

CITY OF NEWARK CITY COUNCIL

Various locations, Newark, CA 94560-3796 • 510-578-4266 • E-mail: city.clerk@newark.org

**Various Virtual
Teleconference Locations
7:30 p.m.**

AGENDA

Thursday, June 25, 2020

THIS IS A MEETING BY TELECONFERENCE ONLY. THE CITY COUNCIL CHAMBERS WILL NOT BE OPEN. REFER TO THE END OF THE AGENDA TO REVIEW OPTIONS FOR PARTICIPATING IN THE MEETING REMOTELY OR TO SUBMIT PUBLIC COMMENTS VIA EMAIL.

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the City Council meetings of June 11 and June 16, 2020. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

Background/Discussion – Dispatcher Justine Maes and Police Officers Kailey Peterson and John Kapu will be introduced at the City Council meeting.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

- E.1 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 1 – from Public Works Director Fajeau. (RESOLUTION)**

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 1. This district includes properties which abut Central Avenue between Filbert Street and Willow Street and provides for the maintenance of median landscaping on Central Avenue between Filbert Street and Willow Street, and buffer landscaping adjacent to the Alameda County flood control channel immediately west of Filbert Street. Maintenance and operation of median street lights along this portion of Central Avenue are also included in this district.

An annual public hearing is necessary to levy assessments to provide funds for this district. The total assessment for the district as provided in the approved Engineer's Report is approximately \$41,660 for the 2020-2021 fiscal year.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 1 for the 2020-2021 fiscal year.

E.2 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 2 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 2. This district provides for the maintenance of median and in-tract buffer landscaping on Jarvis Avenue adjacent to and within the boundaries of Tract 5232, Dumbarton Technology Park, on Jarvis Avenue at Lido Boulevard, as well as the Newark Boulevard medians fronting the Sprout's and Safeway shopping centers.

An annual public hearing is necessary levy assessments to provide funds for this district. The total assessment for this district as provided in the approved Engineer's Report is approximately \$26,658 for the 2020-2021 fiscal year.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 2 for the 2020-2021 fiscal year.

E.3 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 4 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 4. This district provides for the maintenance of Stevenson Boulevard median island landscaping from the Nimitz Freeway to the railroad tracks west of Cherry Street and maintenance of median islands and up to 50 feet of greenbelt landscaping adjacent to Cherry Street and the interior loop streets within the

boundaries of Stevenson Point Technology Park, the maintenance of landscaping across the Newark Unified School District property on Cherry Street, and the street lighting maintenance, trash capture device maintenance , and neighborhood park maintenance of Zone 2 - Sanctuary.

An annual public hearing is necessary to levy assessments to provide funds for this district. The total assessment for this district as provided in the Engineer's Report is approximately \$112,112 for the 2020-2021 fiscal year.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 4 for the 2020-2021 fiscal year.

E.4 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 6 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 6. This district provides for the maintenance of median and greenbelt landscaping and the irrigation systems in the area formerly known as Redevelopment Area No. 2. The area is the property generally bounded by Balentine Drive, Cedar Boulevard, Stevenson Boulevard, and the Nimitz Freeway.

This district is currently inactive. All property owners in this district will receive a “zero” assessment for 2020-2021 as identified in the previously approved Engineer's Report.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 6 for the 2020-2021 fiscal year.

E.5 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 7 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District

No. 7. This district provides for the maintenance of Rosemont Square Shopping Center buffer landscaping and the landscape irrigation system within the public right-of-way and easement areas on Jarvis Avenue, Newark Boulevard, and Cedar Boulevard.

An annual public hearing is necessary to levy assessments to provide funds for this district. The total assessment for this district as provided in the Engineer's Report is approximately \$25,575 for the 2020-2021 fiscal year.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 7 for the 2020-2021 fiscal year.

E.6 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 13 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 13. This district provides for the maintenance of landscaping within portions of the Citation Homes and Bren developments located on Thornton Avenue near Willow Street.

Since this district performs its own maintenance of frontage landscaping, all property owners in this district will receive a "zero" assessment for fiscal year 2020-2021.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 13 for the 2020-2021 fiscal year.

E.7 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 15 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District

No. 15. This district provides for the maintenance of landscaping along Robertson Avenue at Iris Court.

An annual public hearing is necessary to levy assessments to provide funds for this district. The total assessment for this district as provided in the approved Engineer's Report is approximately \$5,046 for the 2020-2021 fiscal year. The assessment per property is approximately \$174.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 15 for the 2020-2021 fiscal year.

E.8 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 16 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 16. This district provides for the maintenance of landscaping for Tract 6671 on Jarvis Avenue at Kiote Drive.

An annual public hearing is necessary to levy assessments to provide funds for this district. The total assessment for this district as provided in the Engineer's Report is approximately \$19,903 for the 2020-2021 fiscal year. The assessment per property is approximately \$210.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 16 for the 2020-2021 fiscal year.

E.9 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 17 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 17. This district provides for the maintenance of landscaping for Tract 7004 on Newark Boulevard and Mayhews Landing Road.

An annual public hearing is necessary to levy assessments to provide funds for this district. The total assessment for this district as provided in the approved Engineer's Report is approximately \$6,204 for the 2020-2021 fiscal year. The assessment per property is approximately \$188.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 17 for the 2020-2021 fiscal year.

E.10 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 18 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 18. This district provides for the maintenance of landscaping in the medians in front of Tract 8130 on Cedar Boulevard between Central Avenue and Smith Avenue.

An annual public hearing is necessary to levy assessments to provide funds for this district. The total assessment for this district as provided in the approved Engineer's Report is approximately \$10,938 for the 2020-2021 fiscal year. The assessment per dwelling unit is approximately \$67.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 18 for the 2020-2021 fiscal year.

E.11 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 19 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 19. This district provides for the maintenance of landscaping and street lighting in the medians, traffic circles and planter areas on Willow Street, Central Avenue, Enterprise Drive, Seawind Way and other public streets, and the

maintenance of other public improvements within the Bayside Newark Transit Oriented Development area for Tracts 8085, 8098, 8099 and 8157.

An annual public hearing is necessary to levy assessments to provide funds for this district. The total assessment for this district as provided in the approved Engineer's Report is approximately \$108,652 for the 2020-2021 fiscal year.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 19 for the 2020-2021 fiscal year.

E.12 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 10 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer's Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District No. 10. This district is a consolidated district which includes miscellaneous developments at several locations. These locations and the work involved are as follows:

- 10a. The maintenance of Jarvis Avenue and Lido Boulevard median-island and street landscaping, and lighting adjacent to the boundaries of Tract 5318, Lexington Square.
- 10b. Maintenance of landscaping and the landscape irrigation system within easement areas adjacent to the public right-of-way on the north side of Central Avenue between the Nimitz Freeway and Timber Street.
- 10c. Maintenance of landscaping and the landscape irrigation system within easement areas adjacent to the public right-of-way on Morton Avenue for Geomax.
- 10d. Maintenance of landscaping and the landscape irrigation system within easement areas adjacent to the public right-of-way on Enterprise Court and Enterprise Drive for Parcel 1 of Tentative Parcel Map 5109.
- 10e. Maintenance of landscaping and the landscape irrigation system adjacent to Cedar Boulevard south of Mowry Avenue for Jiffy Lube.
- 10f. Maintenance of landscaping and the landscape irrigation system for the apartment complex at the intersection of Rich Avenue and Magnolia Street.

