

AGENDA
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING AUGUST 25, 2009
CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET

1. Call To Order.
2. Pledge Of Allegiance.
3. Invocation.
4. Roll Call.
5. Declaration Of Conflicts Of Interest.
6. Ceremonial Matters
7. Items from the Public - Non-Agenda Items.
8. Consent Calendar
 - a. Waive All Readings Of Ordinances And Resolutions Except By Title.
 - b. Approval Of Warrants.
 - c. Approval Of Minutes Of The August 11, 2009 Regular Meeting.
9. Public Hearings.
10. Regular Business
 - a. First Reading And Introduction Of Ordinance No. 2009- , Amending Title 10 Traffic Regulations.
 - b. Award Bid For Fresno Street Sidewalk And Storm Drain Project.
11. Items From District Five Stanislaus County Supervisor.
12. Items From The City Manager And Staff.
13. Items From City Council Members.
14. Adjourn To Closed Session
 - a. Conference With Legal Council - Potential Litigation – One Case - G.C. 54956.9.
 - b. Return To Open Session.
15. Adjournment.

Calendar of Events

August 25 - City Council - 7:00 P.M.

August 28 - West Side Self Guided Tour CD Release Party - Stewart & Jasper - 6:00 P.M.

August 29 - Veterans Administration Service Appreciation Meeting - 10:00 A.M. To 2:00 P.M.

September 2 - 6 - Fall Festival

September 8 - City Council - 7:00 P.M.

September 10 - Recreation Commission - 7:00 P.M.

September 14 - Baseball Board Meeting - 6:00 P.M.

September 16 - Mayors Meeting - 6:00 P.M. - Patterson

September 17 - Planning Commission - 7:00 P.M.

September 21 - Two-On-Two Meeting With The School Board - 4:30 P.M.

September 22 - City Council - 7:00 P.M.

Date.: Aug 21, 2009
Time.: 9:36 am
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

Page.: 1
List.: NEW1
Group: PYCPDP

Ck #	Check Date	CK Amount	Vendor Name	Description
036333	08/21/09	358.54	AT&T	MONTHLY TELEPHONE SERVICE/3/13/09 TO 4/12/09
036333	08/21/09	833.71	AT&T	MONTHLY TELEPHONE SERVICE/4/13/09 TO 5/12/09
036333	08/21/09	25.09	AT&T	MONTHLY PHONE SERVICE/5/13/09 TO 6/12/09
036333	08/21/09	557.77	AT&T	MONTHLY TELEPHONE SERVICE/5/13/09 TO 6/12/09
036333	08/21/09	29.73	AT&T	MONTHLY PHONE 6/13/09 TO 7/12/09
036334	08/21/09	988.02	DEPARTMENT OF GENERAL SERVICES	CITY'S COST SHARE OF 2 CNG HONDA CIVICS
036335	08/21/09	21450.00	STANISLAUS COUNTY	EMERGENCY DISPATCH SERVICES APR-JUNE 2009
036336	08/21/09	5.13	T.H.E. OFFICE CITY	MECHANICAL PENCIL
Sub-Total:		24247.99		
Grn-Total:		24247.99		
Count:		8		

Date.: Aug 20, 2009
Time.: 4:55 pm
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

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List.: NEW1
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Ck #	Check Date	CK Amount	Vendor Name	Description
036273	08/21/09	.00	VOIDED CHECK	
036274	08/21/09	.00	VOIDED CHECK	
036275	08/21/09	.00	VOIDED CHECK	
036276	08/21/09	.00	VOIDED CHECK	
036277	08/21/09	.00	VOIDED CHECK	
036278	08/21/09	.00	VOIDED CHECK	
036279	08/21/09	1856.74	ADAMSON POLICE PRODUCTS	AMMUNITION/PD
036280	08/21/09	13618.00	ANTHEM BLUE CROSS	HEALTH INSURANCE PREMIUM/SEPT 2009
036281	08/21/09	332.04	AT&T MOBILITY	WIRELESS ACCESS/PD/7/3/09 TO 8/2/09
036282	08/21/09	64.88	AT&T	TELEPHONE/AUGUST FOR 668-3946
036283	08/21/09	493.37	AT&T	MONTHLY PHONE SERV/6/13/09 TO 7/12/09
036284	08/21/09	1661.46	BASIC CHEMICAL SOL./INC.	645 GALLONS SODIUM HYPOCHLORITE/WELLS
036285	08/21/09	488.80	JAMES J. BELL	CONTRACT SERV/EVIDENCE CLERK/J. BELL 8/1-08/15/09
036286	08/21/09	440.00	BJ'S CONSUMER'S CHOICE IN	PEST CONTROL SERVICES/07/23/09
036287	08/21/09	240.00	NICOLE BLADES	FIT KIDS INSTRUCTOR/07/27/09 TO 08/07/09/BLADES
036288	08/21/09	639.85	BURTON'S FIRE, INC	REPAIRS TO MEL'S TRUCK/FIRE DEPT
036289	08/21/09	242.84	BUSINESS CARD	33 T-SHIRTS/SOCCER CAMP
036289	08/21/09	239.91	BUSINESS CARD	REPLACEMENT MOTOR FOR WELL #8
036290	08/21/09	211.00	BUSINESS FILINGS DIVISION	INFO OF OFFICERS LIST/NEW RECREATIONAL OPPORT, INC
036291	08/21/09	8500.00	CBA (CALIFORNIA BENEFITS)	PRE-PAID DENTAL-VISION DEPOSIT
036292	08/21/09	316.21	C B MERCHANT SERVICES, INC	REIMBURSE BAD DEBT
036293	08/21/09	280.86	CERRUTTI BROS., INC.	2 BATTERIES FOR ENGINE #25/FD
036294	08/21/09	8266.00	CLENDENIN BIRD & CO LLP	1ST PROGRESS BILL/6/30/09 AUDIT
036295	08/21/09	64784.00	ECO:LOGIC, INC	CONSTRUCTION MANAGEMENT/WWTP STORAGE BASIN/#4

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CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

