



CITY OF NEWARK

CITY COUNCIL

City Administration Building, City Council Chambers

37101 Newark Boulevard, Newark, CA 94560 | (510) 578-4266 | E-mail: city.clerk@newark.org



AGENDA

Special Meeting

Thursday, December 15, 2022
6:00 P.M.

**HYBRID IN-PERSON/VIRTUAL MEETING
REFER TO THE END OF THE AGENDA TO REVIEW
OPTIONS FOR PARTICIPATING IN THE MEETING
REMOTELY OR IN-PERSON.**

**IF YOU ATTEND THE MEETING IN PERSON A FACE COVERING
IS RECOMMENDED BUT NOT REQUIRED.**

A. ROLL CALL

B. PRESENTATIONS

C. PUBLIC COMMENT

The public is invited to address the City Council on any item not listed on the agenda. Public Comments are generally limited to 5 minutes per speaker. Please note that State law prohibits the Council from acting on non-agenda items.

D. CONSENT CALENDAR

Consent Calendar items are considered to be routine and may be approved by one motion. There will be no separate discussion on these items unless there is a request by a Council Member, a staff member, or a member of the public to remove an item for separate discussion and action.

1. Adopt a Resolution Finding That There is a Proclaimed State of Emergency; Finding That Meeting in Person Would Present Imminent Risks to the Health or Safety of Attendees as a Result of the State of Emergency; and Authorizing Continued Remote Teleconferenced Meetings of the Legislative Bodies of the City of Newark for the 30 Day Period Beginning December 15 Pursuant to AB 361
2. Adopt a resolution accepting the subdivision improvements for Tracts 8419 and 8420, Villages 3 and 4 of Sanctuary Village, a 386-unit residential subdivision in General Plan Area 3 at the northwest corner of Cherry Street and Stevenson Boulevard

3. Adopt a resolution accepting the subdivision improvements for Tracts 8270, 8417, and 8418, the initial large-lot subdivision and Villages 1 and 2 of Sanctuary Village, a 386-unit residential subdivision in General Plan Area 3 at the northwest corner of Cherry Street and Stevenson Boulevard
4. Adopt a resolution approving a Side Letter Agreement to the Memorandum of Understanding between the City of Newark and the Newark Police Association to amend the process and provisions related to leave accrual and the buy back program
5. Adopt a resolution approving a side letter agreement to the Memorandum of Understanding between the City of Newark and the Newark Police Management Association to provide for compensation to Police Lieutenants for certain overtime work associated with the 2022-2023 Selective Traffic Enforcement Program grant

E. PUBLIC HEARINGS

F. OTHER BUSINESS

1. Affordable Housing Program Informational Report

G. CITY COUNCIL MATTERS

City Council Members report on attendance at intergovernmental agency meetings, conferences, and seminars since the last meeting. City Council Members may also announce upcoming events and coordinate attendance; report on local events attended since the last meeting; and make brief comments on issues of concern.

H. CLOSED SESSION

I. ADJOURNMENT

HYBRID IN-PERSON/VIRTUAL MEETING NOTICE

This meeting is being conducted utilizing teleconferencing and electronic means consistent with Assembly Bill 361 (2021). Members of the public may attend the meeting in person, virtually via Zoom, or watch it via YouTube. If you attend the meeting in person, a face covering is recommended but not required.

Mayor Hannon, Vice Mayor Collazo, and Council Members Jorgens, Bucci, and Freitas may be attending this meeting via teleconference. Teleconference locations are not open to the public. In the event that any members of the City Council elect to attend this meeting via teleconference, all votes conducted during the teleconferencing session will be conducted by roll call vote.

How to view the meeting remotely:

Livestream online at YouTube: <https://www.youtube.com/channel/UC383NGSxaPwZP1IkJbo2T8A>

Copy/paste the YouTube URL into your browser if the link does not automatically open.

How to participate in the meeting remotely, via Zoom Webinar:

From a PC, Mac, iPad, iPhone or Android device: Zoom Meeting <https://us06web.zoom.us/j/86134613930>

From a telephone dial 1- 669-900-9128, Webinar ID Number 861 3461 3930

Provide live, remote public comments, when the Mayor calls for comments. Use the raise your hand feature in Zoom to be called upon by the City Clerk.

For frequently asked Zoom questions, please go to [Agendas and Minutes](#) and select the Frequently Asked Questions link.

No question shall be asked of a council member, city staff, or an audience member except through the Mayor. 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 Mayor for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.

Council Meeting Access/Materials:

The agenda packet is available for review at [Agendas and Minutes](#). The packet is typically posted to the City website the Friday before the meeting, but no later than 72 hours before the meeting.

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 will be posted, if time allows, at [Agendas and Minutes](#). 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 who require special accommodations, please contact the City Clerk at least two days prior to the meeting at [City Clerk](#) or 510-578-4266.



STAFF REPORT

Item D. 1.

DATE 12/15/2022
TO Honorable Mayor and City Council Members
FROM Kristopher Kokotaylo, City Attorney
SUBJECT Adopt a Resolution Finding That There is a Proclaimed State of Emergency; Finding That Meeting in Person Would Present Imminent Risks to the Health or Safety of Attendees as a Result of the State of Emergency; and Authorizing Continued Remote Teleconferenced Meetings of the Legislative Bodies of the City of Newark for the 30 Day Period Beginning December 15 Pursuant to AB 361

SUMMARY AND RECOMMENDATION

Since near the start of the COVID-19 pandemic the City has been able to conduct meetings of its legislative bodies remotely pursuant to Executive Order N-29-20, which suspended certain provisions of the Brown Act allowing the City to conduct its meetings virtually. On June 11, 2021, Governor Newsom issued an Executive Order that ends the clauses of Executive Order N-29-20 which suspended those provisions of the Brown Act on September 30, 2021. Governor Newsom signed AB 361 into law on September 16, 2021. AB 361 allows the City to continue conducting virtual meetings where the Governor has proclaimed a State of Emergency and state or local officials have imposed or recommended social distancing or where the City Council has declared the need to meet remotely due to imminent risks to the health or safety of attendees.

On September 23, 2021, the City Council made the necessary findings pursuant to AB 361 to continue to conduct virtual meetings. AB 361 requires that the City Council revisit the need to continue conducting virtual meetings every 30 days. The City Council last made the necessary findings on December 8, 2022.

Staff and the City Attorney recommend that the City Council adopt a resolution making the necessary findings pursuant to AB 361 to continue conducting virtual meetings. Absent further action of the City Council, the City's legislative bodies would need to continue in-person meetings 30 days after December 8, 2022.

BACKGROUND

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State address the broader spread of COVID-19.

On March 17, 2020, the City Council adopted a Resolution ratifying the proclamation of

a local state of emergency by the Director of Emergency Services due to COVID-19.

On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means. Additionally, the State implemented a shelter-in-place order, requiring all non-essential personnel to work from home.

The City has established virtual meetings for all City Council and City Council appointed Board and Commission meetings. The virtual meetings have allowed the Council and advisory bodies to continue to conduct City business from remote locations while ensuring the public's continued access to government meetings in a safe manner.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things, rescinded certain clauses of Executive Order N-29-20 after September 30, 2021, including clauses that suspended certain provisions of the Brown Act. Thus, effective October 1, 2021, agencies would have had to transition back to public meetings held in full compliance with the Brown Act.

Since the Governor issued Executive Order N-08-21, the highly contagious Delta variant has emerged, causing a spike in cases throughout the state and within the Alameda County. Additionally, since then, the highly contagious Omicron variant and sub-variants BA.2, BA.2.12.1, and BA.5 have emerged. Currently, state and local officials still recommend wearing masks for certain individuals and under certain circumstances.

On September 16, 2021, the Governor signed AB 361 (2021) which allows for local legislative and advisory bodies to continue to conduct meetings via teleconferencing under specified conditions and includes a requirement that the Council make specified findings. AB 361 took effect immediately.

The City Council adopted a resolution pursuant to AB 361 on September 23, 2021 in order to allow the City's legislative bodies to continue conducting virtual meetings after September 30, 2021. The resolution included all of the necessary findings required pursuant to AB 361. The City Council has adopted continued resolutions since that time.

DISCUSSION/ANALYSIS

The California Legislature approved AB 361 and the Governor signed the bill into law on September 16, 2021. AB 361 allows local legislative bodies to continue to meet remotely after the expiration of the clauses of Executive Order N-29-20 which suspended certain Brown Act provisions. Under AB 361, the City and its legislative bodies will be allowed to continue to meet remotely when:

- The local agency holds a meeting during a declared state of emergency;
- State or local health officials have imposed or recommended measures to promote social distancing;

- Legislative bodies declare the need to meet remotely due to present imminent risks to the health or safety of attendees.

