



COUNTY OF ALAMEDA

Sample Ballot and Voter Information Pamphlet Consolidated District Election TUESDAY, NOVEMBER 8, 2011

POLLS OPEN AT 7 A.M.
AND CLOSE AT 8 P.M.

**WARNING: THE LOCATION OF YOUR POLLING
PLACE MAY HAVE CHANGED**

SEE BACK COVER FOR YOUR POLLING PLACE
LOCATION AND VOTE BY MAIL BALLOT REQUEST

TAKE THIS SAMPLE BALLOT TO THE POLLS
AND PRE-MARK IT TO AVOID DELAY



OFFICIAL BALLOT / BALOTA OFICIAL

CONSOLIDATED DISTRICT ELECTION / ELECCIÓN CONSOLIDADA DE DISTRITOS
 ALAMEDA COUNTY, NOVEMBER 8, 2011
 CONDADO DE ALAMEDA, 8 DE NOVIEMBRE DE 2011

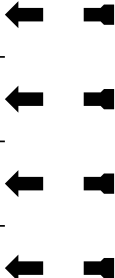
INSTRUCTIONS TO VOTERS: USE BLACK OR BLUE BALLPOINT PEN ONLY. To vote for a candidate of your choice, complete the arrow to the right of the candidate's name. To vote for a qualified write-in candidate, PRINT the person's name in the blank space provided and complete the arrow. To vote on any measure, complete the arrow after the word "Yes" or "No."



INSTRUCCIONES PARA LOS VOTANTES: USE UN BOLÍGRAFO CON TINTA NEGRA O AZUL SOLAMENTE.

Para votar por cualquier candidato de su selección, complete la flecha a la derecha del nombre del candidato. Para votar por un candidato calificado para inserción de su nombre por escrito, escriba EN LETRA DE MOLDE el nombre de esa persona en la línea en blanco que se le proporciona y complete la flecha. Para votar por cualquier medida, complete la flecha después de la palabra "Si" o "No."

NONPARTISAN NO PARTIDISTA
CITY OF EMERYVILLE CIUDAD DE EMERYVILLE
FOR MEMBERS OF CITY COUNCIL PARA MIEMBROS DEL CONCEJO MUNICIPAL Vote for no more than Three <i>Vote por no más de Tres</i>
KEN BUKOWSKI Emeryville City Councilmember <i>Miembro del Concejo Municipal de Emeryville</i>
RUTH ATKIN Emeryville City Councilmember <i>Miembro del Concejo Municipal de Emeryville</i>
JACQUELINE ASHER Educator <i>Educadora</i>
WILLIAM MICHAEL WEBBER Attorney <i>Abogado</i>



MEASURES SUBMITTED TO THE VOTERS
MEDIDAS SOMETIDAS A LOS VOTANTES
CITY OF EMERYVILLE CIUDAD DE EMERYVILLE
C To maintain the high quality of life in Emeryville and fund essential services including police, fire, 9-1-1, park maintenance, litter abatement, graffiti removal, flood protection, street maintenance, accessibility improvements, child care, senior and recreation programs, shall an ordinance be adopted that increases the business tax rate to 0.10% of gross receipts, amends the definition of gross receipts and makes other clarifications? <i>Con el propósito de mantener el alto nivel de vida en Emeryville y financiar los servicios esenciales incluyendo los servicios de policía, bomberos, 9-1-1, mantenimiento de parques, remoción de desperdicios, remoción de graffitis, protección contra inundaciones, mantenimiento</i>

D To maintain the high quality of life in Emeryville and fund essential services including police, fire, 9-1-1, park maintenance, litter abatement, graffiti removal, flood protection, street maintenance, accessibility improvements, child care, senior and recreation programs, shall an ordinance be adopted that increases the limit on the maximum annual business tax that businesses pay?

Con el propósito de mantener el alto nivel de vida en Emeryville y financiar los servicios esenciales incluyendo los servicios de policía, bomberos, 9-1-1, mantenimiento de parques, remoción de desperdicios, remoción de graffitis, protección contra inundaciones, mantenimiento de calles, mejoras a la accesibilidad, cuidados infantiles, programas recreativos y para personas de la tercera edad, ¿deberá adoptarse una ordenanza que incremente el límite máximo sobre el impuesto comercial que los negocios pagan?

Sample Ballot

NORA DAVIS City Councilmember <i>Miembro del Concejo Municipal</i>

de calles, mejoras a la accesibilidad, cuidados infantiles, programas recreativos y para personas de la tercera edad, ¿deberá adoptarse una ordenanza que incremente la tasa de impuesto comercial a 0.10% sobre los ingresos brutos, modifique la definición de ingresos brutos y haga otras aclaraciones?

YES / SÍ

NO / NO

YES / SÍ
NO / NO
F Shall an initiative ordinance be enacted that amends Emeryville Municipal Code Section 2-1.302 to prohibit the Emeryville City Council from employing a City Attorney and subordinate employees in the City Attorney's Office and require the City Council by contract to designate a City Attorney or law firm to act as City Attorney? <i>¿Deberá promulgarse una ordenanza de iniciativa que modifique la Sección 2-1.302 del Código Municipal de Emeryville, para prohibir al Concejo Municipal de Emeryville contratar a un Abogado Municipal y empleados subordinados en la Oficina del Abogado Municipal y exigir por contrato al Concejo Municipal designar a un Abogado Municipal o a una firma de abogados para que actúe como Abogado Municipal?</i>
YES / SÍ
NO / NO

OFFICIAL BALLOT / BALOTA OFICIAL

CONSOLIDATED DISTRICT ELECTION / ELECCIÓN CONSOLIDADA DE DISTRITOS
 ALAMEDA COUNTY, NOVEMBER 8, 2011
 CONDADO DE ALAMEDA, 8 DE NOVIEMBRE DE 2011

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NONPARTISAN NO PARTIDISTA		
CITY OF LIVERMORE CIUDAD DE LIVERMORE		
FOR MAYOR PARA ALCALDE Vote for One Vote por Uno		
BARBARA HICKMAN Retired Author/Publisher <i>Autora/Publicadora Jubilada</i>	←	■
MINUETE MCKERNAN Political Science Major <i>Especialidad en Ciencias Políticas</i>	←	■
JOHN P. MARCHAND Councilmember <i>Miembro del Concejo</i>	←	■
	←	■

Sample Ballot

**FOR MEMBERS OF CITY COUNCIL
PARA MIEMBROS DEL CONCEJO
MUNICIPAL**

Vote for no more than Two
Vote por no más de Dos

MARSHALL KAMENA

Mayor
Alcalde



LAUREEN TURNER

Livermore Area Recreation and Park District Director
*Directora del Distrito de Recreación y Parques del
Area de Livermore*



STEWART GARY

Retired Fire Chief
Jefe de Bomberos Jubilado



BOBBY DALE BURGER

Financial Marketing Officer
Director de Marketing Financiero



Sample Ballot

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NONPARTISAN NO PARTIDISTA	MEASURES SUBMITTED TO THE VOTERS
CITY OF NEWARK CIUDAD DE NEWARK	MEDIDAS SOMETIDAS A LOS VOTANTES
FOR MAYOR PARA ALCALDE Vote for One Vote por Uno	SCHOOL ESCUELA
ANA M. APODACA Councilmember/Community Manager <i>Miembro del Concejo/Administradora Comunitaria</i>	<p>G "To preserve quality education, provide safe and modern schools, and qualify for matching funds, shall Newark Unified School District update aging classrooms, libraries, and science labs to meet earthquake/fire/safety standards; improve access for students with disabilities; remove asbestos, lead and hazardous materials; and improve energy/operational efficiency to maximize funding for instructional programs; by issuing \$63 million in bonds at legal rates, with independent oversight, no money for administrators' salaries, and all funds staying in Newark?"</p> <p><i>"Con el fin de preservar la calidad en la</i></p>
ALAN L. NAGY Newark City Councilmember <i>Miembro del Concejo Municipal de Newark</i>	
RAY J. RODRIGUEZ School Boardmember/Businessman <i>Miembro de la Junta Escolar/Hombre de Negocios</i>	
(Blank space for write-in candidate)	

FOR MEMBERS OF CITY COUNCIL PARA MIEMBROS DEL CONCEJO MUNICIPAL Vote for no more than Two <i>Vote por no más de Dos</i>	
LUIS L. FREITAS Incumbent <i>Titular del Cargo</i>	← <input type="checkbox"/>
MARIA "SUCY" COLLAZO Owner, Tortilla Factory <i>Dueña, Fabrica de Tortillas</i>	← <input type="checkbox"/>
MIKE BUCCI Union Millwright <i>Unión Mecánico Ingeniero</i>	← <input type="checkbox"/>
RICHARD "RICK" BENSCO Sales Associate <i>Asociado de Ventas</i>	← <input type="checkbox"/>
JACK DANE Registered Tax Preparer <i>Preparador de Impuestos Registrado</i>	← <input type="checkbox"/>
	← <input type="checkbox"/>
	← <input type="checkbox"/>
	← <input type="checkbox"/>

educación, proporcionar escuelas más modernas y seguras, y calificar para la obtención de fondos equivalentes, ¿deberá el Distrito Escolar Unificado de Newark modernizar los salones, las bibliotecas y los laboratorios de ciencias deteriorados por el paso del tiempo con el fin de cumplir con los estándares de seguridad en caso de terremotos o incendios; mejorar el acceso para los estudiantes con discapacidades; retirar asbestos, plomo y otros materiales peligrosos, y mejorar la eficiencia energética y operativa para maximizar el financiamiento para los programas educativos, mediante la expedición de \$63 millones en bonos en las tasas permitidas por ley, con supervisión independiente, sin utilizar los fondos para los salarios de los administradores, y que los fondos se queden en Newark?"

BONDS YES / BONOS SÍ ←

BONDS NO / BONOS NO ←

Sample Ballot

Candidates' Statements
CITY OF EMERYVILLE
Councilmember

KEN BUKOWSKI

Occupation: Emeryville City Council Member

Age: 59

My education and qualifications are: Emeryville is a great place to live, work and play. We maintain a small town atmosphere in a big city region. As your councilmember, I'm proud that we've improved essential city services (police and fire), while neighboring cities have made drastic cuts. We've created new housing and job opportunities. We've improved our parks for family-friendly neighborhood outdoor activity. But there's so much more to be done. We need to change the priorities of our redevelopment agency to emphasize neighborhood-serving businesses (through the creation of affordable retail spaces) and improve our street lighting and streetscapes. The city should institute a business license tax credit for hiring Emeryville residents. We should have a free citywide wireless Internet network. Let's bring our city together in new exciting ways. I support creation of a citywide residents association with an annual meeting, to increase accountability of city government, survey residents, put people together with similar interests, and provide recognition to police, fire, school leaders, and businesses who give to the city. We can accomplish group pricing advantages on insurance and purchases, a portion of the savings to be used for childcare and recreation. With your continued support we can bring about these goals.

RUTH ATKIN

Occupation: Emeryville City Councilmember

Age: 53

My education and qualifications are: (partial listing) Commissioner, Alameda County Transportation Commission; Member, Alameda County Lead Poisoning Prevention Board and (former) Climate Change Task Force. I've championed our neighborhoods, schools and quality of life to achieve real results: I advocated for the first portion of the Greenway, Doyle – Hollis Park, and new bike lanes; championed Emeryville's Partnership with Schools, a national model of city-school collaboration; co-chaired the Measure J campaign (BEST – Building Emeryville Schools Together) to improve education and safety in Emeryville's classrooms; introduced the city Living Wage ordinance ensuring fair wages during this tough economy; and secured millions in State/Federal funding for Emeryville. With your support, I'll continue the fight to make Emeryville more pedestrian and bike friendly and work regionally to expand the availability/use of public transportation while bringing more transportation dollars into Emeryville; create more open space through extension of the Greenway and establishing more parks; support education, keeping our schools on the right track; and maintain our quality of life by securing Emeryville's fair share of funding, creating more family-friendly housing, attracting innovative businesses into Emeryville, and fighting Sacramento money grabs from our city. Endorsed by Senator Loni Hancock. Constituent help: ratkin@ci.emeryville.ca.us.

JACQUELINE ASHER

Occupation: Educator

My education and qualifications are: My family is proud to call Emeryville home. As a college instructor and parent, I am active in our community and committed to public service. I am running for City Council to bring a fresh perspective to our city government. These are challenging times for cities, including ours, but I have a vision for a better Emeryville I believe we share and will work with you to achieve it. As President of the Friends of the Emeryville Child Development Center, I recognize the importance of Emeryville's partnership with our schools. We must encourage more families to become part of our community, and continue to serve those who are here. As your Councilmember, I will work to provide needed services to our community, youth to seniors. I will pursue family-friendly housing, better pedestrian and bike access, well-maintained parks, locally-owned and neighborhood-serving businesses, and a continued commitment to the safety and security of our residents. You can count on me to be accessible, effective, and committed to the future of Emeryville. Please join Councilmembers Ruth Atkin, Kurt Brinkman, Nora Davis, and Jennifer West and vote for me for City Council. We can make a difference for Emeryville! www.jacasher.com

WILLIAM MICHAEL WEBBER

Occupation: Attorney

Age: 61

My education and qualifications are: I moved to Emeryville in 2005 when my family and I purchased our first home. We have three children, and all are in Emeryville schools - one in ECDC, one in Anna Yates, and one in Emery Secondary. I loved Emeryville right off the bat for its small-town feel coupled with "can-do" attitude. I ran for President of our newly formed HOA and served for five years, seeing the HOA through its early growing pains and later construction defect litigation. I came before the City Council on several occasions and enjoyed the "open door" approach Emeryville has to local politics. I am running for City Council now because I believe the time is right for a fresh look at how things are done in Emeryville, and what our priorities should be. I want to make sure Fire and Police stay in town, and I think it's critical we pay attention to Emery Secondary students during the upcoming transition. I would also like to see citywide internet, more bicycle lanes, secure bicycle parking, and protection for our trees. My blog at www.conditionemeryville.tumblr.com will track my campaign.

