Division operating budget be increased to accommodate most of these general maintenance needs. Street pavement maintenance, sidewalk repair, and street tree maintenance will remain in the CIP. Other maintenance projects included in the CIP will now have an identified scope of work to address a specific street, building, or park need. This change was initially presented at

the February 8<sup>th</sup> Study Session to review the Operating Section of the 2018-2020 Biennial Budget.

In terms of funding, staff is currently projecting an unallocated fund balance of \$8,200,000 in the Capital Fund for new projects. These are Capital Funds not associated with an impact fee that can be used for any type of project. Gas Tax funds, which are a combination of local transportation sales tax measures and fees (Measure B, Measure BB, Vehicle Registration Fee), State Highway Users Tax Accounts (HUTA) and the addition of the Road Maintenance and Rehabilitation Act (RMRA, also known as SB-1) funding, will result in projected annual revenue of \$3,314,000 for the 2018-2019 fiscal year. Gas Tax funding must be used within the public right-of-way for transportation related improvements and maintenance. The City also has a current fund balance of approximately \$5,200,000 for Park Impact Fees.

The 2018-2020 CIP will feature two major projects, the New Civic Center and the construction phase of the Central Avenue railroad overpass, as well as high-priority projects emerging from the Citywide Parks Master Plan. In addition, there are numerous streets, buildings, and parks projects as well as vehicle purchases for the City Council to consider. A complete list of project submissions will be provided as an informational item at the meeting.

A “first cut” review of proposed CIP projects will be completed by the Executive Team in early March. A formal review of the Draft CIP, including recommended project rankings, is scheduled to be presented to the City Council during the April 12 meeting.

**Action** – This item is informational only.

**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 February 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.