The City meets the requirements to continue holding meetings remotely in order to ensure the health and safety of the public:

- The Governor has declared a State of Emergency, and the City Council has ratified the proclamation of a local emergency by the Director of Emergency Services;
- CalOSHA recommends social distancing under certain circumstances and maintaining six feet of distance can avoid close contacts requiring quarantine;
- The Delta and Omicron variants of COVID-19 have resulted in a significant increase of COVID-19 cases within the state and throughout Alameda County;
- Meeting in person would present imminent risks to the health or safety of attendees, the legislative bodies, and staff.

Pursuant to AB 361, the City Council is required to declare every 30 days that the City's legislative bodies must continue to meet remotely in order to ensure the health and safety of the public.

The proposed resolution includes the necessary findings pursuant to AB 361 to allow the City Council and the City's legislative bodies to continue meeting remotely.

FISCAL IMPACT

There is no direct fiscal impact of adopting this Resolution.

REVIEW AND APPROVAL

Prepared by - Kristopher J. Kokotaylo, City Attorney

Approved by - David J. Benoun, City Manager

Attachments

AB 361 Resolution December 15

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK FINDING THAT THERE IS A PROCLAIMED STATE OF EMERGENCY; FINDING THAT MEETING IN PERSON WOULD PRESENT IMMINENT RISKS TO THE HEALTH OR SAFETY OF ATTENDEES AS A RESULT OF THE STATE OF EMERGENCY; AND AUTHORIZING CONTINUED REMOTE TELECONFERENCED MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY OF NEWARK FOR THE 30 DAY PERIOD BEGINNING DECEMBER 15 PURSUANT TO AB 361

WHEREAS, all meetings of the City of Newark’s legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the City’s legislative bodies conduct their business; and

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of the novel coronavirus disease 2019 (“COVID-19”); and

WHEREAS, on March 17, 2020, the City Council adopted a Resolution ratifying the proclamation of a local emergency by the Director of Emergency Services due to COVID-19; and

WHEREAS, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, as a result of Executive Order N-29-20, staff set up virtual meetings for all City Council meetings and meetings of all legislative bodies within the City; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which, effective September 30, 2021, ends the provisions of Executive Order N-29-20 that allows local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 (2021) which allows for local legislative bodies and advisory bodies to continue to conduct meetings via teleconferencing under specified conditions and includes a requirement that the City Council make specified findings. AB 361 (2021) took effect immediately; and

WHEREAS, AB 361 (2021) requires that the Governor declare a State of Emergency pursuant to Government Code section 8625; and

WHEREAS, AB 361 (2021) further requires that state or local officials have imposed or recommended measures to promote social distancing, or, requires that the legislative body

determines that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in the City, specifically, Governor Newsom has declared a State of Emergency due to COVID-19; and

WHEREAS, since issuing Executive Order N-08-21, the highly contagious Delta and Omicron variants, in addition to Omicron sub-variants, of COVID-19 have emerged, causing an increase in COVID-19 cases throughout the State and Alameda County; and

WHEREAS, CalOSHA still recommends masking and maintaining six feet of distance under certain circumstances and ; and

WHEREAS, because of the rise in cases due to the Delta and Omicron variant of COVID-19, and now the Omicron sub-variant, the City is concerned about the health and safety of all individuals who intend to attend City Council and meetings of the City's other legislative bodies; and

WHEREAS, on September 23, 2021, the City Council found that the presence of COVID-19 and the increase of cases due to the Delta variant would present imminent risks to the health or safety of attendees, including the legislative bodies and staff, should the City's legislative bodies hold in person meetings; and

WHEREAS, the highly contagious Omicron variant has since resulted in several highly contagious sub-variants, including the new BA.5, which has become the dominant strain of COVID-19; and

WHEREAS, the City Council finds that the imminent risks of the City's legislative bodies holding in person meetings to the health or safety of attendees continues to exist due to the Delta and Omicron variants of COVID-19; and

WHEREAS, the City shall ensure that it's meetings comply with the provisions required by AB 361 (2021) for holding teleconferenced meetings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark as follows:

1. The above recitals are true and correct, and incorporated into this Resolution.
2. In compliance with AB 361 (2021), and in order to continue to conduct teleconference meetings without complying with the usual teleconference meeting requirements of the Brown Act, the City Council makes the following continued findings:
 - a) The City Council has reconsidered the circumstances of the state of emergency; and
 - b) The state of emergency, as declared by the Governor and City Council, continues to directly impact the ability of the City Council and the City's legislative bodies, as well as staff and members of the public, from meeting safely in person; and

- c) The CDC continues to recommend physical distancing of at least six feet due to COVID-19, state and local officials continue to recommend wearing masks and physical distancing under certain circumstances, and as a result of the presence of COVID-19 and the increase of cases due to the Delta and Omicron variants, meeting in person would present imminent risks to the health or safety of attendees, the legislative bodies and staff.
- 3. City Council and City's legislative bodies may continue to meet remotely in compliance with AB 361, in order to better ensure the health and safety of the public.
- 4. The City Council will revisit the need to conduct meetings remotely within 30 days of the adoption of this resolution.



STAFF REPORT

Item D. 2.

DATE 12/15/2022
TO Honorable Mayor and City Council Members
FROM Diana Cangco, Principal Civil Engineer
SUBJECT Adopt a resolution accepting the subdivision improvements for Tracts 8419 and 8420, Villages 3 and 4 of Sanctuary Village, a 386-unit residential subdivision in General Plan Area 3 at the northwest corner of Cherry Street and Stevenson Boulevard

SUMMARY AND RECOMMENDATION

Subdivision improvements for Tracts 8419 and 8420, Villages 3 and 4 of Sanctuary Village, a 386-unit residential subdivision in General Plan Area 3 at the northwest corner of Cherry Street and Stevenson Boulevard, have been completed in substantial compliance with the plans and specifications of the project. The developer for the project is KB Sanctuary, LLC, a Delaware limited liability company. The developer's contractor, LS-Newark, LLC, a Delaware limited liability company, provided the Maintenance Bonds in amounts listed in the table below to guarantee the completed subdivision improvements for a one-year maintenance period.

TRACT	MAINTENANCE BOND
8419 - Village 3	\$208,000
8420 - Village 4	\$262,900

Staff recommends that the City Council adopt a resolution accepting the subdivision improvements for Tracts 8419 and 8420.

BACKGROUND

On July 26, 2018, the developer, KB Sanctuary, LLC, entered into two separate Subdivision Agreements with the City of Newark to construct public and private improvements for Tracts 8419 and 8420, Villages 3 and 4 of Sanctuary Village, respectively. As allowed in the Subdivision Improvement Agreements, the developer's contractor, LS-Newark, LLC, provided Performance Bonds and Materials Bonds issued by Philadelphia Indemnity Insurance Company in the amounts indicated in the table below to guarantee the subdivision improvements on Spadefoot Avenue right-of-way, and all private in-tract common area improvements. The public improvements included new curb, gutter, sidewalk, landscaping, signage, lighting, utilities, and street pavement. The private improvements included new private street alleyways, driveways, sidewalk, signage, utilities, lighting, landscaping, and other common area improvements.

TRACT	PERFORMANCE BOND	MATERIALS BOND
8419 - Village 3	\$2,080,000	\$1,040,000
8420 - Village 4	\$2,629,000	\$1,314,500

On November 14, 2019, the City Council reduced all original Performance Bond amounts to 20% of their original values due to completion of more than 80% of the total scope of tract improvements in accordance with authority contained in Section 66499.7 of the California Government Code.

DISCUSSION/ANALYSIS

The construction of the subdivision improvements for Tracts 8419 and 8420 is now complete. The developer's contractor, LS-Newark, LLC, provided Maintenance Bonds for the correction of any defective materials or workmanship within the designated one-year maintenance period. After acceptance, the public improvements, some of which are part of Zone 2 - Sanctuary of Landscape and Lighting District No. 4, will be owned and maintained by the City. The private improvements for the common benefit of all homeowners will be owned and maintained by the Sanctuary Village Homeowners Association.

FISCAL IMPACT

The estimated additional annual cost to maintain the public improvements associated with Tracts 8419 and 8420 is \$15,900. The estimated annual maintenance cost is for pavement maintenance, street sweeping, curb and gutter replacement, and storm drain inlet maintenance.

