

AGENDA
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING MARCH 22, 2011
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
 - a. Present A Certificate Of Appreciation To Ed Perry.
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 March 8, 2011 Regular Meeting.
 - d. Adopt Resolution No. 2011- , A Resolution Rejecting The Claim Of Joseph P. Villanueva.
9. Public Hearings.
10. Regular Business
 - a. Adopt Resolution No. 2011- , A Resolution Adopting The Revised City Of Newman Local Hazard Mitigation Plan And The Stanislaus County Multi-Jurisdictional Hazard Mitigation Plan.
 - b. Report On Newman Historical Society's Request.
 - c. Adopt Resolution No. 2011- , A Resolution Awarding A Contract For The PQRST/Fresno/Merced/West Avenue Infrastructure And Street Reconstruction Project (Phase 2).

- d. Adopt Resolution No. 2011- , A Resolution Supporting An Application For A Caltrans Environmental Justice Transportation Planning Grant For The South County Corridor Revitalization Study.
- e. Second Reading And Adoption Of Ordinance No. 2011- , An Ordinance Of The City Council Of The City Of Newman Approving First Amendment To The Sherman Ranch Development Agreement And Authorizing Staff To Prepare And Publish A Summary Of Said Ordinance.

11. Items From District Five Stanislaus County Supervisor.

12. Items From The City Manager And Staff.

13. Items From City Council Members.

14. Adjournment.

Calendar of Events

March 19 - Chamber Of Commerce Dinner
March 22 - City Council - 7:00 P.M.
March 22 - Two-On-Two Meeting With The School Board - 4:00 P.M.
March 25 - City Furlough Day - City Offices Closed.

April 11 - NCLUSD Board Meeting - 6:00 P.M.
April 12 - City Council - 7:00 P.M.
April 14 - Recreation Commission - 7:00 P.M.
April 19 - Two-On-Two Meeting With The School Board - 4:00 P.M.
April 21 - Planning Commission - 7:00 P.M.
April 22 - City Furlough Day - City Offices Closed
April 26 - City Council - 7:00 P.M.

May 9 - NCLUSD Board Meeting - 6:00 P.M.
May 10 - City Council - 7:00 P.M.
May 12 - Recreation Commission - 7:00 P.M.
May 17 - Two-On-Two Meeting With The School Board - 4:00 P.M.
May 19 - Planning Commission - 7:00 P.M.
May 27 - City Furlough Day - City Offices Closed
May 30 - Memorial Day Holiday - City Offices Closed
May 26 - City Council - 7:00 P.M.

Date.: Mar 17, 2011
Time.: 10:31 am
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

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Ck #	Check Date	CK Amount	Vendor Name	Description
038869	03/04/11	-140.00	CITY OF MODESTO PLANNING	Ck# 038869 Reversed
038891	03/15/11	-27.84	IRRIGATION DESIGN & CONSTRUCTI	Ck# 038891 Reversed
038891	03/15/11	-23.72	IRRIGATION DESIGN & CONSTRUCTI	Ck# 038891 Reversed
038893	03/15/11	-15.00	LEAGUE OF CA CITIES	Ck# 038893 Reversed
038934	03/08/11	600.00	HILLVIEW FUNERAL CHAPEL	FOR REIMBURSEMENT OF T.J. GONZALES MEMORIAL
038935	03/09/11	240.00	FRED J. WILLIAMS	SOFTBALL PITCHING COACH/LESSON 1/WILLIAMS
038936	03/11/11	140.00	RAUL PASTRANA	REIMBURSEMENT FOR DOG ADOPTION/RAUL PASTRANA
038937	03/18/11	3000.00	ALLIED AFFILIATED FUNDING, LP	MAINTENANCE FEE/WATER METERS/4/1/11 TO 3/31/12
038938	03/18/11	420.70	ARAMARK UNIFORM SERVICES	UNIFORM CLEANING/MAT RENTALS/TOWELS/FEB 2011
038939	03/18/11	19.96	ARROWHEAD MOUNTAIN SPRING	DELIVERED BOTTLED WATER/FEB 2011
038940	03/18/11	405.14	AT&T MOBILITY	WIRELESS ACCESS 2/3/11 TO 3/2/11/PD
038941	03/18/11	70.13	AT&T	MONTHLY TELEPHONE SERVICE FOR 668-3946
038941	03/18/11	66.31	AT&T	MONTHLY TELEPHONE SERVICE FOR 634-0508
038942	03/18/11	334.00	AT&T	T1 LINE @ PD 1/20/11 TO 2/19/11
038942	03/18/11	14.86	AT&T	EMERGENCY DISPATCH LINE @ PD/1/20/11 TO 2/19/11
038943	03/18/11	625.23	JAMES J. BELL	EVIDENCE CLERK/CONTRACT SERVICES 3/1TO 3/15/11/PD
038944	03/18/11	104.83	BUSINESS CARD	PARKING/MEALS/CALIF BUDGET MTG/STAN COUNTY-PATTERS
038944	03/18/11	25.65	BUSINESS CARD	MEALS/PW
038944	03/18/11	53.12	BUSINESS CARD	MEALS/FIRE DEPARTMENT
038944	03/18/11	984.92	BUSINESS CARD	DOOR HANGERS/TRIFECTANT TABS/BASKETBALL/GIFT BASKT
038945	03/18/11	50.00	C B MERCHANT SERVICES, INC	REIMBURSE BAD DEBT
038946	03/18/11	162.87	CIT TECHNOLOGY FIN SERV, INC	MS GSA OFFICE PRO PLUS/PD/MARCH 2011
038947	03/18/11	3297.49	CONTRACT SWEEPING SERVICES, IN	STREET SWEEPING CONTRACT SERVICES/FEB 2011
038948	03/18/11	37.80	COUNTRY FORD TRUCKS, INC	LUBE, OIL, FILTER CHANGE/INSTALL OIL FILTER CAP

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Ck #	Check Date	CK Amount	Vendor Name	Description
038949	03/18/11	1400.00	DAVE PIRES	35 BACKFLOW TESTS/7 BACKFLOW REPAIRS
038949	03/18/11	93.75	DAVE PIRES	DRAIN CLEANING SERVICES/MEMORIAL BLDG
038950	03/18/11	86.79	DONLEE PUMP COMPANY	D-RING/SEAL KIT/GASKET/SQUARE RING/WWTP
038951	03/18/11	72.50	E&M ELECTRIC, INC.	REPAIRED LOOSE WIRE ON OVERLOAD @ PUMP #2
038951	03/18/11	72.50	E&M ELECTRIC, INC.	WELL #6 SET OVERLOAD TO MATCH SERVICE FACTOR AMPS
038952	03/18/11	40.00	CHAD EARLE (NT)	PER DIEM/POST TRAINING/EARLE
038953	03/18/11	560.00	ENERPOWER	ELECTRIC ENERGY SERVICES 12/17/11 TO 1/17/11
038954	03/18/11	12.00	FRANKLIN PET CEMETERY & CREMAT	DISPOSAL CLINIC
038954	03/18/11	35.20	FRANKLIN PET CEMETERY & CREMAT	DISPOSAL CLINIC
038954	03/18/11	10.80	FRANKLIN PET CEMETERY & CREMAT	DISPOSAL CLINIC
038955	03/18/11	9.95	GARTON TRACTOR	DOOR KEY
038955	03/18/11	7.09	GARTON TRACTOR	SWIVEL ADAPTER/SEWER MACHINE
038955	03/18/11	36.53	GARTON TRACTOR	HOSE/FITTING/SWIVEL
038956	03/18/11	60.69	GEMPLERS ACCT #5224757	8 BRIGHT LIME HATS/PW
038957	03/18/11	573.75	GEOANALYTICAL LAB, INC.	BOD/TSS/NITRATES/BACTI/
038958	03/18/11	200.00	MARA GIL	REFUND MEMORIAL BLDG DEPOSIT/MARA GIL
038959	03/18/11	542.96	GROENIGER & CO.	MAIN VALVE REPAIR KIT
038960	03/18/11	75.00	GUSTINE-NEWMAN SOROPTOMIS	REFUND MEMORIAL BLDG DEPOSIT/SOROPTOMIST
038961	03/18/11	385.00	HARRITY CONSULTING	DOWNTOWN PLAZA ENGINEERING CONSULTING/JAN-MAR 2011
038962	03/18/11	102.85	HEWLETT-PACKARD COMPANY	PO #11-42
038963	03/18/11	1794.32	HOT DESIGNS	22 EMBROIDERED JACKETS/FIRE DEPARTMENT
038964	03/18/11	593.55	IKON OFFICE SOLUTIONS	COPIER LEASE 2/25/11 TO 3/24/11/ADDTL COPIES/PD
038965	03/18/11	1603.34	INFOSEND, INC	UTILITY BILL/LATE NOTICE MAILING/FEB 2011
038966	03/18/11	13.80	IRRIGATION DESIGN & CONSTRUCTI	BLUE GLUE/PVC MOLDED COUPLING/WWTP

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Ck #	Check Date	CK Amount	Vendor Name	Description
038966	03/18/11	52.11	IRRIGATION DESIGN & CONSTRUCTI	SUCTION HOSE AND PARTS FOR PORTABLE PUMP/WWTP
038966	03/18/11	23.72	IRRIGATION DESIGN & CONSTRUCTI	PARTS FOR BACK PACK SPRAYER
038967	03/18/11	194.41	JOE'S LANDSCAPING & CONCRETE,	MEDALLION PLUS FESCUE SOD/BARRINGTON PARK
038967	03/18/11	19.81	JOE'S LANDSCAPING & CONCRETE,	2" QUIK FIX REPAIR/2 PVC FITTING COUPLINGS
038967	03/18/11	8885.00	JOE'S LANDSCAPING & CONCRETE,	LANDSCAPE SERV/LIGHTING & LANDSCAPE DIST/JAN 2011
038967	03/18/11	7340.00	JOE'S LANDSCAPING & CONCRETE,	LANDSCAPE SERV/LIGHTING & LANDSCAPE DIST/FEB 2011
038968	03/18/11	115.75	JOHNSTONE SUPPLY	3 DIGITAL CLAMP METER
038969	03/18/11	1974.00	KAISER PERMANENTE	HEALTH INSURANCE PREMIUM/APRIL 2011
038970	03/18/11	200.00	LARRY LERNO, SR	REFUND MEMORIAL BLDG DEPOSIT/LERNO
038971	03/18/11	189.68	FRANK B. MARKS & SON, INC	GRAVEL DELIVERED TO WWTP
038971	03/18/11	221.35	FRANK B. MARKS & SON, INC	GRAVEL AND CONCRETE SAND DELIVERED TO CORP YARD
038972	03/18/11	1534.34	MID VALLEY IT, INC	MONTHLY IT CONTRACT SERVICES/APRIL 2011
038973	03/18/11	500.00	NEWMAN CHAMBER OF COMMERCE	CHAMBER OF COMMERCE DINNER TICKETS/REIMBURSED
038974	03/18/11	2599.00	OPERATING ENGINEERS/	HEALTH INSURANCE/APRIL 2011
038975	03/18/11	1288.00	GEORGE OSNER	PLANNING SERVICES FOR FEB 2011/MASTER PLAN AREA 3
038976	03/18/11	341.38	PATTERSON AUTO CARE, INC	REPLACED BATTERY/OIL, FILTER CHANGE/2007 CHEVY/PD
038977	03/18/11	660.00	CITY OF PATTERSON	VIDEO REIMBURSEMENT/FEB 2011
038977	03/18/11	660.00	CITY OF PATTERSON	VIDEO REIMBURSEMENT/MARCH 2011
038977	03/18/11	250.00	CITY OF PATTERSON	FIRE DATA INPUT/JAN 2011
038978	03/18/11	300.00	PERMA-GREEN HYDROSEEDING	REFUND HYDRANT PERMIT DEPOSIT/PERMA GREEN
038979	03/18/11	33207.64	P G & E	GAS AND ELECTRIC CHARGES 1/7/11 TO 2/16/11
038980	03/18/11	47.50	PRECISION INSPECTION, INC	HOURLY BLDG INSPECTION/DOWNTOWN PLAZA/FEB 2011
038981	03/18/11	24.56	RALEY'S IN STORE CHARGE	FOAM CUPS/SUGAR/COFFEE/CREAMER/CORP YARD
038981	03/18/11	19.77	RALEY'S IN STORE CHARGE	SUGAR/CREAMER/COFFEE/WATER OFFICE