Candidates' Statements
CITY OF EMERYVILLE
Councilmember

NORA DAVIS

Occupation: Emeryville City Councilmember

My education and qualifications are: It has been a privilege to serve you on the City Council. Together, we have worked over the years to transform old "industrial" Emeryville into a new thriving, livable Emeryville. Our flourishing arts scene and wonderful parks and greenways give each of us a chance to enjoy an excellent quality of life. Emeryville's businesses provide a strong tax base. We have a sound financial foundation and outstanding city services. Our police and fire services are second to none. We are transforming our School District to provide a first class education to all students. But many challenges remain. A struggling national economy has strained our city's budget. Now, more than ever, we must work together to preserve what gains we have made in Emeryville. We must budget wisely to build a sustainable city for all. I've made it my top priority to listen to you. I know protecting our neighborhoods, improving our schools, supporting our police and fire services, and maintaining our strong tax base are high priorities to many of you. I am committed to continuing to work with you on these important issues. Please contact me at noradavis652@sbcglobal.net or 510 652-2199 if you have any comments or suggestions. www.NoraDavis2011.com

Candidates' Statements
CITY OF LIVERMORE
Mayor

BARBARA HICKMAN

Occupation: Retired Author/Publisher

My education and qualifications are: The character of our city is at risk. It's time for positive change, and I can deliver that as Livermore's next mayor. My position on key issues is the opposite of our current Council: I worked on the Keep BART on 580 campaign; and I believe only a vote of the people should give millions of taxpayer dollars toward building a huge, financially risky regional theater in our downtown. I want to reinstate our traditional 4th of July celebration, restore library services, and prioritize police funding to keep Livermore a safe place to live. Council decisions should reflect what residents want, and important controversial issues should be put to the voters. In the past 10 years, I served five years on Livermore's Design Review Committee (two years as chairman), and three years on Livermore's Redevelopment Advisory Commission (two years as chairman). I currently volunteer with the Tri Valley Youth Court, AARP Tax Assistance, Bankhead Theater, City of Livermore, and Livermore Police Department. For 11 years I've hosted Grassroots Issues television program. My job will be to listen to you, the public, and make decisions in the public interest. Vote for change. Vote for Barbara Hickman, www.HickmanforMayor.com , 447-2053.

MINUETE MCKERNAN

Occupation: Student

My education and qualifications are: I have lived in Livermore my entire life. I am a graduate of Livermore High School, a junior at Dominican University in San Rafael, majoring in Political Science and minoring in Pre-Law. I have always been passionate about government and strongly believe in relying on public opinion to govern fairly and democratically. I am a former member of Livermore Assembly International Order of the Rainbow for Girls, a Masonic youth organization that focuses on leadership, public speaking and community service. As a member of Rainbow for Girls, I have organized multiple fundraisers and charity projects, volunteered at the Union City Masonic Home, and served countless dinners for the local Masonic organizations. I support: expanding BART to Livermore on 580; reducing the licensing period for Livermore businesses, and maintaining economic growth; the Open Campus Project with LLNL; a privately funded regional theater built at a location beneficial to the community. I was raised to understand the value of community service, and from this, have developed a passion for public service and a genuine desire to engage citizens in the political process. I hope you will support a fresh perspective on the city council by electing me mayor of Livermore.

JOHN P. MARCHAND

Occupation: Vice Mayor/Water Quality Chemist

Age: 57

My education and qualifications are: Experience, integrity, leadership, trust and openness are qualities that I bring to the Council as Vice Mayor. As Mayor, I will continue to work with our community to keep Livermore a great place to live and raise our families. Livermore is defined by our Urban Growth Boundary. Protecting it is vital to preserve Livermore's environment and unique identity. It safeguards our prized South Livermore Plan, our hills and vineyards. I will continue to defend our Urban Growth Boundary and protect our quality of life. As acting Mayor, I worked with the other Tri-Valley mayors to promote a cooperative and successful regional agenda with our representatives in Washington D.C. We brought back millions of our tax dollars to rebuild our aging communication and transportation infrastructure. We saved our Veteran's Hospital from closure. I'm proud of Livermore and its award-winning, revitalized "Great American Main Street". Livermore is now one of six important innovation hubs in California. The Livermore Valley Open Campus holds great promise to make Livermore a center for investment in new technology, creating thousands of new jobs. I will continue to listen to our community. Together, we'll keep Livermore a great place to live. Vote Marchand for your Mayor.

Candidates' Statements
CITY OF LIVERMORE
Councilmember

MARSHALL KAMENA

Occupation: Mayor

Age: 69

My education and qualifications are: I have the best job in the City as member of the city council and Mayor. It's exciting and satisfying to spend my full time efforts on your behalf. Our budget is balanced and costs are slashed with necessary Public Safety services maintained. Through partnerships with local, regional and national public officials and business executives I have been Livermore's leader in the following projects: extensive award-winning Downtown renewal; the Theaters; El Charro I-580 fabulous outlet shopping center with 1,100 jobs; Urban Growth Boundary; Parks and Master Trails completion; Annexation of Livermore and Sandia National Laboratories; Jack London Boulevard and Stoneridge Drive extensions to complete the road to hospital; Isabel/I-580 interchange; Highway 84 removal from downtown; Charter School Expansion; Wheels "Rapid" BART shuttle buses; East Bay Region-wide emergency radio system for Fire and Police; Heritage Estates senior housing with assisted care options; Freeway auto row businesses; and the BART to Livermore project. Most are completed, but many remain I want to finish. With my commissions' seniority and established contacts I will finish those jobs and assist the upcoming Mayor with the Catholic High School and the Business-Technology Center adding 5,000 new jobs. Let's Complete Livermore's vision together!

LAUREEN TURNER

Occupation: LARPD Director/Registered Nurse

Age: 45

My education and qualifications are: Degrees: Bachelors in nursing; Masters in organizational management. I am a registered nurse at ValleyCare Hospital, a nursing instructor for Ohlone College, and an elected Director for Livermore Area Recreation and Park District. I love all my professions: one affords me the opportunity to care for members of our community, the second to share my love of nursing with future generations, and the third to ensure our community continues to have world-class recreational programs. My educational, professional, and community service history provide me with the background to be a city council member who understands economic viability and the importance of a healthy community. I supported the initiative to keep BART on 580 and will work to make BART along the freeway a reality for Livermore in a manner that maintains our open space and hills. I am not opposed to a Regional Theater, but I do not support backing this venture with taxpayer dollars. I will not vote for measures that put our general fund at risk. I see Livermore as a thriving community that supports green technology, and I will work to bring new jobs to Livermore. I respectfully request your vote. Laureen Turner www.turner4livermore.com

STEWART W. GARY

Occupation: Retired & Founding Fire Chief, Livermore-Pleasanton Fire Department

Age: 56

My education and qualifications are: I believe it is vital that we continue to work towards protecting open space and ensuring a vibrant quality of life in all of our neighborhoods. As a member of the City Council, I will bring my extensive experience in local government to serve Livermore. We need to preserve all that gives Livermore a "great hometown feel" as well as work towards ensuring safety throughout our city. While meeting the economic challenges of today, we must have visionary leadership to secure Livermore's long-term success. As a trustee for Livermore Valley Joint Unified School District, I consistently demonstrated my ability to consider all viewpoints with dignity, respect, and compassion. I form my decisions after listening to all involved with an open mind while always seeking to find the common ground among diverse viewpoints. My trademark is an insistence on calm, thoughtful, common sense governance. My Bachelor's and Master's degrees are in Public Administration. As a member of Livermore Rotary Club and Livermore Valley Education Foundation, I steadfastly support my community as best expressed in Rotary's motto: "Service above Self." My proven leadership experience over the years inspires me to serve the citizens of Livermore in a broader, lasting capacity. www.stugaryforcouncil2011.com

BOBBY DALE BURGER

Occupation: Financial Management, U.S. Air Force Retired

Age: 42

My education and qualifications are: I offer a unique perspective as a city council candidate; perspective blended from a financially conservative background, twenty year military service career including three terms as elected President of the Enlisted Organization and meritorious record of community involvement. As a father of four, I understand and advocate for quality youth programs, enhanced crime prevention measures including gang and drug taskforces to protect our families, and a financially balanced approach to government. My knowledge of government appropriations allows for deeper insight into the budgeting process. I seek to return council's focus back to business growth and development, civic responsibility, and creating new jobs. I will cooperate with the Livermore Area Recreation Park District, the Livermore Valley Joint Unified School District, and business and community members to restore citywide library service and our 4th of July Celebration. I worked on the BART on I580 petition drive and am opposed to the extension into downtown and pledge to work tirelessly to honor the public's desire for a freeway alignment. I do not support using our general fund to back bonds to fund a regional theater without voter approval. Livermore needs thoughtful financial decision-making more than ever. I will appreciate your vote for Bobby Burger for councilmember on November 8th.

Candidates' Statements
CITY OF NEWARK
Mayor

ANA M. APODACA

Occupation: Councilmember/Community & Government Relations Manager

Age: 38

My education and qualifications are: As Mayor I will protect our unique neighborhoods and the excellent quality of life we enjoy. As a 36-year Newark resident, my 15 years experience working with State and regional governments, and six years as your City Councilmember have prepared me to lead Newark into the future. State take-aways and declining revenues have threatened our ability to provide vital services. When faced with a reduction in fire services, I worked with Newark firefighters to maintain rapid response times from local stations and fought to find solutions that will save taxpayers nearly \$2.7 million over five years. Last year, I led the voter-approved effort that added police officers, funded crossing guards, restored park maintenance, and re-opened our senior center. As Mayor, I will uphold high levels of public safety, provide a high quality of life for residents of all ages, and enhance economic development while living within our means. Together we will rebuild our economy and strengthen our community for future generations. Working with you, there is no challenge we cannot meet. I would be honored to have your vote for Newark's Future. Please visit AnaApodacaforMayor.com to learn more.

ALAN L. NAGY

Occupation: Councilmember/Information Technology Manager

Age: 69

My education and qualifications are: I am proud to have served as your Councilmember and Vice Mayor. I possess the qualities needed to be Mayor - Leadership, Experience and Dedication. I am the Founding Director of the Viola Blythe Center, Chair the Senior Citizen Advisory Committee, Chair the Washington Hospital Development Corporation, Treasurer of the Newark Library League, and a Member of the Graffiti Abatement Team. I was Newark's Volunteer of the Year in 2009! I believe in working hard for a better Newark. Public Safety is my highest priority. I am a strong advocate for programs that enhance the quality of life for families, senior citizens and our youth while maintaining that "small town" atmosphere. The City and School District must continue to work cooperatively for the benefit of our children. As your Mayor, I will focus on economic development, job creation and regional cooperation. We must attract and develop business to provide the economic "fuel" that drives the services we provide our citizens. My demonstrated leadership, experience, and dedication to community service, and proven business skills make me uniquely qualified to serve as your Mayor. With your vote, I can continue the important job of Working for a Better Newark! Additional information: www.Nagy4Mayor.com.

RAY J. RODRIGUEZ

Occupation: School Boardmember/Businessman

My education and qualifications are: I moved to Newark in 1973 and my wife and I have continued to raise our seven children due to its small town feel. I have served the Newark community as a School Board Member, Volunteer, Deacon, Parent and Grandparent. My qualifications over the past 25 years include standing as School Board President, ROP Board President, being a LOV Newark Board member and a member of various city committees. These experiences have given me the tools necessary to lead Newark in the 21st century as Mayor. Newark faces challenges in its immediate future, such as resolving crime, break-ins and street violence, and finding revenues while continuing to serve seniors, youth and a diverse population. I am ready to face these challenges head on. As Mayor, I will develop a Citizen's Committee on public safety to discover ways to improve the quality of life for all who make Newark their home. It is very important to support programs such as community policing, D.A.R.E., and neighborhood watch to make our city safer. I will also establish a youth advisory committee in order to understand the concerns of Newark's youth. Vote for Ray J. Rodriguez for Mayor. "Together we can make it better"

Candidates' Statements
CITY OF NEWARK
Councilmember

LUIS L. FREITAS

Occupation: Self-Employed

Age: 57

My education and qualifications are: I'm proud to be a part of the City Council team where our most important work is providing the very best quality of life to our citizens. I currently serve as your Vice Mayor. My focus is on supporting programs that increase youth opportunities, provide a high level of Public Safety, enhance Senior Citizen programs, and programs that give Newark that special 'small town' spirit we treasure. I represent you on the Alameda County Transportation Commission and StopWaste.org. I am a 35 year resident of Newark, married to Fatima; children Mark and Nicole and grandfather to Madison and Marisa. I'm a local business owner and member of the Chamber of Commerce. With the drastic decline in city revenues, we must be ever mindful of how your tax dollars are spent. With the partial restoration of funds, I was excited to vote to restore senior citizen, crossing guards, Public Safety and other programs important to our community. My business experience, coupled with being a homeowner and community volunteer provides me with the balanced perspective needed to continue making the very best decisions for Newark. Your vote on November 8th will enable me to continue providing Leadership for Newark's Future!

MARIA "SUCY" COLLAZO

Occupation: Owner, Mexico Tortilla Factory

Age: 55

My education and qualifications are: I am a 40-year Newark resident, one of three daughters of immigrant parents who came to the United States from Mexico in search of a better life. They had a vision and a dream. They settled here in Newark with my two sisters and me and built a successful business in Old Town. Today, my husband Vicente and I, along with our family, still operate the Mexico Tortilla Factory. I am running for city council to give back to the city that has been so good to me and my family. I want to do it for my two sons who were born, raised, and attended church and school here. My business knowledge and skills are coupled with a deep desire to continue "Building the Dream, Together" for all of Newark. I will work collaboratively with my fellow council members to focus on gang prevention and neighborhood security, to rebuild our reserves and actively pursue new revenue, to fill our vacant commercial properties, and to work with our school district to develop joint projects for student success. I want to help Newark continue to prosper, and to provide for the safety, security and quality of life of everyone living here.

