

AGENDA
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING APRIL 27, 2010
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 April 13, 2010 Regular Meeting.
9. Public Hearings
 - a. Adopt Resolution No. 2010- , A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4.
10. Regular Business
 - a. Adopt Resolution No. 2010- , A Resolution Approving The Pioneer Park Landscaping Project Contract With B & M Builders.
 - b. Reject The Bids For The Orestimba Feasibility Study Flood Control Soil Borings Project.
 - c. Report Of Estimated Costs For A Proposed Increase Of Assessments Within The Landscape And Lighting District For The Preparation Of The Assessment District Engineer's Report
 - d. Rescind Resolution No. 2010-16, Establishing A Prequalification Procedure For Construction Of The City Of Newman Historic Downtown Plaza Project.

- e. Adopt Resolution No. 2010- , A Resolution Accepting And Adopting The City Of Newman Personnel Rules.

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. Public Employment - Police Chief - G.C. 54957.
- b. Public Employment - Finance Director- G.C. 54957.
- c. Conference With Labor Negotiator - Operating Engineers Local #3 Miscellaneous Bargaining Unit - G.C. 54957.6.
- d. Conference With Labor Negotiator - Operating Engineers Local #3 Police Bargaining Unit - G.C. 54957.6.
- e. Return To Open Session.

15. Adjournment.

Calendar of Events

April 27 - City Council - 7:00 P.M.

May 9 - Mother's Day

May 10 - Baseball Board Meeting - 6:00 P.M.

May 10 - NCLUSD Board Meeting - 6:00 P.M.

May 11 - City Council - 7:00 P.M.

May 13 - Recreation Commission - 7:00 P.M.

May 18 - Two-On-Two Meeting With The School Board - 4:00 P.M.

May 20 - Planning Commission - 7:00 P.M.

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

May 28 - City Furlough Day - City Offices Closed

May 31 - Memorial Day - City Offices Closed

June 6 - City Softball Game - 10:00 A.M.

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

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

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

June 14 - NCLUSD Board Meeting - 6:00 P.M.

June 15 - Two-On-Two Meeting With The School Board - 4:00 P.M.

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

June 20 - Father's Day

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

Date.: Apr 22, 2010
Time.: 3:07 pm
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
037441	04/09/10	2446.24	BRUCE BUDMAN	INTERIM FINANCE DIRECTOR/4/5/10 TO 4/08/10/BUDMAN
037442	04/13/10	192.74	DON ALVES	DONATION FOR FIGHTING DRAGONS TOURNAMENT/DON ALVES
037443	04/13/10	1680.00	GEORGE OSNER	PLANNING SERVICES/PINEHURST MASTER PLAN/MAR 2010
037444	04/21/10	450.00	RAINER KRAUSE	TEMPORARY EMPLOYEE FOR TIRE AMNESTY/KRAUSE
037445	04/23/10	48.80	ALLIED AFFILIATED FUNDING, LP	WIRE-END CONNECTORS/FIREFLIES
037446	04/23/10	50.00	AMERICAN MOBILE SHREDDING, INC	MONTHLY DOCUMENT SHREDDING/MARCH 2010
037447	04/23/10	436.30	ARAMARK UNIFORM SERVICES	UNIFORM CLEANING/MAT RENTAL/TOWELS
037448	04/23/10	189.93	ARROWHEAD MOUNTAIN SPRING	BOTTLED WATER DELIVERED/MARCH 2010
037449	04/23/10	366.77	AT&T MOBILITY	WIRELESS ACCESS 3/3/10 TO 4/2/10/PD
037450	04/23/10	562.12	JAMES J. BELL	CONTRACT SERVICES/EVIDENCE CLRK/BELL/4/1-4/15/10
037451	04/23/10	949.69	BERTOLOTTI DISPOSAL	LANDFILL FEES/MARCH 2010
037452	04/23/10	440.00	BJ'S CONSUMER'S CHOICE IN	PEST CONTROL SERVICES/04/15/10
037453	04/23/10	14472.00	BLUE SHIELD OF CALIFORNIA	HEALTH INSURANCE PREMIUM/MAY 2010
037454	04/23/10	829.80	BUSINESS CARD	LODGING/REGIST/CRWA SEMINAR/PERRY & MUTOZA
037454	04/23/10	705.42	BUSINESS CARD	STAMPED ENVELOPES/SHIRTS/MEALS
037454	04/23/10	184.78	BUSINESS CARD	CELL PHONE HOLDERS/FLEX DUCT/PHONE HOLSTERS
037455	04/23/10	162.87	CIT TECHNOLOGY FIN SERV, INC	MS GSA OFFICE PRO PLUS/PD APRIL 2010
037456	04/23/10	497.22	CNH CAPITAL	PARTS FOR CASE TRACTOR/WWTP
037457	04/23/10	1680.00	COMPUTER TUTOR	COMPUTER CLASSES/FEB 2010
037458	04/23/10	104.00	CRESCENT SUPPLY CO. #1	3 POLO SHIRTS EMBROIDERED/VILLALOBOS
037458	04/23/10	61.75	CRESCENT SUPPLY CO. #1	UNIFORM SUPPLIES /ANDREW MAYS
037459	04/23/10	130.00	DAVE PIRES	DRAIN CLEANING/THEATER
037460	04/23/10	80.00	DEPT PUBLIC HEALTH/DRINKING WA	WATER TREATMENT CERTIFICATION RENEW/PERRY
037461	04/23/10	3793.92	ECO:LOGIC, INC	PROGRESS BILL/WATER RATE STUDY/MARCH 2010

Date.: Apr 22, 2010
Time.: 3:07 pm
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

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Ck #	Check Date	CK Amount	Vendor Name	Description
037463	04/23/10	170.89	GEMPLERS ACCT #5224757	7 RAT BAIT STATIONS/WWTP
037464	04/23/10	1000.00	GOLDEN BY-PRODUCTS SCRAP TIRE	RENTAL 45' TRAILER FOR TIRE AMNESTY
037465	04/23/10	200.00	ANGELICA HIGAREDA	REFUND MEMORIAL BLDG DEPOSIT/HIGAREDA
037466	04/23/10	321.87	IKON OFFICE SOLUTIONS	COPIER LEASE/4/10/10 TO 5/9/10/CITY HALL
037467	04/23/10	8530.00	JOE'S LANDSCAPING &	LIGHTING & LANDSCAPE SERVICES/MARCH 2010
037468	04/23/10	5850.00	ADAM MCGILL	CONTRACT SERVICES/POLICE CHIEF/4/16-4/30/10/MCGILL
037469	04/23/10	1534.34	MID VALLEY IT, INC	MONTHLY IT SERVICES/MAY 2010
037470	04/23/10	105.00	DOUG MUTOZA (NT)	PER DIEM/CRWA SEMINAR/APR 26-29/MUTOZA
037471	04/23/10	64.43	NEWMAN DEPOT GARAGE	LUBE/OIL & FILTER CHANGE/FD
037472	04/23/10	156.10	NORMAC, INC.	18 HUNTER ARC NOZZLES/STATION &MODULAR CONTROL
037472	04/23/10	36.72	NORMAC, INC.	4 ROTORS
037473	04/23/10	250.55	NTDSTICHLER ARCHITECTURE	PROFESSIONAL SERVICES/HILL PARK THRU 3/31/10
037474	04/23/10	140.00	PAPA	PESTICIDE APPLICATORS SEMINAR REGIST/PARDO/PERRY
037475	04/23/10	105.00	LANCE PERRY (NT)	PER DIEM/CRWA SEMINAR/APR 26-29/2010/PERRY
037476	04/23/10	167.81	P G & E	NATURAL GAS PURCHASES/03/8/10 TO 04/07/10
037477	04/23/10	2609.04	PRECISION INSPECTION, INC	Bldg Reg Inspec BLDG REGU
037478	04/23/10	337.68	PERS	SUPPLEMENTAL EMPLOYER CONTRIBUTIONS/PERS
037479	04/23/10	858.00	SELF HELP ENTERPRISES	LOAN SERVICING/MARCH 2010
037480	04/23/10	4844.43	SHELL FLEET PLUS	GASOLINE AND DIESEL FUEL PURCHASES/MARCH 2010
037481	04/23/10	80.00	MONTANA SILBER	REFUND SHERMAN PARK RENT/NOT CLEANED/SILBER
037482	04/23/10	1323.00	STATE OF CALIFORNIA	36 FINGERPRINT APPS/9 FINGERPRINT-FBI
037483	04/23/10	14.00	STAN CNTY CLERK RECORDER	REL LIENS/783 HAGERMAN/2230 CANYON BR/2033 CARLSBA
037484	04/23/10	5.69	STAPLES BUSINESS ADVANTAGE	TYPEWRITER RIBBON/PD
037484	04/23/10	68.25	STAPLES BUSINESS ADVANTAGE	DVDS/BINDERS/SHEET PROTECTORS/PENS
037484	04/23/10	74.43	STAPLES BUSINESS ADVANTAGE	EPSON TRI-COLOR AND BLACK INK

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CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

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Ck #	Check Date	CK Amount	Vendor Name	Description
037484	04/23/10	33.49	STAPLES BUSINESS ADVANTAGE	BINDER CLIPS/HIGHLIGHTERS/BATTERIES/POST-ITS
037485	04/23/10	16752.50	URBAN FUTURES, INC	PROFESSIONAL SERVICES/RDA PLAN ADMENDMENT/MAR 2010
037486	04/23/10	88.00	UNITED STATES POSTMASTER	2 ROLLS POSTAGE STAMPS
037487	04/23/10	1367.32	MATTOS NEWSPAPERS, INC.	NOTICE TO BID/LEGAL ADS/SHIPPING/BASKETBALL SCORE
037488	04/23/10	2956.80	ARMANDO GARCIA	POURED CONCRETE FOR BINS AT CORP YARD
037489	04/23/10	435.05	YANCEY LUMBER COMPANY	KEYS/TILLER/PAINT/FERTILIZER/PVC/SAND/CONCRETE
037490	04/23/10	35.28	ZEE MEDICAL SERVICE CO	BANDAGES/WIPES/ANTACID/ANTIBACTERIAL OINTMENT/PD
Sub-Total:		81485.02		
Grn-Total:		81485.02		
Count: 57				

MINUTES
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING APRIL 13, 2010
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** - Council Member Candea.
4. **Roll Call PRESENT:** Davis, Candea, Martina And Mayor Katen.
ABSENT: None.
5. **Declaration Of Conflicts Of Interest** - None.
6. **Ceremonial Matters**
 - a. Proclamation - Library Week.

Mayor Katen Presented The Library Week Proclamation To Newman Library Branch Librarian Barbara Alexander.

7. Items From The Public - Non-Agenda Items

Susan Mattos, Mattos Newspapers, Thanked The City For Contributing To The Upcoming Downtown Planting Day On Saturday, April 17, 2010 At 8:00A.M. Mattos Noted That The City Of Newman Had Lost Ricky Dykes In December 2009 And Reminisced That He Was "A Beautiful Person"; Mattos Explained That Remaining Contributions From The Ricky Dikes Memorial Fund Would Be Used To Help Purchase The Plants For The Downtown Planting Day. Mattos Indicated That As Part Of The Planting Day They Would Be Affixing A Plaque Remembering Ricky On A Bench. Mattos Clarified That Some Local Businesses And The Afterschool Program Also Made Financial Contributions To Purchase Plants For The Aforementioned Event. Mattos Pointed Out That The Orestimba High School F.F.A. And The Afterschool Programs Have Agreed To Provide Maintenance For The Downtown Pots Twice A Month.

8. Consent Calendar

- a. Waive All Readings Of Ordinances And Resolutions Except By Title.
- b. Approval Of Warrants.
- c. Approval Of Minutes Of The March 23, 2010 Regular Meeting.
- d. Approval Of City Manager Contract Extension And Amendment.
- e. Adopt Resolution No. 2010-21, A Resolution Rejecting The Claim Of Maria Gonzalez.

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

9. Public Hearings

- a. Adopt Resolution No. 2010-22, A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4.

ACTION: No Action Was Taken; The Nuisance Was Abated Prior To The Council Meeting.

- b. Second Reading And Adoption Of Ordinance No. 2010-03, An Ordinance Amending Title 9 Police Regulations, Prohibiting The Consumption Of Alcoholic Beverages In Public And Authorize Staff To Prepare And Publish A Summary Of Said Ordinance.

Mayor Katen Opened The Public Hearing At 7:05 P.M.

There Being No Public Comment Mayor Katen Closed The Public Hearing At 7:06 P.M.

ACTION: Ordinance No. 2010-03, Amending Title 9 Police Regulations, Prohibiting The Consumption Of Alcoholic Beverages In Public Of The Newman City Code Had Its Second Reading By Title Only. A Motion By Martina Seconded By Candea Said Ordinance Was Unanimously Adopted And Staff Was Authorized To Prepare And Publish A Summary Of Said Ordinance.

- c. Second Reading And Adoption Of Ordinance No. 2010-04, An Ordinance Eliminating The Time Limit On Incurring Debt And Extending The Time Limitation For The Effectiveness Of The Redevelopment Plan And The Repayment Of Debt For The Newman Redevelopment Project And Authorize Staff To Prepare And Publish A Summary Of Said Ordinance.

Mayor Katen Opened The Public Hearing At 7:07 P.M.

There Being No Public Comment Mayor Katen Closed The Public Hearing At 7:08 P.M.

ACTION: Ordinance No. 2010-04, Eliminating The Time Limit On Incurring Debt And Extending The Time Limitation For The Effectiveness Of The Redevelopment Plan And The Repayment Of Debt For The Newman Redevelopment Project Had Its Second Reading By Title Only. A Motion By Davis Seconded By Martina Said Ordinance Was Unanimously Adopted And Staff Was Authorized To Prepare And Publish A Summary Of Said Ordinance.

- d. Approval Of The Stanislaus County CDBG Annual Action Plan (Fiscal Year 2010/2011) And Close 30 Day Public Comment Period.

Mayor Katen Opened The Public Hearing At 7:15 P.M.

There Being No Public Comment Mayor Katen Closed The Public Hearing At 7:16 P.M.

ACTION: On Motion By Candea Seconded By Martina And Unanimously Carried, The Council Approved The Proposed CDBG Projects For The Stanislaus County Annual Action Plan (Fiscal Year 2010-2011), The Amendment To The (Fiscal Year 2008-2009) NSP Annual Action Plan, The

Amendment To The (Fiscal Year 2007-2012) Consolidated Plan And Closed 30 Day Public Comment Period.

10. Regular Business

- a. Adopt Resolution No. 2010-22, A Resolution Approving The Application For Grant Funds For The Urban Greening Planning Grant Program Under The Safe Drinking Water, Water Quality And Supply, Flood Control, River And Coastal Protection Bond Act Of 2006 (Proposition 84).

ACTION: On Motion By Martina Seconded By Davis And Unanimously Carried, Resolution No. 2010-22, A Resolution Approving The Application For Grant Funds For The Urban Greening Planning Grant Program Under The Safe Drinking Water, Water Quality And Supply, Flood Control, River And Coastal Protection Bond Act Of 2006 (Proposition 84), Was Adopted.

- b. Report On Boat\RV Off Street Parking Ordinance Options.

Mel Souza, 1447 "T" Street, Reiterated That His Boat Has Been In The Same Place For 10 Years And That If The Entire Town Were Not Cleaned Up, Then The City Would Be Setting Itself Up For A Lawsuit.

Bob Castro, 522 Bonanza Drive, Remarked That He Has Had His Boat Outside For The Last 5 Years. Castro Mentioned How He Understands That There Are Eyesores But Declared That His Is Not. He Stated That His Property Is Always Registered, Maintained And Licensed; Which He Feels Excludes His Boat From Being Labeled As An Eyesore. Castro Expressed That He Thought That The Ordinance Was Unfair.

Jeremy Addington, 1220 Duck Blind Circle, Remarked That He Is Concerned That His Case Is Different Than Most Because His Boat Is In A Side Yard And Not The Front Yard. Addington Stated That He Does Not Think That He Is Affected By The Ordinance Because His Boat Is In His Side Yard. He Mentioned That He Is Willing To Build A Six-Foot Fence Around His Boat And That The Fence Itself Would Be More Of An Eyesore Than His Boat. Addington Told The Council That He Would Like To See The Ordinance Changed And Added That He Has Lived In The Same Place For 10 Years.

Cindy Perry, 1551 West Tulare, Clarified That The Ordinance Not Only Addresses Boats But Inoperable Vehicles, Trailers And All Types Of Recreational Vehicles. Perry Stated That She Thought That The Ordinance Was Not Being Applied Uniformly Across The Entire City. Perry Expressed That She Wanted Even And Equal Enforcement Of The Ordinance.

Bob Edwards, 2219 Orchard Creek Drive, Stated The He Is Paying Taxes On His Boat And Property And Cannot Understand Why He Needs To Move His Boat. Edwards Noted That He Is Retired And On A Fixed Income. Edwards Explained That It Would Cost \$75.00 A Month To Store His Boat And That It Would Create An Unnecessary Hassle And Expense.