REVIEW AND APPROVAL

Prepared by - Diana Cangco, Principal Civil Engineer
Reviewed by - Jayson Imai, Assistant City Engineer
Reviewed by - Soren Fajeau, Public Works Director
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK ACCEPTING THE SUBDIVISION IMPROVEMENTS
FOR TRACTS 8419 AND 8420, VILLAGES 3 AND 4 OF
SANCTUARY VILLAGE, A 386-UNIT RESIDENTIAL
SUBDIVISION IN GENERAL PLAN AREA 3 AT THE
NORTHWEST CORNER OF CHERRY STREET AND
STEVENSON BOULEVARD

WHEREAS, KB Sanctuary, LLC, previously entered into two separate Subdivision Agreements with the City of Newark both dated July 26, 2018 (Resolutions 10,833 and 10,835) for the construction of certain subdivision improvements for Tracts 8419 and 8420, Villages 3 and 4 of Sanctuary Village, a 386-unit residential subdivision in General Plan Area 3 at the northwest corner of Cherry Street and Stevenson Boulevard, in accordance with plans and specifications on file with the City Engineer; and

WHEREAS, the scope of the public improvements on Spadefoot Avenue included new curb, gutter, sidewalk, landscaping, lighting, utility connections, and street pavement; and

WHEREAS, said work has been completed in substantial compliance with the plans and specifications of the contract entered into heretofore and the City Engineer has recommended the acceptance of these public improvements on Spadefoot Avenue; and

WHEREAS, additional work was completed in substantial compliance with the plans and specifications, within the common areas of the project site to be owned and maintained by the Sanctuary Village Homeowners Association, including but not limited to the private street alleyways, driveways, sidewalk, utilities, lighting, landscaping, and other common area improvements; and

WHEREAS, pursuant to Resolution 11,001, the City Council of the City of Newark approved 80% bond reductions through the release and replacement of the original Performance Bonds and the original Materials Bonds issued by Philadelphia Indemnity Insurance Company with bond riders in the amounts of \$416,000 and \$208,000 respectively for Tract 8419; and \$525,800 and \$262,900 respectively for Tract 8420; and

WHEREAS, as allowed by the Subdivision Improvement Agreement, LS-Newark, LLC, the project contractor, has furnished Subdivision Maintenance Bonds in the amounts of \$208,000 and \$262,900 for the correction of any defective materials or workmanship within a designated one-year maintenance period for Tracts 8419 and 8420, respectively.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that said public improvements on Spadefoot Avenue are hereby accepted as complete.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby approve the Subdivision Maintenance Bonds in the amount of \$208,000 and \$262,900.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby authorize the release of the remaining Performance Bonds and Materials Bonds guaranteeing the completion of work in Tracts 8419 and 8420.



STAFF REPORT

Item D. 3.

DATE 12/15/2022
TO Honorable Mayor and City Council Members
FROM Diana Cangco, Principal Civil Engineer
SUBJECT Adopt a resolution accepting the subdivision improvements for Tracts 8270, 8417, and 8418, the initial large-lot subdivision and Villages 1 and 2 of Sanctuary Village, a 386-unit residential subdivision in General Plan Area 3 at the northwest corner of Cherry Street and Stevenson Boulevard

SUMMARY AND RECOMMENDATION

Subdivision improvements for Tracts 8270, 8417, and 8418, the initial large-lot subdivision and Villages 1 and 2 of Sanctuary Village, a 386-unit residential subdivision in General Plan Area 3 at the northwest corner of Cherry Street and Stevenson Boulevard, have been completed in substantial compliance with the plans and specifications of the project. The developer for the project is Arroyo Cap III, LLC, a Delaware limited liability company. The developer's contractor, LS-Newark, LLC, a Delaware limited liability company, provided Maintenance Bonds in the amounts listed in the table below to guarantee the completed subdivision improvements for a one-year maintenance period.

TRACT	MAINTENANCE BOND
8270 - Large-lot Subdivision	\$864,700
8417 - Village 1	\$278,000
8418 - Village 2	\$237,200

Staff recommends that the City Council adopt a resolution accepting the subdivision improvements for Tracts 8270, 8417, and 8418.

BACKGROUND

On November 9, 2017, July 26, 2018, and September 27, 2018, the developer, Arroyo Cap III, LLC, entered into Subdivision Agreements with the City of Newark to construct public and private improvements for Tracts 8270, 8417, and 8418, the initial large-lot subdivision and Villages 1 and 2 of Sanctuary Village, respectively. As allowed in the Subdivision Improvement Agreement, the developer's contractor, LS-Newark, LLC, provided Performance Bonds and Materials Bonds issued by Philadelphia Indemnity Insurance Company in the amounts listed in the table below to guarantee the subdivision improvements on Sea Turtle Avenue, Brush Rabbit Avenue, Dragonfly Street, Tomcod Street, Spadefoot Avenue, Pumpkinseed Street, and Grasshopper

Avenue rights-of-way, and all private in-tract common area improvements. The public improvements included new curb, gutter, sidewalk, landscaping, signage, lighting, utilities, and street pavement. The private improvements included new private street alleyways, driveways, sidewalk, signage, utilities, storm drain and stormwater treatment systems, lighting, landscaping, and other common area improvements.

TRACT	PERFORMANCE BOND	MATERIALS BOND
8270 - Large-lot Subdivision	\$8,647,000	\$4,323,500
8417 - Village 1	\$2,780,000	\$1,390,000
8418 - Village 2	\$2,372,000	\$1,186,000

On November 14, 2019, the City Council reduced all original Performance Bond amounts to 20% of their original values due to completion of more than 80% of the total scope of tract improvements in accordance with authority contained in Section 66499.7 of the California Government Code.

DISCUSSION/ANALYSIS

The construction of subdivision improvements for Tracts 8270, 8417, and 8418 is now complete. The developer's contractor, LS-Newark, LLC, provided Maintenance Bonds for the correction of any defective materials or workmanship within the designated one-year maintenance period. After acceptance, the public improvements, some of which are part of Zone 2 - Sanctuary of Landscape and Lighting District No. 4, will be owned and maintained by the City. The private improvements for the common benefit of all homeowners will be owned and maintained by the Sanctuary Village Homeowners Association.

FISCAL IMPACT

The estimated additional annual cost to maintain the public improvements associated with Tracts 8270, 8417, and 8418 is \$136,600. The estimated annual maintenance cost is for pavement maintenance, street sweeping, curb and gutter replacement and maintenance costs identified as the City's contribution for Zone 2 - Sanctuary of Landscape and Lighting District No. 4 due to general and special benefits for parcels outside Zone 2.

REVIEW AND APPROVAL

Prepared by - Diana Cangco, Principal Civil Engineer

Reviewed by - Jayson Imai, Assistant City Engineer

Reviewed by - Soren Fajeau, Public Works Director

Reviewed by - Kristopher J. Kokotaylo, City Attorney

Approved by - David J. Benoun, City Manager

Attachments

Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK ACCEPTING THE SUBDIVISION IMPROVEMENTS
FOR TRACTS 8270, 8417, AND 8418, THE INITIAL LARGE-
LOT SUBDIVISION AND VILLAGES 1 AND 2 OF
SANCTUARY VILLAGE, A 386-UNIT RESIDENTIAL
SUBDIVISION IN GENERAL PLAN AREA 3 AT THE
NORTHWEST CORNER OF CHERRY STREET AND
STEVENSON BOULEVARD

WHEREAS, Arroyo Cap III, LLC, previously entered into three separate Subdivision Agreements with the City of Newark dated November 9, 2017, July 26, 2018, and September 27, 2018 (Resolutions 10,717, 10,831, and 10,846) for the construction of certain public and private improvements for Tracts 8270, 8417, and 8418, the initial large-lot subdivision and Villages 1 and 2 of Sanctuary Village, a 386-unit residential subdivision in General Plan Area 3 at the northwest corner of Cherry Street and Stevenson Boulevard, in accordance with plans and specifications on file with the City Engineer; and

WHEREAS, the scope of public improvements on Sea Turtle Avenue, Brush Rabbit Avenue, Dragonfly Street, Tomcod Street, Spadefoot Avenue, Pumpkinseed Street, and Grasshopper Avenue included new curb, gutter, sidewalk, landscaping, lighting, utility connections, and street pavement; and