MIKE BUCCI

Occupation: Journeyman Millwright

Age: 33

My education and qualifications are: My name is Mike Bucci, and I'm a 33-year-old lifelong resident of Newark. I'm an active Journeyman Millwright with Local 102. I am also involved with a lot of Newark events, like Relay for Life, where my team "Cruising for a Cure" has been the top money earner over the last two years. I've done countless hours of volunteer work for multiple dog rescue organizations, and have participated in their fundraisers. I'm running for Newark Council Member because our town is at a critical point in history. This isn't the same Newark we've all grown up celebrating. With decreasing revenue and a serious increase in gang violence and crime, our city needs progressive ideas and real leadership. Newark has flat-lined over the past years. Poor business decisions have left much of Newark a boarded up ghost town. We need long-term structured planning that can ensure Newark grows in the right direction. Our city deserves a passionate voice that truly cares about and speaks on the behalf of the inclusivity of this great city. I am that voice. www.mikebucci4newark.org

RICHARD "RICK" BENSCO

Occupation: Sales Associate

Age: 53

My education and qualifications are: I was a strong opponent to Measure U and a strong advocate of keeping our parks open to all Newark's citizens. As a family man with two small children in our school system my dedication is unmatched. I believe there are more efficient ways of doing business in our town government. Town Government has to work hand in hand with our school board. I have a business degree from The University of Hartford and know my way around finances. I started and ran a successful business for almost 10 years. There are many problems facing Newark today, some have simple solutions others are more complex that will require time and the help from all the community to solve. There are many smart people here in town with some great ideas. I'll listen! I'm asking for your vote and your ideas to help make Newark a better place to live and grow. Together we can make a difference. Vote Rick Benco to bring your voice to City Hall. Thank You. Richard "Rick" Benco

**Candidates' Statements
CITY OF NEWARK
Councilmember**

JACK DANE

Occupation: Registered Tax Preparer

My education and qualifications are: I am an Alameda Leadership Academy graduate. I am a Mission Valley Regional Occupational graduate. I am a Chabot Community College graduate. I am a California Tax Education Council Registered Tax Preparer. The EPA has certified me as a Universal technician. I am a Senior Tax Advisor and Small Business Tax Expert at my place of employment. I am President of the Newark AARP Chapter. I was the producer and host of a live call in cable TV show in Newark. The focus of the show was to discuss issues important to Newark residents. I was the host of the Newark AARP cable TV show. We provided information related to the needs of Newark's seniors. I have attended over 100 city council, planning commission, and school board meetings. My goal is financial stability for the city. When the economy recovers and tax revenues increase we need to exercise fiscal discipline. We need a much larger reserve to weather the next down-turn without cutting services and laying off employees. A great city requires great schools. I will work closely with the school board. A vote for Jack Dane is a vote for fiscal discipline.

CITY OF EMERYVILLE MEASURE C

<p style="font-size: 2em; margin: 0;">C To maintain the high quality of life in Emeryville and fund essential services including police, fire, 9-1-1, park maintenance, litter abatement, graffiti removal, flood protection, street maintenance, accessibility improvements, child care, senior and recreation programs, shall an ordinance be adopted that increases the business tax rate to 0.10% of gross receipts, amends the definition of gross receipts and makes other clarifications?</p>	YES
	NO

IMPARTIAL ANALYSIS OF CITY ATTORNEY REGARDING MEASURE C

Measure C would amend the City of Emeryville Business Tax Ordinance to increase the business tax rate to 0.10% of gross receipts, amend the definition of "gross receipts" and make other clarifications.

Currently the business tax rate for businesses that pay a business tax based on the amount of gross receipts they generate is 0.08% of gross receipts. Measure C would increase this business tax rate to 0.10% of gross receipts. Based on the existing level of gross receipts generated by Emeryville businesses that pay their business tax based on gross receipts, and assuming the business tax cap is still in place, the increase in the business tax rate to 0.10% of gross receipts is expected to generate approximately \$640,000 per year in additional revenue to the City's General Fund.

Measure C would also amend the definition of "gross receipts" to eliminate two (2) types of transactions that are excluded from the definition of what constitutes "gross receipts". The first is transactions between a partnership and its partners and the second is receipts from services or sales in transactions between affiliated corporations. Additionally, language that could be interpreted as allowing a business to deduct the cost of materials, labor, interest and losses or other expenses from gross receipts is also proposed to be removed. It is unknown what amount of an increase, if any, these changes in the definition of "gross receipts" will have on the amount of business tax the City collects.

Finally, Measure C would also make several clarifying revisions to the Business Tax Ordinance. These revisions are minor in nature, they do not result in any change in the amount of business tax that a business pays, and thus they can be implemented without a vote of the electorate of the City of Emeryville.

A "Yes" vote by a majority voting on Measure C means that the business tax rate for businesses that pay a business tax based on the amount of gross receipts they generate would increase to 0.10% of gross receipts. Additionally, the definition of gross receipts would be modified so that transactions between a partnership and its partners and between affiliated corporations would be included in the

gross receipts of the business and subject to the business tax. Further, language that could be interpreted to allow businesses to deduct certain expenses from their gross receipts is also eliminated.

A "No" vote by a majority voting on Measure C means that the business tax rate for businesses that pay a business tax based on the amount of gross receipts they generate would remain unchanged. Additionally, the definition of gross receipts would remain the same and the exclusion of transactions between a partnership and its partners and between affiliated corporations would continue to be excluded from the business tax. Further, language that could be interpreted to allow businesses to deduct certain expenses from their gross receipts would also remain.

Respectfully submitted,

s/MICHAEL G. BIDDLE
City Attorney

**ARGUMENT IN FAVOR OF MEASURE C
MEASURE C INCREASE BUSINESS TAX RATE
TO .10%**

Emeryville public services have been reduced due to the recession and the State theft of funds from local governments. Cutbacks include police services, fire services, child care, parks maintenance and street sweeping. The City has responsibly reduced spending by 10% for the current two year budget, and is asking its employees to make contributions to their retirement funds to help offset the loss of revenues. The reduction in services, however, cannot continue indefinitely without affecting the quality of life in Emeryville. Costs to maintain essential public safety services, roadways and public facilities escalate each year. The City must match prudent reductions in expenditures with new sources of revenue to maintain a city we want to live and do business in. Businesses and commercial properties make up approximately 60% of our land uses and have a significant stake in our quality of life. The Business Tax recognizes the need for businesses to contribute to the cost of city operations. The rate for the tax has not changed for 18 years and has not kept pace with the increasing cost of running the City. Measure C would raise the current rate charged to businesses of .08% of gross receipts to .10%. This modest increase will still be less than what our neighboring cities charge. It will not solve the entire budget shortfall, so the City Council will have to continue to find ways to economize. But it will assist in funding high priority services and allow businesses to make a fair contribution to solving the budget problem. We urge a yes vote on Measure C.

s/Ruth Atkin

Councilmember

s/Ken Bukowski

Council Member

s/Nora Davis

Mayor

s/Kurt Brinkman

City Council Member

s/Jennifer West

Vice-Mayor

**NO ARGUMENT AGAINST MEASURE C WAS
SUBMITTED**

FULL TEXT OF MEASURE C

ORDINANCE NO. 11-___

ORDINANCE OF THE CITY OF EMERYVILLE AMENDING CHAPTER 1 OF TITLE 3 OF THE CITY OF EMERYVILLE MUNICIPAL CODE TITLED "BUSINESS LICENSES", EXCLUDING SECTION 3-1.132 REGARDING MAXIMUM ANNUAL LICENSE TAX BASED ON GROSS RECEIPTS

THE PEOPLE OF THE CITY OF EMERYVILLE DO
ORDAIN AS FOLLOWS:

SECTION ONE. Amending Chapter 1 of Title 3 of the City of Emeryville Municipal Code titled "Business Licenses", Excluding Section 3-1.132 Regarding Maxi- mum Annual License Tax Based On Gross Receipts.

Chapter 1 of Title 3 of the City of Emeryville Municipal Code currently titled as "Business Licenses", excluding Section 3-1.132 regarding Maximum Annual License Tax Based On Gross Receipts, is hereby re-titled as "Business Taxes" and amended in its entirety to read as follows:

CHAPTER 1 BUSINESS TAXES

Sections:

- 3-1.101 Business Tax
- 3-1.102 Definitions
- 3-1.103 Separate Certificate for Each Place of Business
- 3-1.104 Revenue Measure Only - Does Not Permit Business Otherwise Prohibited
- 3-1.105 Public Inspection
- 3-1.106 Contents of Certificate
- 3-1.107 Annual Certificate
- 3-1.108 Statement of Renewal of Business Tax Certificate
- 3-1.109 Initial Registration and Renewal Fees
- 3-1.110 Declaration - Additional Statement by Contractors
- 3-1.111 Declaration not Conclusive
- 3-1.112 Declaration - Confidential Documents
- 3-1.113 Transfer of Business Tax Certificate Procedure
- 3-1.114 Business Tax Certificate to be Conspicuously Posted - Exception
- 3-1.115 Lost Certificate
- 3-1.116 Penalty for Nonpayment of Business Tax
- 3-1.117 Prior Year Registration Assessments
- 3-1.118 Notice not Required
- 3-1.119 Interest
- 3-1.120 Business Tax a Debt
- 3-1.121 Notice of Hearing on Lien
- 3-1.122 Collection of Delinquent Taxes by Special Tax Roll
- 3-1.123 Conviction for Violation not Waiver of Business

Tax

- 3-1.124 Annual Business Tax Based on Gross Receipts
- 3-1.125 Certain Enumerated Businesses
- 3-1.126 Professional and Semiprofessional Connected Businesses
- 3-1.127 Certain Businesses Not Having Gross Receipts
- 3-1.128 Rental of Commercial Property
- 3-1.129 Reserved
- 3-1.130 Reserved
- 3-1.131 Optional Method of Determining Tax
- 3-1.133 Provision for Bad Debts
- 3-1.134 Duties of the Chief Financial Officer: Notice of Decisions
- 3-1.135 Refund of Tax, Penalty or Interest Paid More Than Once or Erroneously or Illegally Collected
- 3-1.136 Saving Clause
- 3-1.137 Examination of Books, Records, Witnesses: Information Confidential: Penalty
- 3-1.138 Violations, Infractions
- 3-1.139 Exemption for Nonprofit Corporations, Associations, Etc.
- 3-1.140 A Business with Administrative Offices and Additional Warehouses Within the City

3-1.101 Business Tax.

It shall be unlawful for any person, either for himself or for any other person, to commence on any business taxed pursuant to this Chapter in the City of Emeryville, without having procured a business tax certificate from said City; and the carrying on of any business without first having procured a certificate from said City shall constitute a separate violation of this Code for each and every day that such business is so carried on.

3-1.102 Definitions.

(a) "Business" shall include all activities engaged in or caused to be engaged in within this City with the object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another or to others, but shall not include the services rendered by an employee to his employer or to a casual or isolated transaction. Although an activity of a taxpayer may be incidental to another or other of his business activities, each such activity shall be considered to be a business engaged within the meaning of this article.

(b) "Sale," or "sell" shall be deemed to include and refer to: the making of any transfer of title, in any manner or by any means whatsoever, to property for a price, and to the serving, supplying or furnishing, for a price of any property fabricated or made at the special order of consumers who do or do not furnish directly or indirectly the specifications therefor. A transaction whereby the possession of property is transferred, but the seller retains the title as security for the payment of the price, shall likewise be deemed a sale. The foregoing definitions shall not be

deemed to exclude any transaction which is or which, in effect, results in a sale within the contemplation of the law.

(c) "Engaging in business" shall mean commencing, conducting, or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

(d) "Gross receipts," except as otherwise specifically provided, shall mean the gross receipts of the preceding fiscal year of the taxpayer or part thereof, and is defined as follows:

The total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares, or merchandise; and gains realized from trading in stocks or bonds, interest, discounts, rents, royalties, fees, commissions, dividends, or other emoluments, however designated. Included in "gross receipts" shall be all receipts, cash and credits, except that the following shall be excluded therefrom:

- (1) Cash discounts allowed and taken on sales;
- (2) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
- (3) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (4) Such part of the sale price of property returned by purchasers upon rescission of a contract of sale as is refunded either in cash or by credit;
- (5) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded;
- (6) Cash value of sales, trades or transactions between departments or units of the same business;
- (7) Receipts from investments where the holder of the investment receives only interest and/or dividends;
- (8) Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business.

(e) "Person" shall mean any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

3-1.103 Separate Certificate for Each Place of Business.

A separate business tax certificate must be obtained for each and every branch establishment or separate place of business at which a business is carried on.

3-1.104 Revenue Measure Only - Does not Permit Business Otherwise Prohibited.

The business taxes prescribed by the provisions of this Chapter constitute a tax for revenue purposes, and are not regulatory permit fees. The payment of a business tax required by this Chapter, and its acceptance by the City, and the issuance of a business tax certificate to any person shall not entitle the holder thereof to carry on any business unless he has complied with all of the requirements of this Code and all other applicable laws, nor to carry on any business in any building or on any premises designated in such business tax certificate in the event that such building or premises is situated in a zone or locality in which the conduct of such business is in violation of any law. Notwithstanding the above, no business tax certificate shall be issued for any use which violates federal, state, or local laws.

3-1.105 Public Inspection.

The following information for each business tax certificate under this Chapter shall be available for inspection by the public during normal working hours in accordance with regulations prescribed by the City:

- (a) The name and address of the business;
- (b) The name in which the certificate is issued;
- (c) The name and address of the owner of the business, if such name and address are shown on the records filed pursuant to this Chapter.

3-1.106 Contents of Certificate.

Every person required to have a business tax certificate under the provisions of this Chapter shall make application for the same to the Finance Department of the City of Emeryville and upon payment of the prescribed business tax, the City shall issue to said person a business tax certificate which shall contain:

- (a) The name of the business;
- (b) The place where the business is to be carried on;
- (c) The type of business;
- (d) The date of the expiration of such business tax certificate; and such other information as the City shall determine.