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- 10g. Maintenance of landscaping and the landscape irrigation system within easement areas on Smith Avenue and Cedar Boulevard for the Cedar Boulevard Neighborhood Church.
 - 10h. Maintenance of landscaping and the landscape irrigation system within easement areas for the parcel adjacent to Eucalyptus Grove Park.
 - 10i. Maintenance of landscaping and the landscape irrigation system within easement areas and the public right-of-way on Cherry Street for Thoro Systems.
 - 10j. Maintenance of landscaping and the landscape irrigation system within the public right-of-way and easement areas for the King & Lyons development at Thornton Avenue and Willow Street.
 - 10k. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Central Avenue for Bay Mirror.
 - 10l. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and easement areas on Cedar Boulevard near Moores Avenue for Empire Tractor.
 - 10m. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Mowry Avenue for the property at the northeast corner of Mowry Avenue and Cedar Boulevard.
 - 10n. The maintenance of street lighting within the public right-of-way and landscaping and the landscape irrigation system within the public right-of-way and easement areas adjacent to the public right-of-way on Cedar Boulevard and Balentine Drive for TJ Maxx.
 - 10o. The maintenance of street lighting within the public right-of-way and landscaping and the landscape irrigation system within the public right-of-way and the easement areas adjacent to the public right-of-way on Newark Boulevard and Cedar Boulevard for Lido Faire Shopping Center.
 - 10p. The maintenance of street lighting within the public right-of-way and landscaping and the landscape irrigation system within the public right-of-way on Sycamore Street for B.K. Mills.
 - 10q. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Magnolia Street for the Moose Lodge.

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- 10r. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Central Avenue at the Southern Pacific railroad right-of-way for Leslie Salt Company.
 - 10s. The maintenance of landscaping and the landscape irrigation system within landscape easement areas on Cedar Boulevard at Central Avenue for Parcel 1 of Parcel Map 4073.
 - 10t. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cedar Boulevard north of Lake Boulevard for Lot 5 of Tract 5361.
 - 10u. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Magnolia Street south of Graham Avenue for Parcel 1 of Parcel Map 6178.
 - 10v. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Smith Avenue west of Cherry Street for Parcel 4 of Parcel Map 1425.
 - 10w. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cedar Boulevard and Mowry Avenue for Parcels 1, 2, 3, and 6 of Parcel Map 3028.
 - 10x. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on the cul-de-sac of Enterprise Court at 37569 Enterprise Court.
 - 10y. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Magnolia Street and Graham Avenue at 37088 Magnolia Street (formerly 6963 Graham Avenue).
 - 10z. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on the Thornton Avenue and Locust Street frontage of 37010 Locust Street.
 - 10aa. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Enterprise Drive and Hickory Street at 8610 Enterprise Drive.
 - 10ac. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Thornton Avenue and Sycamore Street at 7275 Thornton Avenue.

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- 10ad. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Thornton Avenue at 6152 Thornton Avenue.
 - 10ae. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cedar Boulevard south of Mowry Avenue.
 - 10af. The maintenance of landscaping, the landscape irrigation system, and the concrete block wall within the public right-of-way and adjacent easement areas on Mowry Avenue and Cedar Boulevard for the shopping center that includes 5789 Mowry Avenue.
 - 10ag. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Hickory Street at 37137 Hickory Street.
 - 10ah. The maintenance of median-island landscaping and lighting, and street frontage landscaping up to 30 feet in width along all streets within the boundaries of Bridgeway Technology Park on Fircrest Street.
 - 10ai. The maintenance of lighting within public right-of-way and landscaping and landscape irrigation system within easement areas adjacent to the public right-of-way along Dairy Avenue, Newark Boulevard, and Thornton Avenue for the Foxwood condominium project.
 - 10aj. The maintenance of lighting within public right-of-way and landscaping and landscape irrigation system within easement areas adjacent to the public right-of-way on Magnolia Street, Graham Avenue, and Sycamore Street for the Summerhill Apartments.
 - 10ak. The maintenance of lighting within public right-of-way and landscaping and landscape irrigation system within easement areas adjacent to the public right-of-way on Cherry Street and Dairy Avenue for the Summerhill Apartments.
 - 10al. Maintenance of landscaping, landscape irrigation and lighting within the entire street right-of-way of Potrero Avenue; the easterly portion of Cherry Street, Buena Vista Drive and Parada Street contiguous to Tract 5869; and the easterly portion of Parada Street contiguous to Tract 5810; and the northerly portion of Stevenson Boulevard contiguous to Tract 5810, excluding the median islands within Cherry Street and Stevenson Boulevard.
 - 10am. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and easement areas on Smith Avenue for the Oatey Company.

- 10an. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Thornton Avenue at Cedar Boulevard for Newark Square shopping center.
- 10ao. The maintenance and/or construction of landscaping and the irrigation system within the public right-of-way and adjacent easement areas on the Mowry School Road frontage of the property to the rear of Fremont Ford.
- 10ap. The construction and maintenance of landscaping and an irrigation system within the public right-of-way and adjacent easement areas on Morton Avenue for Morton Salt.
- 10aq. Construction and maintenance of landscaping and the landscape irrigation system within the public right-of-way and easement areas on the Cedar Boulevard frontage of the shopping center on the northwest corner of Newark Boulevard and Cedar Boulevard.
- 10ar. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Central Avenue and on Clark Avenue for Matheson Gas.
- 10as. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Smith Avenue at 6565 Smith Avenue.
- 10at. The construction and/or maintenance of the Art in Public Places Element required in accordance with Newark City Council Resolution No. 5682 within the public right-of-way and/or adjacent easement areas on Parcels 1 and 2 of Tract 5343.
- 10au. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Newark Boulevard at 35193 Newark Boulevard.
- 10av. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cedar Boulevard at 37300 Cedar Boulevard.
- 10aw. The maintenance and/or construction of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Fircrest Street at Assessor's Parcel No. 537-460-12-3.
- 10ax. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Enterprise Drive and Willow Street at 8400 Enterprise Drive.

- 10ay. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Mowry Avenue and Cherry Street.
- 10az. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Balentine Drive at Parcel 1 of Parcel Map 6692.
- 10ba. The maintenance and/or construction of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cherry Street north of Thornton Avenue.
- 10bb. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Jarvis Avenue and Newark Boulevard.
- 10bc. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Cherry Street south of Robertson Avenue.
- 10bd. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement areas on Filbert Street and Central Avenue.
- 10be. The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement along the street frontage on Balentine Drive.

Since this district is for properties responsible for their own maintenance, all property owners for all subdistricts in this district will receive a “zero” assessment for 2020-2021.

Attachments - Resolution; Approved Engineer’s Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 10 for the 2020-2021 fiscal year.

E.13 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 11 – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City Council has previously approved the Engineer’s Report and set June 25, 2020, as the date for the public hearing for the annual levy of assessments in conjunction with Landscaping and Lighting District

No. 11. This district provides for the maintenance of landscaped medians on Edgewater Drive and Parkshore Drive within the Lake Area.

An annual public hearing is necessary to levy assessments to provide funds for this district. The total assessment for this district as provided in the approved Engineer's Report is approximately \$24,569 for the 2020-2021 fiscal year. There are a total of 1,127 properties within this district. The assessment per property is approximately \$22.

Attachments - Resolution; Approved Engineer's Report

Action - Upon conclusion of the public hearing, staff recommends that the City Council, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 11 for the 2020-2021 fiscal year.

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.13 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 Task Order No. 21 to the Joint Powers Agreement with the City of Fremont for Case Management services – from Recreation and Community Services Director Zehnder.

(RESOLUTION)

Background/Discussion – Case Management is a vital component of the services offered through the City of Newark Senior Services program. It targets frail, homebound Newark seniors, striving to keep the elder person in their own home rather than being institutionalized. An assessment is made of the senior's overall well-being, including health (physical and mental), financial, transportation and/or housing needs, personal safety issues, and the ability to care for themselves, either on their own or with assistance. If appropriate, a care plan for services is begun to assist the client with whatever services are needed and to provide ongoing monitoring of the client and the services put in place.

The Case Management Program receives referrals from the Police and Fire Departments. As first responders they encounter elderly that need assistance on many levels. The case manager is the answer to many of these referrals. Case Management services often result in the elimination of repeated callouts for the Police and Fire Departments as a crisis situation receives prompt intervention. This allows safety personnel to focus on other business within the City, thereby not straining the City's

safety resources. With ever-increasing demands on City staff, it is reassuring to know that assistance is available for the City's most vulnerable residents.

