



CITY OF NEWARK CITY COUNCIL

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

Draft

Thursday, November 14, 2019

A. ROLL CALL

Mayor Nagy called the meeting to order at 7:35 p.m. Present were Council Members Hannon, Collazo, Freitas, and Bucci.

Mayor Nagy suggested that the City Council change the order of business to allow the Consent Calendar to be considered before the Public Hearing. This would allow those only interested in the Consent Calendar the option to leave before the public hearing.

The City Council concurred with the agenda reorder.

B. MINUTES

B.1 Approval of Minutes of the City Council meeting of October 24, 2019.
MOTION APPROVED

Council Member Hannon moved, Council Member Bucci seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 5 AYES.

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

Mayor Nagy introduced Accountant Ivan Quon and Aquatics Coordinator Nick Darnell.

C.2 Proclaiming November 17 to 23, 2019 as United Against Hate Week.

Mayor Nagy presented the proclamation to Ray Yep.

C.3 Commending Newark Days Committee members.

Mayor Nagy presented commendations to Shirley Sisk and the Newark Days Committee

D. WRITTEN COMMUNICATIONS

F. CITY MANAGER REPORTS

Council Member Hannon moved, Council Member Bucci seconded, to approve Consent Calendar Items F.1 through F.7, that the resolutions and ordinances be numbered consecutively, and that reading of the titles suffice for adoption. The motion passed, 5 AYES.

CONSENT

- F.1 Second reading and adoption of an ordinance authorizing the implementation of a Community Choice Aggregation Program pursuant to California Public Utilities Code Section 366.2. ORDINANCE NO. 517**
- F.2 Adopting a Compensation Plan for certain positions in the Exempt Service Employee Group to amend the Hourly Wage Rate Schedule for Part-Time, Seasonal, and Temporary (PST) classifications, and revoking the previous Compensation Plan. RESOLUTION NO. 10998**
- F.3 Cancellation of the November 28 and December 26, 2019 City Council meetings. MOTION APPROVED**
- F.4 Amending City of Newark Records Retention Schedule. RESOLUTION NO. 10999**
- F.5 Introduction of an ordinance and setting a hearing date of December 12, 2019, to amend the Newark Municipal Code Title 15 (Buildings and Construction), Article I (Building Regulations), Chapters 15.08 (California Building Code), 15.09 (California Residential Code), 15.10 (California Mechanical Code), 15.12 (California Electrical Code), 15.16 (California Plumbing Code), 15.17 (California Fire Code), 15.18 (California Referenced Standards Code), 15.20 (California Historical Building Code), 15.21 (California Existing Building Code), 15.22 (California Energy Code), and 15.23 (California Green Building Standards Code). MOTION APPROVED to set Public Hearing ORDINANCE INTRODUCED**
- F.6 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8459 – Compass Bay (TH-HW Enterprise, LLC), a 138-unit residential subdivision within the Bayside Newark Specific Plan project area. RESOLUTION NO. 11000 CONTRACT NO. 19059**
- F.7 Approval of partial release of security bonds for Tracts 8270, 8417, 8418, 8419 and 8420, Sanctuary Village (Arroyo Capp III, LLC). RESOLUTION NO. 11001**

E. PUBLIC HEARINGS

- E.1 Hearing to consider “Sanctuary West”, a 469-unit residential project on an approximately 430-acre site within Area 4 of the “Areas 3 and 4 Specific Plan” located at the south western edge of the City of Newark. The City Council will consider approval of: (1) proposed findings based on the Compliance Checklist prepared pursuant to Sections 15164 and 15168 of the California Environmental Quality Act (CEQA) Guidelines that the environmental effects of the proposed Sanctuary West Residential Project (Project) in Area 4 are within the scope of the previously-certified 2015 Recirculated Environmental Impact Report (REIR) for the Areas 3 and 4 Specific Plan (State Clearinghouse No. 2007052065), that the REIR adequately describes the Project in Area 4 and retains substantial relevance and informational value to consideration of the Project and the environmental effects of the Project were sufficiently analyzed under the REIR and that there are no new substantial changes to the Project or to the circumstances surrounding the Project, nor new information of substantial environmental significance, nor other events since that REIR was certified in 2015 that require supplemental or subsequent CEQA review and that the Project is consistent with and implements the Specific Plan and therefore exempt from further CEQA review pursuant to California Government Code Section 65457; (2) approving Vesting Tentative Tract Map 8495; and (3) approving a Conditional Use Permit and a Planned Unit Development to allow for construction of a 469-unit residential project located at the south western edge of the City of Newark.**
- RESOLUTION NOS. 11002-11003**