Mike Wellington, 1319 Stephens Avenue, Stated That He Owns An \$80,000 Motor Home And That It Had Been Broken Into Twice While It Was Stored At A Local Storage Lot. Wellington Noted That He Now Stores His Motor Home Out Of Town. He Told The Council That He Thinks There Should Be A Plan For Affordable Parking For Recreational Vehicles And That He Would Like The City To Regulate Storage Lots And/Or Yards.

David Reed, 1541 Kern Street, Reminded The City Council That He Was On The Council When The Ordinance In Question Was Originally Instituted. Reed Noted That Residents Can Apply For A

Zoning Exemption For Vehicles Under 42" Inches And That The City Code Enforcement Was Non-Existent Until Recently.

ACTION: The Council Directed Staff To Leave The Ordinance In As It Currently Stands.

c. Report On Stephens Avenue Parking Issue.

ACTION: The Council Directed Staff To Restrict Parking On Stephens Avenue During School Hours, Implement A Parking Permit System And Make The Entire Street A Tow Away Zone.

d. Adopt Resolution No. 2010-23, A Resolution Awarding The 2010 Sewer Pump Station SCADA Additions Project To Telstar Instruments, Inc. For \$83,671.00.

ACTION: On Motion By Davis Seconded By Candea And Unanimously Carried, Resolution No. 2010-23, A Resolution Awarding The 2010 Sewer Pump Station SCADA Additions Project To Telstar Instruments, Inc. For \$83,671.00, Was Adopted.

e. Adopt Resolution No. 2010-24, A Resolution Initiating Proceedings For A Proposed Increase Of Assessments Within The City Of Newman Landscape And Lighting District, The Levy And Collection Of Assessments Therein And Ordering The Preparation Of An Assessment Engineer's Report.

ACTION: On Motion By Candea Seconded By Martina And Unanimously Carried, Resolution No. 2010-24, A Resolution Initiating Proceedings For A Proposed Increase Of Assessments Within The City Of Newman Landscape And Lighting District, The Levy And Collection Of Assessments Therein And Ordering The Preparation Of An Assessment Engineer's Report, Was Adopted.

f. Report On Employee Home Loan Program.

ACTION: On Motion By Martina Seconded By Davis And Unanimously Carried, The Council Directed Staff To Transfer \$40,000 To The Employee Home Loan Program.

g. Consideration Of Method For Filling City Council Vacancy Created By The Resignation Of Council Member Ted Kelly.

ACTION: The Council Directed Staff To Consolidate Vacancy With The General Election And Not To Appoint.

11. Items From District Five Stanislaus County Supervisor.

Supervisor DeMartini Explained That He Would Be Traveling To Washington D.C. To Attempt To Secure Funding To Complete The Orestimba Creek Flood Control Planning Process. DeMartini Reminded Everyone That The Next West Side Healthcare Meeting On April 29, 2010 Has Been Moved From Gustine To Patterson And That The Healthy Choices Hikes And Bikes For Your Health Continues Through June.

12. Items From The City Manager And Staff.

City Manager Holland Reminded Everyone That It Was Spring Clean-Up Week And That The Hazardous Waste Would Only Be Available On April 16th And 17th. Holland Noted That Newman Downtown Flower Power Coalition Would Be Planting New Plants Downtown On Saturday, April 17, 2010 At 8:00 A.M. Holland Informed The Council That A Former City Intern And Current U.S.C. Student Will Be Creating Another City Newsletter Free Of Charge. Holland Mentioned That The City Would Be Hosting A Meeting Regarding The Downtown Plaza Project On April 20, 2010; Holland Remarked That City Staff Would Be Answering Questions And Addressing Concerns About The Plaza Project At The Aforementioned Meeting. He Encouraged Residents To Fill Out The Census Forms And Mail Them In, As They Are Important To Our Community. Holland Told The Council That Annual City Softball Game Had Been Scheduled For Sunday, June 6, 2010 And Reported That The Corporation For Better Housing Has Pulled Permits For Their Apartment Project.

Sergeant Richardson Updated The Council On The Child Drowning Incident That Had Taken Place Earlier In The Week. Richardson Implored Residents To Secure Pools And Exercise Caution To Prevent These Types Of Incidents From Occurring. Richardson Reminded The Community That The Next Animal Clinic Would Be On May 1, 2010 At Pioneer Park.

Public Works Director Reynolds Noted That The Hydro-Seeding At Hill Park Should Begin Within A Week. Reynolds Mentioned That The Next Phases Of The Hill Park Project Are Also Progressing. Reynolds Noted That The Pioneer Park Landscaping Project Would Be Bidding On Thursday, April 15, 2010. Reynolds Reminded The Council That Plaza Project Bids Are Due On May 27, 2010. He Also Noted That Caltrans Had Already Conducted A Pre-Audit Of The Plaza Project Paperwork And Gave The City A High Rating On The Work That Had Been Done Thus Far.

13. Items From City Council Members - None.

14. Adjourn To Closed Session - 8:48 P.M.

- a. Public Employee Personnel Evaluation - City Manager - G.C. 54957.6.
- b. Public Employment - Police Chief - G.C. 54957.
- c. Conference With Labor Negotiator - Operating Engineers Local #3 Miscellaneous Bargaining Unit - G.C. 54957.6.
- d. Conference With Labor Negotiator - Operating Engineers Local #3 Police Bargaining Unit - G.C. 54957.6.
- e. Conference With Legal Council - Potential Litigation - One Case - G.C. 54956.9.
- f. Return To Open Session - 9:35 P.M.

No Reportable Action Was Taken.

15. Adjournment.

ACTION: On Motion By Candea Seconded By Martina And Unanimously Carried, The Meeting Was Adjourned At 9:37 P.M.

Honorable Mayor and Members
of the Newman City Council

Agenda Item: **9.a.**
City Council Meeting
of April 27, 2010

REPORT ON NUISANCE ABATEMENT

RECOMMENDATION:

Adopt Resolution No. 2010- , Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4.

BACKGROUND:

Abatement notices for property maintenance were sent to several properties in accordance with Ordinance 95-4, Chapter 2, Title 8-2-3.

ANALYSIS:

This notice informs property owners of all nuisance abatement procedures, option and their right to object at a public hearing. It is anticipated that many property owners will comply with the abatement notices prior to the hearing date. A final compliance survey will be done on Monday, April 12, 2010. A list of properties that have not complied with the abatement notice will be handed out at the council meeting prior to the public hearing.

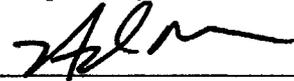
FISCAL IMPACT:

None

CONCLUSION:

This staff report is submitted for City Council consideration and possible future action.

Respectfully submitted,



Adam McGill, Chief of Police

REVIEWED/CONCUR:

Michael Holland, City Manager

RESOLUTION NO. 2010-

**A RESOLUTION DECLARING THE EXISTENCE OF A PUBLIC NUISANCE UNDER
ORDINANCE NO. 95-4**

WHEREAS, the Chief of Police has reported a nuisance as outlined in Section 8-2-2 of the Newman Municipal Code located and existing upon property in the City of Newman in violation of Ordinance No. 95-4 of the City of Newman, a description of said property being attached hereto and made a part of this resolution by this reference; and,

WHEREAS, the Chief of Police caused notice to be mailed to the respective owners of the subject properties as in said Ordinance provided, said notice giving notice to abate said nuisance and setting a time and place for hearing objections to the proposed abatement; and,

WHEREAS, said hearing was held on April 27, 2010, at 7:00 p.m., as in said notice provided; and,

WHEREAS, no objections to the proposed abatement were received at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman that said City Council of the City of Newman finds that a condition exists with regard to the properties in said City which is dangerous to life, limb and property, and to the public health, safety and morals, in that weeds, rubbish, dirt and rank growth are growing, located and existing upon said property in violation of the provisions of Ordinance No. 95-4 of the City of Newman, which endangers and may injure neighboring property and endangers and injures the welfare of residents in the vicinity of said property, and which is a fire hazard; that a description of said properties is attached hereto and made a part of this resolution by this reference.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 27th day of April, 2010 by Council Member _____, who moved its adoption, which motion was duly seconded and was adopted upon roll call vote.

AYES:
NOES:
ABSENT:

APPROVED:

ATTEST:

Mayor Pro Tem

Deputy City Clerk

City of Newman
Abatement list

1. 1115 Westeria (UNOCCUPIED)

Tall grass through out the front and backyard of property.

2. 410 Sumac (UNOCCUPIED)

Tall grass through front and backyard of property.

Fernando Manjarrez Barrera
P.O. Box 378
Newman, Ca 95360

NOTICE TO ABATE PUBLIC NUISANCE BY THE REMOVAL OF WEEDS,
DIRT, RUBBISH AND/OR RANK GROWTH

NOTICE IS HEREBY GIVEN THAT:

Pursuant to the provisions of Chapter 2, Title 8 of the City Code of Newman, the following conditions, as declared in Section 8-2-3, constitutes a public nuisance

at: 1115 Wisteria Way, APN No. 026-051-014-000,

Tall grass and weeds throughout front and backyard of property, which must be abated by the destruction, or removal thereof within 10 days of the date of the notice.

All responsible persons owning, managing or having control or change or occupancy of any such private property shall, without delay, destroy or remove such public nuisances, as defined above, from their property and from their half of the abutting street and alley between the lot lines, as extended, or such public nuisances will be destroyed or removed and such nuisances abated by City authorities, in which case the cost of destruction or removal will be assessed upon the lots and lands, from, or on which, or abutting the streets and alleys from, or on which, such nuisance was abated, and such costs will constitute a lien upon the lots or parcels until paid and will be collected on the next tax roll upon which Municipal taxes are collected.

All Property owners having objections to the proposed abatement of the nuisance are hereby notified to attend a meeting of the City Council of the City of Newman to be held on April 27, 2010 at 7:00 p.m., at which time and place all objections will be heard and given due consideration.

Dated: March 15, 2010

Jessica Tobin
Community Service Officer

Fernando Manjarrez Barrera
P.O. Box 378
Newman, Ca 95360

Second Notice

NOTICE TO ABATE PUBLIC NUISANCE BY THE REMOVAL OF WEEDS, DIRT, RUBBISH AND/OR RANK GROWTH

NOTICE IS HEREBY GIVEN THAT:

Pursuant to the provisions of Chapter 2, Title 8 of the City Code of Newman, the following conditions, as declared in Section 8-2-3, constitutes a public nuisance

at: **1115 Wisteria Way, APN No. 026-051-014-000,**

Tall grass and weeds throughout front and backyard of property, which must be abated by the destruction, or removal thereof within 10 days of the date of the notice.

All responsible persons owning, managing or having control or change or occupancy of any such private property shall, without delay, destroy or remove such public nuisances, as defined above, from their property and from their half of the abutting street and alley between the lot lines, as extended, or such public nuisances will be destroyed or removed and such nuisances abated by City authorities, in which case the cost of destruction or removal will be assessed upon the lots and lands, from, or on which, or abutting the streets and alleys from, or on which, such nuisance was abated, and such costs will constitute a lien upon the lots or parcels until paid and will be collected on the next tax roll upon which Municipal taxes are collected.

All Property owners having objections to the proposed abatement of the nuisance are hereby notified to attend a meeting of the City Council of the City of Newman to be held on **April 27, 2010** at **7:00 p.m.**, at which time and place all objections will be heard and given due consideration.

Dated: April 3, 2010

Jessica Tobin
Community Service Officer

Fernando Manjarrez Barrera
P.O. Box 378
Newman, Ca 95360

THIRD AND FINAL NOTICE

NOTICE TO ABATE PUBLIC NUISANCE BY THE REMOVAL OF WEEDS, DIRT, RUBBISH AND/OR RANK GROWTH

NOTICE IS HEREBY GIVEN THAT:

Pursuant to the provisions of Chapter 2, Title 8 of the City Code of Newman, the following conditions, as declared in Section 8-2-3, constitutes a public nuisance at: **1115 Wisteria Way, APN No. 026-051-014-000,**

Tall grass and weeds throughout front and backyard of property, which must be abated by the destruction, or removal thereof within **10** days of the date of the notice.

All responsible persons owning, managing or having control or change or occupancy of any such private property shall, without delay, destroy or remove such public nuisances, as defined above, from their property and from their half of the abutting street and alley between the lot lines, as extended, or such public nuisances will be destroyed or removed and such nuisances abated by City authorities, in which case the cost of destruction or removal will be assessed upon the lots and lands, from, or on which, or abutting the streets and alleys from, or on which, such nuisance was abated, and such costs will constitute a lien upon the lots or parcels until paid and will be collected on the next tax roll upon which Municipal taxes are collected.

All Property owners having objections to the proposed abatement of the nuisance are hereby notified to attend a meeting of the City Council of the City of Newman to be held on **April 27, 2010** at **7:00 p.m.**, at which time and place all objections will be heard and given due consideration.

Dated: April 14, 2010

Adam McGill
Chief of Police



04.23.2010 13:42



04.28.2010 18:42

Honorable Mayor and Members
of the Newman City Council

Agenda Item: **9.a.**
City Council Meeting
of April 27, 2010

REPORT ON NUISANCE ABATEMENT

RECOMMENDATION:

Adopt Resolution No. 2010- , Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4.

BACKGROUND:

Abatement notices for property maintenance were sent to several properties in accordance with Ordinance 95-4, Chapter 2, Title 8-2-3.

ANALYSIS:

This notice informs property owners of all nuisance abatement procedures, option and their right to object at a public hearing. It is anticipated that many property owners will comply with the abatement notices prior to the hearing date. A final compliance survey will be done on Monday, April 12, 2010. A list of properties that have not complied with the abatement notice will be handed out at the council meeting prior to the public hearing.

FISCAL IMPACT:

None

CONCLUSION:

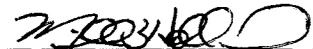
This staff report is submitted for City Council consideration and possible future action.

Respectfully submitted,



Adam McGill, Chief of Police

REVIEWED/CONCUR:



Michael Holland, City Manager

RESOLUTION NO. 2010-

**A RESOLUTION DECLARING THE EXISTENCE OF A PUBLIC NUISANCE UNDER
ORDINANCE NO. 95-4**

WHEREAS, the Chief of Police has reported a nuisance as outlined in Section 8-2-2 of the Newman Municipal Code located and existing upon property in the City of Newman in violation of Ordinance No. 95-4 of the City of Newman, a description of said property being attached hereto and made a part of this resolution by this reference; and,

WHEREAS, the Chief of Police caused notice to be mailed to the respective owners of the subject properties as in said Ordinance provided, said notice giving notice to abate said nuisance and setting a time and place for hearing objections to the proposed abatement; and,

WHEREAS, said hearing was held on April 27, 2010, at 7:00 p.m., as in said notice provided; and,

WHEREAS, no objections to the proposed abatement were received at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman that said City Council of the City of Newman finds that a condition exists with regard to the properties in said City which is dangerous to life, limb and property, and to the public health, safety and morals, in that weeds, rubbish, dirt and rank growth are growing, located and existing upon said property in violation of the provisions of Ordinance No. 95-4 of the City of Newman, which endangers and may injure neighboring property and endangers and injures the welfare of residents in the vicinity of said property, and which is a fire hazard; that a description of said properties is attached hereto and made a part of this resolution by this reference.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 27th day of April, 2010 by Council Member _____, who moved its adoption, which motion was duly seconded and was adopted upon roll call vote.

AYES:
NOES:
ABSENT:

APPROVED:

ATTEST:

Mayor Pro Tem

Deputy City Clerk

City of Newman
Abatement list

1. 1115 Westeria (UNOCCUPIED)

Tall grass through out the front and backyard of property.

2. 410 Sumac (UNOCCUPIED)

Tall grass through front and backyard of property.

Honorable Mayor and Members
of the Newman City Council

Agenda Item: **10.a.**
City Council Meeting
of April 27, 2010

AWARD BID FOR THE PIONEER PARK LANDSCAPING PROJECT

RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. 2010- , awarding the Pioneer Park Landscaping Project to B & M Builders for \$26,481.64 and authorize the City Manager to execute the agreement.

BACKGROUND:

The three-phase Pioneer Park Rehabilitation Project is one of the City's first CDBG projects funded through the Stanislaus County CDBG Consortium. The first phase consisted of the installation of the playground equipment and the park restrooms. The second phase involved the removal and replacement of the canopy, installation of a new BBQ (funded through Rotary donations), miscellaneous concrete walkways and lighting. The Project is currently moving forward with its third and last phase of rehabilitation; which includes the installation of concrete walkways, landscape irrigation, trees, ground cover and bark along the perimeter of Pioneer Park. The three phases of improvements (including this bid award) total: \$393,502.64.

ANALYSIS:

The City advertised for bids for approximately two weeks with bids open and read on April 15, 2010 at 2:00 pm. A total of six bids were submitted for this project. The Engineer's Estimate for this project is \$39,000.00. The Public Works Department has reviewed the bids and found them to be in proper order. The lowest responsible bidder for this project has been determined to be B & M Builders with a bid amount of \$26,481.64.