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038982	03/18/11	117.00	GARNER REYNOLDS (NT)	REIMBURSE REYNOLDS ROTARY CLUB DUES/FINES/MEALS
038983	03/18/11	249.75	SA-SO COMPANY	5 US FLAGS
038984	03/18/11	5741.35	SHELL FLEET PLUS	GAS AND DIESEL PURCHASES/FEB 2011
038985	03/18/11	147.00	STATE OF CALIFORNIA	FINGERPRINT APPS/FBI
038986	03/18/11	35.11	STAPLES ADVANTAGE	WET ONES/ALLERGEN FILTER BAGS/PD
038986	03/18/11	65.82	STAPLES ADVANTAGE	BIC PENS/PENCIL SHARPNER/COVER STOCK/STPLE RMVR
038986	03/18/11	58.42	STAPLES ADVANTAGE	RUBBERBANDS/SHEET PROTECTORS/PENCIL CUP/100PK DVD
038986	03/18/11	137.66	STAPLES ADVANTAGE	CERTIFICATION HOLDERS/STAPLES/RUBBERBANDS
038986	03/18/11	5.98	STAPLES ADVANTAGE	PEN REFILLS/PD
038986	03/18/11	17.33	STAPLES ADVANTAGE	4 PAK DUST DESTROYER/PD
038986	03/18/11	70.43	STAPLES ADVANTAGE	SHARP PRINTING CALCULATOR/FIN DEPT
038987	03/18/11	838.00	STANISLAUS CNTY SHERIFF'S REGI	POST TRAINING REGISTRATION/EDGAR GONZALEZ
038988	03/18/11	31.43	T&R ENTERPRISES	MADE A HANDLE FOR RESTROOM TOILET/SHERMAN PARK
038989	03/18/11	100.19	JESSICA TOBIN	REIMBURSEMENT FOR DOG FOOD/ANIMAL SHELTER
038990	03/18/11	135.00	BARBARA J. TOSTA	YOUNG AT HEART INSTRUCTOR/FEB 2011
038991	03/18/11	110.00	UNITED STATES POSTMASTER	YEARLY POST OFFICE BOX RENTAL
038992	03/18/11	47260.00	WILLIAM J. VANNUCCI	TEST HOLE FOR A PROPOSED WELL SITE/JENSEN RD
038993	03/18/11	193.99	MATTOS NEWSPAPERS, INC.	200 ANIMAL CONTROL OWNER/ANIMAL INFO FORMS/PD
038993	03/18/11	46.06	MATTOS NEWSPAPERS, INC.	500 BUSINESS CARDS/NOEL BORDEN
038993	03/18/11	203.20	MATTOS NEWSPAPERS, INC.	500 PET LICENSE FORM/PD
038993	03/18/11	32.00	MATTOS NEWSPAPERS, INC.	250 BUSINESS CARDS/EDGAR LOPEZ
038993	03/18/11	82.50	MATTOS NEWSPAPERS, INC.	LEGAL AD/ANIMAL CONTROL-LITTER PERMIT
038993	03/18/11	210.00	MATTOS NEWSPAPERS, INC.	LEGAL AD/NOTICE OF NO SIGNIFICANT IMPACT
038993	03/18/11	616.00	MATTOS NEWSPAPERS, INC.	LEGAL AD/RECONSTRUCTION PROJECT-PHASE 2/PQRST

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Ck #	Check Date	CK Amount	Vendor Name	Description
038994	03/18/11	50.93	YANCEY LUMBER COMPANY	NUTRO LAMB AND RICE DOG FOOD/K-9
038994	03/18/11	612.41	YANCEY LUMBER COMPANY	CONCRETE/SCREEN/LUMBER/PAINT/2 URINALS/ADHESIVE
038995	03/18/11	45.00	ELVIRA ZEPEDA	REFUND PARK RENT/CANCELLED USE/ZEPEDA
Sub-Total:		----- 136689.40		
Grn-Total:		----- 136689.40		
Count:	99			

MINUTES
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
SPECIAL MEETING MARCH 8, 2011
CITY HALL CONFERENCE ROOM, 6:30 P.M., 1162 MAIN STREET

1. **Call To Order** - Mayor Katen 6:35 P.M.
2. **Roll Call PRESENT:** Davis, Hutchins, Candea, Martina And Mayor Katen.
ABSENT: None.
3. **Items From The Public** - None.
4. **Adjourn To Closed Session** - 6:45 P.M.
 - a. Conference With Legal Counsel - Pending Litigation - One Case - G.C. 54956.9.
 - b. Return To Open Session - 6:50 P.M.

No Reportable Action Was Taken.

5. Adjournment.

ACTION: On Motion By Hutchins Seconded By Candea And Unanimously Carried, The Meeting Was Adjourned At 6:55 P.M.

MINUTES
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING MARCH 8, 2011
CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET

1. Call To Order - Mayor Katen 7:00 P.M.
2. Pledge Of Allegiance.
3. Invocation - Mayor Katen.
4. Roll Call **PRESENT:** Davis, Hutchins, Candea, Martina And Mayor Katen.
ABSENT: None.
5. Declaration Of Conflicts Of Interest - None.
6. Ceremonial Matters - None.
7. Items From The Public - Non-Agenda Items - None.
8. Consent Calendar
 - a. Waive All Readings Of Ordinances And Resolutions Except By Title.
 - b. Approval Of Warrants.
 - c. Approval Of Minutes Of The February 22, 2011 Regular Meeting.
 - d. Adopt Resolution No. 2011-16, A Resolution Rejecting The Claim Of Toni Miller And Richard Sanders.
 - e. Approval Of An Extension Of The Current Agreement To Provide Audit Services By Clendenin Bird And Company, PC And Authorize The City Manager To Sign An Agreement For Audit Services.

Council Member Hutchins Requested That Warrant No. 38890 Be Pulled From The Consent Calendar.

ACTION: On A Motion By Hutchins Seconded By Davis And Unanimously Carried, The Consent Calendar Minus Warrant No. 38890 Was Approved.

ACTION: On A Motion By Martina Seconded By Candea And Unanimously Carried, Warrant No. 38890 Was Approved With Hutchins Not Participating.

9. Public Hearings

- a. Adopt Resolution No. 2011-17, A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 281 Of The City Of Newman (Abatement Of Mistletoe).

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

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

ACTION: On Motion By Martina Seconded By Hutchins And Unanimously Carried, Resolution No. 2011-17, A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 281 Of The City Of Newman (Abatement Of Mistletoe), Was Adopted.

- b. First Reading And Introduction Of Ordinance No. 2011- , An Ordinance Amending SCM Development Agreement.

Mayor Katen Opened The Public Hearing At 7:12 P.M.

There Being No Public Comment, Katen Closed The Public Hearing At 7:13 P.M.

ACTION: Ordinance No. 2011- , An Ordinance Amending The SCM Development Agreement Was Introduced By Council Member Hutchins, Ordinance Had Its First Reading By Title Only.

10. Regular Business

- a. Adopt Resolution No. 2011-18, A Resolution Authorizing The Execution And Delivery Of A Loan Agreement And Authorizing And Directing Certain Actions In Connection With The Refinancing Of The City's Wastewater Treatment Facilities 1999 Refunding Certificates Of Participation.

ACTION: On Motion By Martina Seconded By Candea And Unanimously Carried, Resolution No. 2011-18, A Resolution Authorizing The Execution And Delivery Of A Loan Agreement And Authorizing And Directing Certain Actions In Connection With The Refinancing Of The City's Wastewater Treatment Facilities 1999 Refunding Certificates Of Participation, Was Adopted.

- b. Adopt Resolution No. 2011- , A Resolution Approving West Side Theatre Foundation Radio Station Funding.

City Manager Holland Reported That After Additional Research, Staff Discovered That The Project Was Not Eligible For RDA Funding.

Council Member Hutchins Asked How A Local Radio Station Would Benefit The City.

Rick Nagle, 404 Jensen Road, Gustine, Addressed Council Member Hutchins' Question And Listed The Benefits He Believed A Local Radio Station Would Provide And Reminded The Council That It Would Be A Non-Commercial Station. Nagle Noted That He Is Also Pursuing Other Grant Funding Opportunities.

Council Member Martina Commented That He Would Like To Continue To Support The Radio Station Project.

Council Member Davis Stated That It Is Not A Good Idea To Fund The Project In This Economic Climate.

Council Member Candea Noted That The Previous Council Committed To Funding The Radio Station And Remarked That This Council Should Try To Honor That Commitment.

ACTION: A Motion by Davis To Deny The West Side Theatre Foundation Radio Station Funding Failed To Receive A Second.

ACTION: On A Motion By Martina Seconded By Candea Approving Thirty-Thousand Dollars Of Funding For The West Side Theatre Foundation Radio Station From The General Fund Was Approved By The Following Roll Call Vote. AYES: Candea, Hutchins, Martina And Katen; NOES: Davis; ABSENT: None; NOT PARTICIPATING: None.

- c. Adopt Resolution No. 2011-19, A Resolution Approving A Business Loan In The Amount Of \$25,000 To Daniel Gray And Authorizing Michael E. Holland As Executive Director To Negotiate The Final Terms And Execute All Documents Pertaining To The Business Loan.

ACTION: On Motion By Candea Seconded By Martina And Unanimously Carried, Resolution No. 2011-19, A Resolution Approving A Business Loan In The Amount Of \$25,000 To Daniel Gray And Authorizing Michael E. Holland As Executive Director To Negotiate The Final Terms And Execute All Documents Pertaining To The Business Loan, Was Adopted.

- d. Adopt Resolution No. 2011-20, A Resolution Approving A Funding Agreement Between The Newman Redevelopment Agency And Housing Authority Of The County Of Stanislaus.

ACTION: On Motion By Martina Seconded By Candea And Unanimously Carried, Resolution No. 2011-20, A Resolution Approving A Funding Agreement Between The Newman Redevelopment Agency And Housing Authority Of The County Of Stanislaus, Was Adopted.

- e. Adopt Resolution No. 2011-21, A Resolution Approving Funding For West Side Theatre Improvements.

ACTION: On Motion By Candea Seconded By Martina And Unanimously Carried, Resolution No. 2011-21, A Resolution Approving \$20,000 In Funding For West Side Theatre Improvements, Was Adopted.

- f. Adopt Resolution No. 2011-22, A Resolution Of The Newman Redevelopment Agency Approving The Transfer Of Redevelopment Agency Assets To The City Of Newman And Resolution No. 2011-23, A Resolution Of The City Council Of The City Of Newman Approving The Transfer To The City Of Certain Real Properties Owned By The Newman Redevelopment Agency.

Action: On Motion By Hutchins Seconded By Candea And Unanimously Carried, Resolution No. 2011-22 , A Resolution Of The Newman Redevelopment Agency Approving The Transfer Of Certain Agency Owned Real Properties To The City Of Newman And Making Certain Findings Relating Thereto, Was Adopted.

Action: On Motion By Hutchins Seconded By Candea And Unanimously Carried, Resolution No. 2011-23, A Resolution Of The City Council Of The City Of Newman Approving The Transfer To The City Of Certain Real Properties Owned By The Newman Redevelopment Agency And Making Certain Findings Relating Thereto, Was Adopted.

- g. Adopt Resolution No. 2011- , A Resolution Approving And Establishing A Fee Offset Fund Per The First Amendment To The Sherman Ranch Development Agreement.

Action: The City Council Agreed To Pull Item 10.g. From The Agenda At Staff's Request.

11. Items From District Five Stanislaus County Supervisor.

Supervisor DeMartini Informed The City Council That The Next West Side Healthcare Taskforce Meeting Had Been Scheduled For March 10th In Patterson. DeMartini Mentioned That He Had Met With Emmanuel Hospital To Discuss Opening An Urgent Care Facility In Patterson. He Reported That The West Park Project Change Was Unfortunately Approved By A Three-To-Two Vote At The Board Of Supervisors Meeting; DeMartini Stated That He Would Have Liked To Have Seen A New RFP Process Instead Of A Change To The West Park Project. He Concluded By Mentioning That He Was Not Optimistic That The West Park Project Would Be Successful.

12. Items From The City Manager And Staff.

City Manager Holland Stated That He Was Concerned About The Governor's Budget Proposal And Urged People To Support Their Local Redevelopment Agencies. Holland Mentioned That Staff Has Started The City's Budget Process But That It Is Difficult Because Of The Uncertainty At The State Level.

Chief Richardson Informed Everyone That The Police Department Currently Had Animals Available For Adoption. He Reminded The Community That The Police Department Would Be Hosting A Gun Safety Class From 6:00 PM to 8:00 PM On March 11th And That The K-9 Association's Crab Feed Would Be Held On April 9th At The FDES Hall.

Public Works Director Reynolds Remarked That PQRS&T Street Project Bids Were Due Soon And That He Would Be Asking The Council To Award The Project At Their Next Meeting. Reynolds Reported That He Was Evaluating Potential Solutions To Fix The Crosswalk On Main Street. He Reminded The Council That The Next Water Rate Ad-HOC Committee Meeting Would Be On March 24th. Reynolds Mentioned That He And The City Manger Had Met With Cal Trans And They Agreed To Make Improvements To Highway 33 To Alleviate The Driveway Approach Issues. He Informed The Council That Staff Would Soon Be Working On A Schedule For The Plaza Grand Opening Ceremony.

Assistant Planner Ocasio Updated The Council On The Progress Of Dog Park Project And Stated That The Fence Had Been Ordered And That It Would Be Installed When Weather Improved. Ocasio Noted That The City Is Beginning The Grant Writing Process For 2nd Round Of Prop 84 Grant Funding For The Aquatic Center.

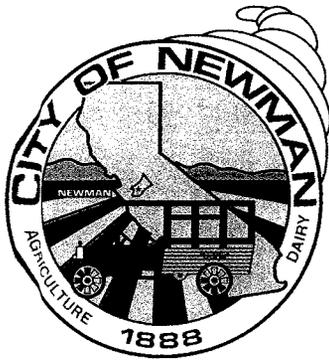
13. Items From City Council Members.

Council Member Martina Thanked Rick Nagle For His Work On The Radio Station.

Mayor Katen Mentioned That There Would Be An Orestimba Creek Meeting On March 9th And That He Is Still Working With Cal Trans Regarding The Newman Exit Signs Along I-5.

14. Adjournment.

ACTION: On Motion By Katen Seconded By Candea And Unanimously Carried, The Meeting Was Adjourned At 8:35 P.M.



**City of Newman
City Manager's Office
Memorandum**

Date: March 7, 2011

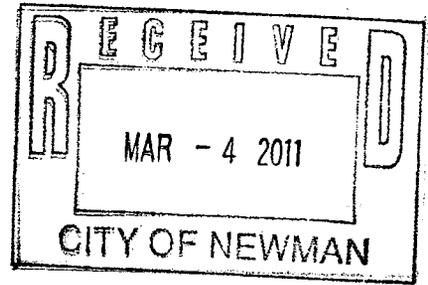
To: City Council

From: Mike Maier *MCM*

Subject: Rejection of claim.