WHEREAS, said work has been completed in substantial compliance with the plans and specifications of the contract entered into heretofore and the City Engineer has recommended the acceptance of these public improvements on Sea Turtle Avenue, Brush Rabbit Avenue, Dragonfly Street, Tomcod Street, Spadefoot Avenue, Pumpkinseed Street, and Grasshopper Avenue; and

WHEREAS, additional work was completed in substantial compliance with the plans and specifications, within the common areas of the project site to be owned and maintained by the Sanctuary Village Homeowners Association, including but not limited to the private street alleyways, driveways, sidewalk, utilities, storm drain and stormwater treatment systems, lighting, landscaping, and other common area improvements; and

WHEREAS, pursuant to Resolution 11,001, the City Council of the City of Newark approved 80% bond reductions through the release and replacement of the original Performance Bonds and the original Materials Bonds issued by Philadelphia Indemnity Insurance Company with bond riders in the amounts of \$1,729,400 and \$864,700 respectively for Tract 8270; \$556,000 and \$278,000 respectively for Tract 8417; and \$474,400 and \$237,200 respectively for Tract 8418; and

WHEREAS, as allowed by the Subdivision Improvement Agreements, LS-Newark, LLC, the project contractor, has furnished Subdivision Maintenance Bonds in the amounts of \$864,700, \$278,000, and \$237,200 for the correction of any defective materials or workmanship within a designated one-year maintenance period for Tracts 8270, 8417, and 8418 respectively.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that said public improvements on Sea Turtle Avenue, Brush Rabbit Avenue, Dragonfly Street, Tomcod Street, Spadefoot Avenue, Pumpkinseed Street, and Grasshopper Avenue are hereby accepted as complete.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby approve the Subdivision Maintenance Bonds in the amounts of \$864,700, \$278,000, and \$237,200.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby authorize the release of the remaining Performance Bonds and Materials Bonds guaranteeing the completion of work in Tracts 8270, 8417, and 8418.



STAFF REPORT

Item D. 4.

DATE 12/15/2022
TO Honorable Mayor and City Council Members
FROM Jennifer Solito, Human Resources Director
SUBJECT Adopt a resolution approving a Side Letter Agreement to the Memorandum of Understanding between the City of Newark and the Newark Police Association to amend the process and provisions related to leave accrual and the buy back program

SUMMARY AND RECOMMENDATION

To fulfill a provision of the Memorandum of Understanding between the City of Newark and the Newark Police Association and to address concerns of eligibility requirements to participate in the vacation buy back program during a period of staffing challenges, staff recommends that the City Council, by resolution, approve a Side Letter Agreement to the Memorandum of Understanding between the City of Newark and the Newark Police Association related to the accrual, eligibility and cash out processes for compensatory time and vacation leave.

BACKGROUND

On July 8, 2022, City Council approved a Side Letter Agreement between the City and the Newark Police Association (Association) amending and extending the Memorandum of Understanding (MOU) between the City and Association through June 30, 2025. This Side Letter Agreement included a provision that the City and Association agree to meet and confer prior to the end of calendar year 2022, to develop a process related to the cash out of accrued compensatory time.

DISCUSSION/ANALYSIS

The City and Association met and conferred regarding amending the process related to the cash out options for accrued compensatory time. The amendments include requirements that employees pre-designate, in the year prior to the year of accrual and cash out, if they will cash out accrued compensatory time. Employees will have the voluntary option to either pre-designate and cash out compensatory time they earn and accrue in the subsequent calendar year, or opt to not cash out, and carry their accruals into the following year.

During the course of the meet and confer process, other items related to leave accruals and cash out processes were discussed and are further recommended for amendment, including:

1. Increase the compensatory time maximum accrual limit from 160 hours to 220

hours, to align with the comparable agency market average; and

2. Related to the process for vacation leave cash out: waive the eligibility requirement that employees must use half of their accrued leave in the prior year to be eligible to cash out. This requirement would be waived for calendar years 2022 and 2023, with the option for the City Manager to extend through 2024. This amendment is recommended due to the staffing shortages occurring in the Police Department making it difficult for staff to utilize their leave.

The changes proposed are similar to changes made to the cash out processes for other labor groups during the recent bargaining cycle and align with the comparable market agencies.

FISCAL IMPACT

There is no fiscal impact to the City resulting from the amendments to the accrual cash out processes and eligibility. The increase of the compensatory time maximum accrual limit has the potential to result in certain future liabilities due to staff retaining additional leave for future cash out upon separation. However, waiver of the eligibility requirement for vacation leave cash out may result in savings of future liability, as more personnel could cash out leave at today's rates, rather than save the leave for cash out upon separation at a higher rate.

REVIEW AND APPROVAL

Prepared by – Jennifer Solito, Human Resources Director

Reviewed by – Lenka Hovorka, Assistant City Manager

Reviewed by – Kristopher J. Kokotaylo, City Attorney

Approved by – David J. Benoun, City Manager

Attachments

Resolution

Exhibit A

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK APPROVING A SIDE LETTER AGREEMENT WITH
THE NEWARK POLICE ASSOCIATION TO AMEND CERTAIN
PROVISIONS RELATED TO THE ACCRUAL, ELIGIBILITY
AND CASH OUT PROCESSES FOR COMPENSATORY TIME
AND VACATION LEAVE.

WHEREAS, the City and the Newark Police Association (Association) are parties to a Memorandum of Understanding (MOU) in effect between July 1, 2019 and June 30, 2025; and

WHEREAS, a Side Letter Agreement approved by the City Council on July 28, 2022 included provisions that the City and Association would meet and confer to develop a process related to the cash out of accrued compensatory time; and

WHEREAS, the Police Department is faced with staffing shortages, resulting in the denial or cancelation of Association members' leave use; and

WHEREAS, the City and Association have met and conferred and agreed to amendments to the process for the cash out of accrued compensatory time, as outlined in Exhibit A; and

WHEREAS, the City and Association further agreed to additional amendments related to the maximum accrual of compensatory time and the eligibility requirements related to the cash out of vacation leave, as outlined in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the City Council approves the Side Letter Agreement between the City of Newark and the Newark Police Association amending certain provisions related to the accrual, eligibility, and cash out processes for compensatory time and vacation leave, as attached in Exhibit A.



CITY OF NEWARK, CALIFORNIA

To: Newark Police Association (NPA) Executive Board
From: Jennifer Solito, Human Resources Director
Date: November 14, 2022

This will serve as a side letter to the City of Newark (City) and the Newark Police Association (NPA) July 1, 2019 - June 30, 2025 Memorandum of Understanding (MOU). The purpose of this side letter is to address language from the July 18, 2022 side letter which provided that the Association and City would meet and confer prior to December 31, 2022, to develop a process related to the cash out of compensatory time, with the goal to comply with constructive receipt requirements in calendar year 2023.

The City and Association have met and conferred and agreed to the following amendments below related to the cash out process for compensatory time, as well as adjusted the maximum accrual of compensatory time to reflect the comparable market. Further, certain eligibility requirements related to the buyback of vacation time are waived through the remainder of the MOU due to operational impacts on leave scheduling.

The City and NPA agree to the following amendments to the MOU with revisions in redline:

- Section VIII.K of MOU:

VIII. VACATION LEAVE

- K. Effective July 1, 2017, upon using one-half of the vacation time accrued during the 12-month period from July 1 through June 30, a regular full-time employee may request to receive pay for up to a total of sixty (60) hours per fiscal year of vacation, forty-five (45) to fifty-two and a half (52.5) hours for 30-35 hour employees, and thirty (30) to thirty-seven and a half (37.5) hours for 20-25 hour employees in hourly increments at the current hourly salary rate provided there is a minimum of one (1) week (40 hours) remaining in the employee's vacation bank after the conversion. Requests for vacation buy-back may be made up to two times per fiscal year in October and/or April for payment on December 15 and/or June 15.

For calendar year 2022 only, the total amount of vacation eligible for buy-back will be increased one time to 100 hours for regular full-time employees, 85 to 92.5 for 30-35 hour employees, and 70 to 77.5 for 20-25 hour employees.

Effective November 2022 - By December 1 of each calendar year, eligible employees who want to cash out accrued vacation leave in the following calendar year shall make an irrevocable election to cash out in the next calendar year, subject to the conditions set forth below:

- For regular full-time employees: The employee may cash out up to 80 hours of vacation.
- For regular 30-35 hour part-time employees: The employee may cash out up to 60-70

hours of vacation.