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Ck #	Check Date	CK Amount	Vendor Name	Description
036297	08/21/09	200.00	MAIRA GARCIA	REFUND MEMORIAL BLDG DEPOSIT/GARCIA
036298	08/21/09	317.50	GDR ENGINEERING, INC.	ENGINEERING SERVICES THRU 7/31/09/FRESNO ST
036299	08/21/09	52.75	GEMPLERS ACCT #5224757	TRUCK SEAT COVER
036300	08/21/09	2201.50	GEOANALYTICAL LAB, INC.	WEEKLY BACTI'S/BOD/SUSPENDED SOLIDS/QURT WELL SAMP
036301	08/21/09	137.49	GOLDEN STATE IRRIGATION	MISC SPRINKLER PARTS/HORNET SPRAY/
036302	08/21/09	191.17	GROENIGER & CO.	18 METER COUPLINGS
036303	08/21/09	3110.00	CITY OF GUSTINE	ANIMAL CONTROL SERVICES/JULY 2009
036304	08/21/09	404.64	HARD DRIVE GRAPHICS	12 POLO SHIRTS/PD
036305	08/21/09	477.30	HOLIDAY INN	LODGING/SRO TRAINING/VILLALOBOS/8/23/09 TO 8/28/09
036306	08/21/09	656.76	IKON OFFICE SOLUTIONS	COPIER LEASE/7/25/09 TO 8/24/09/PD
036307	08/21/09	1512.17	INFOSEND, INC	UTILITY BILL & LATE NOTICE MAILINGS/JULY 2009
036308	08/21/09	110.00	JOE'S LANDSCAPING &	2 YARDS BARK/TREE WEELS @ FDES HALL
036308	08/21/09	9165.00	JOE'S LANDSCAPING &	LIGHTING & LANDSCAPE SERVICES/JULY 2009
036309	08/21/09	2068.95	KAISER PERMANENTE	QUARTERLY COBRA PREMIUM SUBSIDY/1ST QRTR/LEMUS
036310	08/21/09	369.35	MALLARD EXPRESS AUTO	NEW STARTER/OIL & FILTER CHANGE
036311	08/21/09	10.96	McDONOUGH, HOLLAND, ALLEN	PROFESSIONAL SERVICES/RDA PLAN AMENDMENT THRU 7/31
036312	08/21/09	1534.34	MID VALLEY IT, INC	MONTHLY IT CONTRACT SERVICES/SEPT 2009
036313	08/21/09	111.00	NEWMAN ROTARY	ROTARY DUES AND FINES/ADAM MCGILL
036314	08/21/09	275.10	CITY OF NEWMAN-PETTY CASH	PETTY CASH REIMBURSEMENT
036315	08/21/09	88.97	NEWMAN DAIRY SUPPLY	REPLACED BURNT SWITCH ON REFRIGERATOR/MEM BLDG
036316	08/21/09	75.00	NEWMAN S.E.S #21	REFUND MEMORIAL BLDG DEPOSIT/NEWMAN SES #21
036317	08/21/09	660.00	CITY OF PATTERSON	VIDEO REIMBURSEMENT/JULY 2009
036318	08/21/09	132.14	P G & E	NATURAL GAS USAGE/7/8/09 TO 8/6/09
036318	08/21/09	2266.56	P G & E	ELECTRIC USE 5/5/09 TO 7/17/09/FIRE DEPT
036319	08/21/09	13.33	PIONEER DRUG	NOTEPADS/WATER SAMPLE SUPPLIES

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Ck #	Check Date	CK Amount	Vendor Name	Description
036320	08/21/09	3859.25	PRECISION INSPECTION, INC	Bldg Reg Inspec BLDG REGU
036321	08/21/09	203.75	R-SAFE SPECIALTY	NITRILE GLOVES/DURA MESH RESPIRATOR
036321	08/21/09	270.94	R-SAFE SPECIALTY	MOLDEX DURA MESH RESPIRATOR WITH STRAPS
036322	08/21/09	1559.40	SEMS TECHNOLOGIES, LLC	PO #10-04
036323	08/21/09	68.62	SHARPENING SHOP	INSTALLED THROTTLE CABLE/CARBURETOR/TRIMMER
036323	08/21/09	36.26	SHARPENING SHOP	REPLACED MUFFLER/LOOP TRIMMER
036323	08/21/09	55.86	SHARPENING SHOP	CARBURETOR CLEANED/NEW KIT/FUEL LINES/
036323	08/21/09	40.72	SHARPENING SHOP	CARB KIT/MISC SCREWS/ADJUSTMENT/ECHO WEED EATER
036324	08/21/09	77.00	SRPSTC	SCHOOL RESOURCE TRNG/VILLALOBOS 8/23/09-8/28/09
036325	08/21/09	293.50	STANISLAUS COUNTY	FOOD ESTABLISHMENT/BARRINGTON SNACK BAR
036325	08/21/09	293.50	STANISLAUS COUNTY	FOOD ESTABLISHMENT/MATTERI FIELD SNACK BAR
036326	08/21/09	44.42	STAPLES BUSINESS ADVANTAGE	ENVELOPES/STORAGE BOXES/PEN REFILLS
036327	08/21/09	2818.76	URBAN FUTURES, INC	PROFESSIONAL SERV/RDA PLAN AMENDMENT/JULY 09
036328	08/21/09	275.00	MIGUEL VILLALOBOS (NT)	PER DIEM/SCHOOL RESOURCE TRNG/VILLALOBOS
036329	08/21/09	1901.42	MATTOS NEWSPAPERS, INC.	LEGAL ADS/CLASSIFIED ADS/PROCLAMATION/UPS SHIPPING
036330	08/21/09	2777.70	ARMANDO GARCIA	PO #10-05
036331	08/21/09	648.00	WESTSIDE ANIMAL CLINIC	NEUTERS/SPAY/NATE CLINIC
036331	08/21/09	347.25	WESTSIDE ANIMAL CLINIC	EUTHANASIA/NEUTER/SPAY/HEALTH CHECKS/BOARDING
036332	08/21/09	326.55	YANCEY LUMBER COMPANY	PAINTING SUPPLIES/LUMBER/LIGHT BULBS/CONCRETE
Sub-Total:		149440.99		
Grn-Total:		149440.99		
Count:		69		

MINUTES
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING AUGUST 11, 2009
CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET

1. **Call To Order** - Mayor Katen 7:02 P.M.
2. **Pledge Of Allegiance.**
3. **Invocation** - Mayor Katen
4. **Roll Call PRESENT:** Kelly, Davis, Candea, Martina And Mayor Katen.
ABSENT: None

Request To Add Emergency Item.

City Manager Holland Requested That Item 10.f. Be Added To The Agenda. Holland Explained The Item Was Brought To His Attention After The Agenda Was Posted And That It Requires Immediate Action. The Item Is For The Approval Of The Annual Fall Festival.

ACTION: On Motion By Katen Seconded By Candea And Unanimously Carried, Item 10.f. Was Added To The Agenda.

5. **Declaration Of Conflicts Of Interest** - None
6. **Ceremonial Matters** - None
7. **Items from the Public - Non-Agenda Items** - None
8. **Consent Calendar**
 - a. Waive All Readings Of Ordinances And Resolutions Except By Title.
 - b. Approval Of Warrants.
 - c. Approval Of Minutes Of The July 28, 2009 Regular Meeting.
 - d. Authorize Use Of Appraisal Services.

ACTION: On Motion By Candea Seconded By Martina And Unanimously Carried, The Consent Calendar Was Approved.

9. Public Hearings

- a. Second Reading And Adoption Of Ordinance No. 2009-9, Amending Title 11 Public Ways And Property, Chapter 11.01 Public Ways Regulations, Of The Newman City Code.

Public Works Director Reynolds Reported On the Proposed Ordinance.

Mayor Katen Opened The Public Hearing At 7:10 P.M.

Mary Moore, 1442 "Q" Street, Told The Council That She Disagrees With The Proposed Ordinance. Moore Stated That There Have Been Issues With The Sidewalks In Newman For Her Entire Life And Asked The Council To Reconsider Adopting The Proposed Ordinance. She Went On To Describe Her Concerns About The Amount Of Traffic On The Sidewalks Near Her Home And That She Was Worried About Potential Losses If The Liability Was Shifted Form The City.

Dave Silveira, 1005 "P" Street, Explained That He Was Concerned That Most Of The Sidewalks Were Over One-Hundred Years Old And That The Residents Would Be Inheriting A Problem. Silveira Stated That He Thought The Ordinance Was Unfair Because It Puts All The Liability On The Individual Property Owners.

Mary Escobar, 1344 Tulare Street, Talked About How The Roots Of The Trees Have Lifted The Sidewalks And How She Was Concerned About Making People Responsible For Pruning The Trees. Escobar Went On To Question The City's Notification Process And Mentioned That She Was Concerned About The Use Of The Word "All" In The Ordinance. She Expressed Fears About What The City Would Do When It Ran Out Of Grant Money To Fix The Sidewalks.