A claim against the City of Newman was filed by Joseph P. Villanueva on March 4, 2011. Based upon the recommendation of our insurance provider, Staff recommends the Council reject said claim. A copy of the claim submitted by Mr. Villanueva along with the proposed resolution rejecting the claim are attached. Any discussions of the claim must be done in closed session as potential litigation.

Law Office
426 14th St., Ste. 210
Modesto, CA 95354
(209) 408-0342 [Phone]
(209) 408-0797 [Fax]



February 17, 2011

**RE: CLAIM AGAINST THE COUNTY OF SAN JOAQUIN; THE CITY OF
LATHROP, CA; THE CITY OF NEWMAN, CA
(Gov. Code, § 910 et seq.)**

Lois M. Sahyoun
Clerk of the Board of Supervisors
San Joaquin County
44 N. San Joaquin Street
6th Floor, Suite 627
Stockton, CA 95202
Area: (209) 468-2350
Office: (209) 468-3113
Fax: (209) 468-3694
lsahyoun@sjgov.org

Lathrop City Attorney's Office
390 Towne Centre Dr.
Lathrop, CA 95330
Phone: (209) 941-7235
Fax: (209) 941-7233
cao@ci.lathrop.ca.us

City Clerk/City Manager/City Council
1162 Main Street; P.O. Box 787
Newman, CA 95360
Phone: (209) 862-3725
Fax: (209) 862-3199

To Whom It May Concern:

Notice is hereby given of a claim by Joseph P. Villanueva (DOB: 06/08/87), 715 Banff St., Newman, CA 95360, against San Joaquin County, the City of Lathrop, and the City of Newman.

Notices pertaining to Mr. Villanueva's claim are to be sent to Law Office, 426 14th St., Ste. 210, Modesto, California 95354.

The date, places, and other circumstances giving rise to this claim are as follows:

- a. On or about August 18, 2010 or August 19, 2010, Mr. Villanueva was arrested in Newman, CA by Newman Police officers at the direction of Lathrop Police Services (San Joaquin County Sheriff's deputies), was taken to the Stanislaus County Jail, booked, and was subsequently taken, in-custody, to the Lathrop Police Services Department, and was later booked into the San Joaquin County Jail.
- b. Mr. Villanueva was arrested in connection with an armed robbery, of which he was factually innocent.
- c. This claim will give rise to potential causes of action under the following principles/legal theories:
 - i. Unlawful arrest in violation of the 4th Amendment and concomitant California Constitutional provisions;
 - ii. False Imprisonment;
 - iii. Negligence;
 - iv. Malicious Prosecution;
 - v. Due Process;
 - vi. Intentional Infliction of Emotional Distress;
 - vii. Negligent Infliction of Emotional Distress;
 - viii. Negligent Hiring/Supervision; and,
 - ix. Any and all other causes of action reasonably inferable from the facts and circumstances of the case, as reflected in the documents and records on file at present regarding the underlying criminal charges, which were later dismissed.

A general description of the damages, as far as they are known at the time this claim is being presented, includes, but is not limited to, the following:

- d. Monetary damages, including, but not limited to, lost wages;
- e. Compensation for wrongfully spending about 37 days in-custody;
- f. All out of pocket expenses incurred in connection with having to defend against the criminal charges, as well as all incidental expenditures;
- g. Damage to reputation and embarrassment; and,
- h. Emotional distress and all related special damages.

At the time this claim is being presented, the names of the public employees whose tortious and constitutionally violative conduct gave rise to this claim are unknown; however, this claim will be amended to include such names as soon as they become available for presentment.

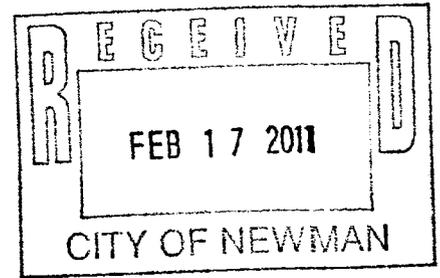
This claim would not be a limited civil case, based on the amount claimed.

Your time and attention to this matter is greatly appreciated. If you require clarification or supplemental information regarding the foregoing claim information in order to process and file this claim, please provide notification by U.S. Mail or facsimile to the address and/or fax number above at your earliest opportunity.



CITY OF NEWMAN
CLAIM FORM
FORM B

(Please Type Or Print)



CLAIM AGAINST Newman Police Department
(Name of Entity)

Claimant's name: Joseph P. Villanueva

SS#: _____ DOB: 06/08/87 Gender: Male Female _____

Claimant's address: _____

Address where notices about claim are to be sent, if different from above: 426 14TH ST., Ste 210,
Modesto, CA 95354

Date of incident/accident: 8-18-10 or 8-19-10 (on or about)

Date injuries, damages, or losses were discovered: _____

Location of incident/accident: Sites of arrest; see NPD Reports

What did entity or employee do to cause this loss, damage, or injury? see attached; Arrested Claimant,
wrongful arrest; constitutional violations; negligence; False imprisonment
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What are the names of the entity's employees who caused this injury, damage, or loss (if known)? _____

See Newman Police Department reports

What specific injuries, damages, or losses did claimant receive? see attached

(Use back of this form or separate sheet if necessary to answer this question in detail.)

What amount of money is claimant seeking or, if the amount is in excess of \$10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)] _____

This would not be a limited Civil case.

How was this amount calculated (please itemize)? (Gov. Code 15910, subd. (F)),

(Use back of this form or separate sheet if necessary to answer this question in detail.)

Date Signed: 2-17-11 Signature: J.P.

If signed by representative:

Representative's Name Sanjay Schmidt Address 426 14TH ST., Ste. 210

Telephone # (415) 407-3420

Relationship to Claimant _____ Possible Attorney / Consultant Atty.

RESOLUTION NO. 2011-

A RESOLUTION REJECTING THE CLAIM OF JOSEPH P. VILLANUEVA

WHEREAS, a claim for damages in an amount within the Superior Court jurisdiction was filed against the City of Newman by Joseph P. Villanueva, on March 4, 2011 for alleged damages.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman that it hereby rejects the said claim for alleged damages in an amount within the Superior Court jurisdiction against the City of Newman for alleged damages.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 8th day of March, 2011, by Council Member _____ who moved its adoption, which motion was duly seconded and it was upon roll call carried and the resolution adopted by the following roll call vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mayor of the City of Newman

ATTEST:

Deputy City Clerk

Honorable Mayor and Members
of the Newman City Council

**ADOPT THE REVISED CITY OF NEWMAN LOCAL HAZARD MITIGATION PLAN AND THE
STANISLAUS COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN**

RECOMMENDATION:

Adopt Resolution No. 2011- , a resolution adopting the revised City of Newman Local Hazard Mitigation Plan and the Stanislaus County Multi-Jurisdictional Hazard Mitigation Plan.

BACKGROUND:

Stanislaus County has historically experienced damage from natural hazards such as flooding, wildfire, earthquakes, and landslides on occasion in the past, resulting in loss of property and life, economic hardship, and threats to public health and safety.

The Stanislaus County Multi-Jurisdictional Hazard Mitigation Plan (the Plan) has been developed after more than one year of research and work by the City of Newman, in association and cooperation as a multi-jurisdictional partner with the Stanislaus County Multi-Jurisdictional Planning Team for the reduction of hazard risk to the community. During the planning process, a public comment period was held in order to present the Plan for comment and review.

The narrative portion of the City of Newman Local Hazard Mitigation Plan is attached. The complete plan to date, including appendix A-F, is available for viewing at the police department.

ANALYSIS:

The Plan specifically addresses a risk assessment, hazard mitigation strategies, and plan maintenance procedures for the City of Newman. The Plan recommends several hazard mitigation actions/projects that will provide mitigation for specific natural and human caused hazards that impact the City of Newman, with the effect of protecting people and property from loss associated with those hazards.

FISCAL IMPACT:

None.

CONCLUSION:

This staff report is submitted for City Council consideration and action. Staff recommends adoption of Resolution No. 2011- , a resolution adopting the revised City of Newman Local Hazard Mitigation Plan and the Stanislaus County Multi-Jurisdictional Hazard Mitigation Plan.

ATTACHMENTS:

1. Resolution No. 2011- , a resolution adopting the revised City of Newman Local Hazard Mitigation Plan and the Stanislaus County Multi-Jurisdictional Hazard Mitigation Plan.
2. City of Newman Local Hazard Mitigation Plan.

Respectfully submitted,



Brett Short
Police Lieutenant

REVIEWED/CONCUR:



Michael Holland
City Manager

RESOLUTION NO. 2011-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWMAN ADOPTING THE REVISED CITY OF NEWMAN LOCAL HAZARD MITIGATION PLAN AND THE STANISLAUS COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

WHEREAS, Stanislaus County has historically experienced damage from natural hazards such as flooding, wildfire, earthquakes, and landslides on occasion in the past, resulting in loss of property and life, economic hardship, and threats to public health and safety; and

WHEREAS, the Stanislaus County Multi-Jurisdictional Hazard Mitigation Plan (the plan) has been developed after more than one year of research and work by the City of Newman, in association and cooperation as a multi-jurisdictional partner with the Stanislaus County Multi-Jurisdictional Planning Team for the reduction of hazard risk to the community; and

WHEREAS, the plan specifically addresses a risk assessment, hazard mitigation strategies, and plan maintenance procedures for the City of Newman. The plan recommends several hazard mitigation actions/projects that will provide mitigation for specific natural and human caused hazards that impact the City of Newman, with the effect of protecting people and property from loss associated with those hazards; and

WHEREAS, during the planning process, a public comment period was held in order to present the plan for comment and review.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman to declare that:

- 1) The Plan is hereby adopted as an official plan of the City of Newman.
- 2) The respective officials identified in the mitigation strategy of the Plan are hereby directed to pursue implementation of the recommended actions assigned to them.
- 3) Future revisions and Plan maintenance required by the Disaster Mitigation Act of 2000 and FEMA, are hereby adopted as part of this resolution for a period of five (5) years from the date of this resolution.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 22nd day of March, 2011 by Council Member _____, who moved its adoption, which motion was duly seconded and it was upon roll call carried and the resolution adopted by the following roll call vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mayor of the City of Newman

ATTEST:

Deputy City Clerk

City of Newman

Multi-Jurisdictional Hazard Mitigation Plan



City of Newman
1162 Main Street
P.O. Box 787
Newman, Ca. 95360
(209) 862-3725
www.cityofnewman.com

City of Newman

Multi-Jurisdictional Hazard Mitigation Plan
2010 – 2015

Ed Katen
Mayor

Robert Martina
Councilmember

Roberta Davis
Councilmember

Nicholas Candea
Councilmember

Donald Hutchins
Councilmember

Michael Holland
City Manager

CITY OF NEWMAN MITIGATION PLANNING GROUP

Brett Short, Police Sergeant
Stephanie Ocasio, Assistant Planner

Terry Barques, Public Works

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INTRODUCTION

Mitigation Planning

Natural hazards, such as floods, earthquakes and wildfires, are a part of the world around us. Their occurrence is natural and inevitable, and there is little we can do to control their force and intensity. However, through *hazard mitigation planning*, we can control what comes afterward. By minimizing the impact of natural hazards upon our environment, we can prevent such events from resulting in disasters.

“**Hazard mitigation**” is simply a technical term for reducing risks to people and property from natural hazards. It includes both structural measures, such as protecting buildings and infrastructure from the forces of wind and water, and non-structural measures, such as natural resource protection and wise floodplain management. These activities can target existing development or seek to protect future development by avoiding and new hazardous construction. It is widely accepted that the most effective mitigation measures are implemented at the local government level, where the decisions on the regulation and control of development are ultimately made.

The easiest way a community can get serious about hazard mitigation is through the development and adoption of a **local hazard mitigation plan**. A mitigation plan will ensure that measures to reduce the present and future vulnerability of a community are thoroughly considered before, during, and after the next disaster strikes.

Mitigation planning offers many benefits that include:

- Saving lives and property;
- Saving money;
- Speeding recovery following disasters;
- Reducing future vulnerability through wise development/redevelopment;
- Expediting both pre-disaster and post-disaster grant funding; and
- Demonstrating a firm commitment to improving community health and safety.

Recently, both the State of California and the U.S. Congress made the development of a hazard mitigation plan a specific eligibility requirement for any local government applying for mitigation grant funding. Communities with an adopted plan will therefore become “pre-positioned” and more apt to receive any available mitigation funds. This requirement also applies to all forms of “local government” which has been identified by the Federal Emergency Management Administration (FEMA) to include counties, cities, school districts, special districts, Indian tribes, and other small and large governmental entities. Based on that broad requirement, the State Office of Emergency Services (OES) and FEMA have encouraged multi-jurisdictional hazard mitigation plans, and this plan has been designed to serve a multi-jurisdictional function.

Mitigation planning has the potential to produce long-term and recurring benefits by breaking the repetitive cycle of disaster loss. A core assumption of mitigation is that current dollars invested in mitigation practices will significantly reduce the demand for future dollars by lessening the amount

needed for emergency recovery, repair and reconstruction. Further, these mitigation practices will enable local residents, businesses and industries to re-establish themselves in the wake of a disaster, getting the community economy back on track sooner and with less interruption.

Mitigation planning will also lead to benefits that go beyond solely reducing hazard vulnerability. Measures such as the acquisition or regulation of land in known hazard areas can help achieve multiple community goals, such as preserving open space, maintaining environmental health and natural features, and enhancing recreational opportunities.

The City of Newman is located in a region of California that is vulnerable to the effects of a range of natural hazards. These hazards threaten the life and safety of our residents, and have the potential to damage or destroy both public and private property and disrupt the local economy and overall quality of life. The city's residents and businesses have in fact suffered losses in years past that resulted in significant loss of property damage.