- For regular 20-25 hour part-time employees: The employee may cash out up to 40-50 hours of vacation.
 - To be eligible to cash out, the employee must have used at least one-half of the vacation time accrued during the 12-month period preceding December. For calendar years 2022 and 2023 only, this requirement is waived due to operational and staffing concerns currently restricting leave usage, but may be extended through 2024 with City Manager approval.
 - Employees must have the equivalent of one regular work week remaining in vacation accruals at the time of cash out.
- Employees must submit their Vacation Buy-Back Request Form to Payroll by December
- ~~1.~~ This is an irrevocable election by the employee.

For example, to buy back vacation leave that is accrued in calendar year 2023, a full-time employee must elect by December 1, 2022, how many hours they want to buy back. The employee must have used a minimum of 50% of their accrued vacation between December 1, 2021 and November 30, 2022. Employees must further ensure they will have at least one work week of vacation accruals remaining at the time of the buy back which will occur in December 2023. The sell back will be paid out in the last full pay period of December 2023, which is December 29, 2023.

The City makes no representation as to the tax consequences of an employee cashing out accrued leave or the vacation sellback program. It is the employee's sole responsibility to address the tax consequences of cashing out accrued leave or the vacation buy-back program.

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- Section XV.C of MOU:

XV. OVERTIME

C. Compensatory Time Off

Accumulation of compensatory time off shall be limited to 160 hours and shall only be available in accordance with federal regulations implementing the Fair Labor Standards Act. When an employee reaches the maximum accumulation of 160 hours, the employee shall receive overtime pay for time worked in excess of the regularly assigned shift.

Effective December 15, 2022, the maximum accumulation of compensatory time off shall be 220 hours. All compensatory time off accruals and compensatory time off elected for cash out count toward the 220 hours limit.

Compensatory time accrual may be cashed-out for up to 80 hours per fiscal year. Cash out will be in November and April of the fiscal year. This provision terminates December 31, 2022.

~~The City makes no representation as to the tax consequences of an employee cashing out accrued leave or the vacation buyback program. It is the employee's sole responsibility to address the tax consequences of cashing out accrued leave or the vacation buy-back program.~~

The Association and the City agree to meet and confer prior to December 31, 2022 to develop a process related to the cash out of compensatory time. The new process will be implemented in calendar year 2023 with the goal to comply with constructive receipt requirements in calendar year 2023.

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1. Voluntary Election to Cash Out Compensatory Time Off

Effective December 2022 –To cash out compensatory time that is accrued in calendar year 2023, the employee must make an irrevocable election by December 18, 2022, that all compensatory time earned in calendar year 2023 and remaining as an accrual as of the last full pay period in December 2023, will be cashed out during said pay period.

Effective December 2023 and each year thereafter - By December 1 of each calendar year, eligible employees may voluntarily and irrevocably elect to cash out compensatory time in the following year. If an employee elects to cash out compensatory time in the following calendar year, all compensatory time earned during the applicable calendar year and remaining at the end of that calendar year, will be cashed out in the last full pay period of the calendar year. Should the employee transition outside of NPA, the irrevocable election remains in place for the calendar year. For future years, subsequent MOU provisions of the new employee group will apply to compensatory time off.

Each year the employee will have the option to elect to irrevocably cash out compensatory time for the subsequent calendar year.

The City makes no representation as to the tax consequences of an employee cashing out accrued leave or the compensatory time cash out program. It is the employee's sole responsibility to address the tax consequences of cashing out accrued leave.

2. Non-election of Compensatory Time Off Cash-Out

If an employee does not irrevocably elect to cash out compensatory time in the following calendar year, the compensatory time leave accrued in that calendar year will be credited to the employee's compensatory time off account until the compensatory time off account is credited in full to the maximum accrual amount. Unused compensatory time will carry over from one calendar year until the next until exhausted. Should the employee transition outside of NPA, the subsequent MOU provisions of the new employee group will apply to any remaining compensatory leave. Upon separation from City service, all earned compensatory time will be paid in cash.

Dated: _____

For the City of Newark:

For the Newark Police Association:

David J. Benoun, City Manager

Patrick Smith, President



STAFF REPORT

Item D. 5.

DATE 12/15/2022
TO Honorable Mayor and City Council Members
FROM Jennifer Solito, Human Resources Director
SUBJECT Adopt a resolution approving a side letter agreement to the Memorandum of Understanding between the City of Newark and the Newark Police Management Association to provide for compensation to Police Lieutenants for certain overtime work associated with the 2022-2023 Selective Traffic Enforcement Program grant

SUMMARY AND RECOMMENDATION

Staff recommends that the City Council, by resolution, approve a side letter agreement to the Memorandum of Understanding between the City of Newark and the Newark Police Management Association to provide for compensation to Police Lieutenants for certain overtime work associated with the 2022-2023 Selective Traffic Enforcement Program grant.

BACKGROUND

The Newark Police Department was selected to receive a Selective Traffic Enforcement Program (STEP) grant through the California Office of Traffic Safety (OTS) in the amount of \$100,000 to promote efforts related to reducing the number of injury crashes and promoting a safer vehicle and pedestrian environment. The Council approved this grant on September 22, 2022. The grant period is from October 1, 2022, through September 30, 2023.

The grant requires that a certain number of enforcement activities occur during the time period of the grant. Due to short staffing in the police department, which is systematic to the wider region at this time, there may be the need to utilize other sworn staff to assist with staffing these activities. The City wishes to provide appropriate compensation for this work, which would be fully funded by the STEP grant.

DISCUSSION/ANALYSIS

Police Department staff have been planning and executing various activities required under the STEP grant agreement. However, due to systemic staffing issues across all police departments in the wider region, the staffing of these events may be difficult.

These events frequently require additional staff above the standard shift schedule and require staff to work overtime to meet the staffing requirements. If non-management sworn staff are not available to staff the required activities, it may be necessary to employ other sworn staff in these capacities.

The City has met and conferred with the Newark Police Management Association (NPMA) towards an agreement of utilizing Police Lieutenants to staff STEP grant activities, only in the event that all eligible Police Sergeant, Police Officer, and other non-management eligible staff are not available.

Should the Police Chief determine that additional support is needed for STEP-related activities, the Police Chief may designate Police Lieutenants to perform this work. This work would be paid at the top-step regular base rate of the Police Sergeant classification, to provide appropriate compensation commiserate with the work performed. Police Lieutenants will only be utilized as a last resort in order to meet the activity requirements of the STEP grant and after all work associated with the STEP grant has been first offered to eligible non-management staff.

FISCAL IMPACT

There is no fiscal impact to the City as all activities associated with the STEP grant program will be fully paid through available grant funds.

REVIEW AND APPROVAL

Prepared by – Jennifer Solito, Human Resources Director

Review by – Lenka Hovorka, Assistant City Manager

Reviewed by – Kristopher J. Kokotaylo, City Attorney

Approved by – David J. Benoun, City Manager

Attachments

Resolution - NPMA Side Letter Agreement

Exhibit A

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK APPROVING A SIDE LETTER AGREEMENT WITH
THE NEWARK POLICE MANAGEMENT ASSOCIATION TO
PROVIDE FOR THE COMPENSATION OF MANAGEMENT
STAFF FOR CERTAIN OVERTIME WORK ASSOCIATED
WITH THE 2022-2023 SELECTIVE TRAFFIC ENFORCEMENT
PROGRAM GRANT.

WHEREAS, the City received a Selective Traffic Enforcement Program (STEP) grant through the California Office of Traffic Safety (OTS) in the amount of \$100,000 for a program term of October 1, 2022 through September 30, 2023; and

WHEREAS, the City Council approved receipt of the grant on September 22, 2022; and

WHEREAS, the STEP grant requires the City's Police Department perform a variety of activities related to reducing the number of injury crashes and promoting a safer vehicle and pedestrian environment; and

WHEREAS, due to staff shortages, it may be difficult to staff all required activities with available non-management sworn staff; and

WHEREAS, the City may wish to employ Police Lieutenants to assist with staffing some of the STEP grant required activities; and

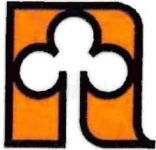
WHEREAS, the City notified the Newark Police Association of this action and solicited feedback; and

WHEREAS, the City and the Newark Police Management Association (Association) are parties to a Memorandum of Understanding (MOU) in effect between July 1, 2022 and June 30, 2025; and

WHEREAS, the City has met and conferred with the Newark Police Management Association (Association) towards the compensation for overtime work performed by Police Lieutenants associated with the STEP grant; and

WHEREAS, should a Police Lieutenant perform work related to STEP grant activities, they will be compensated at the top-step regular rate of the Police Sergeant classification.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the City Council approves the Side Letter Agreement between the City of Newark and the Newark Police Management Association for compensation of overtime related to the 2022-2023 STEP grant, as attached in Exhibit A.