Vernon Peichoto, 1443 Tulare Street ,Told The Council That He Would Agree To Support The Ordinance If All The Sidewalks Were Replaced And That He Felt As Though The Ordinance Punishes Those Who Live In The Older Parts Of Town. Peichoto Commented That If The Ordinance Was Merely About Liability That It Should Be Clearer.

Rod Gourley, 2038 Carlsbad Caverns Court, Declared That The City Owns The Trees And Sidewalks And That The City Should Take Complete Responsibility For What It Owns. Gourley Commented That He Wanted To Know Exactly What The Ordinance Was Going To Change.

Carol Stephens, 1107 "S" Street, Asked If Property Taxes Covered The Maintenance Of Sidewalks And What New Freedoms Property Owners Might Expect With The Passage Of The Proposed Ordinance. Stephens Told The Council That The Ordinance Should Be Reworded To Speak To The Issue Of Shared Liability And Not Things They Do Not Tend To Enforce.

Phyllis Peavler, 1032 Main Street, Asked If Repairs To Sidewalks Would Still Be Done By The City After The Passage Of The Proposed Ordinance. Peavler Suggested That The City Host A Workshop For The Residents Regarding This Ordinance.

Rose Borba, 741 Real Ave, Expressed That She Was Concerned About The Potential Increase In Insurance Rates Due To The Passage Of This Ordinance And Asked Where The Homeowner's Liability Stopped.

Steven McCulken, 1026 Main Street, Also Asked If The Proposed Ordinance Gave Homeowners Additional Rights.

Bill McCandless, 1017 "P" Street, Stated That He Is Concerned That People In The Older Part Of Town Would Have A Greater Liability.

Anne Dare, 1257 "P" Street, Asked Why The Public Hearing Notice Was On The Back Page Of The Newspaper.

City Manger Holland Tried To Address The Concerns Of The Audience And Explained That The City Was Merely Following The Recommendation Of Legal Advisors And That The Ordinance Was Aimed At Sharing Liability With The Homeowners And Not At Shifting The Liability Completely To Them. Holland Stated That Staff Did Not Have A Vested Interest In The Proposed Ordinance And

Made Some Suggestions As To Alternative Actions That The Council Could Take. Holland Did Tell The Council That This Type Of Ordinance Was Something That The Council Should Consider.

There Being No Public Comment Katen Closed The Public Hearing At 8:06 P.M.

ACTION: A Motion By Martina Seconded By Davis, Ordinance No. 2009- , Amending Tile 11 Public Ways And Property, Chapter 11.01 Public Ways Regulations, Of The Newman City Code Was Denied.

10. Regular Business

a. Approval Of The Sanitary Sewer Management Plan.

ACTION: On Motion By Kelly Seconded By Davis And Unanimously Carried, The Sanitary Sewer Management Plan Was Approved.

b. Adopt Resolution No. 2009- , A Resolution Establishing The Fee For A Temporary Storage Container Permit Application.

ACTION: On Motion By Kelly Seconded By Candea And Unanimously Carried, Resolution No. 2009- , A Resolution Establishing The Fee For A Temporary Storage Container Permit Application, Was Adopted.

c. Approval Of The Consolidated Annual Performance And Evaluation Report (CAPER) Relating To Its Fiscal Year 2008-2009 Past Activity And Open Public Comment Period.

ACTION: On Motion By Davis Seconded By Candea And Unanimously Carried, The Council Authorized The Release Of The 2008-2009 Draft Consolidated Annual Performance Evaluation Report (CAPER) For The Community Development Block Grant (CDBG) Program And Opened The Public Comment Period Which Will End On September 8, 2009, And Set A Public Hearing On September 8, 2009 At 7:00 P.M. To Consider Adoption Of The CDBG Fiscal Year 2008-2009 CAPER.

d. Approval Of HOME Sub-Recipient Agreement.

ACTION: On Motion By Candea Seconded By Martina And Unanimously Carried, The HOME Sub-Recipient Agreement Was Approved.

e. Authorize The Police Department To Accept Federal Grant Funds Under The Cops Hiring Recovery Program (CHRP) In The Amount Of \$283,164 To Hire One Additional Police Officer.

ACTION: On Motion By Candea Seconded By Martina And Unanimously Carried, The Council Authorized The Police Department To Accept Federal Grant Funds Under The Cops Hiring Recovery Program (CHRP) In The Amount Of \$283,164 To Hire One Additional Police Officer.

f. Report On Newman Fall Festival

ACTION: On Motion By Candea Seconded By Kelly And Unanimously Carried, The Council Approved The Requests As Submitted By The Fall Festival Committee.

11. Items From District Five Stanislaus County Supervisor - None

12. Items From The City Manager And Staff.

City Manager Holland Informed The Council That City Had Been Awarded A "Safe Routes To School" Grant In The Amount Of \$225,000.00, To Install Traffic Calming Improvements At Merced And Inyo Streets. Holland Reported That The Free CDBG Computer Classes Had Resumed Earlier In The Day At The McConnell Center. He Mentioned That The Pioneer Park Shade Structure Had Been Delivered And That The Development Of Hill Park Would Begin Within Thirty Days. Holland Reminded Everyone That The Veterans Administration Would Be Hosting A Service Appreciation Meeting In The Council Chambers On Saturday, August 29, 2009.

Public Works Director Reynolds Reported On And Presented Pictures Of Both The Street Repair Project And The Waste Water Treatment Plant Storage Basin Expansion Project. Reynolds Mentioned That The Pioneer Park Project Was Progressing To The Next Phase And That He Was Currently Evaluating The Fresno Street Sidewalk And Storm Drain Project Bids.

Assistant Planner Ocasio Brought The Council Up To Date On The Neighborhood Stabilization Plan. She Informed The Council That The Loan Committee Had Met For The First Time And That The Committee Approved The Purchase Of Two Homes.

13. Items From City Council Members.

Council Member Martina Mentioned That The West Side Healthcare Summit Was A Great Event And Complemented Staff For Their Assistance. Martina Commented That The Council Heard The Citizen's Concerns Earlier In The Evening And That Sometimes It Is Difficult But That Is How The Process Is Supposed To Take Place. Martina Thanked Staff For Their Work On All The Projects Currently Taking Place During These Difficult Financial Times.

Council Member Kelly Thanked Staff For Helping Put The West Side Healthcare Summit Together And Remarked That The Event Went Well.

Mayor Katen Read A Letter From Walter Newman Thanking The Community For Honoring Him. Katen Invited Everyone To Attend The Upcoming Chamber Of Commerce Mixer On August 20, 2009 At The Yancey Home Center And The Fall Festival Planning Meeting On August 21, 2009 At The Fantazia Residence.

14. Adjournment.

ACTION: On Motion By Candea Seconded By Kelly And Unanimously Carried, The Meeting Was Adjourned At 8:48 P.M.

**FIRST READING AND INTRODUCTION OF MODIFICATIONS TO TITLE 10 TRAFFIC
REGULATIONS OF THE NEWMAN CITY CODE**

RECOMMENDATION:

Staff recommends the City Council hear and approve the first reading and introduction of modifications to Title 10 Traffic Regulations of the Newman City Code.

BACKGROUND:

The current ordinance requires all violations of the title to be handled as an infraction through the courts. Additionally, some of the chapters failed to clearly indicate the penalty for a violation of that particular chapter. Officers enforcing traffic violations through the city code are barred from having the option of issuing an administrative citation instead of a traditional traffic violation.