Please see Attachment A for the bid results.

FISCAL IMPACT:

Bid amount \$26,481.64

09/10 CDBG Budgeted amount \$39,000.00

CONCLUSION:

The City of Newman advertised and received bids for the Pioneer Park Landscaping Project. B & M Builders has been determined to be the lowest responsible bidder. Therefore, staff recommends to City Council adopt Resolution No. 2010- , Awarding the bid for the Pioneer Park Landscaping Project to B & M Builders for the bid amount of \$26,481.64, and authorize the City Manager to execute the agreement.

Respectfully Submitted,



Garner Reynolds
Director of Public Works

REVIEWED/CONCUR:



Michael E. Holland
City Manager

PIONEER PARK LANDSCAPING BID TABULATION

Bid Opening April 15, 2010, 2:00 pm

SCHEDULE OF WORK ITEMS				B&M Builders Sacramento		Perma-Green Hydroseeding, Inc.Gilroy, Ca.		West Side Landscaping Crowslanding, Ca.		Yard Masters, Inc.		Blossom Valley Construction San Jose, Ca.		BC Construction Ceres, Ca.	
Item No.	Item	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Concrete Sidewalk (4" Thick)	2,575	SF	\$ 5.15	\$ 13,261.25	\$ 5.75	\$ 14,806.25	\$ 4.49	\$ 11,561.75	\$ 8.00	\$ 20,600.00	\$ 8.52	\$ 21,939.00	\$ 12.04	\$ 31,003.00
2	Raywood Ash Trees	11	EA	\$ 207.49	\$ 2,282.39	\$ 125.00	\$ 1,375.00	\$ 274.00	\$ 3,014.00	\$ 160.00	\$ 1,760.00	\$ 180.00	\$ 1,980.00	\$ 632.36	\$ 6,955.96
3	Bark (3" thick)	6,000	SF	\$ 0.81	\$ 4,860.00	\$ 0.30	\$ 1,800.00		\$ 2,415.00	\$ 0.59	\$ 3,540.00	\$ 0.90	\$ 5,400.00	\$ 0.95	\$ 5,700.00
4	Ground Cover / Plants	1	LS	\$ 3,296.00	\$ 3,296.00	\$ 4,200.00	\$ 4,200.00		\$ 1,699.20	\$ 2,016.00	\$ 2,016.00	\$ 2,448.00	\$ 2,448.00	\$ 3,140.64	\$ 3,140.64
5	Irrigation System	1,300	LF	\$ 2.14	\$ 2,782.00	\$ 5.00	\$ 6,500.00		\$ 13,634.10	\$ 4.00	\$ 5,200.00	\$ 2.50	\$ 3,250.00	\$ 5.37	\$ 6,981.00
BASE TOTAL					\$ 26,481.64		\$ 28,681.25		\$ 32,324.05		\$ 33,116.00		\$ 35,017.00		\$ 53,780.60

*Corrected

*Corrected

RESOLUTION NO. 2010-

APPROVAL OF THE PIONEER PARK LANDSCAPING PROJECT CONTRACT WITH B & M BUILDERS

WHEREAS, the City Manager of the City of Newman has recommended that the City Council approve a contract with B & M Builders for the Pioneer Park Landscaping Project; and

WHEREAS, the City Council is desirous of entering into a contract with B & M Builders; 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 B & M Builders.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newman hereby approves the contract with B & M Builders and authorizes the City Manager to execute said contract for the Pioneer Park Landscaping Project.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 27th day of April 2010 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

**REJECT THE BIDS FOR THE ORESTIMBA FEASIBILITY STUDY FLOOD CONTROL
SOIL BORINGS PROJECT**

RECOMMENDATION:

Reject the Bids for the Orestimba Feasibility Study Flood Control Project Soil Borings Project.

BACKGROUND:

In January 1996 Stanislaus County prepared a Hazard Mitigation Grant Application, and in 1998 the U.S. Army Corps of Engineers (COE) initiated the Orestimba Feasibility Study Flood Control Project (Project). Since 1998, several options have been developed with the recommended option being the Locally Preferred Plan (LPP) that is the most economical plan and still meets the needs of all the stakeholders. The LPP consists of two primary design features, modifications to the Orestimba Creek channel, and construction of a chevron levee along the City's northwestern perimeter to achieve a 200 year level of protection (FEMA and State of California requirements for urban areas) in order to qualify for State funding for flood management projects.

In order to finish the Feasibility Study the COE is requesting soil borings along the proposed alignment of the chevron levee. However, the COE has expended their allocation for this project and Stanislaus County has contributed their last allocation of \$53,000.00. As a result, there is no funding for the soil borings, and the Feasibility Study can't be completed unless this work is completed. The COE and Stanislaus County is asking if the City of Newman can provide these services as "work in kind" to be credited to the project as local cost sharing. The COE estimates this work at \$165,000.00. Funding these services will allow the Feasibility Study to be completed and the Project to be eligible for future Federal and State funding opportunities. Therefore, the Public Works Department solicited a Request for Proposals for this work.

ANALYSIS:

The City advertised for bids for approximately two weeks with bids open and read on April 9, 2010 at 2:00 pm. A total of two bids were submitted for this project. The Engineer's Estimate for this project is \$50,000.00. The Public Works Department has reviewed the bids and found them to be in proper order. The lowest responsible bidder for this project has been determined to be Neil O. Anderson with a bid amount of \$72,265.00. However, the lowest bid amount is significantly higher than the Engineer's Estimate. Re-bidding the project and by adding a minor change to the scope of work may yield lower bids.

This project cost was not included in the 2009/10 Fiscal Budget, and is a General Fund expenditure.

Bid results for the soil borings are as follows:

Neil O. Anderson and Associates - \$72,265.00 Moore Twining Associates, Inc. - \$81,500.00

FISCAL IMPACT:

Soil Borings Proposal Amount - \$72,265.00 09/10 Required General Fund Budgeted Adjustment \$75,000.00

CONCLUSION:

Staff recommends that City Council reject the bids for the Orestimba Feasibility Study Flood Control Project Soil Borings, add a minor change the scope of work, and re-advertise the project.

Respectfully Submitted,



Garner Reynolds
Director of Public Works

REVIEWED/CONCUR:



Michael E. Holland
City Manager

Honorable Mayor and Members
of the Newman City Council

**REPORT OF ESTIMATED COSTS FOR A PROPOSED INCREASE OF ASSESSMENTS WITHIN THE
LANDSCAPE AND LIGHTING DISTRICT FOR THE PREPARATION OF THE ASSESSMENT
DISTRICT ENGINEER'S REPORT**

RECOMMENDATION:

Report of estimated costs for a proposed increase of assessments within the City of Newman Landscape and Lighting District for the preparation of the Assessment District Engineer's Report.

BACKGROUND:

Pursuant to the Landscape and Lighting Act of 1972 the City of Newman has a total of 15 zones within the Landscape and Lighting District (District) in various locations throughout the City. These Zones represent the general nature, location and extent of improvements to be maintained, with an estimate of the costs to maintain and service the improvements. Improvements provided within the District include, but are not limited to, the weekly operation, maintenance, and servicing of all public landscaping improvements consisting of trimming and pruning, weed abatement, sidewalks, plant materials, pathways, irrigation systems, lighting systems, and graffiti removal.

Currently, the City of Newman Landscape and Lighting Districts provide for the costs for the street lighting, maintenance of the landscape areas and parks, and Zone 14 includes sewer and storm drainage repair and maintenance within the District. In addition to these improvements the Landscape and Lighting Act of 1972 allows for other associated improvements including graffiti removal, repair and maintenance of block walls, repair and maintenance of sidewalks, and repair and maintenance of storm drainage facilities. At the April 13, 2010 City Council meeting the authorized the initiation of the proceedings for a proposed increase of assessments within the Landscape and Lighting District in the City of Newman and directed staff to provide an estimate of costs to provide for additional services including graffiti removal, block wall repair and replacement, sidewalk repair and replacement, and storm drain maintenance for the districts.

ANALYSIS:

The 2009/10 Engineers Report estimated the total assessment for the District at \$214,973.26. The estimated costs for lighting and landscaping services for the District are \$150,101.32, whereas the actual costs are \$203,992.72. This leaves a deficit for these services of \$53,891.14 that is currently subsidized by other services within the District. The total estimated cost for the District for Fiscal Year 2010/11 (with no additions) is \$251,534.24. The estimated average costs per lot for adding additional items are as follows:

<u>Graffiti Abatement</u>	<u>Storm Drainage</u>	<u>Sidewalks</u>	<u>Block Wall</u>	<u>Total</u>
\$0.19	\$0.31	\$0.44	\$0.19	\$1.13

The next steps in the process are to develop the Engineer's Report based on City Council's direction, prepare the Notice and Ballot for the affected property owners, prepare the Resolution of Intent, and conduct the Public Hearing.

FISCAL IMPACT:

None at this time.

CONCLUSION:

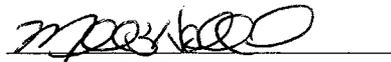
The proposed cost increase to the Landscape and Lighting District for 2010/11 is \$36,560.99. If City Council desires to provide for additional services, the estimated costs for providing services for graffiti abatement, storm drainage maintenance, repair and replacement of sidewalks, and repair and replacement of block walls would increase the average monthly rate by \$1.13 per lot. Staff recommends all the additional services be included in the Engineer's Report.

Respectfully Submitted,



Garner Reynolds
Director of Public Works

REVIEWED/CONCUR:



Michael E. Holland
City Manager

**RESCIND RESOLUTION 2010-16 ESTABLISHING A PREQUALIFICATION PROCEDURE FOR
CONSTRUCTION OF THE CITY OF NEWMAN HISTORIC DOWNTOWN PLAZA PROJECT**

RECOMMENDATION:

It is recommended that the City Council Adopt Resolution No. 2010- , a resolution rescinding Resolution No. 2010-16, establishing a prequalification procedure and appeals procedure for use in the bidding process for construction of the City of Newman Historic Downtown Plaza Project.

BACKGROUND:

The City of Newman Historic Downtown Plaza Project (Plaza) has been envisioned, planned, and designed for the last ten years. The design for the Plaza is complete and has been advertised for bid starting on March 17, 2010. The project is now nearing the construction phase of the project and is scheduled to start in June of this year with an anticipated completion date of November 2010.

On March 9, 2010 City Council adopted Resolution No. 2010-16 Establishing a prequalification procedure and appeals procedure for use in the bidding process for construction of the City of Newman Historic Downtown Plaza Project. The purpose of the prequalification process is to ensure the Plaza is constructed by a qualified contractor, especially with the current economic climate. This was included in the bidding phase with the prequalification packages due on April 21, 2010, however the City did not receive enough potential qualified bidders for the project to allow for a competitive bidding environment.

ANALYSIS:

The City did not receive enough potential qualified bidders for the project to allow for a competitive bidding environment. Therefore, staff recommends City Council rescind Resolution No. 2010-16 Establishing a prequalification procedure and appeals procedure for use in the bidding process for construction of the City of Newman Historic Downtown Plaza Project. This will allow for more prospective bidders the opportunity to bid on the project. In addition, the responsibility for quality control to ensure the work is of sufficient quality, will be provided for through the Construction Management Services and the Quality Control Plan as established in the plans and specifications for the project.

FISCAL IMPACT:

None.

CONCLUSION:

Therefore, due to the low number of potential qualified bidders (as established by the prequalification procedure), it is recommended that the City Council rescind Resolution No. 2010-16 Establishing a prequalification procedure and appeals procedure for use in the bidding process for construction of the City of Newman Historic Downtown Plaza Project.

Respectfully Submitted,



Garner Reynolds
Director of Public Works

REVIEWED/CONCUR:



Michael E. Holland
City Manager

RESOLUTION NO. 2010-

**A RESOLUTION RESCINDING RESOLUTION NO. 2010-16 A RESOLUTION
ESTABLISHING A PREQUALIFICATION PROCEDURE AND APPEALS PROCEDURE
FOR USE IN THE BIDDING PROCESS FOR CONSTRUCTION OF THE CITY OF NEWMAN
HISTORIC DOWNTOWN PLAZA PROJECT**

Whereas, the City Council, on March 9, 2010, Resolution No. 2010-16 A Resolution Establishing A Prequalification Procedure And Appeals Procedure For Use In The Bidding Process For Construction Of The City Of Newman Historic Downtown Plaza Project; and

Whereas, the City did not receive enough potential qualified bidders for the project to allow for a competitive bidding environment; and

Whereas, rescinding Resolution No. 2010-16 will allow for more prospective bidders the opportunity to bid on the project.

Whereas, the responsibility for quality control to ensure the work is of sufficient quality, will be provided for through the Construction Management Services and the Quality Control Plan as established in the plans and specifications for the project.

Now, Therefore, Be It Resolved:

Resolution No. 2010-16 A Resolution Establishing A Prequalification Procedure And Appeals Procedure For Use In The Bidding Process For Construction Of The City Of Newman Historic Downtown Plaza Project is rescinded in its entirety.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 27th day of April 2010 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

Honorable Mayor and Members
of the Newman City Council

City Council Meeting
of April 27, 2010

UPDATED PERSONNEL RULES FOR CITYWIDE EMPLOYEES

RECOMMENDATION:

Adopt Resolution No. 2010- , accepting and adopting the updated Personnel Rules.

BACKGROUND:

In August 1999, the City of Newman adopted its current Personnel Rules. In 2003 and 2005, the City made minor updates. However, a comprehensive review has not completed since 1999. Due to changes in State law and the organization as a whole, City management staff worked with our attorney to do a complete and comprehensive update of the entire document. On March 5th, the City sent the proposed document to the Miscellaneous and Police Officers Association bargaining groups and offered to 'Meet and Confer' on the item. In addition, the City sent a second and final notice to the POA group on April 1st. To date, the Miscellaneous Group has sent written confirmation that they accept the changes as proposed. Unfortunately, the POA group has canceled their meeting time. In a show of good faith, the City has set aside a couple of hours on April 26th to address POA comments.

ANALYSIS:

In an effort to provide a complete and thorough review and update of the Personnel Rules, City management staff went through the complete document individually before coming together as a group. Each of the comments and sections identified by individual staff members was discussed and debated. Once a draft version was completed, the document was sent over to the City's employment attorney for her review and recommendations. The document submitted to the Council has been thoroughly examined and complies with the many changes in State law.

The majority of the changes involved clean up language and clarification of policy. However, there are a few larger changes within the document. The biggest change comes in Section 12 Substance Use and Rehabilitation, where the section was simplified and went from twelve (12) pages to two (2) pages. The changes were recommended by our attorney. Additional changes of note include reducing the number of paid holidays from twelve (12) to eleven (11) plus the elimination of two hours of leave on Good Friday, replacing holiday cash out for Police Officers to time accrual and usage, and a change in payment for stand-by pay and call back pay for both Police and Non-Police employees.

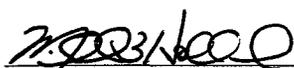
FISCAL IMPACT:

Positive.

CONCLUSION:

Staff recommends the Council accept and adopt the new and updated Personnel Rules. The City has expended significant time and energy in completely reviewing the entire document. Copies were provided to our two bargaining groups on March 8th. To date, the Miscellaneous Group has completed its review and provided the City an email stating they are accepting of the changes.

Respectfully submitted,



Michael Holland
City Manager

RESOLUTION NO. 2010-

**A RESOLUTION AMENDING RULES AND REGULATIONS FOR THE
ADMINISTRATION OF A MERIT PERSONNEL SYSTEM FOR THE CITY OF
NEWMAN**

WHEREAS, the City Council, on August 24, 1999, adopted Resolution No. 99-36, A Resolution Adopting Rules And Regulations For The Administration Of A Merit Personnel System For The City Of Newman; and

WHEREAS, the objectives of the Personnel Rules are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal government; and

WHEREAS, city staff recently conducted a comprehensive review and revision of the Personnel Rules to include updated policies and procedures; and

WHEREAS, the aforementioned Personnel Rules have not been comprehensively reviewed and updated since August of 1999;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newman does hereby adopt the Personnel Rules attached hereto, Marked Exhibit "A" and by reference thereto made a part hereof, effective April 27, 2010.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 27th day of April 2010 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



April 1, 2010

Operating Engineer's Local Union No. 3
Attn: Doug Gorman
4856 North Cedar Avenue
Fresno, CA 93726

RE: City of Newman – Personnel Rules Reminder

Dear Doug:

On March 8th, the City sent you the draft version of the modified Personnel Rules. The City is hereby providing the Union final notice that the City is ready and willing to Meet and Confer on this item at your earliest convenience. The City intends to forward a final (based upon results of the meet and confer process) version to the City Council for consideration at their April 27th meeting.

Please feel free to contact me at your earliest convenience so that we can set up time(s) and date(s) necessary to work through this process.

