



# CITY OF NEWARK CITY COUNCIL

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4266 • E-mail: [city.clerk@Newark.org](mailto:city.clerk@Newark.org)

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

## AGENDA

**Thursday, July 13, 2017**

### CITY COUNCIL:

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

### CITY STAFF:

John Becker  
City Manager  
Terrence Grindall  
Assistant City Manager  
Susie Woodstock  
Administrative Services Director  
Sandy Abe  
Human Resources Director  
Soren Fajeau  
Public Works Director  
Michael Carroll  
Police Chief  
David Zehnder  
Recreation and Community  
Services Director  
David J. Benoun  
City Attorney  
Sheila Harrington  
City Clerk

*Welcome* to the Newark City Council meeting. The following information will help you understand the City Council Agenda and what occurs during a City Council meeting. Your participation in your City government is encouraged, and we hope this information will enable you to become more involved. The Order of Business for Council meetings is as follows:

- |                                     |                         |
|-------------------------------------|-------------------------|
| A. ROLL CALL                        | I. COUNCIL MATTERS      |
| B. MINUTES                          | J. SUCCESSOR AGENCY     |
| C. PRESENTATIONS AND PROCLAMATIONS  | TO REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS           | K. ORAL COMMUNICATIONS  |
| E. PUBLIC HEARINGS                  | L. APPROPRIATIONS       |
| F. CITY MANAGER REPORTS             | M. CLOSED SESSION       |
| G. CITY ATTORNEY REPORTS            | N. ADJOURNMENT          |
| H. ECONOMIC DEVELOPMENT CORPORATION |                         |

Items listed on the agenda may be approved, disapproved, or continued to a future meeting. Many items require an action by motion or the adoption of a resolution or an ordinance. When this is required, the words **MOTION**, **RESOLUTION**, or **ORDINANCE** appear in parenthesis at the end of the item. If one of these words does not appear, the item is an informational item.

The attached *Agenda* gives the *Background/Discussion* of agenda items. Following this section is the word *Attachment*. Unless "none" follows *Attachment*, there is more documentation which is available for public review at the Newark Library, the City Clerk's office or at [www.newark.org](http://www.newark.org). Those items on the Agenda which are coming from the Planning Commission will also include a section entitled *Update*, which will state what the Planning Commission's action was on that particular item. *Action* indicates what staff's recommendation is and what action(s) the Council may take.

**Addressing the City Council:** You may speak once and submit written materials on any listed item at the appropriate time. You may speak once and submit written materials on any item **not** on the agenda during **Oral Communications**. To address the Council, please seek the recognition of the Mayor by raising your hand. Once recognized, come forward to the lectern and you may, but you are not required to, state your name and address for the record. Public comments are limited to five (5) minutes per speaker, subject to adjustment by the Mayor. Matters brought before the Council which require an action may be either referred to staff or placed on a future Council agenda.

No question shall be asked of a council member, city staff, or an audience member except through the presiding officer. No person shall use vulgar, profane, loud or boisterous language that interrupts a meeting. Any person who refuses to carry out instructions given by the presiding officer for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.



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## AGENDA

Thursday, July 13, 2017

### A. ROLL CALL

### B. MINUTES

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, June 22, 2017. (MOTION)

### C. PRESENTATIONS AND PROCLAMATIONS

#### C.1 Introduction of Employee.

**Background/Discussion** – Michael Carroll was recently promoted to the position of Police Chief. Police Chief Carroll will be introduced at the City Council Meeting.

- C.2 Proclamation for the Portuguese Fraternal Society of America Council No. 16 Holy Ghost Festival and 95<sup>th</sup> Anniversary. (PROCLAMATION)

**Background/Discussion** – The Portuguese Fraternal Society of America Council 16 will celebrate the annual Holy Ghost Festival on July 22-23, 2017. This will also be a celebration of the Society's 95<sup>th</sup> Anniversary in the City of Newark. Council President Frank Couto and officers of the Society will be at the City Council to accept the proclamation.