ANALYSIS:

Local governments have no authority over vehicular traffic control unless expressly provided by the State. Cal. Veh. Code § 21. The California Vehicle Code (CVC) uniformly applies throughout California and preempts the entire field covered by the CVC. *Id.* Thus, except as expressly provided by the CVC, no local government can enact or enforce any ordinance on the matters covered by the CVC. *Id.* The CVC does, however, expressly authorize local governments to regulate certain, specific aspects of traffic. *Id.* at § 21100.

Title 10 of the Newman City Code articulates various traffic rules for the City of Newman. The power of the City to enforce this is granted by section 21100 of the CVC which states that “local authorities may adopt rules and regulations by ordinance or resolution regarding... regulating traffic by means of official traffic control devices” which comply with the uniform standards prescribed by the Department of Transportation. “Official traffic control devices” include, but are not limited to: “stop signs, yield right-of-way signs, speed restriction signs, railroad warning approach signs, street name signs, lines and markings on the roadway, and stock crossing signs.” *Id.* at § 21400. Thus, since the ability to regulate traffic control devices is granted by the State to the City, the City has the ability to enforce their codes which regulate these areas through administrative citations.

Administrative citations are an enforcement tool for the Police Department. The Department currently uses administrative citations for a variety of other city code violations and experiences a high success rate relative to payment for the violations. Granting officers the authority to utilize administrative citations under certain circumstances for traffic violations provides another option to remedy the situation. Not all traffic violators will receive administrative citations. Most will continue to receive traditional traffic citations with infraction violations being heard in traffic court.

The advantages of administrative citations for traffic violations include: lower fines for violators, more convenient for our residents by not having to travel to Modesto, and high probability of increased revenue for the city (because the State and County do not get a portion of administrative fines like they do for traditional traffic fines). The disadvantages of administrative citations include: the administrative citation does not reflect on the violator’s DMV record, allowing the violator to avoid higher insurance costs or suspension of license for frequent violators. To safeguard this concern, officers electing to use the administrative citation for a traffic offense will first carefully evaluate the driver’s DMV records to determine if the violator is a suitable candidate for an administrative citation.

If the modifications are ultimately approved staff will return with a resolution to establish the fine amounts for traffic violations.

FISCAL IMPACT:

The financial impacts of this ordinance modification depend on the number of administrative citations issued and the success of the collection of the fee.

ATTACHMENTS:

Ordinance with modifications.

CONCLUSION:

This staff report is submitted for City Council consideration and action. Staff recommends approval of the introduction and first reading of the proposed ordinance, ordinance No. 2009- _____.

Respectfully submitted,



Adam McGill, Chief of Police

REVIEWED/CONCUR:



Michael Holland, City Manager

ORDINANCE NO. 2009-9

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWMAN AMENDING
TITLE 10 TRAFFIC REGULATIONS, OF THE NEWMAN CITY CODE**

The City Council of the City of Newman does ordain as follows:

Section 1.

That Title 10 Traffic Regulations be amended to read as follows:

Chapter 10.01 TRAFFIC, GENERAL PROVISIONS

10.01.010 Definitions.

Whenever in this title the following terms are used, they shall have the meanings respectively ascribed to them in this section:

“Business district” means the territory contiguous to a street when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for retail or wholesale business; also any territory contiguous to a street which is immediately adjacent to a continuation of a street within a business district when such territory is so designated by the Chief of Police.

“Crosswalk” means that portion of the roadway included within the prolongation of the curb and property lines at street intersections.

“Intersection” means the area embraced within the prolongation of the property lines of two or more streets which join at an angle, whether or not one such street crosses the other.

“Loading zone” means that space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

“Official warnings, direction signs and signals” means all warnings, direction signs and signals not inconsistent with this title heretofore or hereafter placed or erected under this title or by authority of the City Council.

“Operator” means any person who is in actual physical control of a vehicle.

“Park” means to stand a vehicle for a period of time greater than is reasonably necessary for the actual loading of persons or materials.

“Pedestrian” means any person afoot.

“Right-of-way” means the privilege of immediate use of the street.

“Roadway” means that portion of a street between the regularly established curb lines.

“Safety zone” means that marked portion of the roadway reserved for the exclusive use of pedestrians.

“Sidewalk” means that portion of a street between the curb lines and the adjacent property lines.

“Street” means every way set apart for public travel except alleyways, bridle paths and footpaths.

“Vehicle” means any device or animal by which any person or property is or may be transported or drawn upon a street, excepting devices moved by human power or used exclusively upon rails. For the purpose of this title a bicycle shall be deemed a vehicle.

10.01.020 Obedience to police.

Officers of the Police Department are hereby authorized to direct all traffic by means of visible or audible signal, and it shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of a traffic or police officer. It shall be unlawful for any minor to direct or attempt to direct traffic unless authorized to do so by order of the Chief of Police.

10.01.030 Signs, obedience to.

- A. The City Council shall, by resolution, determine and designate the character of all official warning and direction signs and signals. Subject to this section, the Chief of Police is hereby authorized, and as to those signs required hereunder, it shall be his duty to place and maintain or cause to be placed and maintained all official warning and direction signs and signals. All signs authorized and required hereunder for a particular purpose shall be uniform.

- B. No provision of this title for which signs are required shall be enforceable against the alleged violator if at the time and place of the alleged violation the sign herein required is not in proper position and sufficiently legible to be seen by an ordinarily observant person.
- C. It shall be unlawful for any operator or pedestrian to disobey the instructions of any mechanical or electrical traffic signal, traffic sign or marks upon the street placed in accordance with the provisions of this title, provided every sign or mark by use of paint upon the curb shall bear thereon the official emblem of the Police Department.
- D. No public utility or department in the City shall erect or place any barrier or sign unless of a type first approved by the Chief of Police. It shall be unlawful for any operator or pedestrian to disobey the instructions of any barrier or sign approved, as above provided, erected or placed by a public utility or any department of the City.

10.01.040 Display of unauthorized signs prohibited.

- A. It shall be unlawful for any person to place, maintain or display any device, other than an official warning or direction sign or signal erected under competent authority, upon or in view of a street, which purports to be or is, an imitation of, or resembles an official warning or direction sign or signal or which attempts to direct the movement of traffic or the actions of operators, and any such prohibited device shall be a public nuisance and the Chief of Police may remove it, or cause it to be removed, without notice.
- B. It shall be unlawful for any person to wilfully deface, injure, move or interfere with any official warning or direction sign or signal.

10.01.050 Establishment of crosswalks.

- A. The Chief of Police is hereby authorized and required to establish, maintain and to designate upon the surface of the roadway, by appropriate devices, marks or white lines, crosswalks approximately equal in width to the adjacent sidewalks at all intersections where in his opinion there is particular danger to pedestrians crossing the roadway.
- B. When crosswalks are established and maintained outside a business district the Chief of Police shall, by appropriate devices, marks or white lines, mark and maintain along the surface of the roadway an arrow not less than 12 inches wide in the shaft and not less than 30 feet long, pointing to the direction of such crosswalk, together with the word "Slow" in block letters not less than 24 inches high and not less than four inches wide, 100 feet distant from each crosswalk so established.