The City has contracted for Case Management services with the City of Fremont since July 1, 1997. The Fiscal Year 2019-2020 agreement was in the amount of \$5,000 and provided one and one half hours of Case Management services per week. Staff is recommending that the Case Management funding for Fiscal Year 2020-2021 remain at \$5,000. Based on the number of cases opened during the current fiscal year, it appears that one and one half hour of service per week will be sufficient to meet the needs of Newark clients. If demand exceeds the available funding, new clients may be placed on a waiting list or directed to other fee-based agencies until the case load can accommodate them.

City staff and the City Attorney have reviewed the agreement and recommend that it be approved.

Attachment – Resolution, Task Order No. 21

Action – Staff recommends that the City Council, by resolution, authorize the City Manager to sign Task Order No. 21 to the Joint Powers Agreement with the City of Fremont for Case Management Services.

F.2 Authorization for the City Manager to execute Task Order No. 22 to the Joint Powers Agreement with the City of Fremont for Paratransit Services – from Recreation and Community Services Director Zehnder. (RESOLUTION)

Background/Discussion – Door-to-door shared ride transportation services are an essential service offered to Newark residents who are 70 years of age and older or who are unable to access public transit independently due to a medical or disabling health condition. These paratransit services are provided to elderly and disabled Newark residents in order to improve their access to health care, shopping, errands and social and recreational activities.

The City has contracted for paratransit services with the City of Fremont since 2013. The size and scope of Fremont's program provides Newark residents with expanded and efficient services. The following table provides a summary of services to be provided through the City of Fremont under a contract for services with MV Transportation, local taxi companies, Lyft and GoGo Technologies:

FY20/21 Service Parameters	Fremont/Newark Wheelchair Accessible Paratransit Service
Service Hours	Monday – Sunday, 8 am – 6 pm
Service Area	All of Fremont, Newark and Union City.
*Fares	\$4 per one-way trip within Newark, Fremont and Union City
Reservation Hours	Monday – Friday, 8 am – 5 pm Centralized reservations and dispatch with our contracted service provider that ensures that riders can reach a live person to make reservations and to check on the status of a ride (weekdays and weekends).
Enrollment processing time	On the same day of receipt of application. Expedited access to transportation can also be arranged on the same day or the next day as scheduling capacity allows.

FY20/21 Service Parameters	Subsidized Taxi Voucher Program
Service Hours	24 hours per day, seven days a week. Ride requests are made same day. Riders will be picked up within 45 minutes of their call or within 10 minutes of a time order request.
Service Area	All of Newark, Fremont and Union City.
Fares	Depends on distance traveled. \$4 per taxi voucher (purchased through City of Fremont). Each voucher subsidizes up to \$20 in taxi meter fare. Riders responsible for fares beyond the voucher subsidy.
Enrollment Requirements	Must be enrolled in the Fremont/Newark Paratransit program.

FY20/21 Service Parameters	Subsidized Direct-Ride Hailing Service with Lyft and Ride-Hailing Service with GoGo Technologies
Service Hours	24 hours per day, seven days a week for rides ordered through an individual’s smart phone. Rides provided through GoGo Technologies. (for individuals without smartphones) will be available 7 days per week, 8 am – 6 pm. Ride requests are made on the same day through the Lyft app on the rider’s own smartphone. Riders will receive special codes to apply to their rides in order to receive subsidized rides. Riders without smartphones will call GoGo Technologies’ GoGo Grandparent call center for a ride a on the Lyft or Uber ride-hailing platforms.
Service Area	All of Newark, Fremont and Union City. Out-of-Area medical trips by staff approval only.
Fares	Riders pay the first \$4 of a trip and up to \$16 of the trip will be subsidized. Riders are responsible for all fares above \$20. For staff-approved medical out-of-area trips, rider pays first \$4 of trip and up to \$46 of the trip will be subsidized; riders are responsible for all fares above \$50. Passenger fares will be charged directly through the Lyft app or by GoGo Technologies.
Enrollment Requirements	Must be enrolled in the Fremont/Newark Paratransit program.

In addition to paratransit, taxi voucher and direct-ride hailing services, Newark residents benefit from the high level of service coordination and customer service provided by the City of Fremont's paratransit services team. City of Fremont staff ensure that elderly and disabled residents have expedited access to transportation services (applications can be processed within hours and urgent need transportation can be scheduled on the next day and sometimes even on the same day). Paratransit enrollment packets are sent out within a day or two of receipt of a completed application.

Funding for Newark Paratransit services is provided through Measure B and Measure BB sales tax and administered through the Alameda County Transportation Committee. For fiscal year 2020-2021, staff is recommending funding in the amount of \$290,007.

Attachments- Resolution, Task Order No. 22

Action – Staff recommends that the City Council, by resolution, authorize the City Manager to execute Task Order No. 22 to the Joint Powers Agreement with the City of Fremont for Newark Paratransit services.

F.3 Authorization for the City Attorney to execute a Certification and Mutual Indemnification Agreement with the County of Alameda – from Interim City Attorney Kokotaylo and Senior Accountant Villanueva. (RESOLUTION)

Background/Discussion – The City currently has an agreement with Alameda County which authorizes the collection of various taxes, assessments, and fees on the secured property tax roll. Since the passage of Proposition 218 in 1996, the County has required that each agency or district sign an annual statement certifying that each assessment, fee, and/or special tax placed on the tax roll meets the requirements of Proposition 218.

Staff has reviewed each of the City's taxes, assessments, and fees to ensure compliance with the proposition. It is the opinion of the City Attorney that the City's taxes, assessments, and fees are in compliance with Proposition 218 requirements and the City is able to sign the certification.

Attachments – Resolution, Agreement

Action – Staff recommends that the City Council, by resolution, authorize the Interim City Attorney to execute a Certification and Mutual Indemnification Agreement with the County of Alameda.

F.4 Calling and giving notice of the holding of a General Municipal Election on Tuesday, November 3, 2020, for the election of certain officers of the City of Newark – from City Clerk Harrington. (MOTION)(RESOLUTION)

Background/Discussion – The City’s next General Municipal Election will be held on November 3, 2020. A Mayor will be elected for a two-year term and two Council Members will be elected for four-year terms. Candidates may file nomination papers from July 13, 2020, through August 7, 2020. Should an incumbent fail to file, then the nomination period would extend to August 12, 2020 for that incumbent’s elective office. The incumbent who did not file would not be eligible to file during the extended period.

The Alameda County Registrar of Voters (ROV) establishes polling places, secures precinct workers, prepares sample and official ballots, provides absentee voting, and tabulates the votes. In order for the ROV to render these services, the City must adopt a resolution requesting the services of the ROV through the Alameda County Board of Supervisors.

The Registrar’s estimate for election services is between \$4.00 and \$6.00 per registered voter. Based on Newark’s current voter registration of 23,354, the estimated cost for the election will be between \$93,416 and \$140,124, plus other publication printing, translation, and supply costs borne directly by the City. Funds to cover the services provided by the ROV and other vendors are requested in the 2020-2022 Biennial Budget, which is scheduled for Council consideration later on the meeting agenda.

Resolution No. 7400 requires the City Clerk to estimate the cost and collect the deposit for the optional Candidate Statement of Qualifications. Candidates are responsible for the actual costs associated with their Statement of Qualifications. Based on the last election, staff has estimated an approximate cost of \$400 per statement. The candidate will be refunded any overage or billed for any additional costs within 30 days of the final invoice from the ROV.