3-1.107 Annual Certificate.

- (a) All annual business tax certificates issued under this Chapter, except the first certificate issued to newly established businesses, shall be considered to be issued on January 1 of each year and shall expire on December 31 of the same year.
- (b) All businesses that are conducting their usual and customary activities as of January 1 of the current tax year are required to pay, in full, for the entire calendar year.

3-1.108 Statement of Renewal of Business Tax Certificate.

(a) Every person subject to a business tax or registration fee shall, before the business tax or registration fee becomes delinquent, file with the City a written statement setting forth the applicable factor or factors that constitute the measure of the registration fee or business tax, together with such other information as shall be required by the City to enable it to administer the provisions of this Chapter and shall pay at such time the amount of the registration fee or business tax computed thereon.

(b) The written statement provided for herein shall be on a form prescribed by the Finance Department and shall include a declaration substantially as follows:

“I declare under penalty of perjury that to my knowledge all information contained in this statement is true and correct.”

3-1.109 Initial Registration and Annual Renewal Fees.

Every person wishing to establish a new business within the City of Emeryville shall pay a one time registration fee as set forth in the City of Emeryville Master Fee Schedule. Thereafter, every person conducting business within the City of Emeryville shall pay an annual renewal fee as set forth in the City of Emeryville Master Fee Schedule.

3-1.110 Declaration - Additional Statement by Contractors.

In addition to the information required to be included in the written statement of the applicant for a first business tax certificate and of the taxpayer for a renewal certificate, as provided in Sections 3-1.108 and 3-1.109 above, each applicant who is subject to the Contractors License Law shall state that he is licensed under such law, that his license is in full force and effect, and the number thereof.

3-1.111 Declaration not Conclusive.

No statement required by this Chapter shall be conclusive upon the City of Emeryville, or any department, officer or agent thereof. Whenever the Finance Department shall have reason to believe that such statement does not set forth the true facts upon which the issuance of a business tax certificate is required, said Department may withhold the issuance of a business tax certificate therefor until such time as the applicant shall furnish satisfactory evidence of the truth of the statement. If such evidence is not furnished within a reasonable time, or should it any time appear that by reason of error, misrepresentation, fraud, or any other cause whatsoever, the business tax has not been properly fixed for any business tax certificate issued, said Finance Department shall give not less than five (5) business days' written notice to the taxpayer to show cause, at a time and place fixed in said notice, why a business tax to be determined by the Finance Department and specified in said notice, should not be fixed for such business tax certificate. At such hearing the taxpayer shall appear and offer evidence why such specified business tax should not be fixed as the business tax. After such hearing, or in the event the taxpayer fails to appear, the Finance Department

shall determine the proper business tax to be charged and shall forthwith give written notice to the taxpayer of such determination and the amount of such business tax.

Any business tax finally determined shall be due and payable as of the date the original business tax was due and payable, together with any penalties that may be due thereon; provided, however, if such business tax shall be fixed in accordance with original statement of the taxpayer, then no penalty shall be attached to such business tax by reason of any delinquency.

3-1.112 Declaration - Confidential Documents.

Except as provided otherwise herein, the statements filed pursuant to the provisions of this Chapter shall be deemed confidential in character and shall not be subject to public inspection, and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration of this Chapter.

Any officer or employee who shall willingly violate any provision of this section shall be deemed guilty of an infraction and such violation shall be cause for discharge from the City's service.

3-1.113 Transfer of Business Tax Certificate Procedure.

No business tax certificate granted or issued under the provisions of this Chapter shall be in any manner transferred or assigned, or authorize any person other than the person named in the business tax certificate to carry on the business therein named or to transact such business in any place other than the place or location therein named without the written consent of the Finance Department endorsed thereon. At the time such business tax certificate is assigned or transferred or the place of location for the carrying on of such business is changed, the person applying for such transfer or change shall pay a fee as set forth in the City of Emeryville Master Fee Schedule for each assignment or transfer.

3-1.114 Business Tax Certificate to be Conspicuously Posted - Exception.

Every person having a business tax certificate and carrying on a business at a fixed place of business shall keep such business tax certificate posted and exhibited while in force in some conspicuous part of said place of business.

Every person having such a business tax certificate and not having a fixed place of business shall carry such business tax certificate with him/her at all times while carrying on the business for which the same was granted.

3-1.115 Lost Certificate.

The Finance Department shall issue a duplicate business tax certificate to replace any business tax certificate issued under the provisions of this Chapter which has been lost or destroyed at no cost to the taxpayer for the first duplicate business tax certificate. Each replacement business tax certificate issued thereafter will be issued at a cost as set forth in the City of Emeryville Master Fee Schedule.

3-1.116 Penalty for Nonpayment of Business Tax.

Every business tax not paid when due, is hereby declared delinquent, and the Finance Department shall add to said business tax and collect a penalty of five percent (5%) of the delinquent business tax per month, or fraction thereof, up to a maximum penalty of twenty five percent (25%) of the delinquent business tax.

The delinquency date for a business tax varies depending on the frequency of the payment of such business tax.

(1) Business Taxes Paid Annually.

(a) Existing Business. The annual business tax paid by an existing business is hereby declared delinquent if not paid on or before March 1st of each year.

(b) New Businesses. The annual business tax paid by a new business is hereby declared delinquent if not paid within fifteen (15) days after commencing business.

(2) Business Taxes Paid Quarterly.

(a) Existing Businesses. The quarterly business tax paid by an existing business is hereby declared delinquent if not paid within fifteen (15) days after the first day of the quarter.

(b) New Business. The quarterly business tax paid by a new business is hereby declared delinquent if not paid within fifteen (15) days after commencing business.

(3) Business Tax Paid Daily.

(a) A daily business tax is hereby declared delinquent if not paid on or prior to the first day or days for which the business tax applies.

3-1.117 Prior Year Registration Assessments.

If any person has failed to apply for and secure a valid business tax certificate, the business tax due shall be that amount due and payable from the first date on which the person was engaged in business in the City of Emeryville, together with applicable penalties and interest.

3-1.118 Notice not Required.

The Finance Department is not required to send a renewal, delinquency or other notice or bill to any person subject to the provisions of this Chapter and failure to send such notice or bill shall not affect the validity of any business tax or penalty due under the provisions of this Chapter.

3-1.119 Interest.

In addition to the penalties imposed, any person who fails to remit any business tax imposed by the provisions of this Chapter shall pay interest at the rate of one and one half percent (1-1/2%) per month or fraction thereof, on the amount of the business tax and penalties from the date on which the business tax first became delinquent until paid.

3-1.120 Business Tax a Debt.

The amount of any business tax and penalty imposed by this Chapter shall be deemed a debt to the City of Emeryville, and any person carrying on any business with-

out first having procured a business tax certificate from said City shall be liable to an action in the name of said City, in any court of competent jurisdiction, for the amount of the business tax and penalties imposed on such business.

The amount of business tax, penalty and interest imposed under the provisions of this Chapter is hereby assessed against the business property on which the business tax is imposed in those instances where the owner of the business and the business property are one and the same. If the business tax is not paid when due, such business tax shall constitute an assessment against such business property and shall be a lien on the property for the amount thereof, which lien shall continue until the amount thereof, including all penalties and interest, is paid, or until it is discharged of record.

3-1.121 Notice of Hearing on Lien.

The Chief Financial Officer shall file a written notice of those persons on whom the City will file lien, and shall present same to the City Council and the City Council shall forthwith, by resolution, fix a time and place for a public hearing on such notice.

The Chief Financial Officer shall cause a copy of such resolution and notice to be served upon the owner of the business/business property not less than ten (10) days prior to the time fixed for such hearing. Such service shall be by mailing a copy of such resolution and notice to the owner of the business/business property at his/her last known address. Service shall be deemed complete at the time of deposit in the United States mail.

3-1.122 Collection of Delinquent Taxes by Special Tax Roll.

With the confirmation of the report by the City Council, the delinquent business tax charges contained therein which remain unpaid by the owner of the business/business property shall constitute a special assessment against said business property and shall be collected at such time as established by the County Assessor for inclusion in the next property tax assessment.

The Chief Financial Officer shall turn over to the County Assessor for inclusion in the next property tax assessment the total sum of unpaid delinquent charges consisting of the delinquent business taxes, penalties, and interest at the rate of eighteen percent (18%) per annum from the date of recordation to the date of lien, and an administrative charge and a release of lien fee, as such charge and fee are set forth in the City of Emeryville Master Fee Schedule. Thereafter, said assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure of sale as provided for delinquent ordinary municipal taxes. The lien shall continue until the assessment and all interest and charges due and payable thereon are paid. All business taxes applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to said special assessments.

3-1.123 Conviction for Violation Not Waiver of Business Tax.

The conviction and punishment of any person for transacting any business without a business tax certificate shall not excuse or exempt such person from the payment of any business tax due or unpaid at the time of such conviction, and nothing herein shall prevent a criminal prosecution of any violation of the provisions of this Chapter.

3-1.124 Annual Business Tax Based on Gross Receipts.

Every person transacting and carrying on any business within the City of Emeryville, other than those enumerated in Sections 3-1.125 and 3-1.126, shall pay an annual business tax equal to the greater of twenty five dollars (\$25.00) or one tenth of one percent (0.10%) of the annual gross receipts of such business.

3-1.125 Certain Enumerated Businesses.

Every person transacting and carrying on the businesses herein enumerated shall pay a business tax as follows:

Advertising. Distributing, advertising, samples, handbills, dodgers or printed advertisements of any kind, forty dollars (\$40.00) per day per person.

Alcohol Sales. All persons primarily engaged within the City of Emeryville in the retail sale of alcoholic beverages, not for consumption on the premises of the sale, pursuant to an off sale general license issued in accordance with Section 23394 of the California Business and Professions Code or any successor provision, shall pay a business tax of five hundred dollars (\$500.00) per quarter. Said business tax shall not be applicable to persons engaged in the retail sale of alcoholic beverages which is limited to beer and/or wine pursuant to a retail package off sale beer and wine license issued in accordance with Section 23393 of the California Business and Professions Code or any successor provision.

Auctioneer. Sale or auction of any real or personal property, one hundred ten dollars (\$110.00) per day, or one thousand three hundred twenty dollars (\$1,320.00) per quarter, unless exception is claimed pursuant to California Business and Professions Code Section 5714(c) or any successor provision.

Barbershop and Beauty Shop. Owner or management operated shops, shall pay a business tax based on their annual gross receipts pursuant to Section 3-1.124. Independent barbershop and beauty shop operators within owner or management operated shops (if applicable), fifty dollars (\$50.00) per quarter.

Billiards Establishment or Poolroom. Poolrooms, billiards establishments, or other commercial establishments which provide pool tables used to play pool, billiards, snooker or any other such games, shall pay a business tax based on their annual gross receipts pursuant to Section 3-1.124.

Boxing. Boxing or wrestling exhibition where a fee or admission is charged, four hundred forty dollars (\$440.00) for each exhibition.

Cabaret. One thousand three hundred twenty dollars

(\$1,320.00) per quarter, except that where the only entertainment furnished by or for any patron or guest consists of the playing of a piano, organ or other single musical instrument by a musician and no dancing provisions are afforded in connection therewith, the business tax shall be the sum of two hundred twenty dollars (\$220.00) per quarter.

Provided, however, that before the granting of any business tax certificate, a permit to operate a cabaret must be obtained from the City Council pursuant to Chapter 4 of Title 5 of the Emeryville Municipal Code.

Card Room. Carrying on the business of operating, conducting or managing a card room or card game in any public place or to which an admission fee is charged within the City of Emeryville, the business tax shall be as follows:

Card room businesses shall pay, monthly, to the City, a business tax of ten percent (10%) of the monthly gross receipts of such business, or shall pay, monthly, a business tax of one thousand dollars (\$1,000.00) per table, per month, whichever of these two tax amounts is greater.

Before the granting of any business tax certificate by the Finance Department, a permit to conduct the card room or card game must be obtained from the City Council, as required by the provisions of Chapter 5 of Title 5 of the Emeryville Municipal Code. Each business tax certificate issued hereunder shall designate the number of card tables which the card room business is authorized to operate at the premises licensed.

Catering Truck, Food/Refreshment Stand. The sale of prepared lunches (commonly known as "box lunches"), food, and beverages intended for human consumption, made available to the consumer by means of a fixed or moveable stand, pushcart, wagon, truck or other vehicle, whether upon public or private property, seventy dollars (\$70.00) per stand/vehicle, per quarter.

Check Casher. A person that for compensation engages within the City of Emeryville, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose, shall pay a business tax of five hundred dollars (\$500.00) per quarter.

Said business tax shall not be applicable to a state or federally chartered bank, savings association, credit union, or industrial loan company, nor to a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers and that cashes checks or issues money orders for a minimum flat fee not exceeding two dollars (\$2.00) as a service to its customers that is incidental to its main purpose or business.

Circuses, Carnivals, Fairs or Similar Exhibitions or Amusement Centers. As follows:

- (a) Two hundred dollars (\$200.00) for the first day of operation and two hundred dollars (\$200.00) per day for each day of operation thereafter.
- (b) Mechanical amusement centers including merry-go-

round, Ferris wheels, recreation swings or similar amusement devices, two hundred twenty dollars (\$220.00) per quarter.

The above shall not apply to a merry-go-round, Ferris or other similar wheel maintained in a park or other enclosure where a business tax for the other businesses maintained in the park or enclosure, inclusive of the merry-go-round, Ferris or other similar wheel, is paid by the owner or lessee.

Collection. Collecting debts, claims on demands, commonly known as a collecting agency, one hundred ten dollars (\$110.00) per quarter.

Commission Merchant/Manufacturer's Representative. Buying and selling any products for a commission or fee for any other person, firm or corporation, commonly known as a commission merchant or broker, one hundred fifty dollars (\$150.00) per quarter.