### D. WRITTEN COMMUNICATIONS

- D.1 Advice of Action taken by the Planning Commission to uphold the Community Development Director's approval of a single-family design review, for an addition to the rear of the first and second floor of a property located at 36831 Papaya Street – from Associate Planner Mangalam. (REVIEW OPTIONAL)

**Background/Discussion** – Michael and Jennifer Huff filed an application for single-family design review for an addition to the rear of the first and second floor of their property located at 36831 Papaya Street. The subject site is on the west side of Papaya Street, approximately 225 feet south of Peachtree Avenue and is zoned R-2500 (Medium Density Residential). The applicant proposes the following: (1) a 200+/-

square foot, first floor addition (living room) to the rear of the house; (2) relocate the existing fireplace to the rear of the house; and (3) a 200+/- square foot, second floor addition on top of the first floor addition.

As per 17.16.206 - Single-family residential design review of Newark Municipal Code, all new single-family residences, second-story additions and exterior modifications to existing single-family residences shall be reviewed and acted upon by the Community Development Director. Because of the second story addition to the rear of the house, Single-Family Design review is required. As part of the review process, notice of staff's approval was mailed to the neighboring property owners within 100-foot radius of the subject site. Staff received two appeals from neighboring owners within the appeal period.

At its meeting of June 13, 2017, the Planning Commission, by a 4-0-1 (Commissioner Fitts recused due to a personal conflict of interest) vote, upheld staff's approval and denied the appeal as the Commission found that the design complied with Single-Family Design review guidelines and Newark Municipal Code.

Per Newark Municipal Code Section 17.76.100.B, "The secretary to the planning commission or his/her designee shall advise the city council of the action taken by the planning commission at its first regular meeting held more than five days after such notice of decision was mailed to the applicant". To satisfy the requirements of this section, a copy of Notice of Decision was sent to the appellants. Section 17.48.130 of the Newark Municipal Code stipulates that an approval of the Planning Commission may be appealed to the City Council within seven days of the mailing of the Notice of Decision by any person affected by such decision. Notice of decision was mailed on June 14, 2017 and no appeal was filed by the deadline.

As per section 17.76.110 of the Newark Municipal Code, the council may call up for review by it any action of the planning commission. The determination to call up for review shall be made by the council at the meeting at which the Notice of Decision is presented to it. If a decision is called up for review by the council, all proceedings shall be stayed in the same manner as the filing of a notice of appeal and the council shall hear and determine the matter in the same manner as an appeal.

#### Environmental

The proposed additions to the single family home, are categorically exempt from the California Environmental Quality Act per Section 15301, class 1 (e), additions to existing structures.

#### **Attachment**

**Action** – This item is review optional.

**E. PUBLIC HEARING**

- E.1 Hearing to consider a text amendment to Title 17 (Zoning) of the Newark Municipal Code to revise Chapter 17.20 (Commercial Districts) and Chapter 17.24 (Industrial Districts) by amending Sections 17.20.030, 17.020.040, 17.24.030 and 17.24.040 to require distribution and warehouse uses to go through the Conditional Use Permit process – from Deputy Community Development Director Interiano.**

**(INTRODUCTION OF ORDINANCE)**

**Background/Discussion** – A zoning text amendment is proposed to require distribution, warehouse and freight terminal uses to be evaluated through the conditional use permit process. Currently, these uses are listed as a permitted use in some commercial and most industrial zoning districts.

The purpose of a Conditional Use Permit (CUP) is to enable a municipality to control certain uses which could have detrimental effects on the community and apply appropriate conditions to the development and/or use.

Distribution and warehouse uses have been identified as uses which are generally heavily dependent on large areas of land and heavy truck traffic as part of their daily business. Staff recommends that a more thorough analysis be required for the placement of these types of uses and the general impacts they have on a neighborhood and the City as a whole. Staff further recommends the following three areas listed below be closely monitored for potential negative impacts:

*Compatibility*

- Discourage placement within close proximity to residential uses and schools. Review noise impacts, size of the proposed structures and orientation of bays. Review location of outdoor storage space and impacts on adjacent uses.

*Transportation*

- Require a traffic analysis, specifically looking at traffic volumes, operations and level-of-service on surrounding roadways and at key intersections. Determine the feasibility of the proposed truck route based on existing roadway geometry and types of trucks anticipated. Assess potential impacts to roadway surfaces and identify any significant off-site roadway improvements required along the anticipated truck route.

*Parking*

- Our current regulations require parking for warehouse uses to be based on the proposed number of employees. The CUP process would allow future impacts to be addressed.