The City of Newman has an established commitment to reduce the potential for future disaster loss. In an effort to sustain this local commitment to hazard mitigation, the city has partnered with Stanislaus County to participate in multi-jurisdictional planning to develop and adopt a plan. At its inner core, the Plan recommends specific actions to combat or accommodate the forces of nature and protect its residents from hazard losses. These actions go beyond simply recommending localized solutions to reduce existing vulnerability, such as promoting projects like energy conservation. Local policies on community growth and development, future land uses as outlined in the General Plan, goals to improve or protect important infrastructure, and public awareness and outreach activities are examples of other actions considered to reduce the city's future vulnerability to natural hazards. This plan has been designed to be a living document and will be evaluated annually.

Purpose

- To protect life, property, and ensure safety by reducing the potential for future damage and economic losses that result from natural hazards;
- To qualify for additional grant funding, in both the pre-disaster and post-disaster environment;
- To speed recovery and re-establish business continuity thus ensuring the city can provide for the safety and security of its residents;
- To demonstrate a firm local commitment to hazard mitigation principles; and
- To comply with both state and federal legislative requirements for local hazard mitigation plans.

Plan Components

- Introduction
- Prerequisites

- Planning Process
- Risk Assessment
- Mitigation Strategy
- Plan Maintenance
- Appendix

PREREQUISITES

PLANNING PROCESS

The City of Newman

DESCRIPTION

The City of Newman, incorporated in 1888, is located in Northern San Joaquin Valley, in the central part of California. It is located within Stanislaus County, approximately 26 miles southwest of Modesto, the County seat. Newman is located approximately 110 miles south of Sacramento and 120 miles S/E of San Francisco via the 5, and 580 freeways. The city's total area is approximately 2.5 square miles or approximately 1,600 acres.

Over half of the land within the City of Newman is devoted to residential uses, almost 10 percent to commercial uses, 4 percent to industrial uses, 15 percent to institutional uses and the remaining 10 percent is vacant. The City is surrounded by open land used primarily for agriculture or related industry.

POPULATION

The population of the City of Newman, is approximately 10,739.

TRANSPORTATION

The City of Newman is divided by State Highway 33 which runs predominately in a North-South direction, with other main thoroughfares being Hills Ferry Road and Stuhr Road running in an East to West direction.

AIRPORTS

Newman Flying Service, located adjacent to Highway 33 & Villa Manucha Road, operates a private 2,500 foot north-south runway for its agricultural customers. The runway is available to, and has been used by public emergency service aircraft in the past.

RAIL

California Northern Railroad operates a freight line service which runs through the City of Newman with its tracks running parallel to Highway 33 through the city.

SCHOOLS

The Newman Crows-Landing Unified School District operates five schools for K-12 grade students. One of the school sites, Bonita Elementary is located in the un-incorporated area of Crows-Landing 6 miles North of the city limits of Newman.

Planning Process

The plan was developed by the formation of a planning team with participants whose positions had a direct role in emergency planning. Meetings were held between plan members in person and also communication via e-mail, with participation in the various Countywide planning meetings. The County meetings were attended by various cities and districts actively participating in the LHMP process.

An outreach effort was made to the public for input by announcing the project via a posting on the City of Newman website. The outreach effort invited private citizens, businesses, non-profit organizations, etc. to actively participate in the planning process. The city's website was linked to the County website which completed the information posted to the city's site. From the County's site the existing plan is available, as well as a link to the FEMA website.

The existing City and County Multi-Jurisdiction LHMP were utilized as well as the following:

- General Plan Policy Document
- General Plan Environmental Impact Report
- Water Master Plan
- Wastewater System Master Plan
- Urban Water Management Plan
- Master Storm Drainage Plan
- City of Newman Development Plan
- City of Newman Sphere of Influence
- City of Newman Emergency Operations Plan
- Stanislaus County Emergency Operations Plan

The following is a list of City of Newman Planning Team members:

Brett Short
Stephanie Ocasio
Terry Barques

The planning meetings were utilized to develop then analyze each section of the plan. After each section was initially developed, the team reviewed each section individually before assembling the final draft. The draft was reviewed again prior to final completion.

Documentation of Planning Process

The following is a chronological summary of the City of Newman planning process related to the development of the plan:

- 9/21/2009 Project assigned to me by Chief of Police Adam McGill
- 1/04/2010 E-mailed Marnie Ardis with Stanislaus OES requesting guidance.
- 1/05/2010 Contacted Newman Planning Department and inquired whether or not we have GIS Mapping capabilities.
- 1/6/2010 Spoke with Marnie Ardis via telephone. She gave me an overview of the planning Process.
- 1/19/2010 Attended MJLHMP update meeting in Modesto at 0900 hours.
- 1/19/2010 Added a link to the county's LHMP information page to the City of Newman website in order to satisfy public outreach efforts to the public.
- 3/4/2010 Converted previous LHMP from 3.5" floppy disc to electronic file.
- 3/8/2010 Message left at Stanislaus Public Works for Mike Wilson regarding GIS mapping and possibly obtaining the data files previously used in the 2005 plan for updating.
- 3/8/2010 E-mailed Stephanie Ocasio (Planner) and Garner Reynolds (Public Works Director) and asked for their input as to new assets and values.
- 3/9/2010 Spoke with Peou Khiek with Stanislaus County Public Works. He stated that the original GIS files would be sent "fairly soon" by Mike Wilson.
- 3/30/2010 Meeting planned with planning and public works departments for information sharing.
- 3/30/2010 Follow-up E-mail sent to Stanislaus County GIS Department again requesting original GIS files.
- 4/1/2010 Public Works provided dollar amount statistics for plan development.
- 4/2/2010 Met with Terry Barques and discussed the plan.
- 4/15/2010 Spoke with Stephanie Ocasio and will meet to discuss further development for Newman.
- 4/15/2010 Stephanie Ocasio provided additional statistics as to 100 and 500 year property totals and values.
- 4/20/2010 LHMP planning meeting scheduled for 0900 hours at Stanislaus County Center III.

Planning Process Cont.

4/22/2010 Compiling all data into the formation of the plan document.

4/23/2010 Continuing compilation of data and conferring with Terry Barques and Stephanie Ocasio.

4/24/2010 Continued compilation of data.

4/25/2010 Draft compiled and sent to planning group for proofreading and comments.

4/25/2010 E-mailed plan to Marnie Ardis and spoke with her on the phone regarding plan acceptance.

4/30/2010 Created four hard-copies and two electronic copies for plan submittal.

RISK ASSESSMENT

Following the County's lead, there are five distinct risks identified within Stanislaus County. In no particular order they are:

Earthquake
Landslide
Dam Failure
Flood
Wildfire

Earthquake

The City of Newman and surrounding area is not known for its seismic activity, but it is still important that we plan for a potential earthquake disaster. Although there are no major faults in the valley portion of Stanislaus County, some faults do exist in the foothills on the eastern and western edges of the County.

Within Stanislaus County there are several faults known to exist. In the extreme eastern part of the County, the Bear Mountain and Melones faults are located, but have been inactive for the past 150 million years. No faults are currently known to exist with the valley portion of the County. Within the Diablo Range, the most recent movements were along the Tesla-Ortigalita fault approximately five million years ago, although earthquake activity without surface fracturing or faulting is still common. The Stanislaus County Earthquake Hazards Map located within the report appendix section of this plan illustrates the known faults in Stanislaus County. Due to budgetary constraints, the local Earthquake Hazards Map will not be updated to reflect current assets. The map from 2005 is in the appendix section of the plan as well as the 2010 Stanislaus County Hazard Assessment map.

Earthquakes could occur that could result in substantial damage to property and infrastructure in the City of Newman. Within the City of Newman are a number of non-reinforced masonry buildings that would be at risk during an earthquake. While new structures are being built to current standards, the retrofitting of older buildings is only accomplished through the change of use permitting process or by voluntary means.

Some older residential properties where the perimeter walls are not anchored to the foundation have this type of improvement made to them upon a transfer of ownership when required by a lender. Other vulnerable critical infrastructure located within the City is the sewer system, water and storm drain lines and streets and sidewalks.

Older portions of this infrastructure, dating back several decades is more vulnerable as newer infrastructure is engineered and constructed to meet current Building Code requirements.

Damage from earthquakes has not been reported in Newman.

Landslide

The City of Newman is located on the valley floor and is approximately 5 miles east of the nearest elevated land mass. The chance of damage to a city facility from a landslide is extremely low and this type of event has never occurred. Though the probability remains extremely low, considerable damage to the local economy could occur in the event of a landslide. As mentioned above, the city has never experienced damage from a landslide.

Dam Failure

The City of Newman is not within the inundation area of New Melones Dam, Don Pedro Dam LaGrange Dam, or Lake McClure (Exchequer Dam) unlike a large portion of Stanislaus County. However, approximately 25 miles southwest of the City of Newman, in Merced County, are facilities that include the B.F. Sisk (San Luis) Dam, O'Niell Forebay, Los Banos Detention Dam and the Little Panoche Detention Dam. The California Department of Water Resources and the United States Department of the Interior, Bureau of Reclamation jointly operate this complex of water systems. The City of Newman Wastewater Treatment Facility is located within the dam failure inundation zones of the B.F. Sisk (San Luis) Dam.

In addition, dam failure at Pine Flat Reservoir in Fresno County and Lake McClure (Exchequer) in Merced County could result in San Joaquin River basin flooding which could result in flood damage to the City of Newman Wastewater Treatment Facility but not to property within the city limits. Dam failure inundation maps detailing flood zones for the Newman area are located in the report appendix. Due to budgetary constraints, the Dam Failure Inundation Maps will not be updated to reflect current assets. The map from 2005 is in the appendix section of the plan as well as the 2010 Stanislaus County Hazard Assessment map.

Newman has not experienced a loss due to dam failure and the probability of catastrophic failure is low.

Flood

While the City of Newman is not within the inundation area for the San Joaquin River Basin, the Tuolumne River Basin, or the Stanislaus River Basin, the flood control concerns for the City of Newman are the controlled or uncontrolled outflow from small streams and tributaries originating on the east slope of the Coast Range Mountains. These waterways feed into the city through adjacent low lands via Orestimba Creek and Central California Irrigation District canal. Additional localized flooding occurs in the northwest portion of the city due to large amounts of rainwater runoff, which is not carried away quickly enough by storm drainage systems.

Most of these flood conditions are from heavy, prolonged rain with heavy runoff conditions. There is no record of flooding within the City from the San Joaquin River, which is located approximately five miles east of the city as the city is approximately 30 feet higher in elevation than the river.

Substantial action has been taken to reduce localized flooding in the City of Newman. The most recent flooding events occurred in 1995 & 1997 where flooding occurred in the city from flows from Orestimba Creek and Central California Irrigation District canal system. Since then, improvements to the storm drainage system have been made and additional improvements are planned. Conveyance of excess water through Orestimba Creek still needs to be addressed. Within the city limits, storm water runoff is collected, and in some cases detained, and then discharged into the San Joaquin River via pumping stations.

Orestimba Creek is an intermittent stream, flowing for short periods during and after rainfall events, and drains a watershed of approximately 25 square miles. The creek's average annual runoff would be approximately 2,000 acre-feet. Creek flows in and near the city are not regulated and in the past have resulted in significant flooding. Between the northern portion of the city and the San Joaquin River, Orestimba Creek runs East from the foothill range West of the City of Newman in a natural river type bed. The creek runs away from the City of Newman to the North and crosses under a rail road trestle owned by California Northern Railroad. After a substantial rain fall, the watershed pushes debris downstream from within its banks and becomes entangled at the rail road trestle and creates a natural dam.

The water will eventually overflow it's banks and then begin to flow in a Southerly direction toward the City of Newman as Newman's elevation is lower and between the rail road tracks and Highway 33, a natural flow travels as though it was in a "water way."

Flood maps detailing flood zones for the Newman area are located in the report appendix. Due to budgetary constraints, the local Flood Maps will not be updated to reflect current assets. The map from 2005 is in the appendix section of the plan as well as the 2010 Stanislaus County Hazard Assessment map.

Wildfire

The City of Newman is situated on the valley floor and is surrounded by plowed agricultural fields. The potential for the city to experience a loss from wildfire is extremely low. Though the probability remains extremely low, considerable damage to the local economy could occur in the event of a local wildfire. The city has never experienced a loss from a wildfire.

The 2010 Stanislaus County Hazard Assessment map is located in the appendix and details the wildfire hazard in the Newman area.

Repetitive Flood Loss Occurrences

The City of Newman has two repetitive flood loss properties identified in the Stanislaus County LHMP. Refer to the county's plan for information pertaining to repetitive flood loss properties.

FACILITY EVALUATION VULNERABILITY ASSESSMENTS

All asset values were computed by CPI @ 14.7385% (2.4% per year) for existing facilities. Assistance in how to compute assets was located at <http://www.bls.gov/bls/inflation.htm>.

ASSESS EARTHQUAKE VULNERABILITY & LOSS ESTIMATES

In a worst case scenario, a catastrophic earthquake event could result in substantial loss of structures and infrastructure in the City of Newman. The probability of a future earthquake event in Stanislaus County is 30% to 40% during the next fifty years. In order to estimate approximate damage due to earthquake, staff utilized the full loss potential to existing and future facilities and infrastructure due to the ground acceleration risk potential in the Newman area. Damage from earthquake has not been reported in Newman.

For purposes of assigning values for property and infrastructure staff utilized internal data for city owned property and infrastructure, and data from the Stanislaus County Assessors Office for private property values. Public infrastructure was limited to those assets owned by the City of Newman. Other infrastructure and assets under the control and ownership of other entities, such as the Pacific Gas & Electric, Newman-Crows Landing Unified School District, Pacific Bell Telephone and San Luis Convalescent Hospital etc., are not included in these estimates but are included in their individual Local Hazard Mitigation Plans. Assets are listed on the following tables: Table One consists of existing property and infrastructure, Table Two consists of future property and infrastructure.