Contractors. Every person conducting or carrying on a business who is licensed as a contractor by the State of California and who undertakes to, or offers to undertake to, or submits bids to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, is defined as a contractor. The term "contract" as used in the section also includes specialty contractors. All contractors, or handymen and odd-jobbers working on a subcontractor basis, shall pay an annual business tax of two hundred dollars (\$200.00), (fifty dollars (\$50.00) per quarter) or one dollar (\$1.00) for each one thousand dollars (\$1,000.00) of gross receipts on work engaged in Emeryville, whichever is greater.

Dance or Dance Hall. A public dance, whether or not for profit, to which people are admitted with or without charge, or at which people are allowed to participate in dancing, either with or without a charge, one thousand and three hundred twenty dollars (\$1,320.00) per quarter; provided, however, that where dances are held less than once a month, the business tax shall be one hundred ten dollars (\$110.00) per day for each day such dance is conducted.

Delivery by Vehicle, Optional Rate. Every person not having a fixed place of business within the City of Emeryville who delivers goods, wares or merchandise by use of any kind by vehicle or provides any service by the use of vehicles in the City of Emeryville, except for those persons licensed under the paragraph entitled "Catering Truck, Food/Refreshment Stand" of this section, shall pay a business tax of fifty dollars (\$50.00) per quarter.

Dog Kennels. Conducting or maintaining a dog kennel for each year or fraction of a year, commencing on the first day of January thereof, a business tax as follows:

1 to 10 dogs, inclusive	\$440.00
11 to 15 dogs, inclusive	\$500.00
16 or more dogs	\$550.00

Hospital. Hospital or rest home, sanitarium or maternity or

lying-in asylum, two hundred twenty dollars (\$220.00) per quarter.

House Mover. Moving houses, two hundred dollars (\$200.00) per house. House mover must post a bond in the sum of twenty-five thousand dollars (\$25,000.00) to indemnify the City for any damage done to streets in moving a house.

Laundry. Shop with a fixed place of business in the City of Emeryville, pickup and delivery of laundry, dyeing and cleaning, supplying towels, etc., shall pay a business tax based on their annual gross receipts pursuant to Section 3-1.124.

Delivery vehicles without a fixed place of business in the City of Emeryville, shall pay a business tax of fifty dollars (\$50.00) per quarter.

Lodging Services. Carrying on the business of primarily providing commercial lodging to the general public, such as hotels and motels. Lodging service businesses shall pay, quarterly, to the City, a business tax of one-tenth of one percent (0.10%) of all gross receipts defined in Section 3-1.102 of this Chapter, excluding gross receipts attributable to rent collected from a transient upon which the lodging service business also collects from the transient and pays to the City of Emeryville a tax in accordance with the Uniform Transient Occupancy Tax Law of the City of Emeryville.

Massage Parlor (nonconforming adult entertainment). Massage parlors operating as non-conforming establishments under Adult Entertainment Ordinance 90-10 shall pay a business tax of two hundred dollars (\$200.00) per year for establishments with three (3) or fewer employees, four hundred dollars (\$400.00) per year for establishments with four (4) to six (6) employees, or eight hundred dollars (\$800.00) per year for establishments with seven (7) or more employees. Provided, however, that before the granting of any business tax certificate, a permit to operate a massage parlor must be obtained from the Chief of Police pursuant to Chapter 11 of Title 5 of the Emeryville Municipal Code.

Mechanical Amusement Devices. Operating and/or permitting the operation of any mechanical amusement device in any restaurant, store, cocktail lounge, resort, hall or other public place, shall pay a business tax of twenty-five dollars (\$25.00) per machine, per quarter.

A "mechanical amusement device" is hereby defined as a machine which upon the insertion of a coin or slug operates, or may be operated, for use as a game, contest, or amusement of any description, or which may be used for any such game, contest, or amusement, and which contains no automatic payoff device for the return of slugs, money, coins, tokens or merchandise.

An application for a license for operating a mechanical amusement device shall state that such device will be operated for amusement only.

Miniature Golf. So-called miniature golf course or games, two hundred twenty dollars (\$220.00) per quarter.

Moving Picture Theater. Moving picture theater, where moving or motion pictures are exhibited, where an admission is charged, shall pay a business tax based on their annual gross receipts pursuant to Section 3-1.124.

Newsstand. Newsstand for the sale of foreign or domestic newspapers, periodicals or commodities whatsoever not herein otherwise designated, fifty dollars (\$50.00) per quarter.

On-Location Movie/Television Production Company. Persons engaged in the production of a movie, television program, video, commercial, advertisement or other such medium on location within the City of Emeryville, two hundred dollars (\$200.00) per day.

Parking Lots. Parking automobiles or trucks for a fee, shall pay a business tax based on their annual gross receipts pursuant to Section 3-1.124.

Pawnbroker. One thousand three hundred twenty dollars (\$1,320.00) per quarter.

Peddlers.

(a) Flags, banners, balloons, canes, horns, trumpets, musical or noise making instruments of any kind, toys, badges, buttons, shoestrings, hairpins, lead pencils, combs, or souvenirs of any kind, one hundred dollars (\$100.00) per quarter.

(b) Meats, game, poultry, fish, fruits, vegetables, wood, butter, eggs, buttermilk, milk, ice cream, bread, crackers, cakes, pies or other foodstuffs, confections, or other edibles intended for human consumption, one hundred dollars (\$100.00) per quarter.

Roominghouse or Lodging House. Fifty dollars (\$50.00) per quarter.

Security/Patrol Service. Three hundred dollars (\$300.00) per year.

Shooting Gallery. Shooting gallery or range, two hundred twenty dollars (\$220.00) per quarter.

Skating. Ice or roller skating rink, two hundred twenty dollars (\$220.00) per quarter.

Soliciting or Canvassing. Soliciting or canvassing or taking orders for any goods, wares or merchandise or business and not having a regular place of business in the City of Emeryville, or who is not an agent or representative of a regular established place of business in the City of Emeryville, one hundred fifty dollars (\$150.00) per quarter.

Storage of Petroleum. Storing petroleum or products of petroleum with a storage capacity of less than one thousand (1,000) barrels, two hundred twenty dollars (\$220.00) per quarter. Where the storage capacity is one thousand (1,000) barrels or more, the tax shall be four hundred forty dollars (\$440.00) per quarter.

Storehouse or Warehouse. Storehouse or warehouse for the storage of goods, merchandise, baggage, or household furniture or goods, whether for the purpose of storing the operator's own goods or otherwise, where the operator

does not have any other place of business in the City of Emeryville, five hundred dollars (\$500.00) per year for the first ten thousand square feet (10,000 sq. ft.) or fraction thereof of storehouse or warehouse space, plus two hundred fifty dollars (\$250.00) per year for each additional five thousand square feet (5,000 sq. ft.) or fraction thereof of storehouse or warehouse space.

Taxicabs or Limousines. Any entity engaged in the business of carrying passengers for hire, as permitted in Section 4-8.1.3 of this Code or any "owner" of a "limousine" as these terms are defined in Section 4-8.2.1 of this Code, shall pay a business tax of two hundred dollars (\$200.00) per year.

Temporary or Transient Business. A temporary or transient place of business engaged in the sale of goods, wares or merchandise shall pay a business tax equal to the lesser of twenty-five dollars (\$25.00) per day or one hundred ten dollars (\$110.00) per quarter.

Undertakers. Undertaker, embalmer or funeral director, six hundred sixty dollars (\$660.00) per quarter.

Used Merchandise/Secondhand Goods.

(a) Collecting, buying or selling, either at wholesale or retail, used merchandise or other articles commonly known as junk, from a fixed place of business in the City of Emeryville, one hundred fifty dollars (\$150.00).

(b) Secondhand goods, dealing in second-hand goods, wares or merchandise, two hundred twenty dollars (\$220.00) per quarter.

3-1.126 Professional and Semiprofessional Connected Business.

(a) Every person engaged in the business of providing professional services not specifically taxed by other business tax provisions of this Chapter shall pay a business tax based on their annual gross receipts pursuant to Section 3-1.124 for services performed within the City of Emeryville.

(b) Providing professional services shall include, but not be limited, to the following:

Finance, insurance services, real estate services, medical and other health services; educational services; legal services; engineering and architectural services; accounting, auditing and bookkeeping services; savings and loan and other financial institutions.

3-1.127 Certain Businesses Not Having Gross Receipts.

(a) Whenever there are no gross receipts within the City of Emeryville, the business shall pay an business tax pursuant to the tax rate set forth in Section 3-1.124, computed on all expenses incurred on an annual basis at the business location or administrative office within the City of Emeryville for payroll, utilities, depreciation and/or rent.

(b) A business taxed under this section shall not be considered either a retailer or wholesaler with respect to the sale of goods manufactured by such business within the City of Emeryville.

(c) When a person engages in two (2) or more businesses, one or more having gross receipts and one or more not having gross receipts, such person shall combine the annual gross receipts of the business(es) having gross receipts with the annual payroll, utilities, depreciation and/or rent of the business(es) not having gross receipts, and pay a business tax on the combined sum pursuant to the tax rate set forth in Section 3-1.124, provided that all businesses are being conducted at the same location.

3-1.128 Rental of Commercial Property.

(a) Every person engaged in the business of renting or letting a building, structure, or other property, or portion thereof for commercial purposes, including the business of renting or letting advertising displays, advertising structures, or signs of any kind or character, erected or maintained for outdoor advertising purposes, within the City of Emeryville for a purpose other than dwelling, sleeping, or lodging to a tenant, shall pay an annual business tax of three and one half tenths of one percent (0.35%) of the annual gross receipts of such business.

(b) A lessor otherwise subject to the business tax described in subsection (a) shall not be exempt therefrom by reason of the fact that one (1) or more persons may reside within a building or structure where the primary purpose of the particular tenancy or the primary use or right to use by the tenant is for some purpose other than dwelling, sleeping, or lodging.

(c) A lessor may exclude from gross receipts any receipts received which represent rent for the use of space by the lessor, a partner, when the lessor is a partnership, or by an affiliated corporation as defined in Section 3-1.102(d).

(d) Upon payment of the annual business tax as set forth in subsection (a) of this section, the building owner shall provide the Finance Department with a list of the names of all current tenants, date of commencement of lease, length of lease term or termination date of lease, option terms, and tenancies terminated during the prior year.

3-1.129 Reserved.

3-1.130 Reserved.

3-1.131 Optional Method of Determining Tax.

When a person engages in two (2) or more businesses which are taxed on the basis of gross receipts under different provisions of this Chapter, such person may elect to combine all such gross receipts and pay a business tax determined by applying the rate of tax applicable to that business activity producing the greatest amount of gross receipts, subject to the following provisions:

(a) All businesses must be conducted at the same location; and

(b) The gross receipts of all businesses, except the business producing the greatest amount of gross receipts, must not exceed twenty percent (20%) of the total combined gross receipts of all businesses.

3-1.133 Provision for Bad Debts.

Whenever there are included within the gross receipts used to determine the business tax of a business under this Chapter, amounts which reflect sales for which credit is extended and such amounts prove uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered.

3-1.134 Duties of the Chief Financial Officer: Notice of Decisions.

It shall be the duty of the Chief Financial Officer to collect and receive all business taxes imposed by this Chapter and to keep an accurate record thereof. Said Chief Financial Officer is hereby charged with the enforcement of this Chapter, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this Chapter, including provisions for the reexamination and correction of returns and payments. The Chief Financial Officer may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

For good cause, the Chief Financial Officer may extend for not more than thirty (30) days the time for making any return payment of business tax.

3-1.135 Refund of Tax, Penalty or Interest Paid More Than Once or Erroneously or Illegally Collected.

(a) No business tax collected under the provisions of this Chapter shall be refundable or prorated in any manner, unless the business subject to the business tax:

(1) Establishes that it has paid the business tax more than once, the business tax was erroneously or illegally collected, or it has paid in excess of the correct amount, and;

(2) Files a claim with the City within one (1) year from the date of the payment in accordance with all applicable statutes, regulations and ordinances.

(b) If the claim for a refund is accepted by the City Council, the City may remit the entire amount to the business or credit the refund against any amounts then due and payable to the City from the business.

(c) No refund of any business tax or registration fee paid under this Chapter shall be made by virtue of the discontinuance, dissolution, or other termination of a business.

3-1.136 Saving Clause.

The provisions of the ordinance codified in this Chapter shall not apply to any person, association, corporation or to any property, as to whom or which it is beyond the power of the City Council to impose the business tax herein provided. If any sentence, clause, section or part of this article, or any business tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal, or invalid, such unconstitutionality, ille-

gality, or invalidity shall affect only such clause, sentence, section or part of this Chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter. It is hereby declared that this Chapter of the Emeryville Municipal Code would have been adopted had such unconstitutional, illegal, or invalid sentence clause, section or part thereof not been included.

3-1.137 Examination of Books, Records, Witnesses: Information Confidential: Penalty.

The Chief Financial Officer or his or her authorized representative is hereby authorized to examine the books, papers and records of any person subject to this Chapter for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the business tax due.

Every taxpayer or supposed taxpayer is hereby directed and required to furnish to the Chief Financial Officer, or his or her duly authorized representative, the means, facilities and opportunity for making such examination and investigations as are hereby authorized. The Chief Financial Officer is hereby authorized to examine any person, under oath, for the purpose of verifying the accuracy of any return made, or if no return was made, to ascertain the business tax or registration fees due under this Chapter; and for this purpose may compel the production of books, papers and records and the attendance of all persons before him or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such matters.

The refusal of such examination by an employer, or by a person subject or presumed to be subject to the provisions of this Chapter, shall be deemed a violation of this Chapter.

3-1.138 Violations, Infractions.

In the exercise of the duties imposed upon him or her hereunder, and acting through his or her deputies or duly authorized representatives, the Chief Financial Officer shall examine or cause to be examined all places of business in the City of Emeryville to ascertain whether the provisions of this Chapter have been complied with.