10.01.060 Police and fire vehicles exempt.

The provisions of this title regulating the movement, parking and standing of vehicles shall not apply to emergency vehicles of the police or sheriff's office or of the Fire Department or of a public utility while the driver of any such vehicle is engaged in the necessary performance of public emergency duties. (Ord. 108, 8-12-1930)

10.01.070 Penalty.

Any person violating any provisions of this chapter shall be guilty of an ~~infraction~~¹. (~~Ord. 77-22, 5-24-1977~~) *administrative violation*.

Chapter 10.02 PEDESTRIANS

10.02.010 Right-of-way at intersections.

- A. It shall be unlawful for the operator of any vehicle to drive into any crosswalk which is marked as provided in NCC 10.01.050, while there is in such crosswalk upon the half of the roadway upon which such vehicle is traveling any pedestrian engaged in crossing the roadway until such pedestrian shall have passed beyond the path of said vehicle.
- B. The operator of a vehicle shall stop before entering any crosswalk when any other vehicle proceeding in the same direction is stopped at such crosswalk.

- C. The foregoing provisions of this section shall not apply at the intersections where traffic is being directed by an officer or a traffic stop and go signal, at which intersections the mutual rights of pedestrians and operators of vehicles shall be exercised under the direction of the officer or traffic signals.

10.02.020 Limited use of roadway.

- A. When within a business district, no pedestrian shall cross a roadway other than by a crosswalk.
- B. Outside of a business district no pedestrian shall cross a roadway other than by a route at right angles to the curb and when crossing at any place other than a crosswalk shall yield the right-of-way to all vehicles upon the roadway.
- C. It shall be unlawful for any person to be in any roadway other than a safety zone or crosswalk; provided, that this provision shall not be construed to prevent the necessary use of the roadway by a pedestrian.
- D. It shall be unlawful for any person to stand in a roadway for the purpose of or while soliciting a ride from the operator of any private vehicle.

10.02.030 Obey signals.

At intersections where traffic is directed by a traffic or police officer or by a traffic stop and go signal, it shall be unlawful for any pedestrian to cross a roadway other than with released traffic.

10.02.040 Standing on sidewalk.

In any business district it shall be unlawful for any pedestrian to stand on the sidewalk, except as near as is physically possible to the building line or the curb line. (Ord. 108, 8-12-1930)

10.02.50 Penalty.

Any person violating the provisions of this chapter shall be guilty of an administrative violation.

Chapter 10.03 RULES OF THE ROAD

10.03.010 Speed limits.

- A. The City Council has determined upon the basis of an engineering and traffic survey that the prima facie speed limit of 55 miles per hour, as provided by the Vehicle Code of the State of California, for that portion of Orestimba Creek Road, between the westerly City limits of the City and the intersection of said Orestimba Creek Road and "T" Street, is more than is reasonable and safe and that a prima facie speed limit of 35 miles per hour for that portion of said Orestimba Creek Road is found to be most appropriate to facilitate the orderly movement of traffic and is reasonable and safe.
- B. The City Council has determined, upon the basis of an engineering and traffic survey, that a prima facie speed limit of 35 miles per hour for that portion of Merced Street and Hills Ferry Road easterly of the Southern Pacific Railroad right-of-way to the City limits is found to be most appropriate to facilitate the orderly movement of traffic and is reasonable and safe.
- C. The City Council has determined, upon the basis of an engineering and traffic survey, that a prima facie speed limit of 35 miles per hour for that portion of Upper Road from Patchett Drive to the southerly City limits is found to be most appropriate to facilitate the orderly movement of traffic and is reasonable and safe.
- D. The City Council has determined, upon the basis of a traffic survey, that a prima facie speed limit of 45 miles per hour for that portion of Canal School Road from Hills Ferry Road to the southerly City limits is found to be most appropriate to facilitate the orderly movement of traffic and is reasonable and safe. (Ord. 2003-1, 2-11-2003; Ord. 89-17, 10-10-1989; Ord. 89-9, 6-13-1989; Ord. 168, 12-26-1950)

10.03.020 Driving through funeral processions.

It shall be unlawful for the operator of any vehicle to drive between the vehicles comprising a funeral procession; provided, that such vehicles are conspicuously so designated.

10.03.030 Use of coasters, roller skates and similar devices.

It shall be unlawful for any person upon roller skates or riding in or by means of any coaster, toy vehicle or similar device to go upon any roadway or upon any sidewalk in the business district. (Ord. 108, 8-12-1930)

10.03.040 One-way streets and alleys.

All vehicular traffic on Fresno Street, between its intersection with the westerly boundary of M Street and its intersection with the westerly boundary of the right-of-way of the Southern Pacific Railroad Company shall proceed in a westerly direction only, and driving in an easterly direction in said portion of said public street is hereby prohibited. Signs indicating the manner in which traffic shall move over said portion of said public street shall be installed. (Ord. 229, 1-23-1962)

10.03.050 Truck routes.

- A. The following streets and portions of streets shall be designated and described as "truck routes" in the City:
1. Merced Street east of "N" (State Highway 33).
 2. All of "N" Street (State Highway 33) within the City limits.
 3. Inyo Street east of "N" Street (State Highway 33).
 4. "O" Street from Merced Street to Inyo Street.
 5. Stanislaus Street from "O" Street to "L" Street.
 6. "L" Street from Merced Street to the City limits.
 7. "M" Street from Kern Street to Inyo Street.
 8. Kern Street from "N" Street (State Highway 33) to "M" Street.
 9. Yolo Street between "N" Street (State Highway 33) and "S" Street.
 10. Orestimba Creek Road westerly from "S" Street.
 11. Upper Road southerly from Inyo Street.
- B. When such "truck routes" are established and designated by appropriate signs, it shall be unlawful for the operator of any moving van, dump truck, tank truck used or designated for the purpose of transporting petroleum products, or any vehicle designed or used for the transportation of commodities or materials which vehicle exceeds a maximum gross weight of 10,000 pounds to operate said vehicle upon any street other than upon and over a "truck route" for any purpose other than to make a pickup or delivery, or to service or secure repairs to said vehicle. In travelling to or from the point of delivery, pickup service to or repair of said vehicle, the operator of said vehicle shall drive as far as possible upon and over a truck traffic route or truck route.
- C. It shall be unlawful for the operator of any vehicle to tow or pull or push any other vehicle on any street of the City other than upon a "truck route" for any distance greater than is absolutely necessary.
- D. Nothing herein shall be construed to prevent the driving and operating of fire apparatus upon any streets of the City, nor shall this section, by its terms, prevent equipment owned by the City from being operated upon any of the streets of the City. Neither shall this section by its terms be construed to apply to the moving of houses, buildings or structures upon and over the streets of the City where the permits required by ordinances or resolutions of the City, or any amendments thereto, have been first obtained. The provisions of this section shall not apply to:
1. Passenger buses under the jurisdiction of the Public Utilities Commission.
 2. Any vehicle owned by a public utility while necessarily in use in the construction, installation or repair of any public utility.
- E. Any police officer shall have the authority to require any person driving or in control of any vehicle not proceeding over a "truck route" to proceed to any private or public scales available for the purpose of weighing and determining whether this section has been complied with.