Table One – Existing Facilities

Facilities	Value	Loss Potential
Wastewater Treatment Facility	7,528,885.00	7,528,885.00
Police and Fire Facilities	2,369,350.00	2,369,350.00
Public Works Facility	1,147,385.00	1,147,385.00
Waste Water Treatment Facility Land	5,736,925.00	5,736,925.00
Water System Well Sites #1R,5,6, & 8	3,442,155.00	3,442,155.00
Park and Storm Drain Detention Systems	1,491,601.00	1,491,601.00
Sewer Lift Stations (7)	516,323.00	516,323.00
Storm Lift stations (5)	573,693.00	573,693.00
Sewer Lines: 31.4 miles @ \$100.00 PLF	19,022,725.00	19,022,725.00
Water Lines: 26.4 miles @ \$100.00 PLF	15,993,629.00	15,993,629.00
Storm Drain Lines:13.1 miles @ \$100.00 PLF	7,936,233.00	7,936,233.00
Streets and Sidewalks: 28 miles.	32,126,780.00	32,126,780.00
Traffic Signals	1,376,862.00	1,376,862.00
Private Property Residential (2475units)	851,933,363.00	851,933,363.00
Private Property Commercial	25,410,113.00	25,410,113.00
Private Property Industrial	56,442,304.00	56,442,304.00
Total:	\$1,030,274,277.00	\$1,030,274,277.00

Table Two – Future Assets

Earthquake Hazard – Property Loss Estimates	Value	Loss Potential
City Hall	4,589,540.00	4,589,540.00
L.J. Newman Building Complex	494,729.00	494,729.00
Public Works Corporation Yard	5,736,925.00	5,736,925.00
Newman Fire Station	4,589,540.00	4,589,540.00
Traffic Signal System	2,294,770.00	2,294,770.00
Newman Police Station	4,589,540.00	4,589,540.00
San Luis Convalescent Hospital	4,015,848.00	4,015,848.00
City of Newman water wells 5 & 6	2,065,293.00	2,065,293.00
Yancey Self Storage	1,721,078.00	1,721,078.00
Newman Self Storage	2,925,832.00	2,925,832.00
Wastewater Treatment Facility Expansion	32,126,780.00	32,126,780.00
Total:	\$65,149,874.00	\$65,149,874.00

ASSESS LANDSLIDE VULNERABILITY & LOSS ESTIMATES

The City of Newman is located on the valley floor and is approximately 5 miles east of the nearest elevated land mass. The chance of damage to a city facility from a landslide is extremely low and this type of event has never occurred. Though the probability remains extremely low, considerable damage to the local economy could occur in the event of a landslide. As mentioned above, the city has never experienced damage from a landslide.

There are no facilities or properties that would be directly damaged by a landslide.

ASSESS FLOOD VULNERABILITY & LOSS ESTIMATES

The primary flood control concerns for the City of Newman are the controlled or uncontrolled flows of water from Orestimba Creek and the Central California Irrigation District. Most flood conditions are from heavy, prolonged rain. Flooding in the city could involve property loss, interruption of transportation and utilities, damage to agricultural land and interruption of government infrastructure. Flood loss estimates were based upon a 20% to 50% loss to include structural damage, content loss, and damage to land improvements such as grading and drainage.

Newman has experienced prior loss to floods in 1995 and 1997.

100-Year Flood (City Property)

Existing City Owned Facilities	Value	Estimated Flood Loss
Waste Water Treatment Facility	7,528,885.00	7,528,885.00
Police & Fire Facilities	2,369,350.00	2,369,350.00
Public Works Facility	1,147,385.00	1,147,385.00
Water Well System 1R,5,6, & 8	3,442,155.00	3,442,155.00
City Hall Facility	4,589,540.00	4,589,540.00
Total	\$17,889,407.00	\$17,889,407.00

500-Year Flood (City Property)

Existing City Owned Facilities	Value	Estimated Flood Loss
Waste Water Treatment Facilities	6,340,977.00	6,340,977.00
Police & Fire Facilities	2,369,350.00	2,369,350.00
Public Works Facilities	1,147,385.00	1,147,385.00

Waste Water Treatment Facility Land	4,485,003.00	7,485,003.00
Water System Well Sites #1R ,5 ,6 & 8	3,442,155.00	3,442,155.00
Park & Storm Drain Detention Systems	1,491,601.00	1,491,601.00
Lift Stations (7)	516,323.00	516,323.00
Lift Stations (5)	573,693.00	573,693.00
Sewer Lines: 23 Miles @ \$100.00 PLF	13,933,843.00	13,933,843.00
Water Lines: 26 Miles @ \$100.00 PLF	15,751,301.00	15,751,301.00
Storm Drain Lines: 13.1 Miles @ \$100.00 PLF	7,936,233.00	7,936,233.00
Streets & Sidewalks: 28 Miles	32,126,780.00	32,126,780.00
Traffic Signals	1,376,862.00	1,376,862.00
City Hall	4,589,540.00	4,589,540.00
L.J. Newman Building	494,729.00	494,729.00
Public Works Corporation Yard	5,736,925.00	5,736,925.00
Fire Facilities	4,589,540.00	4,589,540.00
City Street Lights @ \$3500 Ea. (571)	1,998,500.00	1,998,500.00
Total:	\$111,873,740.00	\$111,873,740.00

500-Year Flood (Future City Property)

Future City Facilities	Value	Estimated Flood Loss
Waste Water Treatment (Expansion)	32,126,780.00	16,063,390.00
Total:	\$32,126,780.00	\$16,063,390.00

100-Year Flood (Private Property)

Private Property	Value	Estimated Flood Loss
526 Parcels	139,000,000.00	\$69,500,000.00
Total:	\$139,000,000.00	\$69,500,000.00

500-Year Flood (Private Property)

Private Property	Value	Estimated Flood Loss
566 Parcels	100,000,000.00	50,000,000.00
Total:	\$100,000,000.00	\$50,000,000.00

100-Year Flood (Future Private Property Development)

Private Property (Future)	Value	Estimated Flood Loss
San Luis Convalescent Hospital	3,500,000.00	1,750,000.00
Total:	\$3,500,000.00	\$1,750,000.00

500-Year Flood (Future Private Property Development)

Private Property (Future)	Value	Estimated Flood Loss
Marquez Manor	10,500,000.00	10,500,000.00
Total:	\$10,500,000.00	\$10,500,000.00
Total:	\$185,126,780.00	\$147,813,390.00

ASSESS DAM FAILURE VULNERABILITY & LOSS ESTIMATES

Details contained in the Department of Water Resources, State Water Project, Bureau of Reclamation, San Luis Field Division Emergency Action Plan indicate that flooding from dam failure from this complex would primarily be confined to the San Joaquin River channel to the north-east and would not directly effect the City of Newman except for the City of Newman Wastewater Treatment Facility. Certainly indirect effects would equal or exceed those associated with San Joaquin River flooding predictions, including impacts to access bridges, utility interruptions, transportation interruptions and damage to agricultural related industries outside of the city limits.

As previously identified, the City of Newman Waste Water Treatment Facility (Located at 2600 Hills Ferry Road) is essentially the only city facility that would be at risk due to failure of the B.F. Sisk (San Luis) Dam, Pine Flat Reservoir Dam or Lake McClure (Exchequer Dam).

Newman has not suffered a previous loss due to dam failure.

Dam Failure – Property Loss Estimate (Existing Facilities)	Loss Value
City of Newman Wastewater Treatment Facility	\$34,354,909.00

Dam Failure – Property Loss Estimate (Future Facilities)	Loss Value
City of Newman Wastewater Treatment Facility Expansion	\$32,126,780.00

ASSESS WILDFIRE VULNERABILITY & LOSS ESTIMATES

The City of Newman is situated on the valley floor and is surrounded by plowed agricultural fields. The potential for the city to experience a loss from wildfire is extremely low. Though the probability remains extremely low, considerable damage to the local economy could occur in the event of a local wildfire. The city has never experienced a loss from a wildfire.

There are no facilities or properties that would be directly damaged by a wildfire.

MITIGATION STRATEGY

The following details the City of Newman's Mitigation Strategies for the identified hazard risks. It should be noted that in regard to the Local Hazard Mitigation Plan of 2005, all of the mitigation actions listed were achieved. These strategies provide the city's plan for reducing potential losses identified in the Risk Assessment, based on existing authorities, policies, programs and available resources. The mitigation strategies were designed to give the best possible benefit for the cost incurred and will continue to be evaluated during plan maintenance. They include Local Hazard Mitigation Goals, Identification and Analysis of Mitigation Actions and Implementation of Mitigation Actions.

In the Local Hazard Mitigation Plan of 2005, all of the mitigation actions listed were achieved.

CITY OF NEWMAN

LOCAL HAZARD MITIGATION PLAN MITIGATION STRATEGY – EARTHQUAKES/LANDSLIDES

LOCAL HAZARD MITIGATION GOALS – EARTHQUAKES/LANDSLIDES

- Minimize future loss of life and reduce property damage as a result of earthquakes/landslides.
- Reduce economic impact of earthquake/landslides.

IDENTIFICATION AND ANALYSIS OF MITIGATION ACTIONS – EARTHQUAKES/LANDSLIDES

PRIORITY ACTIONS		
HAZARD	ACTION	PRIORITY
Earthquakes/Landslides	Place restrictions, to the extent allowable and as necessary, on new development projects in geological fault and hazard areas.	HIGH
Earthquakes/Landslides	All new construction and upgrades of existing facilities will be engineered to the latest standards for seismic activity, adjusted for serviceability and risk.	HIGH

IMPLEMENTATION OF MITIGATION ACTIONS – EARTHQUAKES/LANDSLIDES

IMPLEMENTATION STRATEGY		
ACTION/PRIORITY	RESPONSIBLE	STAFF, FUNDING SOURCE, TIMEFRAME AND DEADLINE
City shall ensure that all appropriate standards and codes are adhered to for all existing and future city facilities.	<ul style="list-style-type: none"> • Planning Department • Building Department 	<ul style="list-style-type: none"> • Existing Staff • General Fund • Development Fees • Ongoing Timeframe

CITY OF NEWMAN

LOCAL HAZARD MITIGATION PLAN MITIGATION STRATEGY – DAM FAILURE/INUNDATION

LOCAL HAZARD MITIGATION GOALS – DAM FAILURE INUNDATION

- Minimize future loss of life and reduce property damage as a result of a dam failure/inundation.
- Reduce economic impact of dam failure/inundation.

IDENTIFICATION AND ANALYSIS OF MITIGATION ACTIONS – DAM FAILURE/INUNDATION

PRIORITY ACTIONS		
HAZARD	ACTION	PRIORITY
Dam Failure/Inundation	Utilize the Newman Emergency Operations Plan. Coordinate with local OES officials and neighboring agencies for evacuation/life safety issues. Participate in the FEMA/OES functional exercises as they occur. Update any relevant section of the Emergency Operations Plan and Continuity of Operations Plan procedures.	HIGH

IMPLEMENTATION OF MITIGATION ACTIONS – DAM FAILURE/INUNDATION

IMPLEMENTATION STRATEGY		
ACTION/PRIORITY	RESPONSIBLE	STAFF, FUNDING SOURCE, TIMEFRAME AND DEADLINE
<p>City shall ensure familiarity with all relevant local emergency action plans and continue to train personnel and participate in local disaster exercises.</p> <p>City will continue to coordinate through local OES and work with all emergency services providers.</p> <p>City will evaluate existing policies and implement new policies as needed.</p>	<ul style="list-style-type: none"> • Management Division • Operations Division • Training Division 	<ul style="list-style-type: none"> • Existing Staff • Every 5 years • Ongoing Timeframe

CITY OF NEWMAN

**LOCAL HAZARD MITIGATION PLAN
MITIGATION STRATEGY – FLOOD**

LOCAL HAZARD MITIGATION GOALS – FLOOD

- Minimize future loss of life and reduce property damage as a result of floods.
- Reduce economic impact of floods.

IDENTIFICATION AND ANALYSIS OF MITIGATION ACTIONS – FLOOD

PRIORITY ACTIONS		
HAZARD	ACTION	PRIORITY
Floods	All new development shall be built to minimize the effects of flooding. Continued construction of storm drain improvements and continued participation in the National Flood Insurance Program. Continue city involvement in Orestimba Creek flood control project.	HIGH
Floods	Utilize the Newman Emergency Operations Plan. Coordinate with local OES officials and neighboring agencies to assist with life safety. Participate in the FEMA/OES functional exercises as they occur. Update Emergency Operations Plan and Continuity of Operation Plan as needed. Continued training of employees in the N.I.M.S.	HIGH

CITY OF NEWMAN

IMPLEMENTATION OF MITIGATION ACTIONS – FLOOD

IMPLEMENTATION STRATEGY		
ACTION/PRIORITY	RESPONSIBLE	STAFF, FUNDING SOURCE, TIMEFRAME AND DEADLINE
<p>City shall ensure that all appropriate standards and codes are adhered to for all existing and future city facilities.</p> <p>City shall ensure familiarity with all relevant local emergency operations plans and continue to train personnel and participate in local disaster exercises.</p> <p>City will continue to participate in Orestimba Creek flood control project.</p> <p>City will continue to coordinate through local OES and work with all emergency services providers.</p> <p>City will evaluate existing policies and implement new policies as needed.</p> <p>City will train all employees in the National Incident Management System.</p>	<ul style="list-style-type: none"> • Planning Department • Building Department • Police Department • Management Group 	<ul style="list-style-type: none"> • Existing Staff • Consultants • Development Fees • General Fund • Federal Funds • Every 5 years • Ongoing Timeframe

CITY OF NEWMAN

LOCAL HAZARD MITIGATION PLAN MITIGATION STRATEGY – WILDFIRE

LOCAL HAZARD MITIGATION GOALS – WILDFIRE

- Minimize future loss of life and reduce property damage as a result of wildfires.
- Reduce economic impact of wildfires.