**Summary of Changes:**

<b>Zoning District</b>	<b>Permitted Section Deletions</b>	<b>CUP Section Insertions</b>
General Commercial	Storage Buildings and Warehouse Use	Warehouse Use
Intermediate Commercial	Storage Buildings and Warehouse Use	Warehouse Use
High Technology Park	Warehouse Use	Warehouse/distribution operations
Industrial Technology Park	Warehouse Use	Warehouse/distribution operations
Industrial Park	Warehouse Use	Warehouse Use/distribution operations
Limited Industrial	Freight Terminal and Warehouse Use	Freight Terminal and Warehouse/distribution operations
General Industrial	Freight Terminal and Warehouse Use	Freight Terminal and Warehouse Use/distribution operations

Per the Newark Zoning Code, all existing warehouse/distribution uses would become legal non-conforming uses. A legal non-conforming use can continue indefinitely so long as the use is not abandoned (Ceased for 6 months or more) and that no more than fifty percent (50%) of the structure that contains the use is not damaged/destroyed.

Given past fluctuations in the commercial development market and the significant investment that has been made to these facilities, staff is recommending that in the case of an existing non-conforming warehouse/distribution use, the use would not be considered to be abandoned until the passage of 7 years of non-operations, and that the legal non-conforming use could continue even if the structure housing the use was completely destroyed. The recommended code includes these provisions, which were the result of discussions with impacted property owners.

Although there is concern from the development community that this code change will impede development, staff believes these concerns are outweighed by the need to provide decision makers and the public with the ability to review proposed warehouse/distribution uses and consider applying appropriate conditions.

**CEQA** - The proposed text amendment is categorically exempt from the California Environmental Quality Act (CEQA) under section 5060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 1506(b)(3) (General Rule that CEQA only applies to projects which have the potential to cause a significant effect on the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

**Update** - This item was unanimously approved by the Planning Commission on June 13, 2017. The Planning Commission recommends that the City Council approve an Ordinance amending Title 17 (Zoning) of the Newark Municipal code to revise Chapter 17.20 (Commercial Districts) and Chapter 17.24 (Industrial Districts) by amending Sections 17.20.030, 17.020.040, 17.24.030, and 17.24.040

**Attachment**

**Action** - It is recommended that the City Council introduce an ordinance amending Title 17 (Zoning) of the Newark Municipal Code to revise Chapter 17.20 (Commercial Districts) and Chapter 17.24 (Industrial Districts) by amending Section 17.20.030, 17.020.040, 17.24.030 and 17.24.040.

**F. CITY MANAGER REPORTS**

**(It is recommended that Items F.1 through F.4 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)**

**CONSENT**

- F.1 Authorization for the City Manager to sign Task Order No. 14 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 2016-2017 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 2017-2018 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**

**Action** - It is recommended that the City Council, by resolution, authorize the City Manager to sign Task Order No. 14 to the Joint Powers Agreement with the City of Fremont for Case Management Services.

**F.2 Approval of plans and specifications, acceptance of bid and award of contract to Pavement Coatings Company for the 2017 Street Slurry Seal Program, Project 1142 – from Associate Civil Engineer Tran.**  
**(MOTION)(RESOLUTION)**

**Background/Discussion** – This project scope of work includes an application of sand, aggregate, and asphalt emulsion mixture and pavement re-striping on various City streets.

Bids for the project were opened on June 20, 2017 with the following results:

<b>Bidder</b>	<b>Amount</b>
Pavement Coatings Company	\$ 215,188.21*
Bond Blacktop, Inc.	231,238.99
VSS International, Inc.	244,302.68*
American Asphalt Repair and Resurfacing Company, Inc.	262,895.53
Graham Contractors, Inc.	270,504.70
Intermountain Slurry Seal, Inc.	273,754.17*
Sierra Nevada Construction, Inc.	285,007.00
Telfer Pavement Technologies, LLC	305,037.95
Engineer's Estimate	\$ 250,000.00

*\*Corrected for mathematical error*

The 2016-2018 Biennial Budget includes sufficient funding for this project in Fiscal Year 2016-2017 through a combination of Alameda County Measure B/BB Sales Tax funds, Vehicle Registration Fee funds, and the Traffic Congestion Relief Fund.