Any person so violating any provision of this Chapter or knowingly or intentionally misrepresenting to any officer or employee of the City of Emeryville, any material fact in procuring the certificate herein provided for, shall be guilty of an infraction.

3-1.139 Exemption for Nonprofit Corporations, Associations, Etc.

(a) A tax-exempt institution, corporation or association organized or conducted for non-profit purposes only, whose receipts are used solely for the benefit of such organization and not in whole or in part for the private gain of any person, shall pay a one-time initial registration fee pursuant to Section 3-1.109 of this Code and shall not pay any business tax. This exemption shall not apply to promoters employed by such nonprofit institutions, corpora-

tions or associations.

(b) Every institution, corporation, organization or association seeking an exemption pursuant to this section shall provide the Finance Department copies of forms submitted with the United States Internal Revenue Service and/or the State Franchise Tax Board, establishing their tax-exempt status.

(c) Any person claiming an exemption from the business tax imposed by this Chapter by virtue of this section, shall submit to the Finance Department a statement signed under penalty of perjury setting forth the facts necessary to establish such claim of exemption.

3-1.140 A Business with Administrative Offices and Additional Warehouses Within the City.

A business with administrative offices and additional warehouses within the City shall pay a business tax based on the annual gross receipts of such business from all locations within the City pursuant to the tax rate set forth in Section 3-1.124, or based on the annual gross payroll, utilities, including PG&E and telecommunications, and depreciation and/or rent incurred at all office and warehouse locations within the City pursuant to tax rate set forth in Section 3-1.124, whichever is greater.

SECTION TWO. Effective Date. Pursuant to Elections Code Section 9217, this Ordinance shall become effective ten (10) days after the date the vote is declared by the City Council of the City of Emeryville.

SECTION THREE. Amendment or Repeal. Chapter 1 of Title 3 of the City of Emeryville Municipal Code, as amended herein, may be repealed or amended by the City Council without a vote of the people. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this Ordinance.

SECTION FOUR. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION FIVE. Ratification of Prior Tax. The voters of the City of Emeryville hereby ratify and approve the past collection of the Business Tax under Chapter 1 of Title 3 of the City of Emeryville Municipal Code as it existed prior to the effective date of this Ordinance.

SECTION SIX. Codification. Section One of this Ordinance shall be codified in the City of Emeryville Municipal Code. Sections Two, Three, Four, Five, Six and Seven shall not be codified in the City of Emeryville Municipal Code.

SECTION SEVEN. Execution. The Mayor of the City of Emeryville is hereby authorized to attest to the adoption of this Ordinance by the voters of the City by signing where indicated below.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the people of the City of Emeryville voting on the 8th day of November, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CITY OF EMERYVILLE MEASURE D

<p>D To maintain the high quality of life in Emeryville and fund essential services including police, fire, 9-1-1, park maintenance, litter abatement, graffiti removal, flood protection, street maintenance, accessibility improvements, child care, senior and recreation programs, shall an ordinance be adopted that increases the limit on the maximum annual business tax that businesses pay?</p>	YES
	NO

IMPARTIAL ANALYSIS OF CITY ATTORNEY REGARDING MEASURE D

Measure D would increase the limit on the maximum annual business tax that businesses pay as set forth in the Business Tax Ordinance. Currently the maximum annual business tax that businesses pay is \$117,048.00 per year, subject to annual adjustments upwards or downwards based on the change in the Bay Area Consumer Price Index. Measure D would increase the maximum annual business tax that businesses pay to \$300,000.00 per year, subject to annual adjustments upwards or downwards based on the change in the Bay Area Consumer Price Index.

A "Yes" vote by a majority voting on Measure D means that the maximum annual business tax that businesses pay as set forth in the Business Tax Ordinance would be increased to \$300,000.00 per year, subject to annual adjustments upwards or downwards based on the change in the Bay Area Consumer Price. A "No" vote by a majority voting on Measure D, means that the maximum annual business tax that businesses pay would remain as currently set forth in the Business Tax Ordinance at \$117,048.00 per year, subject to annual adjustments upwards or downwards based on the change in the Bay Area Consumer Price Index.

Respectfully submitted,

s/MICHAEL G. BIDDLE
City Attorney

ARGUMENT IN FAVOR OF MEASURE D MEASURE D INCREASE BUSINESS LLICENSE TAX CAP TO \$300,000

The City of Emeryville has far more land devoted to businesses than homes. The current Business Tax recognizes that businesses have a responsibility to help pay for essential services including police and fire services, street maintenance, tree and park maintenance, and child care services. Businesses pay a tax based on the gross receipts of their firm and the contribution varies depending on the size of the business. The current business tax is capped at a maximum payment of approximately \$117,000 annually, subject to changes based on the Consumer Price Index. Most neighboring cities do not cap their Business Tax, but Emeryville has a cap in order to keep the city competitive to attract new business and retain existing businesses. Recently, Emeryville public services have been reduced due to the recession and the State theft of funds from local governments. The City has responsibly reduced spending by 10% for the current two year budget, and is asking its employees to make contributions to their retirement funds to help offset the loss of revenues. The reduction in services, however, cannot continue indefinitely without affecting the quality of life in Emeryville. The City must match prudent reductions in expenditures with new sources of revenue. Measure D will increase the Business Tax cap (maximum) to \$300,000 per year, subject to annual changes based on the Consumer Price Index. The increase in the Business Tax cap authorized by this measure will assist in restoring essential city services and programs with a modest impact on our businesses. We will remain one of the few east bay cities with a cap on the business tax to help us retain existing businesses and attract new business. We urge your support of Measure D with a yes vote.

s/Ruth Atkin
Councilmember

s/Ken Bukowski
Council Member

s/Nora Davis
Mayor

s/Kurt Brinkman
Council Member

s/Jennifer West
Vice-Mayor

NO ARGUMENT AGAINST MEASURE D WAS SUBMITTED

FULL TEXT OF MEASURE D

ORDINANCE NO. 11- ____

**ORDINANCE OF THE CITY OF EMERYVILLE
AMENDING SECTION 3-1.132 OF CHAPTER 1 OF
TITLE 3 OF THE CITY OF EMERYVILLE
MUNICIPAL CODE REGARDING MAXIMUM
ANNUAL LICENSE TAX BASED ON GROSS
RECEIPTS**

THE PEOPLE OF THE CITY OF EMERYVILLE DO
ORDAIN AS FOLLOWS:

SECTION ONE. Amending Section 3-1.132 of Chapter 1 of Title 3 of the City of Emeryville Municipal Code Regarding Maximum Annual License Tax Based On Gross Receipts. Section 3-1.132 of Chapter 1 of Title 3 of the City of Emeryville Municipal Code regarding Maximum Annual License Tax Based On Gross Receipts, is hereby re-titled and amended in its entirety to read as follows:

3-1.132 Maximum Annual Business Tax.

Every person transacting and carrying on any business within the City of Emeryville that pays an annual business tax pursuant to Section 3-1.124 shall pay an annual business tax no greater than three hundred thousand dollars (\$300,000.00) as adjusted annually upward or downward by the change in the Bay Area Consumer Price Index starting July 1, 2012.

SECTION TWO. Effective Date. Pursuant to Elections Code Section 9217, this Ordinance shall become effective ten (10) days after the date the vote is declared by the City Council of the City of Emeryville.

SECTION THREE. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION FOUR. Codification. Section One of this Ordinance shall be codified in the City of Emeryville Municipal Code. Sections Two, Three, Four and Five shall not be codified in the City of Emeryville Municipal Code.

SECTION FIVE. Execution. The Mayor of the City of Emeryville is hereby authorized to attest to the adoption of this Ordinance by the voters of the City by signing where indicated below.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the people of the City of Emeryville voting on the 8th day of November, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CITY OF EMERYVILLE MEASURE F

<p>F Shall an initiative ordinance be enacted that amends Emeryville Municipal Code Section 2-1.302 to prohibit the Emeryville City Council from employing a City Attorney and subordinate employees in the City Attorney's Office and require the City Council by contract to designate a City Attorney or law firm to act as City Attorney?</p>	YES
	NO

EMERYVILLE CITY CLERK'S IMPARTIAL ANALYSIS OF THE CITY ATTORNEY INITIATIVE MEASURE

1. There are material errors in the Findings in Section I of the Measure. Finding 2 incorrectly states that the office of city attorney "has been filled by a City employee," that the City has been "obligated to provide employment benefits to that employee and his or her subordinates" and that the City is required to comply with laws and regulations governing such employees and "has become unnecessarily encumbered and restricted in efficiently carrying out its duties." The Emeryville City Attorney and the staff in the City Attorney's office are not employees of the City of Emeryville. They are employees of the Management of Emeryville Services Authority ("MESA") a joint powers authority created by the City of Emeryville and the Emeryville Redevelopment Agency. The Emeryville City Council sits as the Board of Directors of MESA. The City Council of the City of Emeryville contracts with MESA to provide the City of Emeryville with contract city employees for most positions within the City, including those in the City Attorney's office, other than police and fire staff.
2. Finding 3 concludes that "the office of the City Attorney would be most efficiently and economically provided for by having that office filled on a contract basis by a qualified outside law firm or attorney." By virtue of the MESA contract, the City already contracts for City Attorney services with MESA and the measure would have no effect on the current staffing configuration of the City Attorney's office.
3. The Measure would prohibit the City Council from employing a City Attorney or any employees in the City Attorney's office. The Council by contract would be required to appoint a City Attorney or law firm. This provision would have no legal effect because the City already contracts with MESA for City Attorney services and none of the members of the City Attorney's office, including the City Attorney, are employees of the City of Emeryville.
4. The Measure would preclude any City Council in the future from employing an in-house City Attorney and staff, irrespective of whether the City Council concluded that such a staffing configuration was the most cost effective way of receiving city attorney services. The City Manager has concluded that contracting with a law firm would cost the City 71% more than employing in-house

City Attorney staff and, if the law firm contract is limited to the same amount as that incurred for an in-house City Attorney's office, there will be a 38% reduction in the level of City Attorney services and additional costs would likely still be incurred for additional legal services.

5. The City Council has been advised by special counsel that the Measure is likely invalid because it conflicts with powers of the City Council under state law to appoint a city attorney.
6. Unlike current practice, the measure requires the Council to act on the recommendation of the City Manager, concerning the City Attorney's contract.
7. The measure limit of two years on the term of the City Attorney's contract is already the law.

s/KAREN HEMPHILL
City Clerk

8/10/11
Date

ARGUMENT IN FAVOR OF MEASURE F

Under the Emeryville Municipal Code, the City Council hires the City Attorney. To reduce the cost of legal services, this measure would force the City Council to acquire its legal services on a contract basis from an outside firm, using competitive bidding. To promote a greater harmony with City staff, the measure requires the Council to consider the recommendation of the City Manager in contracting for its legal services.

Currently, the City Attorney receives a salary package of \$263,000 a year, and nine month's severance pay, both of which are more than the Emeryville City Manager or the Oakland City Attorney receives. The City Attorney, in turn, hires a deputy City Attorney, a paralegal, and the outside law firms that do the nuts and bolts of the City's legal work. The City Attorney has no assigned duties other than attending City Council meetings.

The City Attorney has unfettered authority to spend money and to set priorities independent from other City departments, without prior approval of the City Council. No budget is ever prepared for an upcoming case. No accounting is made for the City Attorney's time. By transitioning to an outside firm, the City Manager will be able to reduce the cost of legal services by setting priorities, approving expenditures in advance and monitoring the work.

Passage of this measure will send a strong message to the City Council, demanding fiscal responsibility in its procurement of legal services.

s/Ken Bukowski
Council Member

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE F

Please vote "NO" on Measure F.

Currently, the City Council has the ability to contract out legal services for the City or hire an in-house City Attorney. Let the City Council continue to provide oversight for the most cost effective legal services to the taxpayers of Emeryville. Forcing the Council to contract out legal services could dramatically increase our costs. Emeryville, as a "general law city," may find that removing this power from your City Council is unconstitutional as it usurps powers granted to the City Council by state law.

Your City Council is open to evaluating the most cost effective and efficient ways to provide legal services, whether it is having an in-house legal department and private contracts, or another alternative. Your City Council welcomes verifiable information about the City's legal costs, with increased accountability, specific tracking of time and expenses, and greater transparency. But we do not support a structural change.

We put great faith in the voters' role: to elect representatives, with wise choices in November. Unfortunately, too often, initiatives become a way of manipulating the general public. In the interest of Emeryville and its taxpayers, let's examine our legal department and get the best representation for our hard-earned dollars. The City Council employs the City Attorney and the City Manager. They work for you. Please reject one council member's attempt to disrupt Emeryville's governance structure.

Please vote "NO" on this ballot initiative.

s/Nora Davis
Mayor

s/Jennifer West
Vice-Mayor

s/Ruth Atkin
Council Member

s/Kurt Brinkman
Council Member

ARGUMENT AGAINST MEASURE F

We urge you to vote “NO” on the City Attorney Ballot Initiative.

- This measure is likely to cost the city MORE in legal fees because all work would be contracted out (privatized) and not performed by salaried employees.
- Much legal work is already contracted out, some years more than what is provided in-house.
- Greater accountability exists with employees than with private firms or consultants.
- Emeryville needs an in-house legal department for other city departments to consult so they can easily and efficiently obtain a legal opinion.
- Managing outside legal counsel would be an additional job for existing city staff.
- This initiative could eliminate the positions of three individuals, including our Americans with Disabilities Act compliance coordinator. The lone councilmember who wants to get rid of the city attorney ignores two other employees. He is simply out to "get" the city attorney.
- This initiative is likely un-Constitutional, as the State Constitution gives city councils the authority to appoint a city attorney.
- Are you ready to spend more money in a legal contest over this initiative's legality?

This initiative would tie council's ability to use in-house legal counsel, even if it is shown to be the lowest cost alternative.