Senior Planner Mangalam (presentation on file with City Clerk) stated that the Sobrato Organization applied for a 469-lot single family dwelling subdivision on a 430-acre site located within Area 4. The site has a Low Density Residential General Plan land use designation and Residential Single Family Zoning. The development consists of four villages, each village characterized by the minimum size of the residential lots. There would be 1,876 off-street and 863 on-street parking spaces. There would be three parks, four boardwalk overlooks, an overpass bridge at Stevenson Boulevard to separate vehicle and pedestrian traffic from rail traffic, an easement for emergency vehicle access and a multi-use trail.

Senior Planner Mangalam noted that the previously approved Development Agreement provided the developer vested rights to proceed with the Project in accordance with the City’s land use rules, regulations and policies in effect when the Development Agreement was approved. She noted that staff added conditions of approval to address pedestrian and bicycle safety at the Union Pacific rail road tracks and Mowry Avenue crossing and the Alameda County Water District comments for project-level design and construction. She stated that the Planning Commission recommended that the City Council approve the application at their October 22, 2019 meeting.

Judy Shandley, CEQA consultant for the City, provided background on the CEQA review for the project. She concluded that the proposed project was consistent with the adopted Areas 3 and 4 Specific Plan, that none of the events list in Public Resources Code Section 2116 nor CEQA Guidelines Section 15162 have occurred, and that the proposed project would not result in any new or more significant environmental impacts beyond those in the Recirculated Environmental Impact Report. The comments received have been reviewed and have not raised any new issues.

Senior Planner Mangalam stated that before the meeting, comments were received from East Bay for Everyone, Dan Ondrasek, Stuart Flashman, Paul W Rea, Josh Sonnenfield, the Sierra Club, Evelyn Cormier, Julia Foote, and a telephone call indicating opposition to the project from Sister Mary to the City Clerk.

Senior Planner Mangalam recommended approval of the project.

Mayor Nagy opened the public hearing at 8:11 p.m.

Tim Steele representing Sobrato Organization and Newark Partners, provided a history of land and actions taken to date. He stated that the previous approvals allowed up to 1260 single family lots. If the 469 homes were approved (phase 2), it would bring phase 1 and 2 into combined a total of 855 lots built and a quarter of the total acreage used. He requested approval of the project.

Nadja Adolph McClary stated her concern for the endangered species in the area, keeping invasive species out, and property values declining due to increased traffic. She requested that the City survey residents to see if they are happy living in Newark. (Speaker notes on file with the City Clerk.)

Jana Sokale Citizens Committee to Complete the Refuge stated her concern that the infrastructure would fragment the wetlands. She stated that the development did not address climate change, sea level rise, flooding, nor the destruction of the marsh. She requested that the site be preserved. (Presentation on file with the City Clerk.)

Carin High stated that the Citizens Committee to Complete the Refuge (CCCR) submitted comments. She requested that the City Council not approve the project. She stated that new development should not be approved that needs protection from the rising seas. She cited Foster City as an example of a city that has environmental ramifications to deal with.

Stewart Flashman CCCR attorney stated that he received the peer review documents today and requested that the City Council continue the hearing. He stated that he disagreed with Ms. Shanley's environmental assessment, that the Checklist was incomplete, and that more is known about sea level rise and flooding since 2105.

Mari Miller CCCR stated that there is new evidence of environmental impacts. She suggested postponing the decision to see if the Federal Government would make an offer for the land. She requested that the City preserve the land.

Gayle Robee CCCR requested a Supplemental EIR for the project. Stated that the Sobrato Organization did the right thing for Coyote Valley in San Jose, but this was reckless plan. She noted that Redwood City does not allow development in the salt ponds. She requested that the City Council not approve the project.

Dan Ondrasek, stated that flooding kills more Americans than any other natural disaster. He stated that sea level was predicted to inundate this site, and the City would be sued if the homes were flooded. He suggested delaying action to work towards another option such as a land purchase to preserve the site.