Sincerely,

Michael E. Holland
City Manager

cc: T. Hallinan, City Attorney
L. Aguiar, Ropers, Majeski, Kohn, & Bentley PC



March 8, 2010

Operating Engineer's Local Union No. 3
Attn: Doug Gorman
4856 North Cedar Avenue
Fresno, CA 93726

RE: City of Newman – Modification of Personnel Rules. Meet and Confer.

Dear Doug:

The City of Newman has finished an internal review of the existing Personnel Rules. The review was initiated due to changes in laws and circumstances since they were last updated in 2005. Please find attached a copy of the draft version. The City is hereby notifying the Union we would like to initiate the Meet and Confer process as soon as possible. The City intends to forward a final (based upon results of the meet and confer process) version to the City Council no later than April 27th.

At your earliest convenience, please contact me so that we can set up time(s) and date(s) necessary to work through this process.

Sincerely,

Michael E. Holland
City Manager

cc: T. Hallinan, City Attorney
L. Aguiar, Ropers Majeski Kohn & Bentley PC



March 8, 2010

Operating Engineer's Local Union No. 3
Attn: Fred Klingel
4856 North Cedar Avenue
Fresno, CA 93726

RE: City of Newman – Modification of Personnel Rules. Meet and Confer.

Dear Fred:

The City of Newman has finished an internal review of the existing Personnel Rules. The review was initiated due to changes in laws and circumstances since they were last updated in 2005. Please find attached a copy of the draft version. The City is hereby notifying the Union we would like to initiate the Meet and Confer process as soon as possible. The City intends to forward a final (based upon results of the meet and confer process) version to the City Council no later than April 27th.

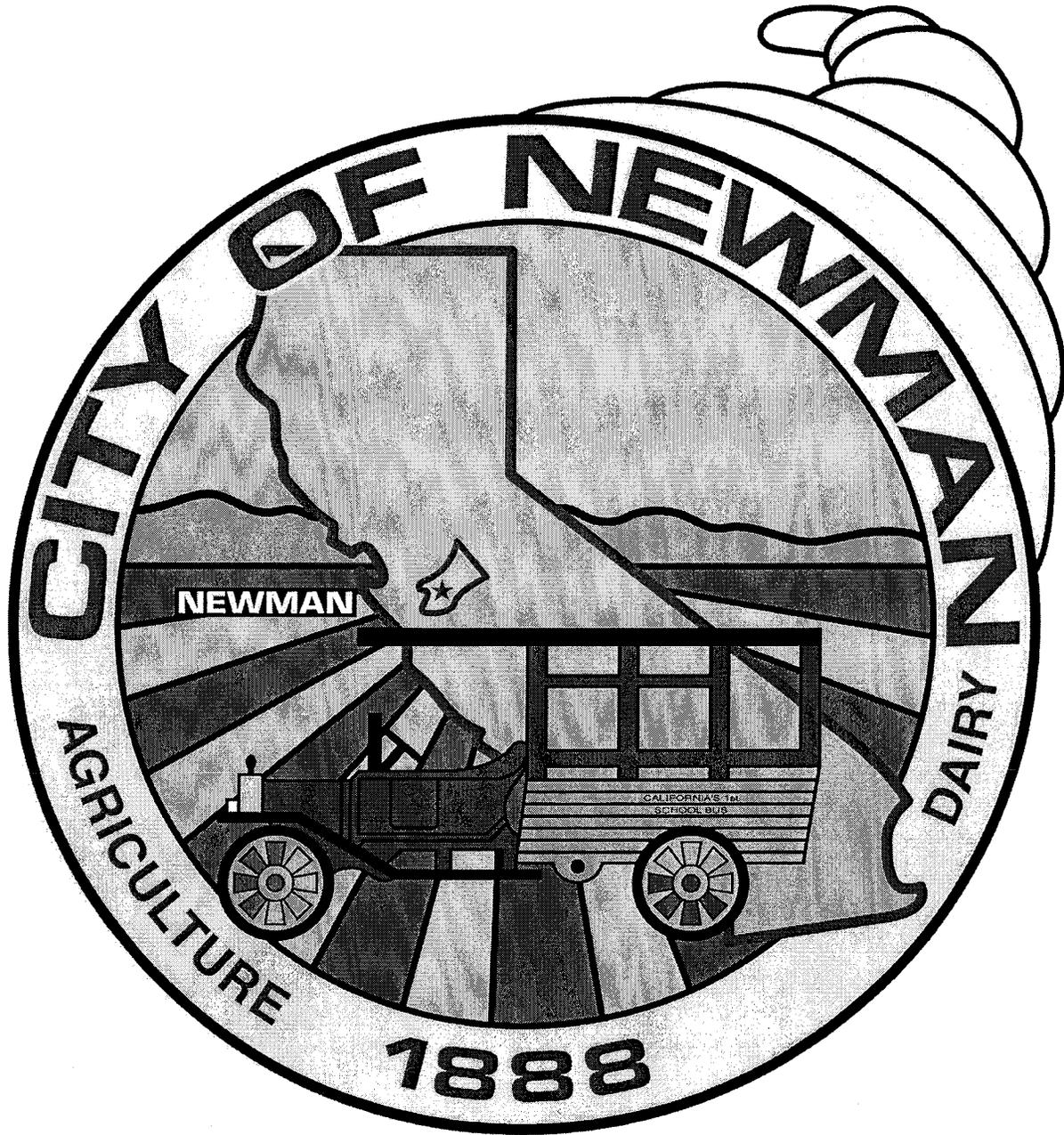
At your earliest convenience, please contact me so that we can set up time(s) and date(s) necessary to work through this process.

Sincerely,

Michael E. Holland
City Manager

cc: T. Hallinan, City Attorney
L. Aguiar, Ropers Majeski Kohn & Bentley PC

PERSONNEL RULES



Resolution No. 2010-
Adopted 00/00/00

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CHAPTER 1 – GENERAL

SECTION 101 - ADOPTION OF RULES AND REGULATIONS

The following Rules and Regulations have been approved by the City Council by Resolution No. 99-39 pursuant to the authority granted by Ordinance No. 295 adopted on August 10, 1976 by the Newman City Council in order to establish an equitable and uniform procedure for dealing with personnel matters, and to place municipal employment on a merit basis so that the most qualified available people may be brought into and retained in the municipal service.

SECTION 102 - ADMINISTRATION OF THE MERIT SYSTEM

The City Manager is the Personnel Officer and shall administer the Merit Personnel System in accordance with the provisions of Ordinances No. 295 and 286. The general control and supervision over the same is vested in the City Manager, whereby the power to appoint all officers, heads of departments, and the employees of all City departments, and to remove the same for cause, is subject to these Rules and Regulations.

SECTION 103 - PURPOSE AND POLICY

The objective of these Rules and Regulations is to facilitate effective and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal service. These Rules and Regulations set forth in detail those procedures which insure equal treatment for applicants and employees, and define the obligations, rights, privileges, benefits and prohibitions placed upon all employees in the municipal service.

SECTION 104 - PERSONNEL POLICY/EQUAL OPPORTUNITY

It is hereby the declared personnel policy of the City of Newman that:

- a) Employment and promotion by the City of Newman shall be based on merit and fitness, free of personal and political considerations, and in no way shall discriminate on the basis of race, sex, creed, color, religion, age, marital status, sexual orientation, medical condition, including genetic characteristics, disability, national origin or ancestry.

- b) City personnel programs shall be administered in such a manner as to remove unnecessary barriers to the employment and advancement of women, minority group persons, and the disabled.
- c) Efforts shall be made to attract and assist such under-represented persons in the workforce to qualify for employment and promotion with and within the City of Newman.
- d) Continuance of Employment covered by these Rules and Regulations shall be subject to good behavior, satisfactory work performance, need for work and the availability of funds.

SECTION 105 - EMPLOYMENT CONSTITUTES ACCEPTANCE OF RULES

By accepting employment with the City of Newman, each employee agrees to be governed by and to comply with the Merit System Rules and Regulations, Administrative rules and procedures established by the City Manager pursuant thereto and rules, regulations, and directives of the department in which he/she is employed.

All employees holding a position in the municipal service on the effective date of these rules and regulations shall thereafter be subject in all respects to the provisions herein.

CHAPTER 2 - DEFINITIONS

SECTION 201 - DEFINITION OF TERMS

The following terms whenever used in these Rules and Regulations shall be defined as follows:

"Administrative Leave" shall mean leave with pay granted to an employee at management's discretion which is not charged against the employee's leave accounts.

"Classification Plan" shall mean a list of titles of the classes of all regular positions in the municipal service and a written specification which shall include the class title and general description of the work, a summary statement of duties and responsibilities, and desirable qualifications for appointment, and may include such other pertinent information as the City Manager may deem desirable.

"Continuous Service" shall mean employment on a regular basis which is not interrupted by termination, or leaves of absence without pay for a period in excess of one year, other than military leave.

"Discharge" shall mean disciplinary termination of employment.

"Disciplinary Probation" shall mean a form of disciplinary action, as distinguished from probation for new employees as set forth in SEC. 901 for a specified time not to exceed one year. Persons placed on disciplinary probation may be terminated for failure to meet requirements. Rights, benefits and privileges may be reduced in conformance with Chapter 10)

"Demotion" shall mean the movement of an employee from one class to another class having a lower maximum rate of pay.

"Eligibility List" shall mean a list of applicants who, in addition to the recommended applicant(s), have been assessed as suitable for the position by the selection panel, in order of their relative merit for the position. An eligibility list may be used to fill the same position or a position that is substantially the same, for a period of six (6) months after the list was created. An eligibility list created by one department can also be used by other departments as long as the position is substantially the same as the position the list was created for.

"City" shall mean the City of Newman

"Examination" shall be defined as the following:

1. "Open competitive examination" shall mean an examination for a particular class which is open to all persons meeting the qualifications for the class.
2. "Promotional examination" shall mean an examination for a particular class, with admission to the examination being limited to regular and probationary employees of the City who meet the qualifications of the class.
3. "Continuous examination" shall mean an open competitive examination which is administered periodically as a result of which names are placed on an eligibility list, in order of final scores, for a period of not more than one year.

"Management Leave" shall mean leave with pay granted to designated management or supervisory employees classified as salaried employees.

"Non-pay status" shall mean the period in which an employee is not at work and has been granted a leave of absence without pay.

"Pay status" shall mean the period in which an employee is at work, on vacation leave, sick leave, compensation leave as the result of an industrial accident, leave with full pay in lieu of temporary disability benefits, compensatory time off, paid temporary military leave or absence, or on an approved leave of absence with pay.

"Performance Review Date" shall mean the date an employee as designated by these rules shall receive a performance review but not less than annually, usually on the anniversary date of their hire..

"Personnel Officer" shall mean the City Manager or his/her designee.

"Promotion" shall mean the movement of an employee from one class to another class having a higher maximum rate of pay.

"Salary Ranges" shall mean a series of progressive steps between a specific minimum and maximum rate.

"Salary Schedule" shall mean the composite of all salary ranges assigned to specific positions in the municipal service.

"Seniority" shall mean continuous service full or part-time from date of hire, based on hours for employment for part-time positions.

"Suspension" shall mean the temporary removal of an employee from pay status for reasons of pending disciplinary action.

“Transfer” shall mean the movement of any employee from one job classification to another wherein the same salary range is assigned to both job classifications.

CHAPTER 3 – EMPLOYMENT

SEC 301 - CITIZENSHIP

Employment is open to qualified men and women who are citizens of the United States, or to qualified non-citizens who are residents of the State of California pursuant to 8 U.S.C. Section 13246 (a)(3) (Immigration Reform and Control Act Section 274B (a) (3)).

SECTION 302 - RECRUITMENT

Recruitment for qualified applicants may be a continuing process in order that, where possible, the City will have available applications of interested, qualified persons for possible employment. Notices of employment opportunities may be placed in newspapers, magazines, announcements, or given to reputable agencies offering those services which it is felt will bring response from qualified persons. The City, however, shall not pay any fee or service charge for any applicant who is referred to it by any employment agency.

It is the responsibility of the hiring department head along with the City Manager to see that all applicants are treated fairly and to ensure that the procedures outlined herein are followed. The department head shall be responsible for initiating the recruitment.

SECTION 303 – PROCEDURES

A. Types Of Recruitment

1. Open and Competitive

Open to all applicants who meet the minimum qualifications and other requirements of the position. Open and competitive recruitment may stay open for a minimum of fourteen calendar days, and should be extended one day for any holiday falling within the fourteen days.

2. In-house

The department head shall have the option to open up any recruitment in-house prior to an open recruitment. If no qualified applicants are found in-house, then open and competitive procedures should be followed. In-house recruitment is open to all City employees who meet the minimum qualifications and other

requirements of the position. In-house recruitment may stay open for a minimum of seven calendar days, and should be extended one day for any holiday falling within the seven days.

3. Promotional

Departments may use an in-house recruitment to fill senior, supervisory or management positions when such action is in the best interest of the City. Promotional recruitment may be open to all City employees or only to the requesting department's employees, as determined appropriate by the department head; or

Departments may use an open and competitive recruitment to fill senior, supervisory or management position.

4. Temporary

a) Open to all applicants who meet the minimum qualifications and other requirements of the position,. Temporary recruitment may stay open for seven calendar days, and should be extended one day for any holiday falling within the seven days.

b) Departments may use temporary employment services without open competitive recruitment to fill temporary positions, when such action is in the best interest of the City.

5. Internships

a) Open to all applicants who are attending any college or university within relevant programs and meet the minimum qualifications and other requirements of the position and other employment with the City, as stated in an announcement or position description.

b) Internships may be recruited openly for a minimum of fourteen calendar days or by direct referral from campus placement services, academic advisors, and/or current interns.

SECTION 304 - APPLICATION

All candidates for employment shall file a signed application with the Personnel Office on an official City application form.

SECTION 305 - SELECTION PROCESS

- a) The selection process may consist of such recognized techniques as achievement tests, aptitude tests, evaluation of personality and background through personal interviews, performance tests, evaluation of work performance, work samples, physical agility tests, review and investigation of personal background and references, finger printing, medical examinations/ drug screening or any combination thereof. The selection process will, in no way, be discriminatory because of race, sex, creed, color, religion, political affiliation, age, marital status, sexual orientation, disability, medical condition, including genetic characteristics, national origin or ancestry.
- b) In the event that written examinations are given, a candidate may have the right to inspect his/her own examination paper. Written examinations are only qualifying in nature.
- c) Selection techniques will be impartial and consistent and shall relate to those areas which, in the opinion of the Personnel Officer, will adequately and fairly indicate the relative ability and quality of candidates under consideration to execute the duties and responsibilities of the position to which they seek to be appointed.
- d) Upon completion of the selection process, the Department Head, with City Manager concurrence, may make an appointment(s) from those candidates who meet the job qualifications and, on the basis of their performance in the selection process, appear most qualified for the position under consideration. The appointment shall not become effective until the selected applicant has signed all official papers required by the City, and those papers bear the appropriate signatures confirming the appointment.

SECTION 306 - INELIGIBILITY OR DISQUALIFICATION

The personnel officer may withdraw from consideration anyone whose appointment would be deemed contrary to the best interest of the City. Reasons for disqualification may include, but shall not be limited to the following deficiencies:

1. Lack of any of the minimum qualifications established for the position sought.
2. Physical or mental disability, which can not be reasonably accommodated, such as to render the applicant unfit to perform the essential functions of the position to which appointment is sought.
3. Excessive use of intoxicants.

4. Unlawful use of habit-forming drugs.
5. Conviction of a felony, or conviction of a misdemeanor involving moral turpitude.
6. Dismissal from any previously held position for any cause, which would be cause for dismissal by the City.
7. Resignation from any previously held position to avoid dismissal.
8. Deception or fraud in the application for employment or in the selection process.
9. Request by applicant that his/her name be withdrawn from consideration.
10. Failure to reply within a reasonable time, as specified by the Personnel Office, to a communication concerning availability for employment.
11. Disqualification or unsuitability for employment as specified in any City or pertinent department rules and regulations.
12. Failure to sign application
13. Failure to apply by the established deadline as indicated in the announcement.

SECTION 307 - CATEGORIES OF APPOINTMENT

Employment in the municipal service is divided into the following categories:

- a) Regular. Regular employees are those who have been appointed to an authorized position in the Employee Compensation Plan having a monthly salary, and who have successfully completed their probationary period and have been retained as hereafter provided in chapter 9 of these Rules and Regulations. The City Manager shall be considered as a regular employee and shall be subject to all of the provisions of these Rules and Regulations with the exception of Chapters 10 and 11.
- b) Probationary. Probationary employees are those who, through the regular examination process, have been appointed to an authorized position in the Employee Compensation Plan having a monthly salary, but who have not completed the probationary period provided in Chapter 9 of these Rules and Regulations.
- c) Part-time. Part-time employees are those hired for less than the standard forty (40) hour week and/or paid on an hourly basis. Unless hourly rates are listed and/or

advertised for specific part-time employees, they shall be compensated at an hourly rate equivalent to the applicable salary range and step.