The truth is this initiative is one council member's attempt to circumvent the decisions of the City Council because of his disagreement with the Council majority. He has distributed incomplete or misleading information to qualify a ballot measure to change the structure of legal services in Emeryville. This is not the way to conduct our city business and sets bad policy for this and future City Councils. Please vote “NO” on this ballot initiative.

s/Nora Davis
Mayor

s/Jennifer West
Vice-Mayor

s/Ruth Atkin
Council Member

s/Kurt Brinkman
Council Member

REBUTTAL TO ARGUMENT AGAINST MEASURE F

Two years ago, the investigative website DavisVanguard.org surveyed 88 California cities. It found that 52 of them hired an outside law firm as City Attorney. What do the overwhelming majority of the surveyed cities know that Emeryville doesn't?

Not surprisingly, the survey found that the cities that contracted out their legal department spent less than half as much for legal services as cities with a staff City Attorney. This was true both for larger as well as smaller cities, as the average percentage of the general fund spent on legal services was 1.54% for in-house counsel cities, while only 1.31% for outside counsel cities.

Six of the ten cities that spent the highest percentage of their general fund on legal services had in-house counsel. Nine of the ten cities that spent the lowest percentage of their general fund on legal services had outside counsel. There is a pattern here: contracting out these services costs less.

Given these data, can the “impartial” analysis possibly be correct, claiming that contracting out would cost 71% more? How convincing is its assertion that the City Attorney is not a City employee? He is employed by MESA, the Emeryville entity whose Board of Directors is the City Council! The Initiative would require the City Council to contract for legal services with an entity that it doesn't control.

Your YES vote on this measure will enable the City to better control its legal expenses, resulting in lower costs to the taxpayers.

s/Ken Bukowski
Council Member

FULL TEXT OF MEASURE F

THE EMERYVILLE CONTRACT CITY ATTORNEY INITIATIVE MEASURE

FULL TEXT OF THE PROPOSED ORDINANCE:

The people of the City of Emeryville hereby ordain as follows:

Section I Findings

The People of the City of Emeryville hereby find and declare as follows:

1. The office of the Emeryville City Attorney has, at various points in the past, been filled either by a city employee or by an outside law firm or attorney hired on a contract basis.
2. When the office has been filled by a City employee, the City has been obligated to provide employment benefits to that employee and his/her subordinates. In addition, the City is required to comply with laws and regulations governing public employees. As a result, the City has become unnecessarily encumbered and restricted in efficiently carrying out its duties.
3. The office of the City Attorney would be most efficiently and economically provided for by having that office filled on a contract basis by a qualified outside law firm or attorney.

Section II.

Emeryville Municipal Code Section 2-1.302, headed "The City Attorney," currently provides, in its entirety, that

"The City Council shall appoint a City Attorney to serve the Council and City Manager upon such terms and conditions as are consistent with law, enactments of the City, and duties of the position as established by law and job description."

Section 2-1.302 is hereby amended to read in full as follows: (new language is indicated by underline, deleted language is indicated by ~~strikeout~~.)

"The City Council shall, by contract and upon the recommendation of the City Manager, appoint designate a qualified attorney or law firm to serve as the a-City Attorney to serve the City, the Council and the City Manager. Such City Attorney shall not be a city employee. The contract shall include upon such terms and conditions as are consistent with law, enactments of the City, and the duties of the position as established by law and job description. The term of such contract shall be no longer than two years.

Section III

The voters of the City of Emeryville may, by majority vote, amend this measure to provide for the election of the City Attorney."

Section IV Severability

If any provision or application of this measure is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the people of Emeryville hereby declare their intent that the remaining provisions or portions thereof shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this ordinance in order to effectuate the intent of the voters and preserve the maximum permissible effect of this measure.

NEWARK UNIFIED SCHOOL DISTRICT BOND MEASURE G

<p style="font-size: 2em; margin: 0;">G “To preserve quality education, provide safe and modern schools, and qualify for matching funds, shall Newark Unified School District update aging classrooms, libraries, and science labs to meet earthquake/ fire/safety standards; improve access for students with disabilities; remove asbestos, lead and hazardous materials; and improve energy/operational efficiency to maximize funding for instructional programs; by issuing \$63 million in bonds at legal rates, with independent oversight, no money for administrators’ salaries, and all funds staying in Newark?”</p>	BONDS-YES
	BONDS-NO

currently available data and projections, of the property tax rates required to service the bonds. The best estimate of the average tax rate required to be levied to fund the bonds is 3.9¢ (three point nine cents) per \$100.00 (one hundred dollars), which is \$39.00 (thirty-nine dollars) per \$100,000.00 (one hundred thousand dollars), of the assessed valuation of taxable property on the County’s official tax rolls. The highest tax rate estimated to be levied to fund the bonds is the same as the average tax rate estimate, as set forth more fully in the Tax Rate Statement in this Voter Pamphlet.

An independent citizens’ oversight committee will monitor the bond expenditures.

If 55% of those voting on this measure do not vote for approval, the measure will fail and the District will not be authorized to issue the bonds.

COUNTY COUNSEL’S IMPARTIAL ANALYSIS OF BOND MEASURE G

ANALYSIS BY THE ALAMEDA COUNTY COUNSEL OF THE NEWARK UNIFIED SCHOOL DISTRICT BOND MEASURE

s/RICHARD R. KARLSSON
Interim County Counsel

The above statement is an impartial analysis of Measure G, which is printed in full in this sample ballot pamphlet. If you desire an additional copy of the measure, please call the Elections Official’s office at (510)272-6933 and a copy will be mailed at no cost to you.

Measure G, a Newark Unified School District (“District”) bond measure, seeks voter approval to authorize the District to cause general obligation bonds to be issued and sold in a principal amount not to exceed \$63,000,000.00 (sixty three million dollars) at interest rates within the statutory limit. The primary purpose of the bonds is to finance specific school facilities projects in the measure.

Pursuant to California Constitution Section 18 of Article XVI and Section 1 of Article XIII A and California Education Code Section 15274, this measure will become effective upon the affirmative vote of at least 55% of the qualified electors voting on this measure.

California Education Code Section 15100 restricts the use of the proceeds from the bonds sale to construction, reconstruction, rehabilitation or replacement of school facilities, and the acquisition of real property for school facilities. In addition, proceeds may only be used for the projects listed in the measure. Measure G provides that its proceeds will fund projects outlined in the measure (reproduced in the sample ballot) that include, among others: removing hazardous materials from school sites; updating school facilities to meet current earthquake, fire and safety standards; providing disabled access; modernizing classrooms and science laboratories; and improving energy efficiency. Proceeds may not be used for any other purpose, such as administrator salaries.

If 55% of those who vote on the measure vote “yes”, the District will be authorized to issue bonds in an amount not to exceed \$63,000,000.00 (sixty three million dollars). Approval of this measure will authorize a levy on the assessed value of taxable property within the District by an amount needed to pay the principal and interest on these bonds in each year that the bonds are outstanding.

The Tax Rate Statement for Measure G in this Voter Pamphlet reflects the District’s best estimates, based upon

TAX RATE STATEMENT OF BOND MEASURE G

APPENDIX C

TAX RATE STATEMENT IN CONNECTION WITH NEWARK UNIFIED SCHOOL DISTRICT BOND MEASURE TO BE SUBMITTED TO VOTERS ON NOVEMBER 8, 2011

An election will be held in the Newark Unified School District (the "District") on November 8, 2011, on the question of whether to authorize up to \$63,000,000 in bonds to be issued by the District to finance school facilities as described in the ballot measure. If the bonds are approved, the District expects to sell the bonds in three series over time. Principal and interest on the bonds will be paid from taxes levied on the taxable property in the District. The information contained in numbered paragraphs 1-3 below is provided in compliance with Sections 9400-9404 of the Elections Code of the State of California. This information is based on the best estimates and projections presently available from official sources, experience within the District and other demonstrable factors.

1. The best estimate of the tax which would be required to be levied to fund this bond issue during the first fiscal year after the sale of the first series of bonds, based on estimated assessed valuations available at the time of filing of this statement, is 3.9¢ per \$100 (\$39.00 per \$100,000) of assessed valuation in fiscal year 2012-13.
2. The best estimate of the tax rate which would be required to be levied to fund this bond issue during the first fiscal year after the sale of the last series of bonds, based on estimated assessed valuations available at the time of filing of this statement, is 3.9¢ per \$100 (\$39.00 per \$100,000) of assessed valuation in fiscal year 2016-17.
3. The best estimate of the highest tax rate which would be required to be levied to fund this bond issue, based on estimated assessed valuations available at the time of filing of this statement, 3.9¢ per \$100 (\$39.00 per \$100,000) of assessed valuation in fiscal year 2016-17.
4. The best estimate of the average annual tax rate which would be required to be levied to fund this bond issue through the entire repayment period, based on estimated assessed valuations available at the time of filing of this statement, is 3.9¢ per \$100 (\$39.00 per \$100,000) of assessed valuation.

Voters should note that the estimated tax rates are based on the *ASSESSED VALUE* of taxable property on the County's official tax rolls, *not* on the property's market value. Property owners should consult their own property tax bills to determine their property's assessed value and any applicable tax exemptions.

Attention of all voters is directed to the fact that the foregoing information is based upon the District's projections and estimates only, which is not binding upon the District. The actual tax rates and the years in which they will apply may vary from those presently estimated, due to variations

from these estimates in the timing of bond sales, the amount of bonds sold and market interest rates at the time of each sale, and actual assessed valuations over the term of repayment of the bonds. The dates of sale and the amount of bonds sold at any given time will be determined by the District based on its need for construction funds and other factors, including the legal limitations on bonds approved by a 55% vote. The actual interest rates at which the bonds will be sold will depend on the bond market at the time of each sale. Actual future assessed valuation will depend upon the amount and value of taxable property within the District as determined by the County Assessor in the annual assessment and the equalization process.

Dated: August 9, 2011

s/Dave Marken, Ed.D.
Superintendent
Newark Unified School District

ARGUMENT IN FAVOR OF BOND MEASURE G NEWARK UNIFIED SCHOOL DISTRICT

Student achievement in Newark continues to rise every year because of our outstanding teachers and our strong academic programs. Your YES vote on Measure G will help continue our students' success by protecting the quality of local education and providing local students with a safe learning environment.

Most of our schools in Newark are outdated and need to be repaired—many schools are over 40 years old and some are close to 50 years old. Classrooms, science labs and school libraries need to be upgraded.

Your YES vote on Measure G will provide locally controlled funds that can't be taken by Sacramento to update our classrooms so Newark students are prepared for college and 21st-century jobs.

Measure G will maintain student achievement by:

- Updating aging classrooms, libraries and science labs to meet earthquake, fire and safety standards
- Improving access for students with disabilities
- Removing asbestos, lead and hazardous materials
- Improving energy and operational efficiency to maximize funding for instructional programs

Measure G requires fiscal accountability:

- Every penny will stay in Newark—the State can't take a penny
- Funds cannot be used for administrators' salaries
- Independent citizens' oversight and annual reports will ensure funds are spent as promised

Your YES vote is critical. Improving energy and operational efficiency will generate approximately \$500,000 in savings every year, which will go directly toward protecting academic programs and retaining qualified teachers.

If Measure G passes, Newark schools will be eligible for matching funds that would otherwise go to other communities. Measure G will also boost our local economy by creating and protecting local jobs.

Our neighborhood schools help make Newark a great place to live. Quality local schools help to protect property values, which benefits all of us.

Vote YES on Measure G for great schools for Newark.

s/Miriam Keller

President, League of Women Voters
Fremont, Newark, Union City

s/Clark Redeker

71-Year Newark Resident

s/Mary T. King

Parent of Newark Unified School District Graduates

s/Debra A Romero

Long-time resident of Newark

s/Guadalupe "Lupe" Lopez

Local Business Owner

REBUTTAL TO ARGUMENT IN FAVOR OF BOND MEASURE G

This bond will not guarantee improved schools. It will guarantee more debt and no real change. "Based on the final costs of each project, certain of the projects described ... may be delayed or may not be completed."

The idea that "Measure G will boost our local economy" is a FALLACY. If this were true, Newark could simply tax itself into prosperity. Debt spending is bad policy. As it stands, Newark unemployment is 10.7% and job growth is -5.1%

Proponents say "Measure G requires fiscal accountability" yet, the District's estimates are "not binding upon the District. The actual tax rates ... may vary from those presently estimated."

Newark taxpayers cannot prevent "actual tax rates" from increasing if the measure passes. It is poorly written and has no fiscal guarantees or oversight built in to it.

Measure G will increase your tax burden without discernible benefits to student performance.

Measure G raises taxes and increases school debt to protect District jobs and salaries. "This measure will... protect jobs for local teachers and staff."

Measure G will increase debt and decrease savings. Savings of \$500,000 does not account for higher debt payments. A debt of only \$50 million at a modest 4% will generate INTEREST ONLY costs of \$2 million yearly. Remember, the district IS ALREADY PAYING over \$5 Million against old debt this year.