IDENTIFICATION AND ANALYSIS OF MITIGATION ACTIONS – WILDFIRE

PRIORITY ACTIONS		
HAZARD	ACTION	PRIORITY
Wildfires	Continued abatement program requiring the removal of fire hazards, including vegetation, hazardous structures, materials, and debris. Continued adherence to the current fire and building codes when approving new development. Implement a fire and life safety inspection program.	HIGH

IMPLEMENTATION OF MITIGATION ACTIONS – WILDFIRE

IMPLEMENTATION STRATEGY		
ACTION/PRIORITY	RESPONSIBLE	STAFF, FUNDING SOURCE, TIMEFRAME AND DEADLINE
<p>City shall ensure all fire hazards are removed through existing abatement programs.</p> <p>City shall ensure that all new development provides for adequate fire equipment access, and where appropriate, use fire-resistant landscaping and building materials.</p> <p>City shall maintain an ongoing fire and life safety inspection program for all public and commercial buildings.</p>	<ul style="list-style-type: none"> • Police Department • Planning Department • Building Department • Fire Department 	<ul style="list-style-type: none"> • Existing Staff • General Fund • Development Fees • Ongoing Timeframe

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PLAN MAINTENANCE

The City of Newman Local Hazard Mitigation Plan serves as a living document that will require adjustments to maintain its relevance. City personnel will monitor, evaluate and update the plan to reflect ongoing efforts to improve hazard mitigation activities. At a minimum of yearly, the appropriate personnel will discuss and incorporate any necessary changes into the maintenance review of the LHMP.

All information used for the development of the plan, and the risk assessment contained therein, will be continuously updated to reflect new and upgraded City facilities. This allows for the LHMP to be a current planning tool for the capitol improvement process, emergency management activities and emergency field operations.

In association with Stanislaus County, the City plan will be updated every five (5) years as required by the Disaster Mitigation Act of 2000. The City will continue to work with the County and our multi-jurisdictional partners when the plan is updated and will seek input from the public regarding revisions to the current plan, via the City website.

LHMP Revision Criteria

New technology
New information
Shifts in development
Areas affected by recent disasters and/or
Significant changes in Federal, State, County or District regulations or policies

Adoption and Implementation of the Plan

On August 10th 2005, the Newman City Council passed Resolution 2005-33, authorizing participation in the LHMP facilitated by Stanislaus County. The first six sections were submitted to the County on May 3rd 2010, for inclusion in their plan submittal to OES and FEMA. That submittal was approved on February 28th, 2011.

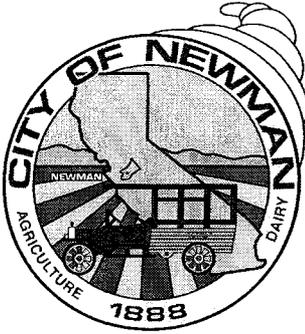
Sections * and * were submitted to the County on _____, 2010, for inclusion in their final draft submittal back to OES and FEMA.

Comments and required changes from FEMA's review of the draft submittal were received in _____, 2010. The requested changes were made and on _____, 2010, the final plan was brought before the Newman City Council for adoption. The council unanimously adopted the plan by resolution.

Copies of the City's final plan were sent to Stanislaus County on _____, 2010. The mitigation plan will be implemented through the mitigation actions and existing mechanisms contained herein.

APPENDIX

- Appendix A 2010 Stanislaus County Hazard Assessment Map
- Appendix B 2005 City of Newman Facilities Map
- Appendix C 2005 City of Newman Earthquake Hazard Map
- Appendix D 2005 City of Newman Flood Map
- Appendix E 2005 City of Newman Dam Failure/Inundation Map
- Appendix F City website posting listing LHMP update and link to County page
- Appendix G Resolution 2005-33, Authorizing participation in MJLHMP
- Appendix H Crosswalk



**City of Newman
City Manager's Office
Memorandum**

Date: March 17, 2011
To: City Council
From: Michael E. Holland, City Manager *MEH*

Subject: City Council Item No. 10.b. - Report On Newman Historical Society's Request.

Attached is a copy of a request from the Newman Historical Society. They are requesting permission to re-establish the rose garden within Pioneer Park. NHS is working with a local contractor regarding design and installation considerations. In addition, NHS has contacted local groups, including Orestimba's horticulture class, to assist with the annual maintenance. Staff is requesting input regarding this request.

Their second request involves 'cleaning the Yancey Building up.' Their letter includes a list of the proposed enhancements. At this point, the NHS is not requesting to open the building to the public. Staff seeks Council direction regarding this request as well.

To Whom It May Concern:

March 15, 2011

On behalf of the Newman Historical Society I am requesting to meet with the Newman City Council at their next meeting.

I would like to discuss with the City Council the Newman Historical Society's plans to re-establish a Rose Garden in the The City of Newman's Pioneer Park. Before proceeding City Manager Michael Holland wanted to be sure that there would be people to take care of the Rose Garden if the Newman Historical Society members were not able.

There were several community service organizations questioned and comments from some of their members stated they were interested in assisting the Newman Historical Society with the Rose Garden. I have received a letter from the Orestimba High School Horticultural Class and they are very interested in becoming involved and helping with the Rose Garden.

We have received a bid from Joe Garcia of Joe's Landscaping and Concrete. We have a copy of the layout for the Rose Garden. The Rose Garden will be placed in the same area of the park where the old Rose Garden was years ago.

The Newman Historical Society has been told that we can not proceed with the Rose Garden Plans until the Newman City Council gives their permission. We would like to receive their permission the night of the next meeting, so we are able to proceed or "forget about it".

I would like to explain to the City Council our two other projects for the City of Newman's Pioneer Park. The John Sharp's Memorial Fountain and the Cannon that is said to have been in the Boxer Rebellion, are in clean-up plans. The clean-up will begin when the weather gets warmer.

The Newman Historical Society members, as well as many local residents that have been in the community many years, are very disturbed with the way the Yancey Building is looking and the fact that it's not going to be changed or be moved for many years. Donations have been given to the Newman Historical Society with suggestions that the Society see about cleaning the Yancey Building up. A bid has been given to us – the cost to basically clean up the Yancey Building. We do not want the building to be opened for visiting purposes, that would be impossible because of how it sits and the cost factor, we just want a Newman Historical eye-sore to be made beautiful again.

**FOR YOUR INFORMATION: Clean up would mean-
A low cost siding would be put on the East Side where the other
structure was located.**

The back door of the building would be sanded and clean.

The overhangs would be straightened and sanded.

The porch would be sanded.

The signs on the building would be re-painted and replaced.

The building would be cleaned and painted.

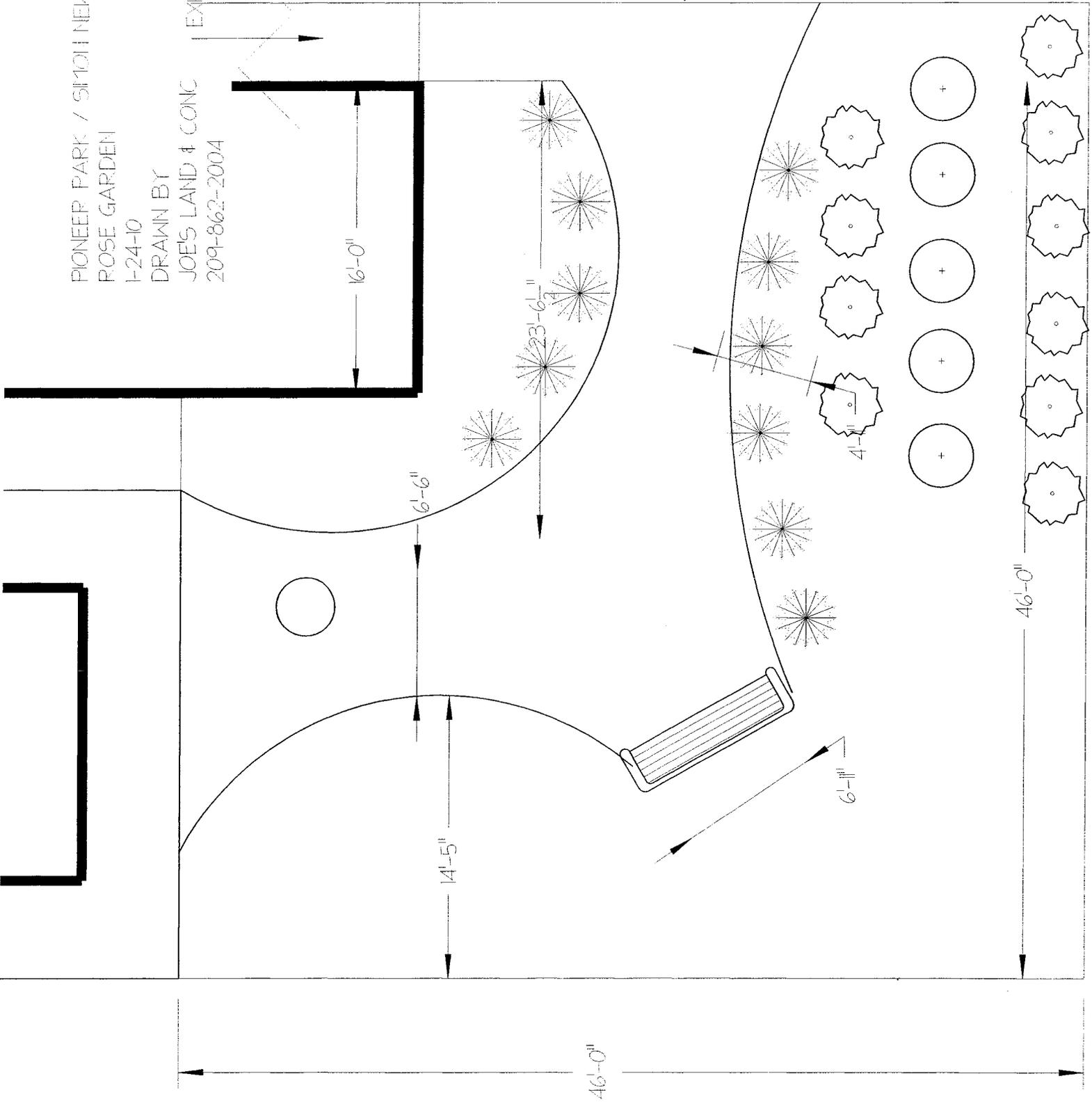
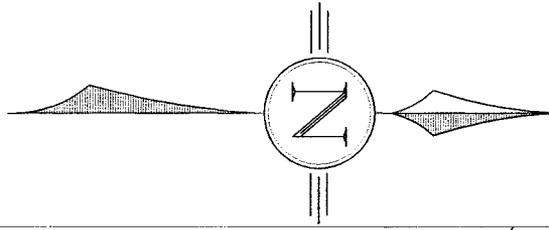
Thank you for your consideration.

Mary Vaz Moore

President Newman Historical Society

PIONEER PARK / SIMON NEWMAN
ROSE GARDEN
1-24-10
DRAWN BY
JOE'S LAND & CONC
209-862-2004

EXISTING WALKWAY



Honorable Mayor and Members
of the Newman City Council

ADOPT RESOLUTION NO. 2011- , AWARDING THE PQRST/FRESNO/MERCED/WEST AVENUE INFRASTRUCTURE AND STREET RECONSTRUCTION PROJECT – PHASE 2 TO GREGG OPINSKI CONSTRUCTION

RECOMMENDATION:

It is recommended that the Newman City Council adopt Resolution No. 2011- , awarding the PQRST/Fresno/Merced/West Avenue Infrastructure and Street Reconstruction Project – Phase 2 to Gregg Opinski Construction for a not-to-exceed amount of \$315,745.69.

BACKGROUND:

The City has received grant funding from the Stanislaus County CDBG Consortium for infrastructure improvements in the City's income-eligible area bordered by Yolo Street, "N" Street, Inyo Avenue and the western city limit line. Known as the Street Reconstruction and P, Q, R, S, T, Fresno, Merced and West Avenue Projects, the first phase was completed in 2010 and consisted of the installation of curb, gutter, and sidewalks and related street repairs around the Howard B. Hill Jr. Park site (Fresno Street, Merced Street and West Avenue). The second phase consists of the removal of approximately 47 trees, removal and replacement of 4,900 lineal feet of curb and gutter, 2,700 square feet of sidewalks and walkways, 2,300 square feet of driveways and incidental paving on S and T Streets from Inyo Road to Hoyer Road/Yolo Avenue. The replacement of the trees is being planned as part of the Urban Forestry Grant Application that was approved by City Council on January 11, 2011. If the City is not awarded the Urban Forestry Grant, then the trees will be replanted by the Public Works Department.

ANALYSIS:

The City advertised for bids for approximately three weeks; received bids were opened and read on March 11, 2011 at 2:00 pm. A total of seven bids were submitted for this project. The Engineer's Estimate for the project is \$264,379.50. The City Engineer has reviewed the bids and found them to be in proper order. The lowest responsible bidder for this project has been determined to be Gregg Opinski Construction with a bid amount of \$315,745.69 (see attachment 2 for the abstract of the bids).