Attachment - Resolution

Action - It is recommended that the City Council, by motion, approve the estimated cost of \$400 to be paid by each candidate at the time nomination papers are filed for his/her Statement of Qualifications and, by resolution calling for the holding of a General Municipal Election to be held on Tuesday, November 3, 2020, for the election of certain officers; requesting the Alameda County Board of Supervisors to consolidate the General Municipal Election with the General Election to be held on November 3, 2020; and request services of the Registrar of Voters.

F.5 Approval of the Road Repair and Accountability Act of 2017 (Senate Bill 1) Fiscal Year 2020-2021 Project List – from Assistant City Engineer Imai.

(RESOLUTION)

Background/Discussion – In April 2017, the State Legislature passed and Governor Brown approved Senate Bill 1 (SB1), the Road Repair and Accountability Act of 2017. SB1 established the Road Maintenance and Rehabilitation Program and provides a significant, stable and ongoing increase in state transportation funding to address deferred maintenance on the state highway and local streets and road systems. Funds

for the program are deposited into the State Transportation Fund, Road Maintenance and Rehabilitation Account (RMRA). The funds come from increased gasoline excise taxes, diesel fuel sales taxes, and vehicle registration fees.

SB1 continues to generate over \$5 billion annually for State and local transportation improvements. Cities and counties are slated to receive \$1.5 billion per year for Local Street and Road Maintenance. Allocations of funds to cities are based upon population.

In January 2020, it was projected that the City of Newark would receive approximately \$920,000 of RMRA funds for Fiscal Year 2020-2021; however, since then, the COVID-19 health crisis and Shelter-In-Place orders in effect throughout the state of California have had a negative impact on anticipated RMRA revenue. Updated revenue projections released in May now estimate that the City of Newark will receive approximately \$837,000 of RMRA funds for Fiscal Year 2020-2021. This is a reduction of approximately nine percent (9%).

RMRA funding is in addition to the Highway Users Tax Account (HUTA) funds that the City receives annually (commonly known as “Gas Tax” funds). However, for the purposes of the 2020-2022 Biennial Budget and Capital Improvement Plan, RMRA revenue is included with anticipated Gas Tax fund projections.

In order to receive RMRA funds from the State, SB1 requires cities and counties to submit to the California Transportation Commission each year a list of projects proposed to be funded with RMRA funds. RMRA funds are required to be used towards projects that include, but are not limited to:

- Road maintenance and rehabilitation;
- Safety improvements;
- Railroad grade separations;
- Traffic control devices; and
- Complete Street components, which include active transportation elements, pedestrian and bicycle safety improvements, transit facilities, and drainage and storm-water capture measures in conjunction with other allowable projects.

For Fiscal Year 2020-2021, staff recommends that City Council approve the following RMRA project list:

Project Title	Project Location
2020-21 Asphalt Concrete Overlay Program	Dumbarton Ct – Jarvis Ave to End, Ebbetts St – Bececia Ave to Truckee Ct, Lido Blvd – Jarvis Ave to Cedar Blvd, Normandy Dr – Lido Blvd to Mirabeau Dr, Oleander Dr – entire length, Smith Ave – Cherry St to Cedar Blvd, Thornton Ave – Hickory St to Marshlands Rd, Truckee Ct – Ebbetts St to end
2020-21 Street Slurry Seal Program	Cornwall Place, Derby Place, Forbes Drive. Fowler Street, Ingraham Street, Lido Court, Maidstone Court, Mayhews Landing Rd – Willow St to Spruce St, Mayhews Landing Rd – Newark Blvd to Thornton Ave, Peppertree Court, Rockport Court, Stevenson Blvd – Balentine Dr to Cherry St, Swindon Place, Thornton Ave – Marshlands Rd to SR 84

The RMRA project list is neither binding nor inclusive. Including a project on the list does not obligate the City to complete the project nor does it limit the flexibility of the City to use RMRA funds toward projects not originally included on the list, so long as the project meets the eligibility criteria listed above.

In the past, RMRA funds were used to help fund the City’s Annual Asphalt Concrete Overlay, Slurry Seal and Sidewalk, Curb and Gutter Replacement Programs. Fiscal Year 2019-2020 RMRA funds were allocated to the Lindsay Tract Street and Storm Drain Improvements Project. The design of the Lindsay Tract Project is scheduled to begin this summer.

Attachments – Resolution

Action – It is recommended that the City Council, by resolution approve the Road Repair and Accountability Act of 2017 (Senate Bill 1) Fiscal Year 2020-2021 Project List.

- F.6 Authorizing Application for, and, subject to subsequent City Council approval, receipt of Local Early Action Planning (LEAP) Grant Program Funds for future updates to the Housing Element – from Community Development Director Turner. (RESOLUTION)**

Background/Discussion In the 2019-20 Budget Act, Governor Newsom allocated \$250 million for all regions, cities, and counties to prioritize planning activities to accelerate housing production and address the state’s housing shortage and high housing costs. The grant is intended to provide funding, as well as technical assistance, to all local governments in California to help cities and counties prepare, adopt and implement plans and process improvements that streamline housing approval and accelerate housing production. Upon this allocation, the Department of Housing and Community Development (HCD) established the Local Early Planning Grant Program (LEAP) with \$119 million for cities and counties. This is a one-time, non-competitive, grant fund to cities and counties to update planning documents and implement process improvements that will facilitate the acceleration of housing production. The funding amount is allocated based on a city’s population. Based on Newark’s population, the eligible funding amount is \$150,000. To receive funding, the City Council must adopt a resolution committing to use the grant to support the development of housing.

Staff is recommending that the LEAP program funds, if awarded, be used to support the update to the City’s Housing Element to facilitate compliance with the sixth cycle of the Regional Housing Needs Assessment (RHNA). The current, fifth-cycle RHNA runs from 2015 to 2023. The current Housing Element update was adopted by the City Council in 2015. The sixth-cycle RHNA is expected to distribute to municipalities significantly higher housing needs than previous cycles based on new state housing laws. While the sixth cycle RHNA does not take effect until 2024, planning activities should begin well in advance given the effort that will be required to meet updated State housing laws. The regional RHNA numbers are anticipated in Summer 2020 and draft allocations to individual jurisdictions are expected in early 2021. Housing Elements must be submitted to HCD by January 2023.

Staff recommends requesting the full \$150,000 in LEAP grant funds to support the state-mandated Housing Element update and other activities related to compliance with the sixth cycle RHNA, which will likely include rezoning land, policy preparation, and appropriate California Environmental Quality Act (CEQA) documentation.

The LEAP grant is a separate grant from the \$160,000 in SB 2 Planning Grants Program Funds that the City Council authorized acceptance of in April 2020. The SB 2 grant supports a variety of planning activities to facilitate housing development. In Newark’s case, the SB 2 grant was awarded to facilitate the completion of the Historic Newark District Specific Plan, where residential development is a key specific plan component, while the LEAP grant specifically focuses on the Housing Element update and actions to meet the upcoming RHNA target.

The deadline to apply for the LEAP grant program funds is July 1, 2020. A resolution from the City Council is required to apply for the grant. Staff is requesting authorization from City Council to apply for and, if successful, return to the City Council to authorize the receipt of funding for the LEAP grant program funds.

Attachment - Resolution

Action – Staff recommends that the City Council, by resolution, authorize the application for, and subject to subsequent City Council approval, receipt of Local early Action Planning (LEAP) grant program funds for future updates to the Housing Element.

F.7 Authorization for the City Manager to execute an agreement with the County of Alameda for participation in the Alameda County Urban County for the Community Development Block Grant (CDBG) Program for fiscal year 2020-2021 – from Deputy Community Development Director Interiano. (RESOLUTION)

Background/Discussion – Newark receives Community Development Block Grant (CDBG) funds as part of the Alameda County Urban County. These are federal funds provided through United States Department of Housing and Urban Development (HUD) to jurisdictions with populations of 50,000 or more. In order to qualify for funds, Newark and the cities of Albany, Dublin, Emeryville and Piedmont have banded together with the unincorporated portions of the county to form an entity (the Urban County) that is large enough to qualify for funds. The Urban County receives certain amount of money each year that is determined by Congress’s allocation to the CDBG program and a federal formula for dividing the overall funding between qualifying communities. The total funds received by the Urban County are then allocated between member jurisdictions using a formula that considers overall population, poverty levels and other factors. The City will receive \$246,025 for FY 2020-2021.