- d) Part-time employees may be suspended, demoted, or terminated at any time by the Personnel Officer without cause and without recourse to the appeal and grievance procedure provided in chapters 10 and 11 herein.
- e) Temporary employees may be suspended, demoted or terminated at any time by the Personnel Officer without cause and without recourse to the appeal and grievance procedure provide din Chapters 10 and 11 herein.

SECTION 308 - REAPPOINTMENTS

Re-appointment after termination will be considered as new employment. However, re-appointments made within six (6) months from the termination date may be made with reinstatement of prior seniority, sick leave and pay rate with prior approval of the City Manager.

SECTION 309 - CONTINUED EMPLOYMENT

Continued employment of employees with the City of Newman shall be subject to good behavior, satisfactory work performance, need for work and the availability of funds.

SECTION 310 - REGULAR EMPLOYEE PERFORMANCE REPORTS

A performance report for each regular employee shall be made at least annually on or prior to the employee's Performance Review Date by the *Department Head, or his/her designee, on "City of Newman Performance Evaluation" forms according to the directions thereon.* Said report shall be provided to the employee and approved by the Department Head and the City Manager; then forwarded to the Personnel Officer for inclusion in the employee's personnel file..

SECTION 311 - TRANSFER

Any employee may be transferred from one department or division to another based on workload as determined by the Department Head and City Manager.

SECTION 312 - PROMOTION

Because it is the policy of the City of Newman to encourage the advancement of personnel within the organization, promotional examinations for vacancies will be conducted, as the needs of the City require. Promotional opportunities (available to City employees) will be posted on bulletin boards selected by the Personnel Officer at least seven (7) working days before the selection is made.

SECTION 313 - DEMOTION

The City Manager or Department Head, with City Manager approval, may demote an employee whose ability to perform his required duties falls below acceptable standards; for disciplinary reason set forth in Section 1002; when the need for the position filled no longer exists; or when an employee requests such demotion. No employee shall be demoted to a classification for which he does not possess the minimum qualifications. When the action is initiated by the Department Head, written notice of demotion shall be given to an employee at least five working (5) days before the effective date of the demotion. Any employee may appeal such action in the manner provided in Section 1004, et seq.

SECTION 314 - SUSPENSION

- a) By City Manager. The City Manager may suspend an employee under his control from his position at any time for reasons of pending disciplinary action: for disciplinary reasons set forth in Section 1002; or for other just cause; including but not limited to reasons of inefficiency, incompetence, or physical disability or mental incapacity which cannot be reasonably accommodated by the City.
- b) By Department Head. Department Heads may (for cause as specified in Section A above) suspend an employee for not more than three (3) days (33 hours for sworn personnel)) at any one time without the approval of the City Manager. Written notice of suspension shall be given to an employee within seventy-two (72) hours after such determination. An employee may appeal such action in the manner provided in Section 1004, et. seq.

SECTION 315 - REINSTATEMENT

The City Manager may reinstate any suspended employee for good cause, and may upon such reinstatement compensate, in whole or in part, such employee for time lost.

SECTION 316 - OUTSIDE EMPLOYMENT

Any regular employee desiring to engage in outside employment shall first obtain non-City conflict job approval from his/her Department Head. The employee shall submit a signed statement to the Department Head, naming the prospective employer, address and telephone number, and outlining the proposed duties and hours of work. Approval may be denied if, in the opinion of the Department Head, such outside employment is incompatible with the proper discharge of the employee's official duties. All such approvals shall be subject to review by the City Manager, and shall be re-submitted prior to January 10 each year to maintain a valid, continuous authorization.

Authorization for outside employment is automatically terminated whenever the outside employer and/or nature of outside employment changes from that specified on the signed statement submitted to the Department Head. When such a change occurs, employees shall apply for a new approval for outside employment as provided herein.

CHAPTER 4 – TERMINATION OF EMPLOYMENT

SECTION 401 - TERMINATION; RESIGNATION

An employee wishing to leave the service of the City in good standing either by resignation or retirement shall give the department head concerned a minimum of two (2) weeks notice.

SECTION 402 - TERMINATION; ABSENCE WITHOUT LEAVE

Absence without leave for three (3) consecutive work days or shifts may be deemed to be a resignation and may result in termination of employment as provided in Section 802.

SECTION 403 - TERMINATION; LACK OF WORK OR FUNDS

The City Manager may layoff employees whenever it becomes necessary due to lack of funds or when the City Council determines that it is in the best interest of the City to do so.

Order of Lay off:

Employees may be laid off in the following order: part-time temporary, temporary, regular part-time and regular full-time

Management reserves the right to make final decisions regarding layoffs. If requested by the Association, the City Manager will meet with the Association representatives before implementing layoffs to discuss the factors used to identify individual Association members for layoff.

Bumping:

Any regular full-time employee subject to lay off may exercise bumping rights subject to the following limitations:

- 1) Only regular fulltime employees may exercise bumping rights.
- 2) Seniority for purposes of bumping shall be defined in the City Personnel Rules

- 3) An employee subject to lay off may elect to bump into an equal or lower paying classification provided that:
 - a) the employee previously held regular status in that classification; and
 - b) the employee continues to meet the qualifications for that classification; and
 - c) the City Manager has the authority to approve or deny any bumping.

SECTION 404 - TERMINATION; NON-DISCIPLINARY ACTION

Part-time and probationary employees may be terminated by the Personnel Officer at any time, with or without notice, for cause or for the convenience of the City. Regular employees terminated by the Personnel Officer for cause or for the convenience of the City shall be given a written statement of the reasons for such termination and may appeal such action in the manner provided in Section 1004 et seq. Such cause shall be other than cause for disciplinary action set forth in Section 1002, et seq. and shall include, but not be limited to, inefficiency, incompetence, physical disability, or mental incapacity which cannot be reasonably accommodated by the City.

SECTION 405 - TERMINATION; DISCIPLINARY ACTION

An employee may be terminated at any time through disciplinary action as provided in Chapter 10 of these Rules and Regulations.

SECTION 406 - RETIREMENT; APPLICABLE REGULATIONS

Retirement from the municipal service shall be subject to the terms and conditions of the City's retirement system, as provided under the State Public Employee Retirement System.

Specific details regarding this retirement plan are available to employees from the Personnel Department.

SECTION 407 - EXIT INTERVIEWS AND FINAL PAYCHECK

Any probationary or regular employee terminating employment with the City, may be requested to attend an exit interview with the City Manager and/or their Department Head on or before the last day of employment for the following purposes:

1. To obtain a forwarding address and other pertinent information from the employee

2. To assure that the employee is well informed about all matters related to employee benefits such as conversion of health and medical insurance, etc.
3. To assure the clearance of all obligations with the City and to verify receipt of all City equipment, keys, identification cards, etc.
4. To obtain an opinion from the employee relative to City working conditions and reasons for severing employment with the City.

CHAPTER 5 – COMPENSATION AND HOURS

SECTION 501 - EMPLOYEE COMPENSATION PLAN

An Employee Compensation Plan shall be established to provide salary schedules, salary rates, salary ranges, and steps and time intervals for salary review. Each class in the City classification plan shall be assigned a salary range or a rate established in the Compensation Plan. All persons employed by the City shall be compensated in accordance with the Compensation Plan thereby in effect.

SECTION 502 - ADMINISTRATION AND REVIEW OF EMPLOYEE COMPENSATION PLAN

The City Council shall administer the Employee Compensation Plan for the City Engineer, City Treasurer, City Attorney and City Manager. The Personnel Officer shall administer the Employee Compensation Plan for all other employees.

From time to time, the Personnel Officer shall recommend to the City Council an appropriate salary range for each class. In case the salary range for a class is changed by the City Council, all employees within the class shall have their salaries adjusted to the corresponding step in the new salary range.

SECTION 503 - APPLICATION OF SALARY RANGES AND RATES

- a) Appointments. All initial appointments to classes assigned to a pay range in the City Compensation Plan shall begin at the entry step of the salary schedule, except that the City Manager may make an appointment to a higher salary step when, in his opinion, it is difficult to obtain qualified personnel at the starting salary or when the education and experience of the prospective employee is substantially above that required in the entry level position and justifies a salary in excess of the first step.
- b) Promotion. Any employee receiving a promotion shall start on the first step of the salary range within the class to which he/she is promoted, and shall thereafter be eligible for merit increases as elsewhere provided.

However, if an employee's previous salary is equal to or greater than the first step on the salary schedule to which the employee is promoted, the employee shall be assigned to the step within the salary schedule that provides at least a 5% increase in salary.

If the promotion includes a supervisory position, the promoted employee shall be assigned to a step with an applicable salary above salary level of those supervised.

- c) Transfer. A transfer does not affect an employee's salary level.

SECTION 504 - ADVANCEMENT WITHIN A SALARY RANGE

An employee shall be considered for salary advancement in agreement with the time intervals established in the Employee Compensation Plan and the following provisions:

- a) Automatic. For employees beginning employment at 1st step, advancement to step 2 in a salary range shall be automatic and effective on the first day of the payroll period following the successful and satisfactory completion of the probationary period.
- b) Merit. Merit pay increase above step 2 within an established grade shall not be automatic but may be recommended by the Department Head, and approved by the City Manager. Merit increases may be granted to employees who have demonstrated exemplary job performance review. To be eligible for a merit, the employee shall not have received a Counseling Letter, Written Reprimand or Suspension within the prior 12 months. Nothing herein prevents the granting of merit salary increases prior to the normally allotted time intervals established in the employee compensation plan for such reasons as to reward exceptional performance.

Salary adjustments resulting from an employee's promotion or demotion shall be made effective on the first day of the payroll period following or coinciding with the employee's change of position.

- c) Time Requirements. For purposes of determining the time requirements specified in the Employee Compensation Plan, time will commence on the first day of the payroll period following or coinciding with entrance into a given position.

SECTION 505 - TIME INTERVALS FOR SUBSEQUENT SALARY INCREASES

In the event that an employee's job is reclassified to a lower paying level or his salary is reduced because of inability to meet the standards of a current salary step, the same time intervals for subsequent salary increases as provided in the Employee Compensation Plan shall apply unless special review considerations are established at the time of salary reduction.

SECTION 506 - STANDARD WORK PERIODS

The standard work period for employees shall be forty (40) hours to be worked within seven (7) consecutive days; unless otherwise agreed upon in a Memorandum of Understanding. The workday for part-time employees shall be established and directed by the Department Head.

SECTION 507 - EXCEPTIONS TO STANDARD WORK PERIODS

The City Manager is hereby authorized to designate other work periods and working hours for employees when, in his opinion, the best interest of the city may be served by such adjustment of the standard work periods and hours. The procedure for making adjustments in the standard work periods and hours shall be consistent with the provisions of Sec. 3504.5 of the Government Code.

- a) Flexible Scheduling. Upon approval of the Department Head, and concurrence of the City Manager, employees may be granted flexible scheduling, whereby employees may substitute additional time at work, in increments of thirty (30) minute periods, for an additional day off. Employees must accumulate eight (8) total hours of additional work, in lieu of overtime, for each day off.

SECTION 508 - ATTENDANCE

In every case in which an employee is not present for duty, his or her absence shall be reported by the Department Head to the Personnel Office on the City approved form. Since part-time employees are not entitled to leave, only actual time worked will be reported. All forms shall be forwarded to the Personnel Office.

SECTION 509 - PAY PERIODS

The pay period for all employees shall be semi-monthly and salaries will be paid on approximately the ~~first and fifteenth~~ fifteenth and last day of each month. If the scheduled disbursement day falls on a Saturday then payday will be the preceding Friday. If the scheduled disbursement date falls upon a Sunday the payday will be the following Monday. The method of distributing payroll checks shall be established by the City Manager.

Except for employees being terminated, salaries will be paid only on regular paydays, unless early payment is approved by the City Manager.

Employees leaving the municipal service will normally be paid on the regular pay day following the date of termination and provided that written clearance is obtained

from the Department Head and the employee has returned all City-owned tools, clothing, keys and equipment.

SECTION 510 - COMPUTATION OF SALARY

Salary rates for all authorized City positions are set forth in the Employee Compensation Plan. In the conversion table included in that plan, hourly rates are based on 2080 hours per year.

SECTION 511 - OVERTIME

- a) Policy. All overtime work shall be paid overtime for time worked in excess of the scheduled workday. Use of overtime must be approved prior to it being worked and shall be minimized whenever possible.
- b) Procedure. Overtime shall be compensated at a rate of one and one half (1 1/2) times the regular rate of pay, or compensating time off at the rate of one and one half (1 1/2) hours credit per hour worked to a maximum accrual of eighty (80) hours compensatory time of credit.

Overtime shall commence at the time an employee reaches the place of work and shall continue until released from work or the job is completed.

- c) Approval. All departmental overtime requests for payment shall first be submitted to the Department Head for advance approval if possible. Each department is responsible for providing documentation for overtime payment which shall include: (1) reasons for the overtime, (2) date and time overtime was worked, (3) employee's name, (4) department account number, and (5) number of hours worked.

SECTION 512 - OVERTIME EXCEPTIONS

- a) Overtime not applicable. Overtime compensation provisions in these Personnel Rules shall not apply to Supervisory Employees, Confidential Employees, Department Heads or Council appointed officers.
- b) Court Appearances. Court appearances, for sworn personnel, required in the course and scope of employment shall be compensated at time and one half for time spent in court if such appearance is immediately following a regular work shift or if such appearance is set within one hour's time of the beginning of a regular work shift. A court appearance outside of a regularly scheduled duty shift shall be considered overtime and shall be compensated at time and one half.

- c) A minimum of four (4) overtime hours shall be recorded for any such appearance(s) prior to 1:00 p.m. A separate minimum of four (4) overtime hours shall be recorded for any such appearance between 1:00 p.m. and 6:00 p.m.

SECTION 513 - CALLBACK TIME

- a) Employees other than Supervisory Employees, Confidential Employees, and Department Heads who are required to return to work after completion of their work shift shall receive a minimum of two (2) hours pay at the overtime rate. Sworn police department personnel shall receive a minimum of three- (3) hours overtime pay. Hours worked in excess of the two (2) hours or three (3) hours shall be paid in the manner provided in SEC. 511. Overtime compensation shall commence at the time an employee reaches the place where he/she is directed to report.
- b) As a convenience to an employee and the employee's use of personal time, the City will provide a cellular phone to any police department employee placed on standby, provided the employee is able to appear for duty within 30 minutes.

SECTION 514 – STAND-BY PAY: POLICE

- a) Employees assigned to standby during their normal off-duty time of a regularly scheduled duty day shall receive one (1) hour at straight CTO credit for each 24-hour period.
Employees assigned to standby on a regularly scheduled day off shall receive two (2) hours at straight CTO credit for each 24 hour period. A 24-hour period is defined as beginning at 12:00 am and ending at 11:59 p.m.
- b) Employees assigned to one week on standby shall receive eight (8) hours at straight CTO credit.
- c) Except for employees on weekly standby, if an employee is called out while on standby, the callout provisions supercede and no standby time will be paid.

SECTION 515 – STAND-BY PAY: NON-POLICE

- a) Employees assigned to standby shall be provided with a pager and/or a cellular phone and shall be able to report to the work site within 30 minutes. Employees on standby shall have the option to trade weeks with another qualified employee, with prior approval of the department head.
- b) Duties during standby may include 2 hours on Saturday and 2 hours on Sunday to clean and inspect City parks and public buildings and other tasks as assigned by the Public Works Director.

- c) Compensation for standby duty shall consist of a minimum of two (2) hours of CTO, plus straight CTO time for any additional hours over the minimum.

SECTION 516 - DEDUCTIONS FROM PAY

Deductions from employee's pay shall be made in accordance with prevailing laws, contract and administrative rules and procedures established by the City Manager.

SECTION 517 - PAID HOLIDAYS

- a) Regular holidays for pay purposes. The following holidays are recognized as municipal holidays for pay purposes and all regular and probationary employees shall have these days off:

1. January 1
2. Martin Luther King, Jr's. Birthday
3. Third Monday in February
4. Last Monday in May
5. July 4
6. Labor Day
7. Veteran's Day
8. Thanksgiving Day
9. The day after Thanksgiving
10. December 25
11. Floating Holiday (in lieu of Columbus Day)

When a holiday falls on a Saturday, the proceeding Friday shall be deemed to be the holiday in lieu of the day named. When a holiday falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day named.

Whenever an employee (excluding those employees assigned to the 4/11 schedule) is required to work on a fixed holiday or the fixed holiday falls on the employee's regularly schedule day off, the employee shall accrue, on an hour for hour basis, up to a total of eight (8) hours floating holiday time.

For employees assigned to a 4/10 schedule, whenever a holiday falls on the employee's regularly scheduled work day, a two (2) hour deduction will be made from the employee's regular CTO account, then vacation account. This two (2) hour deduction is necessary to account for the ten (10) hour day.

Employees on leave without pay the last scheduled work day before and/or after the first schedule day after a fixed holiday shall not receive holiday pay.