FISCAL IMPACT:

Gregg Opinski Construction Bid - \$315,745.69

10/11 CDBG Funding Available - \$322,500.00

CONCLUSION:

The City of Newman advertised and received bids for the PQRST/Fresno/Merced/West Avenue Infrastructure and Street Reconstruction Project – Phase 2. Gregg Opinski Construction has been determined to be the lowest responsible bidder with a bid amount of \$315,745.69. Therefore, staff recommends City Council adopt Resolution No. 2011- , awarding the bid for the PQRST/Fresno/Merced/West Avenue Infrastructure and Street Reconstruction Project – Phase 2 to Gregg Opinski Construction for a not-to-exceed amount of \$315,745.69.

ATTACHMENTS:

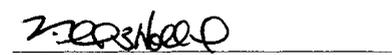
1. Resolution No. 2011- , awarding the PQRST/Fresno/Merced/West Avenue Infrastructure and Street Reconstruction Project – Phase 2 to Gregg Opinski Construction
2. Abstract of Bids

Respectfully Submitted,



Garner Reynolds
Director of Public Works

REVIEWED/CONCUR:



Michael E. Holland
City Manager

RESOLUTION NO. 2011-

**AWARDING A CONTRACT FOR THE PQRST/FRESNO/MERCED/WEST AVENUE
INFRASTRUCTURE AND STREET RECONSTRUCTION PROJECT – PHASE 2 TO GREGG OPINSKI
CONSTRUCTION**

WHEREAS, the City Manager of the City of Newman has recommended that the City Council approve a contract with Gregg Opinski Construction for the PQRST/Fresno/Merced/West Avenue Infrastructure and Street Reconstruction Project – Phase 2; and

WHEREAS, the City of Newman has solicited for and received bids shown in attachment 2; and

WHEREAS, Gregg Opinski Construction has been determined to be the lowest responsible bidder in the amount of \$315,745.69; and

WHEREAS, the City Council is desirous of entering into a contract with Gregg Opinski Construction; and

WHEREAS, the City Council of the City of Newman has available funding for the PQRST/Fresno/Merced/West Avenue Infrastructure and Street Reconstruction Project – Phase 2; 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 Gregg Opinski Construction.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newman hereby approves the contract with Gregg Opinski Construction and authorizes the City Manager to execute said contract for the PQRST/Fresno/Merced/West Avenue Infrastructure and Street Reconstruction Project – Phase 2.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 22nd day of March 2011 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

**ABSTRACT OF BIDS FOR CITY OF NEWMAN
PQRST/FRESNO/MERCED/WEST AVENUE INFRASTRUCTURE AND STREET RECONSTRUCTION PROJECT - PHASE 2**

Bid Opening: March 11, 2011; 2:00 p.m.

Greg Opinski Construction
P.O. Box 2065
Merced, California 95340

Viking General Contracting, Inc.
P.O. Box 1423
Atwater, California 95301

MCI Engineering, Inc.
7207 Murray Drive
Stockton, California 95210

FBD Vanguard Const., Inc.
651 Enterprise Court
Livermore, California 94550

Ross F. Carroll, Inc.
P.O. Box 1308
Oakdale, California 95361

Item No.	Item	Quantity and Unit	Unit Price	Amount								
1	Traffic Control	Lump Sum	Lump Sum	500.00	Lump Sum	12,000.00	Lump Sum	5,500.00	Lump Sum	8,100.00	Lump Sum	14,030.00
2	Tree & Stump Removal	47 EA	617.00	28,999.00	700.00	32,900.00	560.00	26,320.00	510.00	23,970.00	500.00	23,500.00
3	Stump Removal	2 EA	250.00	500.00	500.00	1,000.00	135.00	270.00	110.00	220.00	210.00	420.00
4	Curb and Gutter	4,851 LF	37.12	180,069.12	31.20	151,351.20	31.00	150,381.00	32.00	155,232.00	32.00	155,232.00
5	Sidewalks and Walkways	2,685 SF	7.65	20,540.25	8.20	22,017.00	11.00	29,535.00	8.00	21,480.00	14.00	37,590.00
6	Driveways	2,299 SF	8.70	20,001.30	10.00	22,990.00	13.00	29,887.00	8.40	19,311.60	16.00	36,784.00
7	Valley Gutter	1 EA	6,111.00	6,111.00	7,120.00	7,120.00	7,190.00	7,190.00	7,200.00	7,200.00	7,250.00	7,250.00
8	Ramps	14 EA	2,200.00	30,800.00	2,360.00	33,040.00	2,645.00	37,030.00	2,060.00	28,840.00	2,300.00	32,200.00
9	Cold Plane Asphalt	9,702 SF	0.11	1,067.22	0.00	0.00	0.50	4,851.00	3.00	29,106.00	0.70	6,791.40
10	Pavement Repairs	9,702 SF	2.40	23,284.80	2.90	28,135.80	1.50	14,553.00	4.10	39,778.20	2.80	27,165.60
11	Pavement Reconstruction	1,291 SF	3.00	3,873.00	4.90	6,325.90	12.00	15,492.00	6.40	8,262.40	7.00	9,037.00
TOTAL				\$315,745.69	*	\$316,879.90		\$321,009.00		\$341,500.20		\$350,000.00

Haskell & Haskell Engineering
P.O. Box 880
Knights Ferry, California 95361

George Reed, Inc.
234 E. Fremont St.
Stockton, California 95202

Engineer's Estimate

Item No.	Item	Quantity and Unit	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	Traffic Control	Lump Sum	Lump Sum	6,340.00	Lump Sum	13,615.00	Lump Sum	3,000.00
2	Tree & Stump Removal	47 EA	493.24	23,182.28	600.00	28,200.00	725.00	34,075.00
3	Stump Removal	2 EA	663.50	1,327.00	143.50	287.00	375.00	750.00
4	Curb and Gutter	4,851 LF	31.07	150,720.57	39.25	190,401.75	30.00	145,530.00
5	Sidewalks and Walkways	2,685 SF	10.95	29,400.75	11.50	30,877.50	6.00	16,110.00
6	Driveways	2,299 SF	15.70	36,094.30	13.00	29,887.00	10.00	22,990.00
7	Valley Gutter	1 EA	10,600.00	10,600.00	7,750.00	7,750.00	6,000.00	6,000.00
8	Ramps	14 EA	3,516.07	49,224.98	2,450.00	34,300.00	800.00	11,200.00
9	Cold Plane Asphalt	9,702 SF	0.81	7,858.62	0.75	7,276.50	0.50	4,851.00
10	Pavement Repairs	9,702 SF	3.22	31,240.44	1.25	12,127.50	1.25	12,127.50
11	Pavement Reconstruction	1,291 SF	4.87	6,287.17	8.75	11,296.25	6.00	7,746.00
TOTAL				\$352,276.11	*	\$366,018.50		\$264,379.50

* Corrected Amount

**ADOPT RESOLUTION NO. 2011- , A RESOLUTION SUPPORTING AN APPLICATION FOR A
CALTRANS ENVIRONMENTAL JUSTICE TRANSPORTATION PLANNING GRANT FOR THE
SOUTH COUNTY CORRIDOR REVITALIZATION STUDY**

RECOMMENDATION:

It is recommended that the Newman City Council adopt Resolution No. 2011- , a resolution supporting an application for a Caltrans Environmental Justice Transportation Planning Grant for the South County Corridor Revitalization Study.

BACKGROUND:

The South County Corridor (SCC) has been in the planning stages for many years. In 1991, StanCOG adopted an expressway study identifying this corridor as a major expressway route to serve regional and interregional traffic demands. In 2006, Stanislaus County updated their General Plan to include the Corridor, and the project was later included in the unsuccessful local sales tax measure, Measure S, transportation improvement program. The purpose of the Revitalization Study will be to provide an overview of potential strategies and project alternatives to improve community involvement in planning for improved mobility, accessibility, and safety in the vicinity of the SCC. The Revitalization Study will place a specific focus on how transportation strategies and projects that interface with land use planning, can promote economic opportunity, equity, environmental protection, and affordable housing for low income and minority populations. Respective of the limited east-west regional corridors in the San Joaquin Valley region, the Revitalization Study would also analyze how the existing, or the feasibility of potential corridor alignments could enhance both local and regional connectivity, improve goods movement and influence or contribute to the economic vitality of region. Lastly, the information provided by the Study could result in improved safety along the SCC area and provide strategies to mitigate environmental impacts due to the limited access and mobility opportunities, increased congestion and air quality concerns in the Stanislaus County region.

ANALYSIS:

The California Department of Transportation (Caltrans) has solicited applications for Environmental Justice Transportation Planning Grants for Fiscal Year 2011-12. Transportation Planning Grants are intended to promote a balanced, comprehensive multi-modal transportation system. The application deadline for these grants is March 30, 2011. There is a cooperative effort by StanCOG, Stanislaus County, the City of Turlock, the City of Patterson and the City of Newman to prepare and submit an application for a Caltrans Environmental Justice Transportation Planning Grant for a South County Corridor Revitalization Study. The City of Modesto has also expressed its support for the development of this grant application. The partner and sub-recipient agencies of Stanislaus County and the Cities of Newman, Patterson and Turlock are also preparing their respective support documents. Participation in the planning process for the SCC will provide an opportunity for the City of Newman to provide input and direction regarding the needs of our community for the SCC.

FISCAL IMPACT:

There is no fiscal impact to the City of Newman for the grant. However, staff time is necessary for participation in the planning process.

CONCLUSION:

Caltrans has solicited applications for Environmental Justice Transportation Planning Grants. Transportation Planning Grants are intended to promote a balanced, comprehensive multi-modal transportation system. Therefore, staff recommends that the Newman City Council adopt Resolution No. 2011- , a resolution supporting an application for a Caltrans Environmental Justice Transportation Planning Grant for the South County Corridor Revitalization Study.

ATTACHMENTS:

1. Resolution No. 2011- A resolution supporting an application for a Caltrans Environmental Justice Transportation Planning Grant for the South County Corridor Revitalization Study.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Garner R. Reynolds".

Garner R. Reynolds
Director of Public Works

REVIEWED/CONCUR:

Michael Holland
City Manager

RESOLUTION NO. 2011-

A RESOLUTION SUPPORTING AN APPLICATION FOR A CALIFORNIA DEPARTMENT OF TRANSPORTATION ENVIRONMENTAL JUSTICE TRANSPORTATION PLANNING GRANT FOR THE SOUTH COUNTY CORRIDOR REVITALIZATION STUDY

WHEREAS, the California Department of Transportation (Caltrans) is currently accepting applications for Fiscal Year 2011-12 Transportation Planning Grants; and

WHEREAS, the City of Newman supports the development of a South County Corridor to facilitate the movement of goods and services; and

WHEREAS, the cities of Newman, Turlock, Patterson and Stanislaus County have requested that StanCOG act as applicant for the Caltrans grant to fund the South County Corridor Revitalization Study; and

WHEREAS, StanCOG will be the applicant and will file an application for a Environmental Justice Transportation Planning Grant for the South County Corridor Revitalization Study on behalf of the Stanislaus Council of Governments (StanCOG), in partnership as Sub-Recipients with Stanislaus County, the City of Newman, the City of Patterson, and the City of Turlock.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newman hereby supports the submittal of a Fiscal Year 2011-12 Caltrans Environmental Justice Transportation Planning Grant for the preparation of the South County Corridor Revitalization Study.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 22nd day of March, 2011 by Council Member _____, who moved its adoption which motion was duly seconded and it was upon roll call carried and the resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mayor

ATTEST:

Deputy City Clerk

AMENDMENT TO SHERMAN RANCH DEVELOPMENT AGREEMENT

RECOMMENDATION:

Conduct Second Reading and Adoption of Ordinance No. 2011- , approving First Amendment to the Sherman Ranch Development Agreement.

BACKGROUND:

In September 2004, the Planning Commission reviewed a proposed Development Agreement for the Sherman Ranch subdivision. (The original project was approved by the Planning Commission in 1999.) Following the recommendation of the Planning Commission, the City County adopted Ordinance No. 2004-03 approving the Sherman Ranch Development Agreement in October 2004. Subsequent to these actions, the City adopted a Substitute Reimbursement and Settlement Agreement (SRSA) to settle 'complete and full satisfaction of ... the total amounts for which Developer remains eligible to receive reimbursement...'

In January 2010, the Developer filed a lawsuit in Stanislaus County Superior Court alleging Breach of Contract, Unjust Enrichment, Common Counts, Conversion and Breach of Fiduciary Duty. While the City remained confident in its legal position, settlement talks to end the lawsuit were initiated. Through diligent work and mutual cooperation, both sides agreed to a settlement agreement in December 2010. Final execution of the Settlement agreement requires approval of the attached changes to the Development Agreement.

On January 20, 2011, the Planning Commission, subsequent to holding a public hearing, recommended approval of the proposed amendments to the Sherman Ranch Development Agreement.

On March 8, 2011, the City Council conducted a public hearing on this matter. No person(s) chose to speak on the matter during said hearing. Upon closing the hearing, the Council introduced the attached Ordinance amending the Sherman Ranch Development Agreement.

ANALYSIS:

Attached for your review are the proposed changes to the Development Agreement. In summary, the proposed major changes are identified below:

- (1) The City agrees to extend the term of the Development Agreement for an additional three (3) years.
- (2) The City/Redevelopment Agency agrees to set up a Fee Offset program for buyers who qualify under the Low and Moderate income levels.
- (3) The City agrees to extend the validity of building permits submitted prior to December 31, 2010 for a period of two years.
- (4) The City agrees to extend the reimbursement agreement for an additional three (3) years.

Subsequent to the adoption of the attached changes, the applicant agrees to file a Request for Dismissal with prejudice within ten (10) calendar days following the passage of the referendum period.

FISCAL IMPACT:

Overall positive. The City is saving general fund monies through not having to defend our position in court. While the City/Redevelopment Agency will be required to set up a Fee Offset program using Low and Moderate Redevelopment funds and HOME funds; these funds are considered restricted. Any new units constructed using these funds will generate general funds monies through property and sales taxes.