- F. Any person violating any provision of this section shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$500.00, or by imprisonment not to exceed 90 days, or by both such fine and imprisonment. (Ord. 87-7, 4-14-1987)

10.03.060 Terminal access for interstate trucks.

- A. Authority. California Vehicle Code Section 35401.5(b) and 35780.
- B. Definitions. The following words and phrases shall have the meanings set forth, and if any word or phrase used in this section is not defined in this section, it shall have the meaning as set forth in the California Vehicle Code; provided, that if any such word or phrase is not defined in the Vehicle Code, it shall have the meaning attributed to it in ordinary usage:
“Director of Public Works” means the Director of Public Works of the City of Newman, or his authorized representative.
“Interstate truck” means a truck tractor and semi-trailer or truck tractor, semi-trailer and trailer with length as required by the Vehicle Code.
“Oversized interstate trucks” means a semi-trailer while being towed by a motor truck or truck tractor, if the distance between the king pin to the rear most axle of the semi-trailer exceeds 40 feet for semi-trailers having two or more axles, or 38 feet for semi-trailers having one axle. Oversized interstate truck includes a combination of vehicles coupled together, including any attachments thereto, which consist of a truck tractor, a semi-trailer, and a trailer, exceeding 75 feet or a combination of any other vehicles exceeding a total length of 65 feet.
“Terminal” means any facility at which freight is consolidated to be shipped or when full load consignments may be loaded and off loaded, or at which the vehicles are regularly maintained, stored or manufactured.
- C. Oversized Interstate Truck Permits Required.
1. Oversized interstate truck special permits shall be required for all oversized interstate trucks operating within the City.
 2. This subsection shall not apply to State highways, the National System of Interstate and Defense Highways, or to highways specifically established and identified as providing reasonable access to facilities for fuel, food, lodging, and repair services.
- D. Application for Oversized Interstate Truck Special Permit.
1. Application for an oversized interstate truck special permit shall be filed with the Department of Public Works, in writing, on a form prescribed by the Director, and shall be signed by the owner or operator of such interstate truck.
 2. The application shall be accompanied by route maps as required by the Director, to show the proposed oversized interstate truck route requested with sufficient detail to show how such trucks can be accommodated on the proposed route.
 3. A filing fee, in such amount as may be fixed from time to time by order or resolution of the City Council, shall be paid at the time the application is filed.
 4. Special permits issued pursuant to this authority may be issued on a daily or annual basis as requested by the applicant and approved by the Director.
- E. Special Permit Approval by the Director of Public Works.
1. Upon receipt of a completed application, the required application fees, and the proposed route maps, the Director of Public Works may, in his discretion, issue or deny the special permit requested.
 2. The Director of Public Works shall consider public safety and preservation of highways when determining whether to issue a special permit for oversized interstate trucks pursuant to this section.
 3. The Director of Public Works is authorized to issue permits for oversized interstate trucks when, at his discretion, it is determined that public safety and the preservation of highways justifies issuance of a special permit as authorized in this section.
 4. An applicant denied a special permit or granted a conditional special permit under this section may appeal such action to the City Council within 10 days of said special permit action.
 5. Upon receipt of an appeal from an applicant for review of special permit action, the City

Council shall fix a time and place for public hearing of the application and give notice to all parties thereof no later than 10 days before such hearing.

6. At the conclusion of any hearing held by the City Council, the Council may approve or deny the application or may modify any of the proposed conditions attached to the approval of the application by the Director of Public Works.
7. Upon approval of an application, the City Council shall direct the Director of Public Works to issue the special permit. (Ord. 87-10, 10-27-1987)

10.03.70 Penalty.

Any person violating the provisions of this chapter shall be guilty of an administrative violation.

Chapter 10.04 STOPPING, STANDING AND PARKING

10.04.010 Angle parking.

The City Council is hereby authorized to determine, by resolution, upon what streets angle parking shall be permitted and to indicate such places by the painting of white lines upon the surface of the roadway to indicate the proper angle for parking; provided, that such lines shall not be placed upon any street for such parking to diminish the width of the roadway available for travel to less than 20 feet, nor upon any street which is a continuation of or part of a County trunkline highway or a State highway unless a clear width of 40 feet is left for the movement of vehicles when angle parking is permitted. (Ord. 77-22, 6-14-1977)

10.04.020 Parking vehicles for sale.

It shall be unlawful for the operator of any vehicle to park the same upon any street for the purpose of displaying it for sale, or to park any vehicle upon any street in any business district from which said vehicle merchandise is being sold.

10.04.030 Parking of certain size vehicles.

It shall be unlawful for any person to park any vehicle or combination of vehicles on any street, avenue or alley in the City where any part of said vehicle or combination of vehicles, extends more than 15 feet from the closest point on the curb line or top of curb. (Ord. 108, 8-12-1930)

10.04.040 Boulevard stops.

The following streets and parts of streets and those streets subsequently so designated by resolution are hereby declared to constitute boulevards for the purposes of this section:

"N" Street from the north line of Yolo Street to the south line of Inyo Avenue.

Every operator of a vehicle traversing any street intersecting any street designated as a boulevard shall bring his vehicle to a controlled stop at the intersection thereof. Signs requiring vehicles to stop before entering such intersections shall be erected and maintained. (Ord. 77-22, 6-14-1977)

10.04.050 Parking restrictions enumerated.

Parking restrictions will be regulated by the adoption of a resolution by the City Council except restrictions on "N" Street (Highway 33) which shall be regulated by the adoption of an ordinance.

- A. Parking of Motor Vehicles Prohibited. It shall be unlawful to park motor vehicles at any time in the following locations in the City:

On the easterly side of "N" Street, a distance of 40 feet southerly from the southeast corners of the intersections of "N" Street and Mariposa, Tulare, Fresno, Merced and Stanislaus Streets.

On the easterly side of "N" Street, a distance of 25 feet northerly from the northeast corners of the intersections of "N" Street and Mariposa, Tulare, Merced and Stanislaus Streets.

On the westerly side of "N" Street, a distance of 40 feet northerly from the northwest corners of the intersection of said "N" Street and Mariposa, Tulare, Fresno, Merced and Stanislaus Streets.

On the westerly side of "N" Street, a distance of 25 feet southerly from the southwest corners of the intersections of said "N" Street and Mariposa, Tulare, Fresno, Merced and Stanislaus Streets.

On the easterly side of "N" Street commencing at the intersection of Kern Street and extending in a northerly direction for 30 feet.

On the easterly side of "N" Street commencing at the intersection of Kern Street and extending in a northerly direction for 40 feet.

On the easterly side of "N" Street commencing at the intersection of Stanislaus Street and extending in a northerly direction to the intersection of Merced Street.

On the westerly side of "N" Street, distance of 20 feet southerly from the north entrance to Westside Shopping Center.

On the westerly side of "N" Street, distance of 41 feet northerly from the south entrance to Westside Shopping Center.

On the westerly side of "N" Street commencing at the intersection of Kern Street and extending in a southerly direction of 40 feet.

On the westerly side of "N" Street commencing at the intersection of Kern Street and extending in a southerly direction for 42 feet.

On the northerly side of Kern Street commencing at the intersection of "N" Street and extending in a westerly direction for 27 feet.

B. Limited Parking on "N" Street.

1. Limited parallel parking on both sides of "N" Street (State Highway 33) between its intersections with Merced Street on the south and Mariposa Street on the north is hereby established as follows:

Each parallel parking stall established by this provision shall be 20 feet in length.

Between each two such parking stalls there shall be, and hereby is, established a "no parking" zone, and "no parking" zone to be eight feet in length.

The Director of Public Works, in conjunction with the State Department of Transportation, shall indicate such parking stalls and "no parking" zones by the painting of white lines upon the curb and surface of the roadway sufficient to identify such parking stalls, and by the painting of red markings upon the curbs.