To: Newark Police Management Association (NPMA) Executive Board

From: Jennifer Solito, Human Resources Director

Date: December 7, 2022

This will serve as a side letter to the City of Newark (City) and the Newark Police Management Association (NPA) July 1, 2022 - June 30, 2025 Memorandum of Understanding (MOU). The purpose of this side letter is to address potential staffing needs related to the Selected Traffic Enforcement Program grant received by the California Office of Traffic Safety, which the City Council approved receipt of on September 22, 2022.

The City and Association have met and conferred and agreed to the following amendments below related to provisions allowing Lieutenants to perform work and be compensated for work related to the grant.

The City and NPMA agree to the following amendments to the MOU with revisions in redline:

Section IV of MOU:

IV. COMPENSATION

B. OVERTIME PAY

The following provision only applies to activities funded with the grant(s) received by the Office of Traffic Safety (OTS), with a term of October 1, 2022 to September 30, 2023 (Contract Number PT23054).

In the event of a shortage of personnel to fulfill the specified OTS grant funded events and if flexible scheduling is not operationally practical, the Police Chief or designee may require employees who hold the rank of Lieutenant to perform work required by the OTS grant that is outside of their regular duties and outside of their regular schedule. Such work shall be compensated at time and one-half of the base pay rate for top step Sergeant, and shall be designated as OTS overtime.

For overtime compensation to apply, the event must deviate from normal Lieutenant duties and be an OTS grant funded activity which is fully reimbursable through the OTS grant to the City. In no event will a Lieutenant perform more than 24 hours of work per month under this provision.

For employees to be eligible to participate in OTS grant funded events on overtime, the event must first be offered to all eligible personnel of the rank of Sergeant and Officer. When it is determined by the Police Chief or designee that there is inadequate staffing to accomplish the event, the overtime can at that point be required of Lieutenants at the Police Chief's discretion. In no way will this overtime agreement be used to supplant overtime opportunities for staff of the rank of Sergeant or Officer. The City makes no overtime

guarantee for Lieutenants assigned to an applicable event, as flexible staffing is the preferred method of staffing events whenever practical. A member of the rank of Sergeant or Officer may replace a Lieutenant at any time up to the start of the event.

Dated: _____

For the City of Newark:

For the Newark Police Management Association:

David J. Benoun, City Manager

Jonathan Arguello, President



STAFF REPORT

Item F. 1.

DATE 12/15/2022
TO Honorable Mayor and City Council Members
FROM Steven Turner, Community Development Director
SUBJECT Affordable Housing Program Informational Report

SUMMARY AND RECOMMENDATION

Staff recommends that the City Council receive an informational report regarding Newark's affordable housing program.

BACKGROUND

Housing policy in Newark is currently guided by the Housing Element of the General Plan, last updated and adopted in 2015 for the 2015-2023 planning period. This Housing Element sets forth goals, policies, programs, and actions for addressing the community's housing needs across income levels and household types. As described below, Newark is in the process of updating the Housing Element for the 2023-2031 planning period.

In order to help Community Development staff develop and implement an Affordable Housing Work Plan, Newark retained the services of Baird and Driskell Community Planning (B+D), a planning firm specializing in local government housing programs. To help shape the Work Plan, B+D professionals and City staff individually consulted with Council Members, Planning Commissioners, and Community Development Advisory Committee members. The following major housing needs and priority groups were identified for Newark:

- Young families
- Key workers (teachers, first responders, among others)
- People and families at risk of homelessness
- People with disabilities and other special housing needs
- Low-income senior citizens

City staff and B+D then prepared a work plan to respond directly to these needs and priorities. In May 2021, the City Council approved by resolution (Resolution No. 11201) the 2021-2023 Affordable Housing Work Plan to supplement the City's current policies and create a number of new programs to proactively meet housing needs for all segments of the Newark community.

The report and the accompanying presentation provides an update regarding the work plan implementation and significant affordable housing accomplishments over the last 18 months.

DISCUSSION/ANALYSIS

Affordable Housing Approved by City Council

Over the previous 18 months, the City Council has approved entitlements that will result in the creation of 321 new affordable rental units throughout the community. The units will be located in the developments summarized below:

NewPark Mall "Phase A" apartments	29 units
Timber Street senior affordable apartments	78 units
FMC Willow family apartments in Bayside Newark	90 units
Cedar Community Apartments, for homeless and "at-risk" households	124 units

The Timber Street senior affordable apartment project is significant in that it represents the City's first investment of Housing Impact Fee funds (approximately \$2.8 million) to produce affordable housing in Newark. Likewise, Cedar Community Apartments is significant in that the City received a \$38.6 million Homekey grant for the conversion of Towne Place Suites into affordable housing. The City also invested \$6 million in American Recovery Plan Act (ARPA) and Housing Impact Fee funds into the project and funding was also provided by Alameda County (\$4 million) and the Housing Authority of Alameda County through issuance of 60 Project-Based Vouchers, 11 of which will be reserved for veterans. City staff and the City's partners, including Abode Services and Allied Housing, devoted considerable time to this important project. As a result, Cedar Community Apartments was the 6th highest valued project (in terms of the grant award) and 10th largest in terms of unit count statewide out of 116 projects funded in the Homekey Round 2 program.

2023-2031 Housing Element Update (6th Cycle)

In 2022, staff and B+D made significant progress in the preparation of a public review draft of the 2023-2031 Housing Element Update. This progress included an extensive community engagement effort to obtain input on existing housing challenges, proposed policies and actions, and locations where affordable housing should occur. A project website (www.newarkhousingupdate.org) serves as the primary information portal for this effort. In addition, staff and B+D prepared an extensive study related to Affirmatively Furthering Fair Housing (AFFH) to guide policies and actions. Staff is also preparing an update to the General Plan Natural Hazards Element, as required by state law.

Newark Live/Work Preference Study

At a December 2021 study session, the City Council indicated a preference for the City to study a program that would provide an affordable housing Newark preference (or priority) for community members that either live or work in Newark, subject to all applicable fair housing laws. As a first step, the City entered into an agreement with Seifel Consultants and the Concord Group to study whether Newark residents and workers were being displaced from the City due to the availability of housing that was affordable. This displacement study and the accompanying disparate impact analysis

was prepared to demonstrate that implementation of a live/work preference was necessary and that adopting a preference requirement would not result in any disparate impacts. The displacement study and disparate impact analysis have been completed and shared with Alameda County's Housing and Community Development Department (HCD). HCD review and acceptance is required for projects that receive funding through the County's affordable housing programs, such as the Measure A1 program. This work is expected to be complete in 2023.

Current and 2023 Afford Housing Program Focus

Affordable Housing Notice of Funding Availability

The Housing Impact Fee fund represents a critical strategic resource for Newark as the city looks to leverage scarce resources and partner with nonprofit developers to deliver new affordable housing opportunities in the community. The balance of the fund as of June 30, 2022 is approximately \$32 million, taking into account previously reserved Housing Impact Fee funds for the Timber Street Senior Apartments and Cedar Community Apartments. In adopting the Affordable Housing Work Plan, the City Council identified approximately \$12 million from the Housing Impact Fee fund for additional investments into affordable housing. In June 2022, the City released a Notice of Funding Availability (NOFA) for multifamily affordable housing rental projects, inviting developers of deed-restricted affordable new-construction multifamily rental housing projects in the Bay Area to apply for funding assistance. The City received one response from Satellite Affordable Housing Associates (SAHA). The proposal is for a project at 6347-6375 Thornton Avenue that would include 57 units, including one manager's unit, for individuals and families. To meet the need for family-sized units, the proposal includes 15 two-bedroom apartments and 16 three-bedroom apartments. The Community Development Advisory Committee is expected to review the funding proposal in December 2022 followed by Council's review in early 2023. The staff recommendation would be to reserve funds for this project. The project itself would be considered for entitlements later in 2023.