Staff recommends that this project be awarded to the lowest responsible bidder, Pavement Coatings Company.

**Attachment**

**Action** – It is recommended that the City Council, by motion, approve the plans and specifications and by resolution, accept the bid and award the contract to Pavement Coatings Company for 2017 Street Slurry Seal Program, Project 1142.

**F.3 Approval of Contractual Services Agreements with Hexagon Transportation Consultants, Inc. and Omni-Means, Ltd. for Traffic Engineering and Transportation Planning Services and authorization to amend the 2016-2018 Biennial Budget and Capital Improvement Plan for fiscal year 2017-2108 to provide additional funding for said Contractual Services Agreements – 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) for Traffic Engineering and Transportation Planning services. RFQs were sent to firms previously under contract with the City and firms that expressed interest in receiving 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.

Traffic engineering and transportation planning services may include, but may not be limited to, traffic signal design, timing, coordination and warrant studies; review of traffic signal plans, 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.

The City does not currently have the in-house expertise, equipment or analytical software required to perform all of the traffic engineering and transportation planning services described above. Use of on-call consultants to provide these specialized services allows staff access to the required expertise on an as-needed basis and avoids the need to enter into separate agreements for each task. The end result would be more timely delivery of traffic engineering and transportation planning services for the Newark community.

Staff received a total of four statements of qualifications and evaluated and ranked them based on completeness and responsiveness to the RFQs. Staff is recommending the selection two different consultant firms – Hexagon Transportation Consultants, Inc. and Omni Means, Ltd. – to provide on-call traffic engineering and transportation planning services. Use of two firms will avoid concerns regarding conflict of interest should a traffic study or improvement plans prepared by one of the selected consultants require peer review by an outside consultant.



### 2017 Citywide Traffic Speed Survey

One of the first tasks assigned under the on-call agreements for traffic engineering and transportation planning services will be the preparation of the 2017 Citywide Traffic Speed Survey. The designation of speed limits on public streets is regulated by the California Vehicle Code (CVC) and the California Manual on Uniform Traffic Control Devices (MUTCD). Per the CVC, speed limits may not be enforced by radar unless the speed limit has been justified by an Engineering and Traffic Survey. The previous Citywide Traffic Speed Survey was conducted in 2012.

A Request for Proposals (RFP) to prepare the 2017 Citywide Traffic Speed Survey was sent to the two consultants selected to provide on-call traffic engineering services. The RFP specified that selection would be made based on quality and completeness of submissions as well as a firm's experience preparing similar studies, satisfaction of previous clients, and proposed schedule and fee proposal. Based on the proposals received, staff recommends the selection of Omni-Means, Ltd. to prepare the 2017 Citywide Traffic Speed Survey.

### Contractual Services Agreements

Staff is recommending the approval of Contractual Services Agreements for on-call traffic engineering and transportation services with two different consultant firms, each with a not to exceed amount as indicated below

- Hexagon Transportation Consultants, Inc. – \$35,000
- Omni-Means, Ltd. – \$60,000

Both agreements will be for the remainder of the 2017-18 fiscal year, beginning on July 13, 2017 and expiring on June 30, 2018, 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 will provide the requested services based upon the adopted compensation rates.

Staff requests authorization to amend the 2016-2018 Biennial Budget and Capital Improvement Plan to add \$50,000 to fiscal year 2017-18 for traffic engineering and transportation planning consultant services. The 2016-2018 Biennial Budget and Capital Improvement Plan also includes \$45,000 in fiscal year 2017-18 for the Citywide Speed Survey, Project 1184. These funds would be used to fund, in part, the Contractual Services Agreement for Omni-Means, Ltd. for performance of the 2017 Citywide Speed Survey.

### **Attachments**

**Action** – It is recommended that the City Council, by resolution approve Contractual Services Agreements with Hexagon Transportation Consultants, Inc. and Omni-Means, Ltd. for Traffic Engineering and Transportation Planning Services and amend the 2016-2018 Biennial Budget and Capital Improvement Plan for fiscal year 2017-2018 to provide additional funding for said Contractual Services Agreements.