The provisions of this section shall not become effective until approved in writing by the State Department of Transportation, or such other agency of the State as may be appropriate. (Ord. 2007-3 § 1, 4-24-2007; Ord. 89-14, 6-27-1989; Ord. 84-14, 9-25-1984)

10.04.60 Penalty.

Any person violating the provisions of this chapter shall be guilty of an administrative violation.

Chapter 10.05 BICYCLES

10.05.010 Definition.

A "bicycle" is a device upon which any person may ride, propelled by human power through a belt, chain or gears, and having either two or three wheels in a tandem or tricycle arrangement. (Ord. 267, 1-23-1973)

10.05.020 Riding on bicycles, restrictions.

- A. Riding on Sidewalks. No person shall ride a bicycle upon any sidewalk in the business district of the City. "Business district" shall be defined as that portion of a street and the property contiguous thereto: (1) upon one side of which street for a distance of 600 feet, 50 percent or more of the contiguous property fronting thereon is occupied by buildings in use for business, or (2) upon both sides of which street, collectively, for a distance of 300 feet, 50 percent or more of the contiguous property fronting thereon is so occupied.

Any person riding a bicycle upon any sidewalk where such riding is permitted shall exercise due care and shall yield the right-of-way to all pedestrians.

- B. Clinging to Moving Vehicles. No person riding upon any bicycle, coaster, roller skates or toy vehicle shall attach the same or himself to any vehicle on the roadway.

- C. Passengers on Bicycles. A person propelling a bicycle shall not ride other than upon or astride a permanent regular seat attached thereto. No person operating a bicycle upon a street in the City shall permit any person to ride on the handlebars or any other portion of the bicycle other than upon a permanent regular seat attached thereto.
- D. Towing. No person riding or operating a bicycle in the City shall tow any other vehicle or person except for an approved bicycle trailer designed for that purpose. Any passenger under 18 years shall be wearing a properly positioned, fastened and approved safety helmet upon their head.
- E. Racing. A person propelling or operating a bicycle upon any street in the City shall not participate in any race, speed or endurance contest unless such race, speed or endurance contest has the written permission of the City Clerk under the supervision of the Chief of Police of the City.
- F. Trick Riding. A person riding or propelling a bicycle upon a street in the City shall not perform or attempt to perform any acrobatic, fancy or stunt riding.
- G. Rules of the Road. It shall be unlawful for any person in the City to propel, operate or maintain a bicycle in violation of the provisions of this chapter and the provisions of the Vehicle Code of the State of California pertaining to bicycles. (Ord. 96-2, 3-19-1996; Ord. 267, 1-23-1973)

10.05.030 Parking and parking spaces.

- A. When official signs or markings restricting parking of bicycles only, are in place in areas designated by the City Council upon recommendation of the Chief of Police, bicycles shall be parked only in such places, and it shall be unlawful for any person to park or stand any vehicle other than a bicycle in such designated space.
- B. No person shall park a bicycle against any window or on the main travelled portion of a sidewalk, nor in such manner as to constitute a hazard to pedestrians, traffic or property and where bicycle parking spaces have been established and designated by official signs and markings, no persons shall park a bicycle in the vicinity thereof except in such designated bicycle parking spaces. (Ord. 267, 1-23-1973)

10.05.040 Penalties.

- A. In addition to administrative penalties for violations of this chapter ~~other penalty provided by this chapter~~, the Police Department or any of the members thereof, may impound and retain possession for a period not to exceed 30 days of any bicycle operated in violation of any of the provisions of this chapter.
- B. At the expiration of the period of possession, the bicycle shall be delivered to its owner at the Newman Police Department.
- C. In addition to the penalties set forth above, the said Chief of Police is hereby authorized to require any minor under the age of 18 years, who operates a bicycle in violation of any of the provisions of this chapter, or of the California Vehicle Code, to attend a bicycle operators' school to be conducted under the supervision of the Chief of Police. Such school shall be for the purpose of educating the violator regarding proper operation of a bicycle and the provisions of law applicable to bicycles. (Ord. 303, 12-14-1976)

See NCC 1.04.010

Section 2.

All other sections and provisions of Title 10, shall remain in full force and effect.

Section 3.

That a duly noticed public hearing was held by the City Council on September 8, 2009.

Section 4.

This Ordinance shall take effect 30 days after the date of its adoption, and prior to the expiration of 15 days from the passage thereof shall be published at least once in the West Side Index, a newspaper of general circulation, published and circulated in the City of Newman and thenceforth and thereafter the same shall be in full force and effect.

Introduced and adopted at a regular meeting of the City Council of the City of Newman held on the 25th day of August, 2009 by Council Member _____, and adopted at a regular meeting of said City Council held on the 8th day of September 2009 by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

ATTEST:

Mayor of the City of Newman

Deputy City Clerk

Honorable Mayor and Members
of the Newman City Council

Agenda Item: **10.b.**
City Council Meeting
of August 25, 2009

**AWARD BID FOR THE CITY OF NEWMAN FRESNO STREET SIDEWALK
AND STORM DRAIN 2009 PROJECT TO MCELVANY, INC.**

RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. 2009- , awarding the Fresno Street Sidewalk and Storm Drain 2009 Project to McElvany, Inc. for \$251,125.50.

BACKGROUND:

The Fresno Street Sidewalk and Storm Drain 2009 infrastructure project was identified and submitted to the Stanislaus County CDBG Consortium in January 2008; said project was finalized by the County in February 2008 and included in the FY 2008-2009 Stanislaus County CDBG Consortium Annual Action Plan which was adopted by the City Council in March 2008.

The Public Works Department advertised for bids for the Fresno Street Sidewalk and Storm Drain 2009 in the West Side Index on July 16 and 23, 2009; bids were opened on Tuesday August 4, 2009 at 2:00 P.M. The solicited services included the installation and/or replacement of curb, gutter, sidewalk, alley approaches, driveway approaches, paving existing streets, and storm drainage along Fresno Street from R Street to the alley between S Street and T Street. During the design phase of the project, it was found that storm drain piping was necessary due to conflicting grades and the inability to drain the storm water off of the streets; upon this discovery, it was added to the project scope of work.

ANALYSIS:

The City advertised for bids for approximately three weeks with bids open and read on August 4, 2009 at 2:00 pm. A total of five bids were submitted for this project. The Engineer's Estimate for this project is \$274,537.00. The lowest bidder failed to meet the bidding requirements and was found to not be a responsible bidder. Therefore, the lowest bid was rejected and the second lowest responsible bidder for this project has been determined to be McElvany, Inc. with a bid amount of \$251,125.50. The City's consultant, GDR Engineering, has reviewed the bid documents and has found all bid forms and bonds to be in proper order, and the second lowest responsible bidder to be in compliance with the contract documents and specifications.

Please see attachment A for the bid results.

FISCAL IMPACT:

Bid amount \$251,125.50	09/10 CDBG Budgeted amount	\$184,057.79
	09/10 LTF	\$66,219.00
	<u>09/10 CDBG Admin. Funds</u>	<u>\$848.71</u>
	Total Project Funds	\$251,125.50

CONCLUSION:

The City of Newman advertised and received for bids for the Fresno Street Sidewalk and Storm Drain 2009 Project. McElvany, Inc. has been determined to be the lowest responsible bidder. Therefore, staff recommends to City Council award the bid to McElvany, Inc. for the bid amount of \$251,125.50.