2023-2031 Housing Element Update

The draft of the 2023-2031 Housing Element Update is expected to be available before the end of December 2022 for a 30-day public review period. Staff expects to conduct public outreach during this period through outreach to key stakeholder groups and through a community meeting to be held in January. Environmental review of the draft Housing Element would be conducted during this time. Staff will revise the draft Housing Element before it is sent to the State of California's Housing and Community Development (HCD) department for formal review. It is expected that the Planning Commission and City Council would review and consider certifying the 2023-2031 Housing Element in early Spring 2023. This is a later date than the HCD deadline of January 31, 2023. However, the impacts of not certifying the Housing Element after January 31, 2023 are expected to be minimal. Cities that certify their housing elements after January 2023 must conduct any necessary rezoning to accommodate the Regional Housing Needs Assessment targets in one year instead of three years. No rezoning is anticipated in Newark's 2023-2031 Housing Element, so this requirement would not affect Newark. Upon certification of the Housing Element, staff will begin implementing the adopted policies and actions.

Other 2023 Affordable Housing Efforts

- Inclusionary Housing Study and Ordinance. In order to ensure the on-site inclusion of affordable units in new developments, B+D and staff will develop a scope of work and RFP to retain a consulting firm to develop a feasible inclusionary housing program for Newark to replace the existing impact fee program. As an outcome of this effort, B+D will work with the consulting team to develop an economically feasible program and structure an ordinance that complies with State law and reflects best practices in inclusionary housing policies from other California cities.
- First Time Homebuyer Program. Many Bay Area cities either manage their own first-time homebuyer programs or partner with nonprofit partners to manage local programs. For this work plan item, B+D will conduct a thorough analysis of suitable first-time homebuyer programs and will recommend a program for implementation.

FISCAL IMPACT

This informational report does not contain any direct fiscal impacts. The Work Plan and Housing Element are expected to have implementation costs, likely associated with consultant assistance and preparation of technical reports, as may be required. The Community Development Maintenance Fee fund and Housing Impact fee fund could be used for these costs. City staff will also consider applying for any available grants to offset the use of city funds.

ENVIRONMENTAL/PLANNING COMMISSION REVIEW

This information report is not considered a "project" under the requirements of the California Environmental Quality Act. No environmental review is required.

REVIEW AND APPROVAL

Prepared by - Steven Turner, Community Development Director

Reviewed by - Kristopher J. Kokotaylo, City Attorney

Approved by - David J. Benoun, City Manager

Attachments

Affordable Housing Work Plan
Presentation

RESOLUTION NO. 11,201

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK APPROVING AN AFFORDABLE HOUSING WORK
PLAN

WHEREAS, in May 2015, the City Council approved Resolution 10,361 approving an amendment of the Newark General Plan, adopted December 12, 2013, by replacing the Housing Element with the Housing Element Update 2015; and

WHEREAS, the purpose of the Housing Element is to support the vision of assuring the provision of safe, decent, affordable shelter for all Newark residents. The Housing Element places a particular emphasis on lower income Newark residents and residents with special needs, including seniors and persons with disabilities. The Housing Element includes an evaluation of housing needs in the City, based on demographics and housing conditions. As required by state law, it identifies sites sufficient to accommodate the City's share of the region's housing needs over an eight-year period, the Regional Housing Need Allocation (RHNA), developed by the Association of Bay Area Governments (ABAG); and

WHEREAS, the State of California continues to suffer a housing affordability crisis, which also manifests at the regional and local level. Based on data from ABAG, median rents in the Bay Area have increased over 44% between 2010 and 2015, while median household income has increased by 5% over same period. In 2017, over 40% of Alameda County renters spent 35% or more of their household income on rent; and

WHEREAS, the 2015-2023 RHNA for the Bay Area identifies a total housing need of 187,990 units, distributed among very-low, low-, moderate-, and above-moderate income levels. The City of Newark's RHNA allocation for the 2015-2023 period is 1,078 units (which shall be accommodated through the General Plan and Zoning Ordinance, but not necessarily constructed) and includes:

- a) 330 units for very-low income households, with incomes at or below 50% of the Average Median Income (AMI)
- b) 167 units for low income families, with incomes ranging from 51% or 80% of AMI
- c) 158 units for moderate-income households, with incomes from 80% to 120%, and
- d) 423 units for above-moderate-income households with an AMI of greater than 120%; and

WHEREAS, between the period of 2015-2020, the number of residential units constructed in the City or have had building permits issued for construction, includes 36 units of housing affordable for moderate-income households and 1,062 units of housing affordable to above moderate-income households, for a total of 1,098 units. The City has not produced units affordable to low-income or very-low-income households within the 2015-2020 period, and

WHEREAS, although the City has produced housing that exceeds the goal for above-moderate housing, the production goals for very-low, low, and moderate housing have not been met; and

WHEREAS, the City recognizes the importance of continuing to proactively develop affordable housing in Newark to meet the needs of families who live and work in the City, consisted with the adopted Housing Element; and

WHEREAS, in November 2020, the City Council approved a contractual services agreement with Baird + Driskell Community Planning (Consultant) to provide affordable housing program management services to the City; and

WHEREAS, City staff directed the Consultant to conduct interviews with the City Council, the Planning Commission, and the Community Development Advisory Committee to assess the affordable housing needs of the community and prepare a work plan that would guide the efforts of City staff and the Consultant over a two-year period; and

WHEREAS, based on the results of the interviews, City staff and the Consultant have produced an affordable housing work plan that includes activities for the preparation of new affordable housing requirements, policies, and actions intended to significantly incentivize the production of affordable housing within the City, particularly at the very-low and low-income levels.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby adopts the 2021-2023 Affordable Housing Work Plan as attached as Exhibit A.

I HEREBY CERTIFY the foregoing resolution was introduced at a regular meeting of the City Council of the City of Newark held on May 13, 2021, by Council Member Hannon who moved its adoption and passage, which motion was carried after being duly seconded, and passed by the following vote:

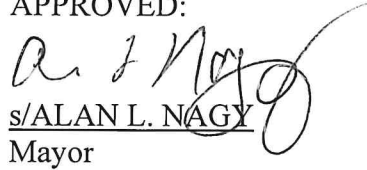
AYES: Council Members Collazo, Freitas, Hannon, Vice Mayor Bucci and Mayor Nagy

NOES: None

ABSENT: None

SECONDED: Council Member Collazo

APPROVED:


s/ALAN L. NAGY
Mayor

ATTEST:


s/SHEILA HARRINGTON
City Clerk

APPROVED AS TO FORM:


s/KRISTOPHER J. KOKOTAYLO
Interim City Attorney

Newark Affordable Housing Work Plan, 2021-2023						
	I. Housing Element Update	II. Inclusionary Housing and Nexus Study and Ordinance	III. Funding NOFA	IV. Local Preferences Policy	V. First-Time Homebuyer Program	V. Sites Acquisition and Other
Timeframe/Budget*	\$150,000-\$200,000, depending on extent of re-zoning	\$100,000	40% of Housing Fund	\$50K	\$50,000 for Initial Program Structure + 5% of Housing Fund	40% of Housing Fund
Spring/Summer 2021	Issue RFP/begin community engagement, review of previous housing element, needs assessment and overall update process	Develop Scope/Issue RFP/Retain Consultant and initiate study process	Develop NOFA outline and determine initiate funding be offered	Coordinate with Eden Housing re: local preferences analysis for proposed 79-unit senior housing development	Develop draft program parameters for first-time homebuyer program.	1) Due diligence and background research for potential acquisition of sites for affordable housing development. 2) assist staff with ongoing real state and affordable housing analysis, developer negotiations other key tasks related to affordable housing.
Fall 2021	Community engagement continues + sites inventory and analysis	Conduct Study	Issue NOFA and review applications	Develop analysis and guidelines for local preferences policy	Conduct additional due diligence for program and present draft program for Council consideration.	1) Develop sites acquisition strategy; 2) affordable housing program and policy support.
Winter 2021/22	Assess rezoning needs	Finalize Study and make recommendations to Council/adopt updated Program/Ordinance	Make funding commitments	Adopt local preferences policy	Adopt and begin implementation of program.	Implementation of sites acquisition strategy; other affordable housing program and analytical tasks.