CDBG funds are distributed among the following categories of uses:

<i>Fund Category</i>	<i>Amount</i>
Jurisdiction Improvement Funds	\$187,729
Housing Rehabilitation	\$ 50,496
General Administration	\$ 7,800

Jurisdiction Improvement Funds - HUD requires that the funds be used for projects that benefit primarily low and moderate-income households, senior citizens, or disabled citizens. The City must provide proof of this both when applying for and after completing a project. Newark has a policy that CDBG funds should be used for capital improvement projects rather than service projects. Capital improvement projects provide infrastructure with long-term benefits to residents and Newark receives a relatively small amount of CDBG funds, therefore spending these funds on capital projects helps to maximize their benefit.

In FY20-21, the funds were used to address various ADA compliance needs at City-owned parks, facilities, and parking lots as identified in the City’s Disabled Access Transition Plan and will include ADA parking accessibility, pathway and sidewalk repairs, curb ramp installations and upgrades, and other exterior surface improvements.

Housing Rehabilitation – This program funds minor home repairs such as replacing water heaters. Financing for these improvements is provided to lower-income homeowners in a combination of loans and grants, depending on the clients' ability to make repayments. As loans are repaid, these funds are used to fund additional projects in Newark.

In the FY20-21, the Minor Home Repair Program promotes the maintenance of homes for the benefit of low-income Alameda County residents. County will retain funds allocated by City for services to be performed by the Alameda County Healthy Homes Department, including \$13,431.94 for project delivery costs.

General Administration – The funds are used for necessary administrative expenses. The City expects to use all of its administration fund allocation in FY20-21.

The County oversees Newark's use of the funds in order to ensure that all appropriate federal government requirements are met. This arrangement is established and governed each year by a pair of agreements, one between the County of Alameda and HUD, and one between the City and the County of Alameda (attached). By approving this resolution, the City Council would authorize the City Manager to execute the agreement between the City of Newark and the County of Alameda, thereby continuing the City's participation in the CDBG program.

Attachments – Resolution, agreement

Action – Staff recommends that the City Council, by resolution, authorize the City Manager to execute an agreement with the County of Alameda for participation in the Alameda County Urban County for the Community Development Block Grant (CDBG) Program for fiscal year 2020-2021.

F.8 Establishment of the Fiscal Year 2020-2021 Tax Appropriations Limit – from Senior Accountant Villanueva (RESOLUTION)

Background/Discussion – In November 1979, California voters approved Proposition 4 (the Gann Initiative) that added Article XIII B to the State Constitution. The State Legislature added Division 9 (commencing with Section 7900) to Title I of the Government Code to implement Article XIII B as amended with Proposition 98 in 1988 and Proposition 111 in 1990.

The original legislation implementing the provisions of Article XIII B became effective January 1, 1981. In accordance with that legislation, the governing body of each local jurisdiction in California must, by resolution, establish a Tax Appropriations Limit (also referred to as the GANN Limit) prior to the beginning of each fiscal year. The Tax Appropriations Limit is based on actual appropriations during the State of California Fiscal Year 1978-79 and adjusted each year using population and inflation adjustment factors.

California voters approved Proposition 111 on June 5, 1990, amending Article XIII B. Proposition 111 allows local jurisdictions to choose among measures of inflation and population growth to compute the adjustment factor. The measures for inflation (price factors) include growth in California per capita income or growth in the City's gross assessed valuation due to new non-residential construction; while measures for population growth include population growth within the county or city.

On June 27, 2019, the City Council adopted Resolution No. 10939 establishing the Fiscal Year 2019-2020 Tax Appropriations Limit to \$403,225,969. The City's Tax Appropriations Limit was calculated using the percentage change in California per capita income as the price factor adjustment since the Local assessment roll data necessary to calculate the percentage change in the nonresidential assessed valuation is generally not available from the County Assessor's Office until well into the fiscal year. In the absence of final information on this important factor, it is recommended that the known California per capita personal income of 3.73 percent be adopted for Fiscal Year 2020-2021. For the population adjustment factor, it is recommended that the City's percent change in population of 1.67 percent be adopted for Fiscal Year 2020-2021 since the higher percentage change in population is most advantageous to the City.

In accordance with Proposition 111 guidelines, and based on the above information, the proposed Fiscal Year 2020-2021 Tax Appropriations Limit is \$ 425,251,346. The 2020-2021 Biennial Budget appropriations subject to the limit are estimated to be well below the proposed Tax Appropriations Limit.

Attachment – Resolution

Action – Staff recommends that the City Council, by resolution, establish a Tax Appropriations Limit and update the annual adjustment factors for Fiscal Year 2020-2021.

F.9 Approval of Contractual Services Agreements with Cotton Shires and Associates, Inc. and Geocon Consultants, Inc. for geotechnical engineering and peer review services; Consolidated Engineering Laboratories for materials testing services; GHD and Fehr & Peers for traffic engineering and transportation planning services; and Cal West Lighting & Signal Maintenance, Inc. and Bear Electrical Solutions, Inc. for traffic signal and street light maintenance – from Assistant City Engineer Imai. (RESOLUTION)

Background/Discussion – In accordance with the City's Purchasing Rules and Regulations, staff prepared and initiated an open and competitive Request for Qualifications (RFQ) and formal bidding process for various contractual services. Notices Inviting Bids and RFQs were posted on the City's website and sent to firms either previously under contract with the City or that expressed interest in receiving such notices and RFQs. The RFQs specified that selection would be made based on quality and completeness of submissions as well as a firm's experience with

engagements of similar scope and complexity, satisfaction of previous clients, and proposed rate schedules.

Professional services sought through the RFQ process include Geotechnical Engineering and Peer Review Services, Materials Testing Services, Traffic Engineering and Transportation Planning Services, and Traffic Signal and Street Light Maintenance.

Geotechnical Engineering and Peer Review Services

The selected consultants may provide services that include geologic and geotechnical peer review services; geotechnical investigation; geological hazards evaluation; construction observations and testing; observations during remedial grading; and review or development of mitigation recommendations.

Materials Testing Services

Materials testing services includes the collection of materials samples, materials testing, special inspections, plant inspections, and field observations as required for a variety of Public Works projects, Capital Improvement Program projects and maintenance projects including roads, parks, and other public facilities.

Traffic Engineering and Transportation Planning Services

Traffic engineering and transportation planning services include traffic signal design, timing, coordination and warrant studies; review of traffic signal plans and traffic impact studies; travel demand modeling; corridor and intersection analyses; parking studies; planning and design of bicycle and pedestrian facilities; transportation demand management strategies; and traffic calming assessment and design.

Traffic Signal and Street Light Maintenance

Traffic signal and street light maintenance services include the preventative and routine maintenance, responsive maintenance, and emergency repair of equipment associated with the City of Newark's traffic signal and street light system. The selected firms would provide these services for all traffic signals, street lights and associated equipment owned and operated by the City of Newark.

Staff received a total of twenty-five statements of qualifications and evaluated and ranked them based on completeness and responsiveness to the RFQs.

Staff is recommending the approval of Contractual Services Agreements with seven different consultant firms, each with a not-to-exceed amount as indicated below. The not-to-exceed amounts shown reflect non-personnel reductions in the 2020-2022 Biennial Budget for engineering contractual services. It is anticipated that engineering and maintenance services are likely to be affected due to the reduced level of consultant services available.