- b) Police Department Personnel. The first pay period of January, employees assigned to the 4/11 schedule shall be credited with eighty-eight (88) hours of holiday time, reduced by twenty-two (22) hours for payback of the 4/11 schedule, for a net of sixty-six (66) hours. Hours are credits at 5.5 hours per month. When an employee's employment is discontinued, by either the employee or City, any deficit hours used above those earned shall be deducted from the employee's final paycheck. Employees assigned to the 4/11 schedule are not entitled to any additional compensation when the holiday falls on their regular work day.
- c) All holiday time in the employee's holiday time account shall be taken as time off or shall be forfeited at the end of the calendar year. (The end of the calendar year is defined as the last day of the last full pay period, end on or before December 31.) Holiday time shall not be cashed out upon termination of employment.
- d) Prior to an employee's promotion to a management classification, all holiday time in excess of fifty (50) hours shall be compensated in cash at straight time rates.

Payments for accrued paid days in lieu of holidays shall be at the employee's regular rate of pay.

SECTION 519 - COMPENSATION DURING ATTENDANCE AT TRAINING COURSES DURING VACATION, HOLIDAYS, AND DAYS OFF

City employees should feel free to attend training courses available during their vacation, holiday or days off if they so desire. However, compensation for attendance at training courses held during days off (weekends), vacations, or holidays will be authorized only where employees have been directed by their Department Head to attend such, on the following basis:

1. Holidays. Employees directed to attend training courses on a holiday will be compensated as provided in Sec. 517.
2. Vacation. Employees directed to attend training courses held on their vacation days will be allowed to reschedule their vacation days spent in such training courses in lieu of compensation.

SECTION 520 EDUCATION INCENTIVE

- a) Tuition Reimbursement. Regular city employees are eligible to receive tuition reimbursement for educational purposes which clearly improve their ability to accomplish their City jobs.

Eligibility for such reimbursement shall be applicable to regular employees and shall be based upon:

1. The satisfactory completion of the course (passing grade of "C") or its numerical equivalent.
2. The course must be offered by an accredited college or university, or must be an approved correspondence course.
3. The course attendance and outside course work will be accomplished on the employee's non-work time.
4. The prior approval of the Department Head and the City Manager.

If an employee leaves the City Service within one (1) year after the completion of any course paid for by the City, the cost of such course will be deducted from the employee's last pay check.

Reimbursement shall be made in accordance with appropriate administrative procedures (see Personnel Policy Statement 1).

- b) Recognition Of Employees Who Complete City Authorized Training Programs. Employees who complete City authorized job-training programs, either in service or by volunteer study, will receive official City and public recognition by a presentation of any certificate of completion at a regular City Council meeting. It shall be the responsibility of each Department Head to notify the City Manager's office concerning an employees' eligibility for certificate presentation and appropriate scheduling on Council Agenda.

Employees scheduled on the Council Agenda for certificate presentation are encouraged to be in attendance at the council meeting.

SECTION 521 - COMPENSATION FOR USE OF PRIVATE AUTOMOBILE IN CITY BUSINESS

City employees may receive compensation for use of their personal vehicle in City business in the amounts listed in the Employee Compensation Plan. Use of any private vehicle must be approved by the employee's Department Head in advance and is subject to the provision of appropriate administrative procedure. There will be no authorization for use of City credit cards, gas or other City materials, equipment or supplies in conjunction with the use of a private vehicle.

SECTION 522 - UNIFORM ALLOWANCE

Regular Police personnel required to wear uniforms in the performance of their duties shall receive an allowance as provided in the Employee Compensation Plan.

Such allowances are to be used to acquire and maintain the specific departmental uniform in a neat and proper manner. Uniform allowance payments shall be made quarterly. New officers, upon approval of the Police Chief, may draw an advance on their uniform allowance to purchase their uniforms. Should the officer leave city service prior to accruing the uniform allowance advance, such outstanding advances shall be deducted from the officer's final compensation.

Other Regular City employees may receive uniform allowances when they are approved in the budgets of the respective departments.

SECTION 523 – INCENTIVE PAY; CONFIDENTIAL AND SUPERVISORY

The following incentive pay shall apply to all confidential and supervisory employees as classified by the City Manager:

Bilingual Pay: Employees who are certified as Bilingual in English-Spanish both spoken and written, shall receive additional compensation in the amount of two and one-half percent (2.5% of base pay). Said certification shall be determined by the City. Bilingual employees shall be fluent to a level so as to easily communicate with Spanish speaking customers and the public on City business matters.

Education: Employees who have obtained a job related Bachelor or Associate of Science or Arts Degree from an accredited college shall receive additional compensation in the amount of three percent (3%) of base pay. Job related degrees may include as appropriate: construction or project management, building science, engineering, water and wastewater management, business administration and accounting. Employees whose job description, notice or advertisement includes the degree as a prerequisite are not eligible for the incentive.

CHAPTER 6 – SICK LEAVE

SECTION 600 - STATEMENT OF POLICY

Sick leave shall not be treated as a privilege, which an employee may use at his/her own discretion but shall be granted only upon the approval of the Department Head. Sick leave shall be allowed and used only in case of necessity and actual personal sickness or disability, medical or dental treatment, or in case of an emergency illness in the immediate family which requires the employee's personal care and attendance. Immediate family shall mean the spouse, parent, child, brother, sister, or registered domestic partner residing in the household of the employee.

Nothing shall abridge the City's right to discipline an employee for abuse of sick leave or excessive absenteeism.

No sick leave shall be payable for any sickness, disability or injury which results or occurs as follows:

1. Intentionally self-inflicted;
2. Participation in a criminal act;
3. Participation in a riot;
4. Working for an employer other than the City;
5. During vacation unless the employee was confined to a hospital;
6. During a layoff, leave of absence or disciplinary suspension; and/or
7. After the termination date.

SECTION 601 - ELIGIBILITY

- a) Regular and probationary employees shall be eligible to accrue sick leave. Such employees shall be entitled to use sick leave, as authorized in this Chapter, upon the completion of three (3) months of employment with the City.

Notification and certification. In order to receive compensation while absent on sick leave, the employee shall notify his/her Supervisor and/or Department Head at the beginning of the workday he/she is absent. The employee may be required at any time, by the Department Head, to file a physician's certificate or a personal affidavit stating the cause of the absence and attesting to the employee's ability to resume work. However, when an employee is absent due to illness or injury for three (3) or more work days, a physician's certificate or a personal affidavit shall be required. The City shall revoke pay, sick leave time and take appropriate disciplinary action if the employee using sick leave is not sick or has engaged in private or other public work while on sick leave.

SECTION 602 - ACCRUAL

Sick leave shall be accrued monthly, beginning with the first month of employment, provided the employee has been in pay status for 50% or more of the first month or any month thereafter. Sick leave shall be accrued at the rate of eight (8) hours per month for all City employees. Employees shall not accrue sick leave for any pay period during which they are on layoff or other leaves of absence without pay.

SECTION 603 - DEDUCTION

Unless otherwise provided, sick leave will be deducted as follows:

- a) All employees. All City employees shall be charged sick leave hour for hour for days or portions of days absent (i.e. police department employees working an 11 hour shift would deduct 11 hours sick leave per day absent; employees working an 8 hour shift would deduct 8 hours sick leave for each full day absent). Unless exceptions are approved by the City Manager, absences less than a full day will be charged sick leave at the rate of one (1) hour sick leave for each hour and in one quarter hour fractions or portions of an hour, e.g., for ten (10) minutes, one quarter hour, for sixteen (16) minutes, one-half hour, etc.

SECTION 604 - USE AND ACCUMULATION

Sick leave may be accrued to a maximum of one thousand four hundred and seventy-two (1,472) hours.

Sick leave may be used as needed and approved, to the point of depletion, at which time the employee will no longer receive pay for sick leave.

Sick leave will not be granted for illness occurring during any leave of absence other than sick leave, with one exception: Any illness or injury occurring while on vacation leave may be covered by sick leave when such illness or injury causes the employee to be hospitalized.

SECTION 605 - FUNERAL LEAVE

Up to three (3) days sick leave may be granted a regular employee by the head of a department in the event of death in the employee's family. For the purposes of this section only, the employee's family shall mean the spouse, parent, child, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandparents, or registered domestic partner residing in the house of the employee. Request for sick leave in excess of three (3) days for this purpose shall be subject to approval of the City Manager.

SECTION 606 - LEAVE FOR PREGNANCY DISABILITY

- a) Employees are entitled to use their accumulated sick leave for disabilities caused, or contributed to, by pregnancy, miscarriage, childbirth, and recovery therefrom on the same terms and conditions governing the use of sick leave for other illness or medical disability. Such leave shall not be used for child care, child rearing, or preparation for child rearing, but shall be limited to those disabilities as set forth above. The length of such leave, including the date on which the leave shall commence and the date on which the duties are to be resumed, shall be determined by the employee and her physician.
- b) After paid sick leave has been exhausted, employees are entitled to additional leave without pay up to a total combined leave of four (4) months for disabilities because of pregnancy, miscarriage, childbirth or recovery therefrom or as stated under Sec.805.

SECTION 607 WORKER'S COMPENSATION-POLICE DEPARTMENT PERSONNEL

Any sworn employee of the Police Department who is entitled to the benefit of Labor Code Section 4850, who is absent from work by reason of an injury or illness covered by Worker's Compensation, shall be allowed up to one year leave of absence, as required by the his/her condition, with the City supplying the difference between the amount granted pursuant to such Worker's Compensation and the employee's regular rate of pay.

- a) A sworn employee of the Police Department who is absent from work by reason of an injury or illness covered by Worker's Compensation will continue to accrue sick leave and vacation benefits and consideration for normal salary increases as though he/she were not on leave of absence; but shall not receive credit for holidays or paid days in lieu of holidays.

- b) Whenever such disability is temporary in nature, an employee of the Police Department may continue on leave of absence for a period beyond one year, until the expiration of the employee's accrued sick leave, vacation and previously accrued compensating time off for overtime and paid days in lieu of holidays, calculated to the nearest one-half day, which compensation at the employee's regular rate of pay.
- c) Whenever it appears that a Police Department employee's disability is permanent in nature and the employee cannot return to work either with or without accommodation by the expiration of a period of one year from the commencement of such disability, disability retirement may be requested by the City, pursuant with the provisions of the City Retirement Plan, to become effective at the end of such one year period, unless the employee applies for or consents to be compensated for all of his/her accrued benefits at his/her regular rate of pay, excepting for accrued sick leave which shall be forfeited.
- d) An employee of the Police Department who is receiving any disability indemnity payments, either temporary or permanent, under worker's compensation who is also receiving his/her regular paycheck during such time as he/she is entitled to his/her regular rate of pay from the City.
- e) No employee of the Police Department shall receive wage and salary payments from the City after a period of five years from the date of injury for any one injury.
- f) Family and Medical Leave shall run concurrently with Workers' Compensation time off.

SECTION 608 - WORKER'S COMPENSATION-ALL OTHER EMPLOYEES

Any employee who is absent from work by reason of an injury or illness covered by Worker's Compensation shall continue in pay status under the following provisions:

- a) The difference between the amount granted pursuant to such Worker's Compensation and the employee's regular rate of pay shall be deducted from the employee's accumulated sick leave, compensatory time, and when authorized by the employee, vacation days.
- b) Such an employee will continue in pay status and receive his/her regular rate of pay until accumulated sick leave, compensatory time, and vacation days have been depleted to the nearest one-half (1/2) day.
- c) During this time the employee is in pay status while absent from work by reason of injury or illness covered by Worker's Compensation, shall continue to accrue sick leave and vacation benefits as though the employee were not on leave of absence; but shall not receive credit for holidays;

- d) Family and Medical Leave shall run concurrently with Worker's Compensation time off.
- e) Any employee who depleted his/her accumulated sick leave, compensatory time, holidays, and vacation days to maintain pay status while absent from work by reason of an injury or illness covered by Workers' Compensation shall be removed from pay status and be covered under provisions of Section 610.

SECTION 609 - LIGHT DUTY ASSIGNMENTS

The City's policy may be to place injured employees (where injuries are temporary in nature) covered under Worker's Compensation in light duty assignments whenever possible as outlined below:

1. Light duty assignments may be applied in accordance to the employee's limitations as determined by the employee's physician.
2. The purpose of such light duty assignments is to provide the injured employee with productive city activities until he/she is ready to return to full duty.
3. If no light duty work is available, the City shall not be required to create a light duty assignment.

SECTION 610 - DEPLETION OF SICK LEAVE BENEFITS

When an employee has been off work due to an injury or illness and upon depletion of Family and Medical Leave time and/or accumulated sick leave, and when all accrued time has been exhausted, and upon the recommendation of the employee's Department Head, an employee may be placed on medical leave of absence without pay for a period not to exceed sixty (60) days. If the employee is unable to return to work at the end of this period, he must request further medical leave which will be subject to approval of the City Manager. If further leave is granted, the employee must notify the City of his/her intent to return to work every (30) days. If further leave is not granted the employee's service with the City shall be considered terminated.

SECTION 611 - WELLNESS INCENTIVE PLAN

Employees other than management, supervisory and confidential shall have the option each year of converting sick leave to cash at the employee's regular rate of pay on an hour for hour basis subject to the following conditions:

1. The employee must have a minimum of four hundred (400) hours of accumulated sick leave after conversion;
2. The employee must not have used more hours than the equivalent of four (4) work day shifts during the previous calendar year;
3. The employee must notify the City of the employee's desire to convert sick leave to cash prior to April 1 each year.

Having met these conditions, the employee will be able to convert up to 48 hours of such leave. Payment will be made on or before May 1 each year, provided the employee submits a Personnel Action Form requesting sick leave conversion prior to April 1.

SECTION 612 - FORFEITURE UPON TERMINATION

Accumulated sick leave shall be forfeited by all employees upon leaving the municipal service, whether voluntarily or by termination and whether by reason of retirement for disability, age, or for any reason whatsoever.

SECTION 613 - TRANSFER OF SICK LEAVE BETWEEN EMPLOYEES

Any employee suffering from a long-term, non-job related illness may request the voluntary transference of sick leave from other employees to his/her account. Such requests are subject to review by the Department Head and subject to final approval by the City Manager.

Eligibility shall be based upon the following conditions:

1. The subject employee must first deplete all of his/her personal accrued sick leave and comp time and at least 50% of vacation time before any transfers of sick leave shall be provided.
2. No employee shall receive transfers of more than 500 hours, nor shall any individual employee donate more than 80 hours of sick leave or more than 10 percent of his/her accrued sick leave per calendar year.
3. No employee shall lobby or otherwise pressure any other employee to donate or transfer sick leave.
4. Time that has been donated to an employee which is unused shall be placed in a sick leave bank to be provided to employees who meet the above conditions.

CHAPTER 7 - VACATION LEAVE

SECTION 701 - USE OF VACATION

The purpose of annual vacation leave is to enable each eligible employee to return to his work mentally refreshed. For this reason, it is the intention of the City that vacation be taken, insofar as possible, in periods of one week or more.

- a) **Scheduling Vacations.** The time at which an employee may use his/her accrued vacation leave and the length of the vacation leave shall be determined by his Department Head with particular regard for the needs of the City, but also insofar as possible, considering the wishes of the employee.
- b) **Request For Vacation.** Each employee wishing to schedule a vacation should request such vacation leave as far in advance as possible, but usually at least one (1) week in advance of the requested vacation period. Vacation requests submitted prior to March 31 of each year shall be approved by seniority whenever possible.
- c) **Request for Vacation – Police.** Employees who submit requests for their priority vacations at least thirty (30) days prior to the posting of the six (6) month shift schedule shall receive every effort in order to accommodate their vacation request. Vacation requests shall be approved by seniority. Vacation requests submitted after the posting of the six (6) month shift schedule are subject to the approval of the Department Head on a first submission basis.
- d) **Double Compensation Prohibited.** Employees shall not work for the City during their vacation.

SECTION 702 - ELIGIBILITY

Regular employees shall be eligible for vacation leave after twelve (12) months employment with the City, while part-time and temporary employees shall not be eligible for vacation leave.

SECTION 703 - VACATION ACCRUAL

A. Vacation will be accrued and credited on a monthly basis beginning on the date of the employee's regular employment. Each eligible employee shall accrue vacation at the

following rate, for continuous service performed in pay status:

<u>Years of Continuous Service</u>	<u>Days Earned Monthly</u>	<u>Days Earned Annually</u>	<u>Maximum Days of Accumulation</u>
1 – 5	5/6	10	20
5 -15	1 - 1/4	15	30
After 15 years	1 - 2/3	20	40

B. No employee shall accumulate more vacation than provided above, except that no employee shall lose vacation due to the business needs of the City.

SECTION 704 - HOLIDAYS FALLING DURING VACATION

In the event a City holiday falls within an employee's vacation period which would have excused the employee from work and for which no other compensation is made (see Sec. 517 of the City's Merit System Rules and Regulations) said holiday shall not be charged as a vacation day.

SECTION 705 - VACATION AT TERMINATION

Employees leaving the Municipal Service with accrued vacation leave shall be paid the amounts of accrued vacation to the date of termination.