Newark Affordable Housing Work Plan, 2021-2023

		I. Housing Element Update	II. Inclusionary Housing and Nexus Study and Ordinance	III. Funding NOFA	IV. Local Preferences Policy	V. First-Time Homebuyer Program	V. Sites Acquisition and Other
Spring 2022		Rezoning + Programs and Policies	Implementation	Manage/oversee funding allocations	Implementation	Implementation	Implementation of sites acquisition strategy; other affordable housing program and analytical tasks.
Summer 2022		Public Hearings	Implementation	Manage/oversee funding	Implementation	Implementation	Implementation of sites acquisition strategy; other affordable housing program and analytical tasks.
Fall 2022		Submit Draft to HCD	Implementation	Manage/oversee funding	Implementation	Implementation	Implementation of sites acquisition strategy; other affordable housing program and analytical tasks.
Winter 2022/23		Approve and Adopt Housing Element	Implementation	Manage/oversee funding	Implementation	Implementation	Implementation of sites acquisition strategy; other affordable housing program and analytical tasks.

*Estimated budget or Housing Fund allocation percentage. Specific funding requests would be reviewed and approved by Council

AFFORDABLE HOUSING PROGRAM INFORMATIONAL REPORT

CITY OF NEWARK

15 DECEMBER 2022



AGENDA

- ❑ **BACKGROUND**
- ❑ **AFFORDABLE HOUSING WORKPLAN**
- ❑ **6TH CYCLE HOUSING ELEMENT UPDATE**
- ❑ **2023 HOUSING FOCUS**

NEWARK AFFORDABLE HOUSING POLICY FRAMEWORK

- Housing policy in Newark is currently guided by the Housing Element of the General Plan, last updated and adopted in 2015 for the 2015-2023 planning period
- Affordable Housing Work Plan approved by Council in May, 2021
- 6th Cycle Housing Element for 2023-2031 will be released as Public Review Draft by end of year and submitted to HCD in early 2023

AFFORDABLE HOUSING WORKPLAN

- ❑ Priority Housing Needs
- ❑ Policies and Programs

PRIORITY HOUSING NEEDS

- ❑ Young families
- ❑ Key workers (teachers, first responders, etc.) People and families at risk of homelessness
- ❑ People with disabilities and other special housing needs
- ❑ Low-income senior citizens

2021-2023 Priorities and Status

- Housing Element Update Process (underway)
- Affordable Housing Developer NOFA (staff preparing recommendation to CDAC)
- Affordable Homeownership Program (2023)
- Local preferences ordinance (displacement study and disparate impact study completed; policy to formalized in 2023).
- Update Inclusionary Housing Program (2023)

AFFORDABLE HOUSING APPROVED

321 + AFFORDABLE UNITS IN PIPELINE

- ❑ TIMBER STREET AFFORDABLE HOUSING
- ❑ CEDAR COMMUNITY APARTMENTS
- ❑ NEWPARK PLACE PHASE 1A
- ❑ FMC WILLOW FAMILY APARTMENTS

HOUSING ELEMENT UPDATE

- Community Outreach
- RHNA and Proposed Sites
- AFFH Analysis
- Policies and Programs
- Next Steps

Community Engagement

- Conducted through Summer and Fall, 2022
- Meetings, stakeholder interviews and survey communities
- Web site: newarkhousingupdate.org



RHNA & Proposed Sites

Newark: Regional Housing Needs Allocation (RHNA) 2023-2031

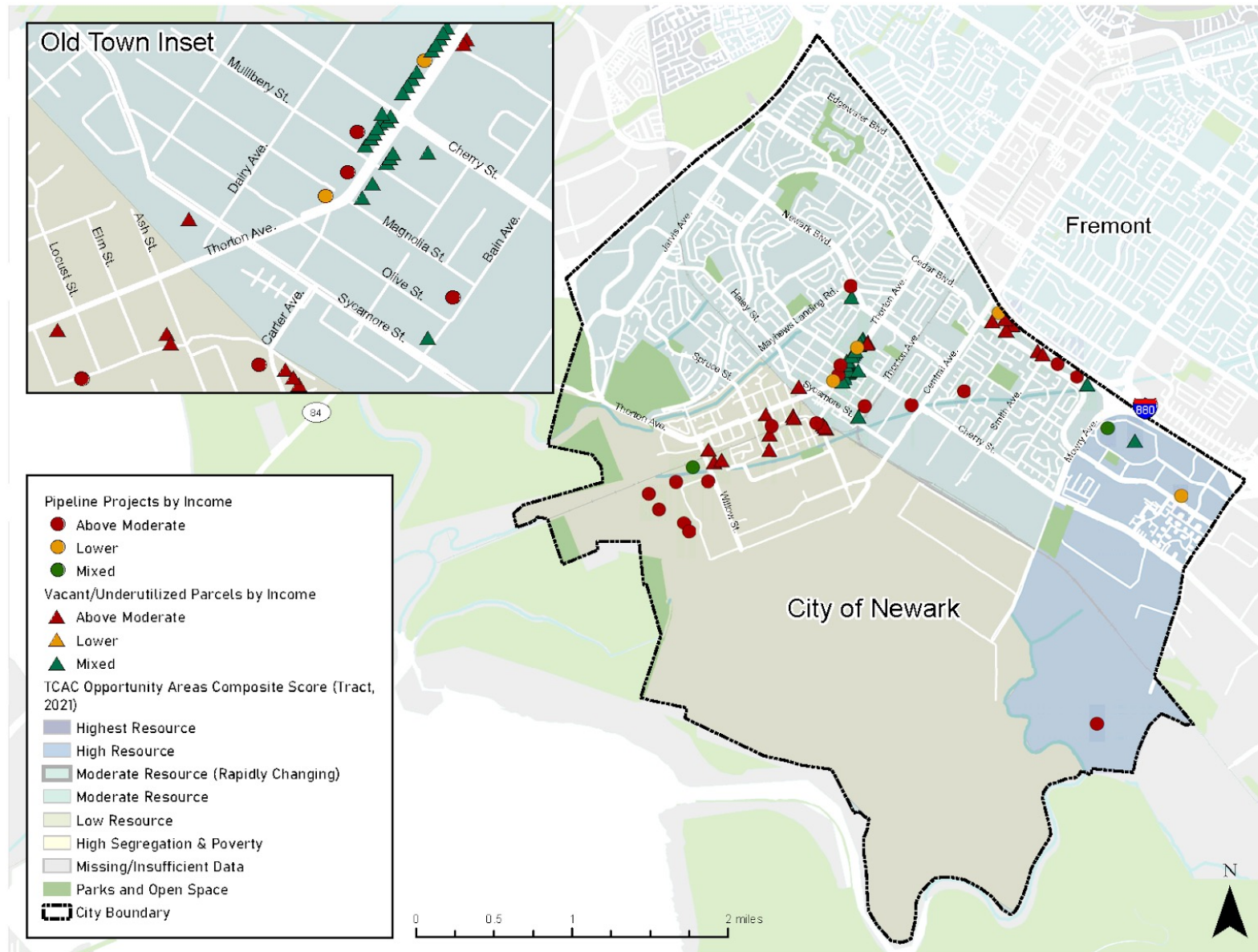
	RHNA	Sites to Accommodate RHNA			% of RHNA
		Planned Units	Housing Sites	Total Capacity	
Very-Low Income	464	301	388	689	148%
Low-Income	268	85	352	437	163%
Moderate-Income	318	31	432	463	146%
Above Moderate Income	824	2,272	1,491	3,763	457%
Total	1,874	2,689	2,663	5,352	286%

Source: City of Newark; Baird and Driskell, 2022.

Affirmatively Furthering Fair Housing

A detailed analysis to ensure that Newark's programs and policies affirmatively further fair housing (AFFH), including taking meaningful actions - in addition to combating discrimination - that overcome patterns of segregation and foster inclusive communities.

Proposed Housing Sites, 2023-2031



Policies and Programs

- ❑ Goal #1: Preserve and Improve Existing Housing
- ❑ Goal #2: Facilitate the Development of More Homes for More People
- ❑ Goal #3: Reduce and Remove Constraints to Affordable Housing
- ❑ Goal #4: Help People Stay in Their Homes and Communities
- ❑ Goal #5: Increase Access to Affordable Housing
- ❑ Goal #6: Enhance Quality of Life
- ❑ Goal #7: Further Fair Housing

Housing Element Next Steps

- ❑ Public Review Period, January, 2023
- ❑ Submit to HCD for 90-Day Review, February-April, 2023
- ❑ Revise and Resubmit, Not later than end of May, 2023
- ❑ Complete Rezoning within 1-Year of Adoption

FOCUS FOR 2023

- ❑ Adopt 2023-2031 Housing Element and Implement policies and programs
- ❑ Design Local Preferences Policy
- ❑ Finalize funding agreement with affordable housing developer per NOFA
- ❑ First-time Homebuyer Program
- ❑ Update Inclusionary Housing Policy

Thank You!