**F.4 Approval of specifications, acceptance of bid, and award of contract to Bayside Heating and Air Conditioning, Inc., for Silliman Activity Center – HVAC Unit Replacements, Project 1152, with commissioning by Syserco, Inc. – from Maintenance Supervisor Connolly. (MOTION)(RESOLUTION)**

**Background/Discussion-** The 2016-2018 Biennial Budget and Capital Improvement Plan includes funding for Silliman Activity Center – HVAC Unit Replacements, Project 1152. The project scope includes the replacement of eleven heating, ventilation and air-conditioning (HVAC) package units at the Phase 1 portion of the Silliman Activity and Family Aquatic Center. These units are now seventeen years old and have reached the end of their recommended life cycle. Currently, the unit that supplies conditioned air to the Atrium area is non-operational and has been tentatively scheduled for replacement in late July 2017. The remaining ten units that are still operational would be replaced later in 2017 so that additional service interruptions do not take place during the warm summer months.

Bids for the project were opened on Tuesday, June 13, 2017 with the following results:

<b>Bidder</b>	<b>Amount</b>
Bayside Heating and Air Conditioning, Inc.	\$185,831
ACCO Engineered Systems	\$186,131
Foothill Air Conditioning and Heating, Inc.	\$198,200
 Engineer’s Estimate	 \$230,000

Staff recommends that this project be awarded to the lowest responsible bidder, Bayside Heating and Air Conditioning, Inc.

It is further recommended that commissioning of the replacement HVAC package units to the building’s energy management software, Alerton DDC Control System, be conducted by Syserco, Inc., the City’s sole source vendor for these services, at a cost not to exceed \$45,000. HVAC commissioning involves comprehensive testing and evaluation of a new mechanical system along with programming integration with the existing building control system to ensure peak performance. The total project budget is \$275,000.

**Attachment**

**Action -** It is recommended that the City Council, by motion, approve the specifications, and by resolution, accept the bid and award the contract to Bayside Heating and Air Conditioning, Inc. for Silliman Activity Center – HVAC Unit Replacement, Project 1152, with commissioning by Syserco, Inc.

**NONCONSENT**

- F.5 Approval of the Memoranda of Understanding with the Newark Association of Miscellaneous Employees (NAME) and the Newark Police Association (NPA); and the Compensation and Benefit Plans for the Confidential Employee Group, and the City Officials, Management, Supervisory, and Professional Employee Group – from Human Resources Director Abe. (RESOLUTIONS-4)**

**Background/Discussion** – Tentative agreements have been reached on Memoranda of Understanding (MOU's) with the Newark Association of Miscellaneous Employees (NAME) and the Newark Police Association (NPA). The labor agreements span a two year term from July 1, 2017 through June 30, 2019. Similar compensation and benefit plans are recommended for Management and Confidential employees.

The proposed two-year plans and MOU's include the following provisions:

- A four (4) percent general salary increase on July 1, 2017.
- A four (4) percent general salary increase on July 1, 2018.
- A gradual increase to the City's partial contribution for medical insurance. The City currently contributes a total monthly amount of \$428 to assist employees in purchasing medical, dental and/or vision insurance. As proposed, this amount will increase from \$428 to \$733 per month effective July 1, 2017, to \$780 per month effective January 1, 2018, and to \$813 per month effective January 1, 2019.
- Specific changes in each plan and MOU are highlighted therein.

**Attachments**

**Action** - It is recommended that the City Council, by resolutions, adopt the Memoranda of Understanding for the Newark Association of Miscellaneous Employees (NAME) and the Newark Police Association (NPA), and the Compensation and Benefit Plans for the Confidential Employee Group, and the City Officials, Management, Supervisory, and Professional Employee Group.

**G. CITY ATTORNEY REPORTS****H. ECONOMIC DEVELOPMENT CORPORATION****I. CITY COUNCIL MATTERS**

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

**K. ORAL COMMUNICATIONS**

**L. APPROPRIATIONS**

**Approval of Audited Demands for the City Council meeting of July 13, 2017. (MOTION)**

**M. CLOSED SESSION**

**N. ADJOURNMENT**

Pursuant to Government Code 54957.5: Supplemental materials distributed less than 72 hours before this meeting, to a majority of the City Council, will be made available for public inspection at this meeting and at the City Clerk's Office located at 37101 Newark Boulevard, 5<sup>th</sup> Floor, during normal business hours. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection.

For those persons requiring hearing assistance, please make your request to the City Clerk two days prior to the meeting.