Geologic and Geotechnical Engineering Services

- Cotton Shires and Associates, Inc. – \$10,000

- Geocon Consultants, Inc. – \$10,000

Material Testing Services

- Consolidated Engineering Laboratories – \$15,000

Traffic Engineering and Transportation Planning Services

- GHD – \$15,000
- Fehr & Peers – \$10,000

Traffic Signal and Street Light Maintenance

- Cal West Lighting & Signal Maintenance, Inc. – \$100,000
- Bear Electrical Solutions, Inc. – \$100,000

All agreements would be for a two-year term, beginning on July 1, 2020 and expiring on June 30, 2022, renewable for two (2) additional one (1) year terms upon mutual consent of the City and selected consultant, subject to available funding.

Under the terms of the agreements, the selected firms would provide the requested services based upon the adopted compensation rates. The 2020-2022 Biennial Budget includes sufficient funds in the Engineering Division operating budget to fund the requested services for the two-year budget cycle.

Attachments – Resolution; Contractual Services Agreements

Action – Staff recommends that the City Council, by resolution, approve Contractual Services Agreements with various consultants for Geotechnical Engineering and Peer Review Services, Materials Testing Services, Traffic Engineering and Transportation Planning Services, and Traffic Signal and Street Light Maintenance.

F.10 Acceptance of work with Bay Construction Co. for Newark Community Dog Park, Project No. 1208 – from Assistant City Engineer Imai. (RESOLUTION)

Background/Discussion – On June 27, 2019, the City Council awarded a contract to Bay Construction Co. for Newark Community Dog Park, Project No. 1208. Officially named NewBark Dog Park, the project is Newark’s first dog park and is identified as a high priority project in the Citywide Parks Master Plan. Due to the current Shelter-In-Place Order issued by the Alameda County Health Officer, NewPark Dog Park remains closed to the public. Plans to re-open the dog park are dependent on future amendments to the Shelter-In-Place Order.

The project was completed on time and within budget using Capital funds and Measure WW Local Grant Program funds, a program for high priority parks projects that is administered by the East Bay Regional Park District. Staff has

confirmed that all work has been completed in accordance with the plans and specifications.

Attachment - Resolution

Action – Staff recommends that the City Council, by resolution, accept the work with Bay Construction Co. for Newark Community Dog Park, Project No. 1208.

F.11 Authorization to accept an Emergency Response to Interpersonal Violence 2020 Pandemic Program Grant from Children’s Advocacy Centers of California (CACC), for the City Manager to execute the Program Certification Form, and 2018-2020 Biennial Budget amendment – from Police Sergeant Homayoun. (RESOLUTION)

Background/Discussion – Children’s Advocacy Centers of California (CACC) has offered funding to organizations providing safety and services to victims of child abuse during the COVID-19 pandemic. CACC is a program coordinated by the Child Abuse, Listening, Interviewing, and Coordination Center (CALICO), the only multi-disciplinary interviewing center serving Alameda County. The Police Department regularly utilizes CALICO’s services for facilitating forensic interviews of victims of child abuse, domestic violence, sexual assault, and human trafficking. These funds originate from the California Governor’s Office of Emergency Services (Cal OES), which recognizes the importance of continuing service to victims of interpersonal violence in our communities during these unprecedented times.

Funding in the amount of \$21,000 has been awarded to the City. Staff recommends it be utilized for: 1) laptops and docking stations for detectives who are primarily working from home due to the pandemic and do not currently have one assigned to them; 2) iPads and iPad Pencils for detectives to use during interviews conducted at CALICO; 3) gift cards for victims and their families to assist with necessities such as lodging, food, travel, and other miscellaneous expenses required during their time of need; and 4) overtime for investigations related to crimes involving children. The program period is June 1, 2020 through July 31, 2020.

Fiscal Impact - A budget amendment is necessary to accept the funds and place them in the appropriate accounts, as follows:

<u>Fund Number</u>		<u>Amount</u>
010-1031-3490	State Grant Revenue	\$21,000
010-1031-4210	Overtime - Investigations	\$ 9,000
010-1031-5120	Gift cards for victims	\$ 2,000
010-1031-7051	Laptops/Docking stations	\$10,000
	iPads/iPad Pencils	

Attachment – Resolution, Program Certification Form

Action - It is recommended that the City Council, by resolution, authorize the City of Newark to accept an Emergency Response to Interpersonal Violence 2020 Pandemic (CO) Program Grant from Children’s Advocacy Centers of California (CACC), the City Manager to execute the Program Certification Form, and amend the 2018-2020 Biennial Budget.

F.12 Second reading and adoption of an ordinance amending Section 2.12.020 “Qualifications” of the Newark Municipal Code by removing voter registration requirements for Planning Commissioners – from City Clerk Harrington. (ORDINANCE)

Background/Discussion – On October 12, 2019, Governor Newsom signed into law Senate Bill 225 (SB 225) providing that a person, regardless of citizenship or immigration status, is eligible to hold an appointed civil office if the person is 18 years of age and a resident of the state. The Senior Citizen Standing Advisory Committee and Planning Commission required appointees to be registered voters. The remainder of the City’s Committees did not require voter registration.

On May 28, 2020, the City Council approved a resolution removing the Voter registration requirements for the Senior Citizen Standing Advisory Committee. An ordinance was introduced, at the same meeting, removing the voter registration requirement in Section 2.12.020 “Qualifications” of the Newark Municipal Code which applied to Planning Commissioners. A second reading of the ordinance is required before it may be adopted.

Attachment - Ordinance

Action - Staff recommends that the City Council, waive further reading and adopt the ordinance amending Section 2.12.020 “Qualifications” of the Newark Municipal Code amending the qualification requirements for Planning Commissioners.

F.13 Amendment of the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-20 for General Revisions and Operating Increases – from Finance Director Lee. (RESOLUTION)

Background/Discussion – Fiscal Year 2019-20 is the second year of the City’s two-year budget cycle. As part of the year-end closing, a number of revisions are proposed to align budgeted revenues and expenditures with the most current information and to reflect the financial impact from the COVID-19 pandemic. These revisions are identified where changes have occurred since the adoption of the Biennial Budget in June of 2018.

The year-end budget amendment includes adjustments to the City’s major revenue sources and expenditure categories in the City’s Governmental Funds.

Fiscal Year 2019-20 sales tax year-end projection is \$11.0 million, a shortfall of \$2.1 million from the adjusted budget number or a 16% decrease. The shelter in place orders that required most businesses and other retailers to close as of late March combined with residual California Department of Tax and Fee Administration (CDTFA) reporting errors contribute to this decrease.

For the Transient Occupancy Tax, staff projects to end the year at \$5.0 million, which is a shortfall of \$2.8 million or a 36% decrease. This reflects almost a 100% decrease in revenues during the shelter in place orders since March 16 through the end of FY 2019-20.

The Utility Users Tax (UUT) revenue shows a 25% decrease. This is a combination of COVID-19 impact and fundamental changes of this revenue source. The wireless market has matured and due to competition for a diminishing pool of new customers, wireless providers have been reducing the cost of the wireless plans. More providers are also offering enhanced data-based services to their plans, which are not taxable. Less gross receipts from providers results in less UUT revenue for the City.

In the Licenses, Permits and Fees category, a slight decrease of approximately 1% is expected. This category includes franchise fees, animal licenses, encroachment permits and construction permits. For the most part, development activity was steady but leveling off, and most of the revenue was received early in the year.

Charges for Services are estimated to end the year at \$3.4 million, a \$2.6 million shortfall from the budget numbers, or a 44% decrease. This is primarily due to the closure of the City's Recreation facilities and the cancellation and refunds of recreation facility rentals, recreation classes, programs, and decreased public work services.

The revenue modifications to the Special Revenue Funds for Fiscal Year 2019-20 include:

1. Adding appropriation for Measure D Recycling grant funds from the Alameda County Waste Reduction Initiative to be used for the continuation and expansion of municipal recycling programs; and
2. Adding appropriation for Office of Traffic Safety (OTS) Grant.