Payments for accrued vacation shall be at the employee's current rate of pay.

SECTION 706 - EFFECT OF EXTENDED MILITARY LEAVE

An employee who interrupts his/her municipal service because of extended military leave shall be compensated for accrued vacation at the time the leave becomes effective.

SECTION 707 - VACATION - INDUSTRIAL INJURY

Vacation shall not be used to extend a date of industrial disability retirement.

CHAPTER 8 - OTHER LEAVES OF ABSENCE

SECTION 801 - LEAVE OF ABSENCE WITHOUT PAY

- a) The City Manager, in his/her unrestricted discretion, may grant a regular or probationary employee leave of absence, without pay or accrual of seniority, for a period not to exceed three (3) months. After three (3) months, the leave of absence may be extended if so authorized. No such leave shall be granted except upon written request of the employee, setting the reason for the request, and the City's response shall be in writing. Upon expiration of a regularly approved leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated to the same or similar position held at the time leave was granted. Failure on the part of an employee on leave to report promptly to work at the expiration of the leave, shall be deemed to constitute a discharge. The depositing in the United States mail a first class letter, postage paid, addressed to the employee's last known place of address shall be reasonable notice.
- b) Department Heads may grant a regular or probationary employee leave of absence without pay for periods not to exceed one calendar week. Such leaves shall be reported to the Personnel Officer.

SECTION 802 - ABSENCE WITHOUT LEAVE

Absence without leave shall be considered to be without pay, and reductions in the employee's pay shall be made accordingly. Absence without leave for three (3) consecutive days may result in termination of employment. The City Manager, in considering such termination, may consider all circumstances including the employee's ability to contact his/her supervisor.

SECTION 803 - LEAVE OF ABSENCE: DEATH OUTSIDE THE IMMEDIATE FAMILY

Leave without pay, in accordance with Sec. 801, may be granted to a regular employee in the event of death to family members outside of the immediate family.

SECTION 804 - MILITARY LEAVE OF ABSENCE

- a) Military leave shall be granted in accordance with applicable state and federal laws. All employees entitled to military leave shall give the appointing power an opportunity within the limits of military regulations to determine when such leave shall be taken.
- b) The employee shall furnish to the City satisfactory proof of his/her order to report for duty and of his/her actual service pursuant to such orders.

SECTION 805 - FAMILY CARE AND MEDICAL LEAVE

- a) Up to three (3) months of cumulative unpaid leave with health benefits shall be granted to any regular City employee for any one of the following conditions, as pursuant to the 1993 Family Medical Leave Act and/or California Family Rights Act:
 - 1. Parental Leave. Leave shall be granted to care for the employee's child after birth, or for placement for adoption, or for foster care.
 - 2. Family Leave. Leave shall be granted for the care of an employee's spouse, son or daughter, or parent, or registered domestic partner who has a serious health condition requiring an absence of more than three (3) days.
 - 3. Medical Leave. Leave shall be granted for a serious health condition, requiring an absence of more than three (3) days, that makes the employee unable to perform his/her job.
- b) Upon return from leave for such conditions provided, an employee will be reinstated to his/her original position, or a position of equivalent pay and benefits.
- c) The City shall require the employee to provide advance notice and may require appropriate medical certification within fifteen (15) days of leave. Ordinarily, the employee must provide thirty (30) days of advance notice when the leave is foreseeable. If these requirements are not met, leave may otherwise be denied.
- d) Family Care and Medical Leave shall be cumulative and an employee may not accumulate more than three (3) months total leave within a 12 month period commencing the first of the calendar year.
- e) Employees shall be required to use accrued sick time or vacation leave concurrently with Family and Medical Leave so long as such paid leave is available.

- f) Family Care and Medical Leave shall run concurrently with Worker's Compensation time off.
- g) Such leave may be intermittent or may be applied on a reduced schedule basis only in cases where it is deemed medically necessary by the employee's physician and is further approved by the City Manager.
- h) Additional leave of absence will be covered under the provisions authorized in Sec. 801.

SECTION 806 - EMPLOYEE'S TIME OFF TO VOTE

Time off with pay to vote at any general, direct primary, or presidential primary election shall be granted as provided in the State of California Elections Code, and notice that an employee desires such time off shall be given in accordance with the provisions of said Code.

SECTION 807 - SUBPOENAS: LEAVE OF ABSENCE

Regular employees who are subpoenaed to appear as witnesses on behalf of the State of California or any of its agencies may be granted leave of absence with pay from their assigned duties until released. The employee shall remit all fees received for such appearances to the city within sixty (60) days from the termination of services. Compensation for mileage or subsistence allowance shall not be considered as a fee and may be retained by the employee.

SECTION 808 - LEAVE FOR ATTENDANCE AT INDUSTRIAL ACCIDENT COMMISSION HEARINGS OR RELATED PHYSICAL EXAMINATIONS

Employees who have been injured in the course and scope of their employment with the City and who are required, as a result of such injury, to be absent from duty to take physical examinations required by the City's Workman's Compensation Insurer or the Industrial Accident Commission or to attend hearings of the Industrial Accident Commission may be granted leave with pay for such absences by the City Manager when he/she determines such absences are in the best interest of the City and only if the employee in pay status at the time of the scheduled examination or hearing. Applications for such leaves of absences shall be filed in advance on the City of Newman Personnel Action Forms.

SECTION 809 – MANAGEMENT LEAVE

Management and supervisory employees who are not eligible for overtime or call back pay shall be granted management leave each calendar year (January 1).

Management leave is accrued at the following rates:

Supervisory and confidential:	3.33 hours per month - five days per year.
Mid Management:	3.33 hours per month - five days per year
Department Heads	6.67 hours per month - ten days per year

Employees may use this allotted management leave prior to its actual accrual. Should the employee leave city service with a deficit, that amount shall be subtracted from any accrued vacation leave that is cashed out.

Scheduling of management leave shall be done in the same manner as vacation scheduling as outlined in Chapter 7. Maximum accrued management leave shall be 10 days for supervisory and confidential and 20 days for management. Accrued management leave will not be cashed out at the end of employment.

SECTION 810 – JURY DUTY

Every regular employee of the city who is called or required to serve as a trial juror, upon notification and appropriate verification submitted to his/her supervisor, shall be entitled to be absent from his/her duties with the City during the period of such service or would necessarily being present in court as a result of such call. Employees shall report back to work if they are excused from jury service in the middle of the day or earlier. The employee's normal pay shall be reduced by the amount of pay received for jury duty.

CHAPTER 9 - PROBATIONARY STATUS

SECTION 901 - PROBATIONARY PERIOD

All original and promotional appointments to regular municipal service positions shall be tentative and subject to a probationary period of twelve (12) months. The probationary period may be extended with the approval of the City Manager for a period not to exceed six (6) additional months where the department head finds that extraordinary conditions justify such extension.

SECTION 902 - OBJECTIVE OF PROBATIONARY PERIOD

The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of any new employee to the position, and for rejecting any probationary employee whose performance does not meet an acceptable standard of work.

SECTION 903 - PROBATIONARY EMPLOYEE PERFORMANCE REPORTS

A performance report of each probationary employee shall be made by the Department Head, or his/her designee, on "City of Newman Performance Evaluation" forms according to the directions thereon and forwarded to the Personnel Office. The Employee Performance Evaluation Form shall be filed by the Department Head upon the completion of the employee's sixth and twelfth month of service with the City.

In other cases where the probationary period extends beyond twelve months, the Employee Performance Evaluation form shall be required from the Department Head at the conclusion of each six-month interval.

SECTION 904 - REJECTION OF PROBATIONER

During the probationary period, an employee may be terminated at any time, subject to the approval of the City Manager, without cause and without the right to appeal.

SECTION 905 - REJECTION FOLLOWING PROMOTION

Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the position from which the employee was promoted or a comparable position, if vacancies exist, unless charges are filed and the employee is discharged.

Employees who elect a voluntary demotion after the twelve (12) month probationary period from a promotional appointment may be reinstated to the position from which the employee was promoted or to a comparable position subject, however, to the vacancies available at that time.

CHAPTER 10 - DISCIPLINARY PROCEEDINGS

SECTION 1001 - DISCIPLINARY ACTION; DEFINITION

As used in this chapter, "Disciplinary Action" shall mean discharge, demotion, reduction in salary, written reprimand, disciplinary probation or suspension.

SECTION 1002 - CAUSES FOR DISCIPLINARY ACTION

Causes for disciplinary action against any employee may include, but shall not be limited to, the following:

1. Fraud or dishonesty in securing appointment.
2. Unsatisfactory performance or inexcusable neglect of duty.
3. Insubordination or willful disobedience.
4. Dishonesty
5. Consumption of or being under the influence of alcoholic beverages or narcotics while on duty.
6. Unlawful use, sale or possession of narcotics or habit-forming drugs.
7. Commission or conviction of a felony, or of a misdemeanor involving moral turpitude.
8. Discourteous treatment of the public or other employees.
9. Unlawful political activity.
10. Repeated violation of safety procedures.
11. Misuse or unauthorized use of City property.
12. Violation of any of the provisions of these Merit System Rules and Regulations or departmental rules and regulations.
13. Other failure of good behavior either during or outside of duty hours which is of such a nature that causes discredit to the City.
14. Refusal to take or subscribe to any oath or affirmation which is required by law in connection with his/her employment.
15. Theft of City Property.
16. Failure to maintain required certifications or licenses.

SECTION 1003 – DISCIPLINARY ACTION

The City of Newman promotes a disciplinary system which provides positive motivation through progressive discipline applied fairly and consistently.

If an alleged wrongdoing by an employee is brought to the attention of the immediate supervisor and/or the department head, the following steps should be considered and necessary action taken:

- Nature of the Discipline Action
- Date of the Violation
- Causes for the Discipline
- Act(s) Committed Causing Discipline
- Documentation supporting the Violation
- Right to Appeal

In notifying an employee of disciplinary action, the above information shall be provided to the employee.

Stages of Progressive Discipline may include the following:

1. Verbal Warnings shall be given for minor violations of employee conduct standards or rules or other City policies deemed to be minor in nature.
2. Written Reprimand may be given for first time minor violations or repeated minor violations.
3. Suspensions may be given for major violations of conduct standards, work rules or policies and procedures deemed necessary to require suspension. All suspensions greater than three days must be approved by the City Manager.
4. Disciplinary Probation may be given for major violations of conduct standards, work rules or policies and procedures or repeated violations of minor or major conduct standards, work rules or policies and procedures. Employees on Disciplinary Probation may be dismissed without right to appeal.
5. Dismissal from employment may be necessary after one or all of the following:
 - continued violation of conduct standards, work rules or policies after proceeding through the above steps of progressive discipline.
 - violation of a major conduct standard or work rule which the Department Head and City Manager deem serious enough to warrant dismissal.

Copies of all disciplinary actions shall be forwarded to the Personnel Officer for inclusion in the employee's personnel file.

Dismissal Procedures:

Any department head who feels an employee has reached a point where dismissal is necessary should present the documentation to the City Manager in writing. After

approval from the City Manager, the City Attorney shall be directed to prepare the "Notice of Intent to Dismiss" letter.

The "Notice of Intent to Dismiss" letter shall be given to the employee and the employee placed on immediate paid Administrative Leave.

SECTION 1004 - RIGHT TO APPEAL

Any disciplinary action involving Suspension, Demotion, Reduction in Pay or Dismissal may be appealed to the City Manager. If the employee receiving the discipline desires to appeal the action he/she shall provide written notice of appeal within (10) ten working days of receipt of the notice of discipline.

Following receipt of the appeal, the City Manager will schedule an appeal hearing within 30 days. The City may extend or the employee may request an extension of the appeal hearing not to exceed 30 days. Following the hearing the City Manager shall have 10 working days to submit a written response to the appeal.

An employee may be represented by a union representative or by any other employee other than supervisory, management or confidential employees. The employee must be present at the hearing.

The City Manager shall issue notices to appear to all witnesses, employed by the City, requested in writing by the employee or representative. All costs incurred for witnesses on behalf of the employee shall be paid by the employee.

The City Manager shall be the final level of appeal for all personnel matters. If it is deemed necessary under applicable law or under the determination of the City Manager, a court recorder may be used for hearings involving termination.

SECTION 1005 - EFFECT OF CERTAIN DISCIPLINARY ACTIONS

- a) Suspension. Employees suspended from the municipal service shall forfeit their rights, privileges and salary while on such suspension with the exception of Group Health and Life Insurance benefits.
- b) Discharge. Employees terminated pursuant to this policy shall be paid salary accumulated to the effective date of termination only and shall be paid for accumulated vacation and accumulated compensatory time.

SECTION 1006 - RELEASE OF INFORMATION RELATIVE TO DISCIPLINARY ACTION AGAINST MUNICIPAL EMPLOYEES

In the interest of preventing undue embarrassment and subsequent loss of ability to perform City work in an effective manner, no information will be released by the

Department Head without prior approval of the City Manager, and in accordance with state and federal law.

CHAPTER 11 – GRIEVANCE PROCEDURES

SECTION 1101 - PURPOSE OF CHAPTER

Grievance procedures for employees are provided herein:

1. To promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by other means.
2. To afford employees individually or through the employee organization a systematic means of obtaining further considerations of problems after every other reasonable effort has failed to resolve them through discussions.
3. To provide that grievances be settled as near as possible to the point of origin.
4. To provide that grievances shall be heard and settled as informally as possible.

SECTION 1102 - MATTERS SUBJECT TO GRIEVANCE PROCEDURES

Any regular full-time or part-time employee shall have the right to present a grievance regarding wages, salaries, hours and working conditions for which appeal is not provided or is not prohibited under the provisions of Chapter 10 of these rules.

SECTION 1103 - INFORMAL GRIEVANCE PROCEDURE

An employee should first attempt to resolve a grievance through discussion with his immediate supervisor without undue delay. If, after such discussion, the employee does not believe the problem has been satisfactorily resolved, the employee shall have the right to discuss it with this supervisor's immediate superior, if any. Every effort should be made to find an acceptable solution by informal means at the most immediate level of supervision. If the employee is not in agreement with the decision reached through such discussion, he shall then have the right to file a formal grievance with the Department Head, in writing, within ten (10) working days after receiving the informal decision of his superior or superiors. An informal grievance shall not be taken above the Department Head.

SECTION 1104 - FORMAL GRIEVANCE PROCEDURE

After the exhaustion of the informal grievance procedure, the formal grievance procedure shall proceed as follows:

- a) Department Head Review. The grievance shall be presented in writing to the employee's Department Head who may discuss the grievance with the employee, his representative, if any, and with any other appropriate persons. The Department Head shall render his decision and comments in writing and return them to the employee within fifteen (15) calendar days after receiving the grievance. If the employee does not agree with the decision reached, or if no answer has been received within fifteen (15) calendar days, he may present the grievance in writing to the City Manager. Failure of the employee to take further action within ten (10) working days after receipt of the decision will constitute withdrawal of the grievance.
- b) Decision. If the grievance is presented directly to the City Manager, the City Manager shall discuss the grievance with the employee, his representative, if any, and with all other appropriate persons. The City Manager shall render a decision in writing to the employee within (10) working days after receiving the grievance. The decision of the City Manager shall be final.

SECTION 1105 - CONDUCT OF GRIEVANCE PROCEDURE

- a) Time Limits. The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.
- b) Representation. The employee may request the assistance of another person chosen by the employee in preparing and presenting a grievance at any level of review.
- c) Non-reprisal. Employees shall be free from reprisal for using the grievance procedure.

CHAPTER 12 - SUBSTANCE USE AND REHABILITATION

SECTION 1201 – POLICY

The City is concerned about the use of alcohol, illegal drugs, or controlled substances as it affects the workplace. Use of these substances, whether on or off the job can detract from an employee's work performance, efficiency, safety, and health, and therefore seriously impair the employee's value to the City. In addition, the use or possession of these substances on the job constitutes a potential danger to the welfare and safety of other employees and exposes the City to the risks of property loss or damage, or injury to other persons.

Furthermore, the use of prescription drugs and/or over-the-counter drugs also may affect an employee's job performance and may seriously impair the employee's value to the City.

The following rules and standards of conduct apply to all employees during the workday (including meals and rest periods). Behavior that violates the policy includes:

- Possession or use of an illegal or controlled substance, or being under the influence of an illegal or controlled substance, including alcohol while on the job;
- Driving a Company vehicle while under the influence of alcohol or an illegal or controlled substance; and
- Distribution, sale, or purchase of an illegal or controlled substance while on the job.

Violation of these rules and standards of conduct will not be tolerated. The City also may bring the matter to the attention of appropriate law enforcement authorities.

Any employee who is using prescription or over-the-counter drugs that may impair the employee's ability to safely perform the job, or affect the safety or well-being of others, must notify a supervisor of such use immediately before starting or resuming work.

In addition, blood or urine samples or other medical tests may be taken and screened by a laboratory for the presence of drugs or alcohol whenever the City has reason to believe that such employee is under the influence of drugs or alcohol.