CONCLUSION:

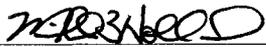
Consistent with the initial recommendation, staff recommends Council approve the attached Ordinance Amendment.

In conclusion, the proposed changes require the developer to dismiss the lawsuit with prejudice, saving the City the cost of defending our legal position in court. While the changes also require extending the duration of the development and reimbursement agreements, there is not a direct cost associated with these extensions. The establishment of a Fee Offset program, for use in Sherman Ranch, utilizes restricted funds, not general funds. As a result, there is minimal impact upon the City/Agency's budget. Overall, if these programs are successful, the City should experience an increase in economic activity due to additional jobs being created within the City and expansion of our property tax base.

ATTACHMENTS:

1. Proposed Ordinance 2011- amending the Sherman Ranch Development Agreement.
2. Exhibit D –First Amendment to Sherman Ranch Development Agreement.

Respectfully submitted,



Michael Holland
City Manager

ORDINANCE NO. 2011-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWMAN APPROVING
FIRST AMENDMENT TO SHERMAN RANCH DEVELOPMENT AGREEMENT**

WHEREAS, The Planning Commission held a Public Hearing on Thursday, January 20, 2011, to consider First Amendment to Sherman Ranch Development Agreement (DA) No. 2011-01; and;

WHEREAS, The Planning Commission provided a recommendation of approval on the proposed Development Agreement, in accordance with Section 6-11-8 of Newman Municipal Code; and

WHEREAS, The City Council conducted a Public Hearing on March 8, 2011 to consider and review the First Amendment to Sherman Ranch Development Agreement; and

WHEREAS, Notice of the Public Hearing before the Planning Commission and before the City Council was given in the time and in the manner required by State Law and City Code;

WHEREAS, This Amendment would not directly result in any physical land use changes or impacts to the environment; and

WHEREAS, The City Council determines the best interests of the City of Newman and of its residents would be served by the approval of this Amendment; and

WHEREAS, The City Council has independently considered all evidence, including the conclusions and recommendations of Planning Commission of the City of Newman; and

WHEREAS, The City Council of the City of Newman hereby finds that said Amendment is consistent with the objectives, policies, general land uses, and programs specified in the Newman General Plan and the Newman Neighborhood Specific Plan; and

WHEREAS, The City of Newman determined that Environmental Review has been addressed through the previously certified Final Environmental Impact Report (FEIR) for the Newman General Plan and the Expanded Initial Study prepared for the Sherman Ranch Subdivision. Section 15162 of CEQA guidelines specifies that no additional environmental work is needed where an EIR is prepared unless:

1. Subsequent changes to the project require important revisions; or
2. Substantial changes occur to the circumstances or settings; or
3. New information of substantial importance becomes available; and

WHEREAS, Staff is of the opinion that no circumstances, as outlined in Section 15162 exists and no further environmental documentation is required. Applicable mitigation measures are incorporated as conditions of approval. The proposed resolution includes statements which confirms that the previously certified Environmental Impact Report prepared for the Newman General Plan addresses CEQA pursuant to Section 15162 of the CEQA Guidelines; and

WHEREAS, In independently reaching this conclusion the City Council has considered all of the evidence, including the conclusions and recommendations of our planning department; and

WHEREAS, the City Council of the City of Newman finds that said CEQA Compliance has been addressed on the previously certified Environmental Impact Report and the Sherman Ranch Development Agreement will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of Newman as a whole; and

WHEREAS, The City Council of the City of Newman finds that said Amendment will not adversely affect the orderly development of property or the preservation of property values; and

WHEREAS, Pursuant to Government Code Section 65865(c), the City has adopted rules and regulations establishing procedures and requirements for consideration of development agreements, and amendments thereto. This Amendment has been processed, considered, and executed in accordance with those City rules and regulations; and

WHEREAS, The Amendment has adhered to, and is consistent, with the requirements of the Development Agreement Statute; and

WHEREAS, The City finds the Developer has a legal or equitable interest in the property subject to the Development Agreement; and

WHEREAS, The City Council has considered all of the evidence, including the conclusions and recommendations of our planning department.

NOW, THEREFORE, BE IT ORDAINED By the City Council of the City of Newman as follows:

Section 1. The recitals above are true and correct, and the City Council hereby makes the findings set forth herein.

Section 2. The City Council of the City of Newman hereby approves the First Amendment to Sherman Ranch Development Agreement, Exhibit "D," and finds that said Amendment is consistent with the requirement of Government Code Section 65814, et seq.

Section 3. The Mayor and City Clerk of the City of Newman are authorized and directed to execute and record said Development Agreement.

Section 4. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care toward persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5. If any provision of this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not effect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The city council hereby declares that it would have adopted this ordinance irrespective of the validity of any particular portion thereof.

Section 6. This ordinance shall become effective thirty (30) days after its final passage.

Section 7. Within fifteen (15) days after its final passage, the City Clerk shall cause this ordinance to be published in the West Side Index in accordance with Section 36933 of the Government Code.

The foregoing ordinance was introduced by Council Member Hutchins, and the title thereof read at the regular meeting of the City Council of the City of Newman held on, March 8, 2011, and by a unanimous vote of the council members present, further reading was waived.

On motion of councilperson Martina, seconded by Council Member _____, the foregoing ordinance was duly passed by the City Council of the City of Newman at a regular meeting thereof held on March 22, 2011, by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mayor of City of Newman

ATTEST:

Deputy City Clerk

**EXHIBIT D
AMENDMENT OF DEVELOPMENT AGREEMENT**

FIRST AMENDMENT TO SHERMAN RANCH DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT ("First Amendment") is made and entered into this ____ day of _____, 2011, by and between SCM Hearthstone, LLC, a California limited liability company ("Developer"), and the City of Newman, a municipal corporation ("City"), pursuant to the authority of section 65864 et seq. of the Government Code of the State of California.

RECITALS

A. To ensure the timely, efficient, orderly, and proper development of the Project known as Sherman Ranch, on November 12, 2004, Developer and City entered into that certain Development Agreement for Sherman Ranch ("Development Agreement") pursuant to which City granted Developer a vested right to develop the Project.

B. The parties wish to extend the term of the Development Agreement for a period of three (3) years.

C. The parties wish to add additional provisions to the Development Agreement which clarify and specify certain rights of Developer associated with the Project.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Newman as follows:

1. The recitals above are true and correct and hereby made a part of this First Amendment.
2. All capitalized terms not defined herein shall have the meanings ascribed to them in the Development Agreement.
3. Section 3.04 of the Development Agreement is hereby amended to read as follows:

3.04. Term. The term of this Agreement shall commence upon the Effective Date and shall extend ~~40~~ 13 years from the Effective Date or until the "Project Buildout" as hereinafter defined, whichever is earlier, unless said term is otherwise modified by circumstances set forth in this Agreement or by the mutual consent of the parties hereto. For purposes of this Agreement, "Project Buildout" shall mean the date on which a Certificate of Occupancy (or comparable instrument) is issued for the last Project improvement or residential home or other structure to be constructed pursuant to the Development Plan as it may be amended pursuant to this Agreement. Following the expiration of said term, this Agreement shall be deemed terminated and of no further force and effect, except as may be specified otherwise herein. The term

of the Vesting Tentative Subdivision Map shall be no less than the term of the Agreement as described in this Section.

4. A new Section 8.03 is hereby added to read as follows:

8.03 Fee Offsets. City agrees that it shall establish a Fee Offset Fund, as set forth herein.

A. **Fee Offset Fund.** City agrees that it shall reserve an amount equal to TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) ("Fee Offset Fund") to be used to pay for a portion of certain City fees, as specified in **Exhibit A**, attached hereto and incorporated herein by reference, for the Sherman Ranch Development, and as such fees may be adjusted for inflation by City. ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000) of the Fee Offset Fund shall consist of federal HOME funds allocated to City (the "HOME Fee Offset Fund") and ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000) of the Fee Offset Fund (the "Agency Fee Offset Fund") shall consist of funds from the Low and Moderate-Income Housing Fund of the Redevelopment Agency of the City of Newman (the "Agency"). The sole purpose of the Fee Offset Fund is to pay for City fees due at the time of final inspection for those housing units (the "Affordable Units") being sold to Qualified Buyers, as defined below.

The Sherman Ranch Development consists of three models of housing development: (i) the "Classics" homes are low-density units; (ii) the "Heritage" homes are medium-density units; and (iii) the "Villas" homes are high-density units. The HOME Fee Offset Fund shall only be used to pay the fees for up to twelve (12) units within the Villas development. The Agency Fee Offset Fund may be used to pay the fees for units within either the Classics or Heritage developments. The City's obligation to maintain the Fee Offset Fund, in whole or in part, for the uses specified in this Section 2.1 shall terminate upon the earlier of (i) the use of all monies in the Fee Offset Fund; or (ii) December 31, 2013. The City may, in its sole discretion, request that the Agency provide additional funds to be deposited in the Agency Fee Offset Fund, prior to December 31, 2013, so that additional Affordable Units may be sold to Qualified Buyers.

B. **Qualified Buyers.** A Qualified Buyer shall be a person or family of low or moderate income, as defined in Health and Safety Code section 50093, as may be adjusted by the California Department of Housing and Community Development ("HCD"). For purposes of this Settlement Agreement, "area median income" shall mean the median income for households in Stanislaus County, California, as published from time to time by the United States Department of Housing and Urban Development ("HUD"). A 2010 schedule of low and moderate income limits for Stanislaus County is attached hereto as **Exhibit B** and incorporated herein by this reference.

The City's obligation to use the Fee Offset Fund shall be expressly conditioned upon the City receiving from Developer evidence reasonably satisfactory to City certifying the income level of any proposed Qualified Buyer, and that the proposed sales price of any Affordable Unit does not exceed the affordable housing

cost, as defined by Health and Safety Code section 50052.5, for such Qualified Buyer. The maximum sales prices of any Affordable Unit to a Qualified Buyer must comply with the regulations promulgated by HCD.

C. Payment of Fees. City shall pay to Developer, upon the sale of each Affordable Unit to a Qualified Buyer, the amount of fees attributable to such Affordable Unit from either the HOME Fee Offset Fund or the Agency Fee Offset Fund, as the case may be. Such payment may be made either directly to Developer, upon the close of escrow, or through escrow, as the parties may determine.

5. A new Section 10.05 is hereby added to read as follows:

10.05. Building Permits.

A. Applications. For all building permit applications submitted by Developer to the City on or prior to December 31, 2010, for any of the lots identified on Exhibit C, (Sections A-D), attached hereto and incorporated herein by this reference, the City hereby agrees that such application shall be valid for two years. For purposes of applying building standards, conditions, and/or regulations, and/or permit fees, a building permit shall be deemed effective upon the application date. Any failure of Developer to pursue an application shall not be grounds for revocation by abandonment under the California Building Code.

B. Timing of Payment of Fees. For purposes of applying permit fees for the lots identified on Exhibit C, all fees identified on Exhibit F of the Development Agreement that are due and payable at the time a building permit is issued shall be due and payable as stated on Exhibit D, attached hereto and incorporated herein by reference.

C. Indemnity. Developer agrees to defend, indemnify, and hold City harmless from any and all claims, costs and liabilities as a result of any legal action or proceeding brought against the City arising from, or in anyway relating to, this Section 10.05.

6. A new Section 10.06 is hereby added to read as follows:

10.06. Sales Office Use Permit. The City agrees to process in good faith, at Developer's request and expense, three consecutive extensions of one year each of the use permit for the Sherman Ranch sales office.

7. Section 6.10 of the Development Agreement is hereby amended to read as follows:

~~A. Developer shall submit Improvement Plans and Engineering Estimates for the cost of improvements. Developer shall be reimbursed for up-front construction costs of "Backbone Infrastructure" improvements, beyond Developer's pro-rata fair share, as set forth in the Reimbursement Schedule, Exhibit "G". The Reimbursement schedule may be revised from time to time to reflect actual cost of improvements. Said revisions shall be approved by staff and shall not require City Council review.~~

~~To the maximum extent possible, reimbursement shall be in the form of fee credits. Reimbursement amounts over and above fee credits will be paid on a quarterly basis to Developer and shall be paid from the Capital Facilities Funds as Capital Facility Fees are collected from future developments within the area of benefit. In no event shall City General Funds be used to reimburse the Developer. City has no further obligations under this Development Agreement to provide any reimbursements or credits to Developer. All reimbursement matters have been settled under a separate agreement between the Developer and City titled "The Substitute Reimbursement and Settlement Agreement" and subsequent amendment thereto.~~

8. Except as modified by this Amendment, the Development Agreement shall remain unchanged and is in full force and effect.

9. This Amendment may be executed in any number of counterparts with the same effect as if the parties had all signed the same document, and which together shall constitute one and the same instrument.

10. Facsimile, electronically scanned, and photocopied signatures shall be as valid as original signatures only for purposes of demonstrating execution of the Amendment until such time as originally executed documents can be circulated. Said originally executed documents shall be binding and shall constitute evidence of the execution of this Amendment for all purposes.

IN WITNESS WHEREOF, the parties have hereunder set their hand the day and year first written above.

Approved as to Form:

Exhibit "D"

City Attorney

CITY

CITY OF NEWMAN, a municipal corporation

By **Exhibit "D"**
City Manager

By **Exhibit "D"**
City Clerk

Approved as to Form:

NEUMILLER & BEARDSLEE

By: **Exhibit "D"**
Clifford W. Stevens
Attorneys for Developer

DEVELOPER

SCM Hearthstone, LLC

By: **Exhibit "D"**
Steve C. Mothersell, Sr.
President