Measure G amounts to a tax funded District bailout. Vote NO on G! Newark *must* demand better schools with accountable management, fiscal discipline and less debt.

s/Albert Rubio

Engineer

s/David Springsteen

Facilities/Equipment Maintenance Supervisor

s/Cherie G. Swenson

Retired

s/Erin Springsteen

Student At UC Santa Cruz

ARGUMENT AGAINST BOND MEASURE G

- All bond measures are tax proposals paid for by new property taxes on Newark homeowners.
- Measure G is a 63 million dollar bond that will cost homeowners approximately \$5000 that will take decades to pay off with fees and interest.
- Existing debt already costs Newark taxpayers over \$5 million annually.
- This proposed bond is larger than the entire budget for the Newark Unified School District by 108%.
- Since 1971, U.S educational spending has grown from \$4,300 to over \$9,000 per student after adjusting for inflation. Has doubling spending helped? Since 1971, reading and math scores have flat lined.
- “Board President Charlie Mensinger said “... pursuing a bond measure allows the district to have an ‘influx in revenue’ so they can reduce cuts,” (School Board OKs Bond Measure on Fall Ballot)
<http://newark.patch.com/articles/school-board-ok-bond-measure-on-fall-ballot>
- An “influx in revenue” allows for an increase in spending, regardless of the amount of cuts made.
- Measure G is written to allow the District to use the money to offset expenses. This allows Newark Unified School District to increase spending, without making necessary budget cuts. This will decrease accountability within the district.
- California voters voted to have a required 67% majority for the approval of all tax increases. Measure G is an attempt to get around this. Measure G is a bond, only 55% of voters is needed for it to pass.
- Newark Unified School District would benefit from better management and accountability, not an influx in revenue that allows continued fiscal irresponsibility.
- Tax Payers are in peril. All levels of government intend tax increases to support government spending.
- Debt spending is ruining Newark, our schools and our future.
- Vote No on G. No on G is Newark Taxpayers Defense against increased taxes.

s/Albert Rubio

Engineer

s/David Springsteen

Facilities/Equipment Maintenance Supervisor

s/Cherie G. Swenson

Retired

s/Erin Mae Springsteen

UC Santa Cruz Student

REBUTTAL TO ARGUMENT AGAINST BOND MEASURE G

NEWARK UNIFIED SCHOOL DISTRICT

The opponents have entirely missed the point.

As Newark voters, we have a choice:

- Do we want to support our local schools and ensure all Newark children have access to safe classrooms and a quality education?
- Or do we want to sit back while Sacramento cuts school funding, forcing our schools to lay off teachers, cut academic programs and keep our schools in disrepair?

Measure G will provide local funding to upgrade our outdated classrooms so all students have a safe learning environment that prepares them for college and future careers.

Here are the facts:

- In the past two years alone, Sacramento has cut over \$13 million from Newark classrooms.
- Our schools have already made extensive cuts, including:
 - Laying off 75 teachers and staff
 - Reducing salaries
 - Implementing furlough days
 - Cutting administration
 - Increasing class sizes
 - Cutting library hours
 - Reducing academic and music programs
- Measure G funds can only go toward repairing Newark school facilities outlined in the bond project list (see the full text of Measure G in your ballot pamphlet)
- By law, Measure G funds cannot be spent on salaries, administration or operating expenses.
- A citizens’ oversight committee, comprised of Newark senior, taxpayer, business and parent organization representatives, will ensure funds are spent as promised.

Our schools have award-winning teachers and outstanding academic programs. Measure G will build on our students’ success and provide the up-to-date classrooms our students need. Vote YES to protect strong student achievement in Newark.

s/Daryl Miller

Director of Finance, CPA

s/Edward Gomes

Realtor

s/Rick Arellano

College Professor

s/David M. Britton

CPA

s/Jean P. Ficklin

Retired Educator

FULL TEXT OF MEASURE G

APPENDIX A

Newark Quality Education and Safe Classrooms Measure BALLOT MEASURE FULL TEXT

Newark Quality Education and Safe Classrooms Measure

“To preserve quality education, provide safe and modern schools, and qualify for matching funds, shall Newark Unified School District update aging classrooms, libraries, and science labs to meet earthquake/fire/safety standards; improve access for students with disabilities; remove asbestos, lead and hazardous materials; and improve energy/operational efficiency to maximize funding for instructional programs; by issuing \$63 million in bonds at legal rates, with independent oversight, no money for administrators’ salaries, and all funds staying in Newark?”

Bonds – Yes

Bonds – No

Purpose

Student achievement in Newark schools is on the rise. Test scores in Newark have consistently increased over the last five years.

However, most local schools are over 40 years old, and some are close to 50 years old. School buildings throughout Newark do not meet current earthquake and safety standards. Many classrooms are not accessible for students with disabilities. Some classrooms contain, asbestos, lead and other hazardous materials. Roofs leak, heating and electrical systems are outdated and aging plumbing needs to be replaced. High school science labs are overcrowded and outdated. Schools are not energy efficient, which increases our utility costs and takes money away from instructional programs.

Upgraded classrooms, libraries and science labs are needed to provide a safe and modern learning environment for students.

If approved, the Newark Quality Education and Safe Classrooms Measure will provide local funding that cannot be taken away by the State to complete the highest priority projects that impact student safety, quality instruction and operational efficiency.

To protect student safety, Measure G will:

- Remove asbestos, lead and other hazardous materials are removed from school sites
- Update classrooms, libraries, science labs other school facilities to meet current earthquake, fire and safety standards for students
- Improve security systems, fire alarms, fencing and exterior lights for student and teacher safety in an emergency

To provide a learning environment that supports outstanding student achievement, Measure G will:

- Update classrooms to provide access for students with disabilities
- Upgrade school libraries to accommodate computers and book collections for students
- Modernize science labs, classroom computers teaching tools and technology to prepare students for 21st century jobs
- Replace outdated electrical systems and wiring to accommodate modern technology

To reduce costs, improve efficiency and maximize available funding for classroom teachers and instructional programs, Measured G will:

- Improve energy efficiency to reduce utility costs by an estimated half-million dollars per year
- Replace outdated heating, ventilation and other mechanical systems that often break and are expensive to repair

Measure G requires mandatory fiscal accountability, including:

- Every penny from this measure must stay in Newark to benefit local schools
- No funds can be taken away by Sacramento.
- No funds can be used for administrator salaries or administration
- An independent citizens’ oversight committee will review the use of funds to ensure they are spent properly
- Annual performance and financial audits are required

The Newark Quality Education and Safe Classrooms Measure is designed to provide the best possible education for Newark students and to benefit the entire Newark community. Good schools make our neighborhoods more desirable, which protects the value of our homes. This measure will create local construction jobs, boost economic activity in the area and protect jobs for local teachers and staff.

Project List

Every school within the Newark Unified School District will receive funding from Measure G, the Newark Quality Education and Safe Classrooms Measure. Bond funds, in conjunction with State matching funds as may become available, will be used to make necessary repairs and upgrades to existing school campuses, as well as replace old portable classrooms and buildings, and upgrade the technology infrastructure to support student learning. The campuses and support facilities listed below will receive the following repair, upgrade and construction projects as necessary:

- Bunker Elementary School
- Graham Elementary School
- Kennedy Elementary School
- Lincoln Elementary School
- Milani Elementary School
- Musick Elementary School

Schilling Elementary School
Snow Elementary School
Newark Junior High School
Newark Memorial High School
Macgregor Alternative School
Whiteford Preschool

1. Complete health and safety improvements required to comply with current student safety standards and codes, including removing hazardous materials such as asbestos and lead, completing seismic safety upgrades to make facilities earthquake safe, improving electrical systems and fire safety, upgrading communication and security systems, providing lighting for safety, repairing cracked and uneven pavement and stairs, and improving safety in school parking areas
2. Provide access to classrooms, science labs, restrooms and other school facilities for students with disabilities
3. Improve student access to classroom computers and modern technology by upgrading electrical and technology infrastructure and distribution
4. Complete repairs, renovations and upgrades to school sites including replacing outdated electrical systems, sewer, water, gas, paving, walkways, fencing, landscaping and drainage systems
5. Complete major upgrades and renovations to building exteriors and interiors, such as walls, painting, lighting, roofing, floor coverings, doors, windows and hardware
6. Upgrade science labs to support instructional programs and provide advanced courses now required by colleges and universities for admission
7. Provide facilities and equipment necessary to effectively implement career and technical programs so students can compete for today's in-demand jobs
8. Update and improve building systems including heating, ventilation and plumbing systems to reduce energy consumptions and school utility costs
9. Evaluate and implement energy generation, management and conservation systems to improve environmental sustainability and effectively reduce ongoing energy and utility costs incurred by the District
10. Construct, furnish and equip new classrooms to replace outdated/aging portable classrooms
11. Renovate, expand, and construct student support facilities throughout the District as needed
12. Acquire and install instructional, maintenance, and operational equipment including but not limited to: desks, computers, printers/reprographic equipment, computer stations, smart boards, whiteboards, tack boards; science, art, and instrumental program equipment; window coverings, cafeteria tables, and maintenance equipment to the extent permitted by law
13. Upgrade and replace as necessary outdoor play equipment, protective play surfaces, and fields as needed to meet new safety standards and keep our children healthy

14. Provide adequate shade structures and lunch shelters to protect students
15. Expand and upgrade multi-purpose rooms, cafeterias and kitchen areas as needed to efficiently prepare food and serve students in a safe and sanitary environment
16. Refinance or retire existing debts and leases in order to secure more favorable terms for taxpayers and/ or free up funding for classroom instruction

Priority of Projects

The listed projects will be prioritized and completed as needed with the following projects being prioritized first: projects dealing with safety and security for students, teachers and school staff; items with immediate impact on classrooms and instruction; items which protect the structural integrity of our schools protect taxpayer investments in these community assets; projects that maximize additional funding resources or that generate ongoing funding or expense reduction.

Project Costs

Each project is assumed to include its share of furniture, equipment, architectural, engineering, and similar planning costs, program/project management, staff training expenses and a customary contingency for unforeseen design and construction costs. In addition to the listed projects stated above, the Project List also includes the acquisition of a variety of instructional, maintenance and operational equipment, including the reduction or retirement of outstanding lease obligations and interim funding incurred to advance fund projects from the Project List; installation of signage and fencing; payment of the costs of preparation of all facility planning, facility studies, assessment reviews, facility master plan preparation and updates, environmental studies (including environmental investigation, remediation and monitoring), design and construction documentation, and temporary housing of dislocated District activities caused by construction projects. In addition to the projects listed above, the repair and renovation of each of the existing school facilities may include, but not be limited to, some or all of the following: renovation of student and staff restrooms; repair and replacement of heating and ventilation systems; upgrade of facilities for energy efficiencies; repair and replacement of worn-out and leaky roofs, windows, walls, doors and drinking fountains; installation of wiring and electrical systems to safely accommodate computers, technology and other electrical devices and needs; upgrades or construction of support facilities, including administrative, physical education and performing arts buildings and maintenance yards; repair and replacement of fire alarms, emergency communications and security systems, resurfacing or replacing of hard courts, turf and irrigation systems and campus landscaping; expand parking; install interior and exterior painting and floor covering; demolition; and construction of various forms of storage and support spaces, upgrade classrooms, repair, upgrade and install interior and exterior lighting systems; replace outdated security fences and security systems. The upgrading of technology infrastructure includes, but is not limited to, computers, LCD

projectors, portable interface devices, servers, switches, routers, modules, sound projection systems, laser printers, digital white boards, document projectors, upgrade voice-over-IP, call manager and network security/firewall, wireless technology systems and other miscellaneous equipment and software.

The allocation of bond proceeds will be affected by the District's receipt of State matching funds and the final costs of each project. In the absence of State matching funds, which the District will aggressively pursue to reduce the District's share of the costs of the projects, the District will not be able to complete some of the projects listed above. The budget for each project is an estimate and may be affected by factors beyond the District's control. Some projects throughout the District, such as gyms, fields and performing arts facilities, may be undertaken as joint use projects in cooperation with other local public or non-profit agencies.

The final cost of each project will be determined as plans and construction documents are finalized, construction bids are received, construction contracts are awarded and projects are completed. Based on the final costs of each project, certain of the projects described above may be delayed or may not be completed. Demolition of existing facilities and reconstruction of facilities scheduled for repair and upgrade may occur, if the Board determines that such an approach would be more cost-effective in creating more enhanced and operationally efficient campuses. Necessary site preparation/restoration may occur in connection with new construction, renovation or remodeling, or installation or removal of relocatable classrooms, including ingress and egress, removing, replacing, or installing irrigation, utility lines, trees and landscaping, relocating fire access roads, and acquiring any necessary easements, licenses, or rights of way to the property. Proceeds of the bonds may be used to pay or reimburse the District for the cost of District staff when performing work on or necessary and incidental to bond projects. Bond proceeds shall only be expended for the specific purposes identified herein. The District shall create an account into which proceeds of the bonds shall be deposited and comply with the reporting requirements of Government Code § 53410.

Accountability Requirements

The provisions in this section are specifically included in this measure in order that the voters and taxpayers in the District may be assured that their money will be spent wisely. Expenditures to address specific facilities needs of the District will be in compliance with the requirements of Article XIII A, Section 1(b)(3), of the State Constitution and the Strict Accountability in Local School Construction Bonds Act of 2000 (codified at Education Code Sections 15264 and following.)

Evaluation of Needs. The Board has identified detailed facilities needs of the District and has determined which projects to finance from a local bond at this time. The Board hereby certifies that it has evaluated safety, class size reduction, enrollment growth, and information technology needs in developing the Bond Project List.

Independent Citizens' Oversight Committee. The Board shall establish an Independent Citizens' Oversight Committee under Education Code Section 15278 and following to ensure bond proceeds are expended only on the school facilities projects listed below. The committee will be established within 60 days of the date when the results of the election appear in the minutes of the Board.

Performance Audits. The Board shall conduct an annual, independent performance audit to ensure that the bond proceeds have been expended only on the school facilities projects listed below.

Financial Audits. The Board shall conduct an annual, independent financial audit of the bond proceeds until all of those proceeds have been spent for the school facilities projects listed below.

Special Bond Proceeds Account: Annual Report to Board. Upon approval of this measure and the sale of any bonds approved, the Board shall take actions necessary to establish an account in which proceeds of the sale of bonds will be deposited. As long as any proceeds of the bonds remain unexpended, the Superintendent of the District shall cause a report to be filed with the Board annually, stating (1) the amount of bond proceeds received and expended in that year, and (2) the status of any project funded or to be funded from bond proceeds. The report may relate to the calendar year, fiscal year, or other appropriate annual period as the Superintendent shall determine and may be incorporated in the annual budget, audit, or another appropriate routine report to the Board.

Further Specifications

No Administrator Salaries. Proceeds from the sale of bonds authorized by this measure shall be used only for the construction, reconstruction and/or rehabilitation of school facilities including the furnishing and equipping of school facilities or acquisition or lease of real property for school facilities and not for any other purpose, including administrator salaries.