Josh Sonnenfeld stated that he was speaking on behalf of 13 organizations, representing 100,000 Bay Area residents. He requested the rejection of the Compliance Checklist and for the preparation of a Supplemental EIR for this project. He stated that the regional scientific community recommended protection and preservation of the area.

Bob Regeski stated that the plans to develop Area 4 were not in the best interest of the City. He cited rapid growth, traffic, ecological threats to plants and animals, and lack of public safety as reasons not to approve the project.

Alex Slate, San Jose resident, stated that there is a housing and climate crisis. He stated that the natural environment would be sacrificed and there was not adequate transit to this area. He suggested a project in a different area with more density and closer to transit.

Zoe Seagull, Greenbelt Alliance, stated they support smart growth that protects existing and future residents. She stated that Foster City plans to invest \$1 billion to protect their shoreline. She stated that residents will not be able to resell if the homes flood.

William Uregea, stated that he was a member of the Sierra Club and cofounder of the Mission Peak Conservancy. He disagreed with City position to approve the project based on the Development Agreement. He expressed concern with ingress/egress if the bridge was damaged. He suggested that the Sobrato Organization sell the land.

Maria Ramirez, Tri City resident, stated that the Ohlone were the original owners of the land and they made decisions thinking about the impact to future generations. She requested that the City Council protect the City and prepare a Supplemental Environmental Impact Report.

Wayne Miller stated that he previously submitted documents to the City Council. He objected to the Area 4 development. He stated that recent science impacts were not

included in the recent documents. He requested that the City Council postpone the decision to allow all interested parties to read all of the documents and requested a Supplemental EIR.

Laurie Price, Sierra Club, stated that there was substantial, new, and additional information on the adverse environmental impacts to the area. She cited carbon based climate change, ocean acidification, global plant and animal extinction, ocean level rise, and storm severity as examples. She requested a Supplemental EIR be prepared.

Lisa Balanki, Center for Biological Diversity, stated the need for additional CEQA review. She stated that new information regarding sea level rise and changes in project design puts the area at risk. There was no escape habitat for the species during floods and sea level rise. She requested that the project be denied.

Eileen McLaughlin CCCR, highlighted projects in Bay Area cities (Palo Alto, San Jose, Mountain View, Foster City) that are addressing sea level rise because they believe that significant risks exist. She requested that the City commission an independent study of Area 4 about anticipated risks and financial liability.

Margaret Lewis, CCCR stated her concerns with the two points of ingress/egress, the lack of public transit, shopping, and recreation in the neighborhood, the pedestrian access bridge and people potentially crossing over/under rail traffic. She questioned the 50 year life of the development.

Larry Edelson Fremont, suggested water activities if there was flooding in Area 4.

Eric Hentschke, Alameda County Mosquito Abatement District, requested that home owners be advised through real estate disclosures that the development was near a breeding area for salt marsh mosquitos and midges.

Isabel Bronstein stated her concern that the development will cause increased traffic and crime. She expressed her concern with the potential flooding.

Olga Borjon stated that Newark needs to focus on the needs of its residents. She stated the City needs good restaurants, more business, shopping and things to do.

Linda Patterson stated that she was opposed to this development and wanted the City to support open space and wildlife. She stated that protection of Area 4 would make Newark a more desirable place to live.

At 9:48 pm the Mayor closed the public hearing.

Judy Shandley CEQA consultant, Janet Khan, Geotechnical consultant, Chuck Anderson civil engineer consultant responded to City Council questions.

Mayor Nagy reopened the public hearing.

Carin High and Josh Sonnenfeld responded to Council Member Bucci's questions.

Mayor Nagy closed the public hearing

Council Member Bucci made a motion to call for a Supplemental Environmental Impact Report. The Motion failed for lack of second.

Council Member Bucci made a motion to table this item until January 2020 to allow time for further review. The Motion failed for a lack of second.