Respectfully Submitted,



Garner Reynolds
Director of Public Works

REVIEWED/CONCUR:



Michael E. Holland
City Manager

BID RESULTS
CITY OF NEWMAN - FRESNO STREET WALK AND STORM DRAIN 2009
 August 5, 2009

ITEM NO.	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	ENGINEER'S ESTIMATE		MCELVANY, INC.		MID-CAL PIPELINE		ROSS F. CARROL, INC.		LOCKWOOD GENERAL ENGINEERING	
				UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL
1	CLEARING AND GRUBBING (INCLUDES ALL DEMOLITION AND DISPOSAL)	LS	1	\$10,000.00	\$10,000.00	\$2,000.00	\$2,000.00	\$17,000.00	\$17,000.00	\$11,000.00	\$11,000.00	\$16,500.00	\$16,500.00
2	TRAFFIC CONTROL	LS	1	\$5,000.00	\$5,000.00	\$2,000.00	\$2,000.00	\$1,800.00	\$1,800.00	\$3,000.00	\$3,000.00	\$1,800.00	\$1,800.00
3	ROADWAY EXCAVATION	CY	503	\$6.00	\$3,018.00	\$10.00	\$5,030.00	\$20.00	\$10,060.00	\$33.00	\$16,599.00	\$27.00	\$13,581.00
4	AC PAVING (4" DEPTH)	TON	280	\$64.00	\$17,920.00	\$94.00	\$26,320.00	\$110.00	\$30,800.00	\$75.00	\$21,000.00	\$98.00	\$27,440.00
5	AB BASE (11" DEPTH)	TON	765	\$15.00	\$11,475.00	\$22.30	\$17,059.50	\$30.00	\$22,950.00	\$25.00	\$19,125.00	\$38.00	\$29,070.00
6	TRENCH PATCH - AC PAVING (4" DEPTH)	TON	115	\$64.00	\$7,360.00	\$120.00	\$13,800.00	\$146.00	\$16,790.00	\$140.00	\$16,100.00	\$125.00	\$14,375.00
7	TRENCH PATCH - AB BASE (11" DEPTH)	TON	315	\$15.00	\$4,725.00	\$30.00	\$9,450.00	\$30.00	\$9,450.00	\$25.00	\$7,875.00	\$23.40	\$7,371.00
8	6" VERTICAL CURB AND GUTTER	LF	1,258	\$18.00	\$22,644.00	\$22.65	\$28,493.70	\$23.50	\$29,563.00	\$21.00	\$26,418.00	\$29.29	\$36,846.82
9	SIDEWALK CONCRETE (WITH 4" AB SUBGRADE)	SF	5,314	\$4.50	\$23,913.00	\$5.60	\$29,758.40	\$6.50	\$34,541.00	\$6.50	\$34,541.00	\$7.95	\$42,246.30
10	DRIVEWAYS (WITH 4" AB SUBGRADE)	SF	1,319	\$6.00	\$7,914.00	\$6.10	\$8,045.90	\$6.75	\$8,903.25	\$8.00	\$10,552.00	\$9.47	\$12,490.93
11	GRAVEL DRIVEWAY (AB 6" THICK)	SF	300	\$3.00	\$900.00	\$1.10	\$330.00	\$1.50	\$450.00	\$2.00	\$600.00	\$6.00	\$1,800.00
12	HANDICAP RAMPS (LABOR ONLY)	EA	6	\$700.00	\$4,200.00	\$880.00	\$5,280.00	\$1,080.00	\$6,480.00	\$1,500.00	\$9,000.00	\$1,120.00	\$6,720.00
13	12" STORM DRAIN (DIP)	LF	82	\$55.00	\$4,510.00	\$44.00	\$3,608.00	\$41.00	\$3,362.00	\$83.00	\$6,806.00	\$99.00	\$8,118.00
14	12" STORM DRAIN (SDR 35)	LF	590	\$50.00	\$29,500.00	\$43.00	\$25,370.00	\$28.00	\$16,520.00	\$40.00	\$23,600.00	\$41.00	\$24,190.00
15	18" STORM DRAIN (SDR 35)	LF	1,030	\$65.00	\$66,950.00	\$46.00	\$47,380.00	\$32.00	\$32,960.00	\$55.00	\$56,650.00	\$62.00	\$63,860.00
16	STORM DRAIN MANHOLES (48" DIAMETER)	EA	2	\$2,200.00	\$4,400.00	\$2,000.00	\$4,000.00	\$2,500.00	\$5,000.00	\$2,000.00	\$4,000.00	\$2,350.00	\$4,700.00
17	STORM DRAIN MANHOLES (60" DIAMETER)	EA	1	\$4,000.00	\$4,000.00	\$2,500.00	\$2,500.00	\$3,000.00	\$3,000.00	\$2,200.00	\$2,200.00	\$2,585.00	\$2,585.00
18	DRAIN INLETS	EA	6	\$2,200.00	\$13,200.00	\$2,000.00	\$12,000.00	\$2,500.00	\$15,000.00	\$2,400.00	\$14,400.00	\$2,778.00	\$16,668.00
19	CONNECT TO EXISTING MANHOLE	EA	1	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$800.00	\$800.00	\$950.00	\$950.00
20	RAISE MANHOLE GRATE TO GRADE	EA	1	\$800.00	\$800.00	\$350.00	\$350.00	\$350.00	\$350.00	\$300.00	\$300.00	\$450.00	\$450.00
21	R & D CATCH BASIN WITH COMPACTED AB BACKFILL	EA	6	\$300.00	\$1,800.00	\$500.00	\$3,000.00	\$400.00	\$2,400.00	\$200.00	\$1,200.00	\$350.00	\$2,100.00
22	PLUG SD PIPE WITH CONCRETE	EA	6	\$150.00	\$900.00	\$200.00	\$1,200.00	\$200.00	\$1,200.00	\$50.00	\$300.00	\$195.00	\$1,170.00
23	R & D TREE (INCLUDES STUMP AND ROOTS)	EA	4	\$800.00	\$3,200.00	\$600.00	\$2,400.00	\$1,000.00	\$4,000.00	\$600.00	\$2,400.00	\$1,500.00	\$6,000.00
24	RELOCATE STREET SIGN	EA	5	\$150.00	\$750.00	\$250.00	\$1,250.00	\$100.00	\$500.00	\$100.00	\$500.00	\$300.00	\$1,500.00
SUBTOTAL				\$249,579.00									
10% CONTINGENCY				\$24,957.90									
GRAND TOTAL				\$274,537		\$261,125.60		\$273,579.25		\$288,966.00		\$342,632.05	

RESOLUTION NO. 2009-

**APPROVAL OF FRESNO STREET SIDEWALK AND STORM DRAIN 2009 CONTRACT WITH
MCELVANY, INC.**

WHEREAS, the City Manager of the City of Newman has recommended that the City Council approve a contract with McElvany, Inc. for the Fresno Street Sidewalk and Storm Drain 2009 Project related to the City of Newman's street and sidewalk maintenance program; and

WHEREAS, the City Council is desirous of entering into a contract with McElvany, Inc.; and

WHEREAS, the City Council of the City of Newman has determined it would be in the best interest of the City to enter into a contract with McElvany, Inc.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newman hereby approves the contract with McElvany, Inc. and authorizes the City Manager to execute said contract for the Fresno Street Sidewalk and Storm Drain 2009 Project.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the th day of August 2009 by Council Member _____, who moved its adoption which motion was duly seconded and was upon roll call carried and the resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mayor of the City of Newman

ATTEST:

Deputy City Clerk of the City of Newman