Employees who violate this policy are subject to discipline, including immediate termination. However, the City will encourage and reasonably accommodate employees with alcohol or drug dependencies to seek treatment and/or rehabilitation. Employees desiring such assistance should request a treatment or rehabilitation leave. The City is not obligated, however, to continue to employ any person whose performance of essential job duties is impaired because of drug or alcohol use, nor is the City obligated to re-employ any person who has participated in treatment and/or

rehabilitation if that person's job performance remains impaired as a result of dependency. Additionally, employees who are given the opportunity to seek treatment and/or rehabilitation, but fail to successfully overcome their dependency or problem, will not automatically be given a second opportunity to seek treatment and/or rehabilitation. This policy on treatment and rehabilitation is not intended to affect the City's treatment of employees who violate the regulations described previously. Rather, rehabilitation is an option for an employee who acknowledges a chemical dependency and voluntarily seeks treatment to end that dependency.

SECTION 1202 – SMOKING POLICY

Use of tobacco products endangers the health of employees and their co-workers, reduces productivity, increases absenteeism, increases the use of health benefits, and is often offensive to the public and co-workers. The City discourages use of any tobacco products in the interest of the health of its employees and others.

- A) The City of Newman has adopted a tobacco-free workplace policy. Under this policy, use of any tobacco product is not allowed in City of Newman owned facilities and vehicles. Use of tobacco products is allowed only outside of City vehicles and a minimum of 20 feet away from City buildings during approved/regularly scheduled breaks.
- B) Employees shall not smoke in any City vehicle.
- C) Tobacco products shall include the use of cigarettes, cigars, pipes, and/or smokeless tobacco.

CHAPTER 13 – WORKING CONDITIONS/MISCELLANEOUS

SECTION 1301 - REPORTS OF CHANGE OF STATUS

All actions involving employment and change in status of employment shall be reported by the Department Head to the City Manager. Copies of such reports shall be furnished to the employee involved.

SECTION 1302 - EMPLOYEE REST BREAKS

Full time employees shall be entitled to a fifteen - (15) minute rest break around the midpoint of each four- (4) hour segment worked during a shift. Unless a supervisor specifically requires an employee to miss a scheduled break, rest breaks shall not be combined with a lunch period or otherwise banked.

SECTION 1303 - POLITICAL ACTIVITY

The political activity of City employees shall be governed by the appropriate provisions of the Government Code.

SECTION 1304 - CONFLICTS OF INTEREST

No employee shall engage in any business transaction or shall have a financial interest, direct or indirect, which is incompatible with the proper discharge of the employee's official duties in the public interest or which would tend to impair his/her independence of judgment or action in the performance of his/her official duties.

SECTION 1305 - GRATUITIES

No officer or employee of the City shall solicit or accept any gratuity for municipal services rendered.

CHAPTER 14 – COMPUTER SYSTEM /TELEPHONE / COMMUNICATION DEVICES USAGE POLICY

SECTION 1401 - GENERAL

The City of Newman computer systems (including all hardware and software) are the exclusive property of the City of Newman and are provided for creating and transmitting BUSINESS-related information. The City of Newman treats all computer files, including electronic mail (e-mail) sent or received, as business information. The City of Newman has the capability and reserves the right, with or without notice, to access, monitor, review, copy, and/or delete any computer files, including e-mail sent or received, and all web site communications and/or transactions. If employees make incidental use of the computer system for personal files or e-mail, employees should not expect personal files or e-mail to be protected from review by other employees. Accordingly, employees should not use computer systems to create or transmit any information they wish to keep private.

SECTION 1402 – CONFIDENTIAL INFORMATION

City of Newman employees must exercise extreme caution when creating or transmitting City of Newman business information. Business information should not be transmitted to employees or other individuals who are not authorized to receive such information. Only authorized City of Newman representatives are permitted to speak on behalf of the City of Newman via the computer system.

Unless authorized, employees should refrain from engaging in dialogue about confidential, proprietary, or non-public information involving the City of Newman or any City of Newman employee, investor, client, or contact. Any employee that receives such requests should direct the inquiry to an appropriate member of the City of Newman staff.

The City of Newman computer systems should not be used to solicit or proselytize for commercial ventures, religious or political causes, or outside organizations that are not authorized by the City of Newman.

SECTION 1403 – E-MAIL

When transmitting messages via e-mail, employees should consider that e-mail messages can be read by persons other than the addressee and that e-mail messages can be read by persons other than the addressee and that the message may be later disclosed to outside parties or a court in connection with litigation. Because of these concerns, City of Newman employees are required to maintain the highest standards of courtesy and professionalism when transmitting e-mail.

SECTION 1404 – INTERNET

The City of Newman provides all employees with access to the Internet for business-related purposes. The City of Newman has the capability to review web site access. Employees should not have any expectation of privacy regarding the web sites accessed through the City of Newman computer system. Computer systems may “leave tracks” at web sites visited. Because of the nature of the City of Newman business, any incidental use of the Internet for personal use must be conducted with the highest degree of professionalism.

SECTION 1405 – SOFTWARE

The City of Newman prohibits the unauthorized use of software. The City of Newman expects its employees to conduct themselves responsibly in this regard. Employees should refrain from making or using unauthorized copies of software programs.

SECTION 1406 - HARASSMENT VIA COMPUTER

The City of Newman does not tolerate sexual, racial or other forms of harassment. If you are harassed or discriminated against through the use of the City of Newman computer system, you must report the act of harassment or discrimination to your immediate supervisor, the supervisor’s supervisor or the City Manager immediately. If you feel uncomfortable doing so, or if your supervisor is the source of the problem, condones the problem, or ignores the problem, then you can direct your questions, problems complaints, or reports to the City Manager. You are not required to directly confront the person who is the source of your report, question, or complaint before notifying any of those individuals listed.

Use of the computer system to engage in any communications that are in violation of this or any City of Newman policy, including but not limited to the acquisition, possession or transmission of defamatory, obscene, offensive, or harassing material, is strictly prohibited. The City of Newman reserves the right to inspect any City of Newman computer system/equipment for violations of this policy.

SECTION 1407 - TELEPHONE / COMMUNICATION DEVICES

The City of Newman provides cellular/wireless communication devices to improve productivity, enhance public safety services, and enhance customer service to the citizens of Newman. Cellular/wireless communication devices are a City resource and are provided for business purposes only. Employees are to ensure their usage complies with City requirements and policies Employees of the City are to be efficient, economical, and ethical in their use and management of City resources.

Telephone / Communication Devices shall include communication devices and all communications on any such device including, but not limited to, cellular telephones and pagers, radios, personal data assistants (PDAs), BlackBerries, facsimiles, emails, and text messages. This policy does not cover the use of Police Mobile Computers. All City employees assigned a City-owned communication device are required to use the devices:

1. For City business only, except in the event of an emergency. If an employee uses the device for an emergency, he/she shall let their supervisor know of the use.
2. In compliance with the City of Newman policies, and local, state, and federal laws.
3. In a safe manner.

Communication devices shall not be used to defame, harass, threaten, or transmit obscene, suggestive or offensive messages or communications, political endorsements or activities, outside employment messages, or engage in any illegal activity.

SECTION 1408 - USE OF A PERSONAL CELLULAR TELEPHONE FOR CITY BUSINESS

An employee may choose to use his/her personal cellular telephone for City business. (All usage of personal communications devices shall be subject to Department Head approval.) If an employee opts to use his/her personal cellular telephone, he/she is required to pay for any expenses for the personal cellular telephone and the City will not reimburse the employee for the cost of its use. Communications made on a personal communication device for City business may be subject to disclosure under the Public Information Act.

SECTION 1409 - USE OF COMMUNICATION DEVICES WHILE OPERATING VEHICLES

An employee shall only use a cellular/wireless communication device when it is safe to do so.

An employee shall only use a cellular/wireless communication device that is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving

An employee may use a digital two-way radio that utilizes a wireless telephone that operates by depressing a push-to-talk feature and does not require immediate proximity to the ear of the user, when driving certain vehicles, as defined in the California Vehicle Code.

This requirement does not apply to police and fire employees using a wireless device for emergency purposes as defined in the California Vehicle Code.

Text messaging is prohibited at all times when operating a vehicle.

SECTION 1410 - CONFORMANCE WITH POLICY AND PROHIBITED PERSONAL USE

Department Heads are responsible for ensuring compliance with this policy

The City prohibits personal use of City-owned communication devices. The City excludes the value of City-owned cellular telephones from an employee's taxable income by this written policy and by routine audits of employee telephone billings to confirm that personal calls are not made.

Department Heads or his/her designee shall:

1. Review cellular telephone billings monthly to ensure conformance to this policy. Inappropriate personal use of City-owned communication devices shall be addressed in accordance with City rules, regulations, and policies.
2. Monitor and review at least quarterly cellular telephone service plans to ensure cost effective use of service plans.
3. Periodically review an employee's business need for a communication device.
4. Notify the Information Technology Division of account or equipment changes, and monitor and return any unused devices and/or equipment that are no longer needed.

The Finance Department shall periodically audit the City's compliance with the Internal Revenue Service substantiation requirements regarding business use of City-owned cellular telephones.

Misuse or abuse of the City's communication devices, contracts, or programs under this policy shall result in disciplinary action up to and including dismissal of employment.

SECTION 1411 - Right To Access and Disclose Any and All Communications

All communications created or received using City communication devices and all data stored on City communication devices is the property of the City. Employees have no personal or property right in these communications and data and no expectation of privacy with regard to their use of City communication devices. Furthermore, the City reserves the right to access and monitor any and all communications created or received using City communication devices, any record of such communications and all data stored on City communication devices, including, without limitation, e-mails, text messages, facsimiles, communication records and communication logs to ensure that all use of City communication devices is consistent with this policy and all City rules, regulations, policies and procedures.

SECTION 1412 - Safekeeping of Return of Communication Devices

An employee is responsible for the safekeeping, care, and custody of communication devices. Lost or stolen communication devices shall be reported to the appropriate

Department supervisor or manager and the Information Technology Division as soon as possible.

Any City-owned communication device shall be returned to the City when the need for such devices no longer exists or when employee separates from employment.

CHAPTER 15 – DISCRIMINATORY HARASSMENT

SECTION 1501 – PURPOSE AND SCOPE

To prevent City employees from being subjected to discrimination or sexual harassment and to ensure full equal employment opportunity, in conformance with Title VII of the Civil Rights Act of 1964, the guidelines issued by the Equal Employment Opportunity Commission, the California Fair Employment and Housing Act and the guidelines issued by the California Fair employment and Housing Commission.

SECTION 1502 - POLICY

The City of Newman is committed to creating and maintaining a work environment that is free of all forms of discrimination and intimidation, including sexual harassment. The City will take preventative, corrective and disciplinary action for any behavior that violates this policy or the rights and privileges it is designed to protect.

SECTION 1503 - DEFINITIONS

1503.1 - DISCRIMINATION – Any act or omission of an act which would create a hostile work environment, or exclude any person from employment or promotional opportunities, because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, including genetic characteristics, age, marital status or denial of family care or pregnancy disability leave.

Discrimination includes, but is not limited to, derogatory comments, slurs or jokes, picture, cartoons or posters, and actions which result in an employee being offended or insulted because of a protected classification status enumerated in this section (1503.1) of this order.

1503.2 – SEXUAL HARASSMENT – Sexual Harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an employee's employment or,
- (b) Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee or,
- (c) Conduct that has the purpose or effect of interfering with an employee's work

performance or creating an intimidating, hostile, or offensive work environment.

Harassment will also include use of the computer system to engage in any communications that are in violation of any City of Newman Policy as outlined in section 1406 (Harassment Via Computer) of the Personnel Rules.

Discrimination/harassment does not include the following:

- Bona fide acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and California Fair Employment and Housing Commission Guidelines.
- Bona fide requests or demands by a supervisor that the employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with city or departmental rules or regulations, or any other appropriate work related communication between supervisor and employee.

SECTION 1504 - RESPONSIBILITIES

This policy applies to all city personnel. All employees shall follow the intent of these guidelines in a manner that reflects the city policy and the best interest of the city and its mission.

All employees shall promptly report any observed or known violations of this policy to a supervisor. Employee(s) not comfortable with reporting violations of this policy to their immediate supervisor may bypass the chain of command and report it to a higher-ranking member. Complaints may also be filed with the city's Personnel Officer.

Supervisors and managers receiving information regarding violation(s) of this order shall determine if there is any basis for the allegation and shall proceed with resolution as stated in section 1504.1.

1504.1 - SUPERVISOR RESPONSIBILITY

Each supervisor and manager shall:

- (a) Ensure that the work environment is free from all types of unlawful discrimination, including sexual harassment.
- (b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination.
- (c) Train their subordinates as to what constitutes discrimination and harassment.
- (d) Notify the Department Head in writing of the circumstances surrounding any

reported allegations of discrimination/harassment no later than the next business day.

Individual employees may be held personally liable for discriminatory acts, including sexual harassment.

1504.2 – SUPERVISOR’S ROLE

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory or harassing. Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors and managers should represent the values of the City of Newman.
- (b) False or mistaken accusations of discrimination and sexual harassment have negative effects on the careers of innocent employees.
- (c) Supervisors and managers must act responsibly in the handling of such situations.
- (d) Supervisors and managers must make a determination on any allegations based upon all available facts

SECTION 1505 – INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved employees should take reasonable steps to mitigate or eliminate any continuing hostile work environment.

1505.1 – SUPERVISORY RESOLUTION

Whenever possible, employees who believe they are experiencing discrimination and/or harassment are encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional or highly inappropriate. If this does not resolve the concern, or if an employee feels uncomfortable, threatened, or has difficulty expressing his/her concern, supervisory or management assistance or counseling should be sought from a supervisor or manager one rank higher than the alleged offender.

1505.2 – FORMAL INVESTIGATION

Upon being notified of any complaint that cannot be satisfactorily resolved through the supervisory means cited above, the Department Head or his or her designee shall initiate a formal investigation.

The employee assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. The investigative authority includes

accessibility to records and cooperation of any employees/volunteers involved. No influence will be used to suppress any complaint and (except as herein provided) no employee/volunteer will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential and will include, but not be limited to, details of the specific incident, frequency and dates of occurrences and names of any witnesses.

Optional Resolution – employees/volunteers who believe they have been discriminated against or harassed because of their protected status described in section 1503.1 of this procedure are encouraged to follow the chain of command but may also file a complaint directly with the Department Head or the City Manager/Director of Personnel.

1505.3 - DISPOSITION OF COMPLAINTS

Only one of the following 4 dispositions will be used to classify the disposition of an allegation of harassment:

- (a) Sustained Complaints – If the complaint is substantiated, this policy and procedure prohibiting discrimination/harassment will be reviewed with the offender. Appropriate disciplinary action and/or training, will be taken pursuant to the City disciplinary procedures.
- (b) Not Sustained Complaints – If there is insufficient evidence to either prove or disprove the allegation(s), both parties to the complaint will be informed of the reason(s) for this disposition.
- (c) Unfounded Complaint- If it is determined that an act reported pursuant to this policy/procedure did not in fact occur, a finding of unfounded shall be made.
- (d) Exonerated Complaints – If it is determined that an act reported pursuant to this policy/procedure did in fact occur, but was lawful and proper within the guidelines established herein, a finding of exonerated shall be made.

Should it be determined that the reporting party filed the complaint in good faith and/or through a mistake of fact, the employee shall be counseled/trained pursuant to Personnel Rules 1504.1(c).

Should it be determined that the reporting party maliciously filed the complaint knowing that it was false or frivolous at the time of the complaint, that employee shall be subject to the disciplinary process up to, and including termination.

SECTION 1506 - NOTIFICATION OF DISPOSITION

Complainant and/or victim will be notified in writing of the disposition of the investigation and action(s) taken to remedy the complaint.

SECTION 1507 - DOCUMENTATION OF COMPLAINTS

All complaint or allegations shall be documented on forms and in a manner designated by the Department Head. All reports shall be:

- Approved by the Department Head
- Maintained for a minimum of five (5) years.

SECTION 1508 - GRIEVANCE PROCEDURE

Disputes arising out of the interpretation and enforcement of this policy and procedure shall be resolved through the established Newman Grievance Procedure.

1508.1 - QUESTIONS REGARDING DISCRIMINATION OR SEXUAL HARASSMENT

Employees having questions are encouraged to contact a supervisor, manager, Department Head or the City Manager/Personnel Director, or they may contact the California Department of Fair Employment and Housing at (800) 884-1684.

SECTION 1509 – JUVENILES

The city has employees and/or volunteers who are minors. A minor is defined as anyone under the age of 18 years. Any case that involves a minor, a parent(s) or legal guardian(s) will be informed that their child has lodged an allegation of a violation of this policy or is named in the allegation. The parent(s) or legal guardian(s) will be given the opportunity to be present during any investigation that involves their child. Parent(s) or legal guardian(s) will receive the notification of the outcome of the investigation, if their child is the person making the allegation or offender as outlined under section 1506.

Volunteers are not employees and do not have the same rights as employees.