The revenue modifications to the Capital Project Funds for Fiscal Year 2019-20 include:

1. Adding appropriation for public, educational, and governmental (PEG) fees; and
2. Decreases in all the development impact fees including: Public Safety Facilities Fee, Community Service Facilities Fee, Transportation Facilities Fee, Park Impact Fee, Non-Residential Development Housing Impact Fee, Community Development Maintenance Fee and Art in Public Places Fee.

The COVID-19 pandemic significantly impacted the City's revenue sources which in turn caused the City to make significant budgetary adjustments to address the anticipated budget deficits.

These adjustments include expenditure modifications to the General Fund operating budget to reflect reduction of non-essential travel and training, and reduction of contractual services and supplies.

In other funds, expenditure modifications are all offset by fund balance in each of those funds. The adjustments to the Special Revenue Funds, Debt Service Fund, and Internal Services Funds include:

1. Adding appropriation for maintenance costs for Landscape and Lighting Districts No. 1, 2, 4, 6, 7, 11, 15, 16, 17, 18, and 19; and
2. Re-appropriating the debt service budgets from the 2002 and 2012 Certificate of Participation (COPs) to the new 2019 COP for the debt service payments of the new Civic Center.

The economic impacts of the pandemic result in a significant budget deficit for the next two fiscal years. In anticipation of addressing upcoming budget deficits, staff recommends the FY 2019-20 estimated year-end unallocated fund balance of \$15.9 to be allocated as follows:

Reserve Fund	Estimated Balance as of June, 30, 2020 (millions)	Transfer from Unallocated Fund Balance (millions)	Balance as of July 1, 2020 (millions)
Catastrophic	8.8	3.3	12.1
Economic Uncertainty	5.9	5.3	11.2
Equipment Replacement	3.3	2.5	5.8
Pension and OPEB	12.8	3.2	16.0

Attachments – Resolution, Exhibit A Budget Amendments

Action – Staff recommends that the City Council, by resolution, amend the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-20.

NONCONSENT

F.14 Approving and Authorizing the City Manager to execute Side Letters with the Newark Association of Miscellaneous Employees (NAME), Newark Police Association (NPA), and Newark Police Management Association (NPMA) and to execute a modification to the Compensation and Benefit Plan for the Confidential Group and make other corresponding adjustments – Assistant City Manager Hovorka and Interim City Attorney Kokotaylo. (RESOLUTIONS-4)

Background/Discussion – The COVID-19 pandemic has resulted in significant revenue declines that will affect the City’s 2020 – 2022 biennial budget.

Activities in Alameda County continue to be restricted due the public health order (“SIP”). While the SIP is gradually lifting, it is still unknown when businesses will be allowed to fully re-open, when travel restrictions will be lifted, when the public will feel safe participating in revenue-generating activities, and whether another wave of COVID-19 infections will occur before a vaccine is available. With all of these uncertainties, staff prepared the 2020-2022 biennial budget assuming a slow economic recovery beginning in 2021.

Despite implementing several budget reductions measures (including elimination of non-essential travel, hiring freeze for non-essential positions, and reduction of contractual services), staff is still projecting deficits of greater than \$14 million for fiscal years 2020-21 and 2021-22.

City staff met with each employee group to discuss the impact of the COVID-19 pandemic on City revenue sources, as well as the projected deficit. Staff requested that the employee groups agree to eliminate the 1.5% cost of living and salary range increases scheduled for July 1, 2020. All employee groups expressed a willingness to do their part in addressing the budgetary deficit and therefore agreed to forego the salary increases for their respective memberships.

Specifically, NAME and NPA agreed to eliminate the July 1, 2020 general salary increase. NPA also agreed to extend their Memorandum of Understanding one year, through June 30, 2023, with a 1.5% general salary increase July 1, 2022. NPMA agreed to eliminate the July 1, 2020 general salary increase, which also applies to their salary ranges. Similar to professional, supervisory and management staff addressed in a separate City Council agenda item, the Confidential employees were informed of staff’s recommendation to eliminate the July 1, 2020 salary range and general salary increase.

Side letters have been prepared that reflect the foregoing and are attached to the staff report.

Staff projects that these acts will save the City approximately \$641,000 for the 2020-2022 biennial budget.

Attachments – Side Letters, Compensation and Benefit Plan Modification, Resolutions

Action – Staff recommends that the City Council, by resolutions, approve and authorize the City Manager to execute the Side Letter Agreements with NAME, NPA, and NPMA and execute a modification to the Compensation and Benefit Plan for the Confidential Employee Group and make other corresponding adjustments.

F.15 Approving and Authorizing the City Manager to execute a Compensation and Benefit Plan Modification for Compensation and Benefit Plan for the City Officials and the Management, Supervisory, and Professional Employee Group and Approving and Authorizing modification to City Manager's compensation to eliminate scheduled compensation adjustment as a result of changed conditions due to the COVID-19 Pandemic – from Interim City Attorney Kokotaylo. (RESOLUTION)

Background/Discussion – The COVID-19 pandemic has resulted in significant revenue declines that have affected the City's proposed 2020 – 2022 budget. Due to the pandemic, various governmental agencies and officials have taken actions to address the threat to public health and safety. Specifically: the United States Department of Public Health and Human Services Secretary, the Governor of the State of California, the Alameda County Health Officer and the President of the United States have all declared an emergency as a result of the COVID-19 pandemic.

On March 16, 2020, the Newark City Manager, acting in his capacity as the Director of Emergency Services, proclaimed the existence of a local emergency in recognition of the significant public health threat posed by the COVID-19 pandemic. The City Council ratified and confirmed the proclamation of the existence of a local emergency on March 17, 2020.

On March 16, 2020, the Alameda County Public Health Officer issued an Executive Order directing the public to shelter at their place of residence except under certain limited circumstances (the "SIP"). The Alameda County Public Health Officer has since extended and modified the SIP. As a result of the SIP and the COVID-19 pandemic, a number of businesses stopped operating within the City and the City could not operate its community programs, resulting in a significant decline in sales tax revenue, transient occupancy tax revenue, and revenue from City fees.

While the SIP is gradually lifting, it is still unknown when businesses will be allowed to fully re-open, when travel restrictions will be lifted, when the public will feel safe participating in revenue-generating activities, and whether or not another round of COVID-19 will hit before a vaccine is available. With all of these uncertainties, the 2020-2022 budget was prepared assuming a slow economic recovery beginning in 2021. The City is currently projecting deficits of greater than \$7 million for fiscal years 2020-21 and 2021-22.

As a result of the severe fiscal impacts to the City, City staff informed employees subject to the Compensation and Benefit Plan for the City Officials and the Management, Supervisory, and Professional Employee Group including the Executive Management Team, that their total compensation and salary range increase of 1.5% scheduled for July 1, 2020 would be eliminated. Additionally, the proposed resolution would eliminate the 1.5% total compensation and salary range increase of 1.5% scheduled for July 1, 2020 for the City Manager.

Attachments – Compensation and Benefit Plan Modification, Resolution

Action – Staff recommends that the City Council, by resolution, approve and authorize the City Manager to execute the compensation and benefit plan modification for employees subject to the Compensation and Benefit Plan for the City Officials and the Management, Supervisory, and Professional Employee Group to eliminate the 1.5% total compensation and salary range increase of 1.5% scheduled for July 1, 2020 and to eliminate the 1.5% total compensation and salary range increase scheduled for July 1, 2020 for the City Manager.