Council Member Hannon moved, Vice Mayor Collazo seconded to:

(1) Make findings based on E-19-4, the Compliance Checklist/Addendum prepared pursuant to Sections 15164 and 15168 of the California Environmental Quality Act (CEQA) Guidelines and other information in the record that the environmental effects of the proposed Sanctuary West Residential Project (Project) in Area 4 were sufficiently analyzed under and are within the scope of the previously-approved 2015 Recirculated Environmental Impact Report (REIR) for the Areas 3 and 4 Specific Plan (State Clearinghouse No. 2007052065), and retains substantial relevance and informational value to consideration of the Project, and that the REIR adequately describes the Project in Area 4, and that there are no new substantial changes to the Project or to the circumstances surrounding the Project, nor new information of substantial environmental significance, nor other events since that REIR was certified in 2015 that require supplemental or subsequent CEQA review and that the Project is also exempt from CEQA pursuant to California Government Code Section 65457;

(2) by resolution, approve TTM-19-5, Vesting Tentative Tract Map 8495; and

(3) by resolution, approve U-19-6, a Conditional Use Permit and P-19-7, a Planned Unit Development to allow for construction of a 469-unit residential project located at the south western edge of the City of Newark. The motion passed, 4 AYES, 1 NO (Bucci).

Mayor Nagy called for a recess.

Mayor Nagy called the meeting back to order.

NONCONSENT

F.8 Authorizing the City Manager to execute a contract amendment with Rhoades Planning Group for additional planning services for the Newark Old Town Specific Plan and amend the 2018-2020 Biennial Budget and Capital Improvement Plan. RESOLUTION NO. 11004

Vice Mayor Collazo and Council Member Freitas announced that they would recuse because they each own property within the Specific Plan. They left the City Council Chambers.

Deputy Community Development Director Interiano recommended that the scope of work with the Rhoades Planning Group be amended to add additional public outreach

and an analysis of changes to development standards for the Old Town Specific Plan, Streetscape, and Project Schematic Design. A budget amendment of \$29,980 was requested.

Council Member Hannon moved, Council Member Bucci seconded to, by resolution authorize the City Manager to execute the amendment to the contractual services agreement with Rhoades Planning Group for the Newark Old Town Specific Plan and amend the 2018-2020 Biennial Budget and Capital Improvement Plan. The motion passed, 3 AYES, 2 RECUSED.

F.9 Authorizing Application for, and, subject to subsequent City Council approval, receipt of Senate Bill 2 Planning Grants Program Funds for the Historic Newark District Specific Plan. RESOLUTION NO. 11005

Vice Mayor Collazo and Council Member Freitas returned to the City Council Chambers and announced that they would recuse because they each own property within the Specific Plan. They left the City Council Chambers.

Deputy Community Development Director Interiano gave the staff report requesting permission to apply for the Senate Bill 2 Planning Grant for the Historic Newark District Specific Plan. If approved, the City may be awarded up to \$160,000.

Council Member Hannon moved, Council Member Bucci seconded to, by resolution, authorize application for, and, subject to subsequent City Council approval, receipt of, Senate Bill 2 Planning Grants Program Funds for the Historic Newark District Specific Plan. The motion passed, 3 AYES, 2 RECUSED.

Vice Mayor Collazo and Council Member Freitas returned to the City Council Chambers.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

I.1 Reappointment of William Fitts and Debbie Otterstetter to the Planning Commission. RESOLUTION NO. 11006

Mayor Nagy recommended the reappointments of William Fitts and Debbie Otterstetter to the Planning Commission for a four year term each.

Council Member Bucci moved, Council Member Hannon seconded to, by resolution, approve the reappointment of William Fitts and Debbie Otterstetter to the Planning Commission, for terms to expire on December 31, 2023. The motion passed, 5 AYES.

Mayor Nagy wished everyone a Happy Thanksgiving.

Council Member Bucci stated that the League of Volunteers Newark was collecting donations for their annual Thanksgiving Meal.

Vice Mayor Collazo stated that the annual tree lighting ceremony would be at the Silliman Center on December 2. She stated there was a Go Fund Me fundraiser to help the Newark Junior High School Marching Band participate in the 2020 National Memorial Day Parade in Washington, D.C. She stated that some Newark Library after school activities have been moved to the Solid Rock Church due to the limited Civic Center parking.

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

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

Approval of Audited Demands.

MOTION APPROVED

City Clerk Harrington read the Register of Audited Demands: Check numbers 119252 to 119453.

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

M. CLOSED SESSION

N. ADJOURNMENT

Mayor Nagy adjourned the meeting at 11:16 p.m.