F.16 Adoption of 2020-2022 Biennial Budget and Capital Improvement Plan – from City Manager Benoun and Finance Director Lee. (RESOLUTION)

Background/Discussion – The 2020-2022 Biennial Budget and Capital Improvement Plan has been discussed at several Council meetings. Those meetings include the following:

- On February 13, the City Council held a study session to discuss the operating section of the biennial budget for 2020-2022, including reviewing forecast projections and setting departmental priorities;
- On April 23, staff reported to the Council on the impact of the COVID-19 pandemic to the fiscal year 2019-20 budget and provided an updated timeline for completion of the 2020-2022 Biennial Budget and Capital Improvement Plan (“CIP”);
- On May 14, staff presented project funding recommendations for the 2020-2022 CIP to City Council that took into account anticipated declines in revenue;
- On May 28, a second study session was held in order to discuss staff’s recommended budget reduction measures as a result of projected declining revenues caused by the COVID-19 pandemic; and
- On June 11, staff presented to the Council a draft 2020-2022 Biennial Budget and CIP.

Summary of 2020-2022 Biennial Budget and Capital Improvement Plan

The attached 2020-2022 Biennial Budget and CIP incorporates City Council direction provided throughout the process described above. It takes into account the current Shelter-in-Place orders in response to COVID-19 and anticipated fiscal impacts resulting therefrom. The proposed budget includes \$6.3 million in personnel and non-personnel reductions from the 2019-20 adjusted budget and uses \$14.0 million of reserves over two fiscal years to balance the proposed 2020-2022 biennial budget.

These reductions include not funding non-essential positions, elimination of non-essential travel and training, reduction in contractual services and supplies, and labor concessions.

Many service impacts are to be determined, as the timeframe for lifting of the Shelter-in-Place orders is unknown. However, it is anticipated plan review times, park landscaping, pot-hole repairs, roadside cleanups, and engineering services will all be affected. In addition, the budget includes suspension of child care services and most recreation programs, as well as elimination of library hours on Sunday. There will also be disruptions to internal operations and deferment of infrastructure repair and equipment maintenance, which will likely be less visible to the public.

Reductions that have a service impact to the public will be communicated through the City's website, e-mail distribution lists, social media, Newark News, and other publications and outlets as needed.

The attached budget also takes into account certain labor concessions, including elimination of the general salary increase currently scheduled for July 1, 2020, for all employees, except members of the Newark Police Association ("NPA"). Staff is currently in negotiations with NPA. The 2020-2022 biennial budget also excludes merit increases for City Officials and Management, Supervisory and Professional employees.

Need for a "Fluid" Budget

The attached budget should be regularly reviewed by the Council in the next two years because there is significant uncertainty surrounding three major revenue sources, which is summarized as follows:

- (1) Utility Users Tax ("UUT"): The existing UUT expires at the end of this calendar year. The tax generates \$2.7 million per year, which reflects 5% of the City's revenues. Although community outreach efforts reveal there is support for renewing the tax and the Council has directed City staff to begin preparing for placement of a measure for voter consideration this November, there is no guarantee that the renewal will be reauthorized by Newark voters.
- (2) Transient Occupancy Tax ("TOT"): The TOT has been dramatically impacted by the COVID-19 pandemic. In February, staff anticipated receiving \$7.91 million in TOT, which would have reflected 11% of the City's revenues. As for this biennial budget, staff anticipates receiving \$1.68 million in TOT for fiscal year 2021 and \$2.48 million for fiscal year 2022. While these numbers are speculative, staff will continue to monitor the situation carefully and provide updated information to the Council as we move forward under this budget.

- (3) Charges for Services: While the Shelter-in-Place orders are gradually lifting, at the time of this writing, the City cannot offer in-person senior services, swimming, facility rentals, child care, special events, and recreation classes. The attached budget assumes that closures will continue through the end of calendar year 2020 with a ramp-up starting early 2021. The budget may need to be amended if these activities begin sooner or later than expected.

Staff will continue to monitor all budget developments, paying particular attention to these three sources of revenue, and will provide further updates to the Council.

Additional Documents

The following additional documents (and their respective pages) were omitted from the draft 2020-2022 Biennial Budget that was presented to the Council on June 11:

Introduction

- Transmittal Letter (pages 5 to 7);

Budget Overview

- Budget Structure (page 10);
- Account Code (pages 11 to 12);
- How to Read the Budget (pages 13 to 14);
- Department Mission Statements and Key Objectives (pages 15 to 28);

Forecast Overview

- Development Forecast (pages 32 to 34);
- Financial/Economic Forecast (pages 35 to 46);
- 5 Year Forecast (page 47);
- Critical Issues and Strategies (pages 57 to 59);

Summary Table Charts & Graphs

- Historical Fund Balances Chart (page 61);
- Summary Tables (pages 77 to 78);

Personnel

- Funded Full-Time Employees (pages 82 to 87); and
- Breakdown of Part-time, Seasonal, Temporary Employees (pages 88 to 89).

These components of the budget were omitted from the draft budget presented to the Council on June 11th due to the short turnaround time after the budget work session held on May 28.

Attachment – Resolution and 2020-2022 Biennial Budget and Capital Improvement Plan

Action - It is recommended that the City Council, by resolution, adopt a budget and a capital improvement plan for the City of Newark for Fiscal Years 2020-2021 and 2021-2022 and providing for the post-auditing of paid demands certified or approved as confirming to such approved budget.

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.

(MOTION)

M. CLOSED SESSION

N. ADJOURNMENT

IMPORTANT NOTICE REGARDING CITY COUNCIL MEETING

Due to the COVID-19 pandemic, the City of Newark is making several changes related to City Council meetings to protect the public's health and prevent the disease from spreading locally. As a result of the COVID-19 public health emergency, including the Alameda County Health Officer and Governor's directives for everyone to shelter in place, **the City Council Chambers will be closed to the public.** Members of the public should attempt to observe and address the Council using the below technological processes.

This meeting is being conducted utilizing teleconferencing and electronic means consistent with State of California Executive Order N-29-20 dated March 17, 2020, regarding the COVID-19

pandemic. In accordance with Executive Order N-29-20, the public may only view the meeting on television and/or online.

Mayor Nagy, Vice Mayor Freitas, and Council Members Collazo, Hannon, and Bucci will be attending this meeting via teleconference. Teleconference locations are not open to the public. All votes conducted during the teleconferencing session will be conducted by roll call vote.

How to view the meeting remotely:

Live television broadcast - Comcast Channel 26

Livestream online at- <https://www.newark.org/departments/city-manager-s-office/agendas-minutes/live-streaming-meetings>

How to participate in the meeting remotely:

Provide live remote public comments, when called upon by the City Clerk:

From a PC, Mac, iPad, iPhone or Android device: <https://zoom.us/j/94577606585>

Telephone: +1 669 900 9128 Webinar ID: 945 7760 6585

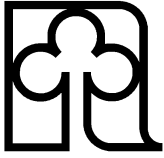
Submission of Public Comments:

Public comments received by 4:00 p.m. on the Council meeting date will be provided to the City Council and considered before Council action. Comments may be submitted by email to City.clerk@newark.org. Comments may also be submitted via e-mail to city.clerk@newark.org at any time prior to closure of the public comment portion of the item(s) under consideration.

Reading of Public Comments: The City Clerk will read aloud email comments received during the meeting that include the subject line “FOR THE RECORD” as well as the item number for comment, provided that the reading shall not exceed five (5) minutes, or such other time as the Council may provide, consistent with the time limit for speakers at a Council meeting and consistent with all applicable laws.

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

Virtual Meeting, Newark, CA 94560-3796 • 510-578-4266 • E-mail: city.clerk@Newark.org

**Various Virtual
Teleconference Locations
7:30 p.m.**

AGENDA

Thursday, June 25, 2020

CITY COUNCIL:

Alan L. Nagy, Mayor
Luis L. Freitas, Vice Mayor
Sucy Collazo
Michael K. Hannon
Mike Bucci

CITY STAFF:

David J. Benoun
City Manager

Lenka Hovorka
Assistant City Manager

Gina Anderson
Police Chief

Soren Fajeau
Public Works Director

David Zehnder
*Recreation and Community
Services Director*

Kristopher J. Kokotaylo
Interim City Attorney

Krysten Lee
Finance Director

Steven M. Turner
Community Development Dir.

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.