



AGENDA
NEWMAN CITY COUNCIL
SPECIAL MEETING JUNE 17, 2014
CITY COUNCIL CHAMBERS, 7:00 P.M., 938 FRESNO STREET

1. Call To Order.
2. Pledge Of Allegiance.
3. Invocation.
4. Roll Call.
5. Declaration Of Conflicts Of Interest.
6. Ceremonial Matters.
7. Items from the Public - Non-Agenda Items.
8. Consent Calendar
 - a. Waive All Readings Of Ordinances And Resolutions Except By Title.
 - b. Approval Of Minutes Of The June 10, 2014 Meetings. ([View Minutes](#))
 - c. Approval Of City Manager Contract Extension And Amendment. ([View Report](#))
9. Public Hearings.
10. Regular Business
 - a. Report On 2014 Newman Fall Festival. ([View Report](#))
 - b. Approve Fiscal Year 2014-2015 Annual Budget As Presented In The Preliminary Budget Document. ([View Report](#))
 - I. Adopt Resolution No. 2014- , A Resolution Adopting The Budget For Fiscal Year 2014-2015.
 - II. Adopt Resolution No. 2014- , A Resolution Establishing The Appropriations Limit For Fiscal Year 2014-2015.

[\(View Preliminary Budget\)](#)
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

June 15 - Father's Day.

June 17 - City Council - Special Meeting - 7:00 P.M.

June 19 - Planning Commission - Cancelled.

June 24 - City Council - 7:00 P.M.

June 29 - Comforting Kids Car Show - Pioneer Park - 9:00 A.M. - 4:00 P.M.

July 4 - Independence Day Holiday - City Offices Closed.

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

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

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

July 19 - Outdoor Movie Night - *Despicable Me 2* - Sherman Park - 8:00 P.M.

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



MINUTES
NEWMAN CITY COUNCIL
SPECIAL MEETING JUNE 10, 2014
CITY COUNCIL CHAMBERS, 6:00 P.M., 938 FRESNO STREET

1. **Call To Order** - Mayor Katen 6:00 P.M.
2. **Roll Call PRESENT:** Davis, Hutchins, Candea, Martina And Mayor Katen.
ABSENT: None.
3. **Items from the Public - Non-Agenda Items** - None.
4. **Workshop - Review 2014/2015 Fiscal Year Budget.**

Finance Director Humphries Reviewed Budget Highlights And Noted Changes In This Year's Budget From The Previous Year's Budget. Humphries Reviewed Changes In Revenues And Briefly Reviewed Each Of The Department's Budgets As Well As Special Revenue, Enterprise And Capital Project Funds.

Council Member Hutchins Noted That The Emergency Dispatch Costs Were High And That They Were Also A General Fund Expense.

Finance Director Humphries Noted That The City Was Evaluating Potential Options That Would Lower The City's Dispatch Costs.

Council Member Hutchins Remarked That He Felt The Recreation Department Is Bifurcated, Because Not All Recreation Programs Were Being Run By The Recreation Department.

City Manager Holland Noted That Given The Current Budget Deficit, He Would Not Recommend Converting The Part-Time Recreation Supervisor To Full-Time Position.

Council Member Hutchins Inquired About The Performance Investments With LIAF Versus Chandler Asset Management.

City Manager Holland Noted That Moving Additional Monies From LIAF To Chandler Asset Management May Result In Increased Revenues But Noted That It Would Be Minimal. Holland Stated That He Would Not Be Comfortable With The Added Risk Of Moving More Funds To Chandler Asset Management.

City Manager Holland Noted That A Special Meeting Had Been Scheduled For June 17th To Consider Adopting The Budget.

5. Adjournment.

ACTION: On Motion By Katen Seconded By Martina, The Meeting Was Adjourned At 6:47 P.M. By The Following Vote: AYES: Davis, Hutchins, Candea, Martina, And Mayor Katen; NOES: None; ABSENT: None; NOT PARTICIPATING: None.



MINUTES
NEWMAN CITY COUNCIL
REGULAR MEETING JUNE 10, 2014
CITY COUNCIL CHAMBERS, 7:00 P.M., 938 FRESNO STREET

1. **Call To Order** - Mayor Katen 7:01 P.M.
2. **Pledge Of Allegiance.**
3. **Invocation** - None.
4. **Roll Call - PRESENT:** Davis, Hutchins, Candea, Martina And Mayor Katen.
ABSENT: None.
5. **Declaration Of Conflicts Of Interest** - None.
6. **Ceremonial Matters.**
 - a. Proclamation - Disability Awareness Month.

Mayor Katen Presented A Proclamation Declaring The Month Of June As Disability Awareness Month In The City Of Newman.

Lynn Quijada-Vaughan, Director Of Programs For The Society For Disabilities In Modesto, Accepted The Proclamation. Quijada-Vaughan Noted That 1 Out Of 8 In Their Lifetime Will Become Or Will Be Associated With Someone Who Has A Disability. She Thanked The City And Encouraged Everyone To Be More Aware Of Those With Disabilities.

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 May 27, 2014 Meetings.
 - d. Adopt Resolution No. 2014-30, A Resolution Requesting That The Board Of Supervisors Of Stanislaus County Consolidate The City Of Newman Municipal Election To Be Held November 4, 2014 With The Gubernatorial General Election To Be Held On The Same Date.
 - e. Adopt Resolution No. 2014-31, A Resolution Approving The City Of Newman CDBG Tulare Street 2014 Infrastructure Improvement Project As Complete And Authorizing Ed Katen As Mayor, And Michael E. Holland As City Clerk To Record A Notice Of Completion.
 - f. Adopt Resolution No. 2014-32, Approving A Three (3) Year Lease Agreement With Newman Co-Op Nursery School And Authorizing The City Manager To Execute Said Lease For The Property Located At 1147 "R" Street.

ACTION: On A Motion By Hutchins Seconded By Davis, The Consent Calendar Was Approved By The Following Vote: AYES: Davis, Hutchins, Candea, Martina, And Mayor Katen; NOES: None; ABSENT: None; NOT PARTICIPATING: None.

9. Public Hearings

- a. Adopt Resolution No. 2014-33, A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4.

Mayor Katen Opened The Public Hearing At 7:08 P.M.

There Being No Public Comment, Katen Closed The Public Hearing At 7:09 P.M.

ACTION: On Motion By Martina Seconded By Candea And Unanimously Carried, Resolution No. 2014-33, A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4, Was Adopted.

- b. Second Reading And Adoption Of Ordinance No. 2014-4, Amending Title 4 Building Regulations, Chapter 4.11 Floodplain Management, Of The Newman City Code And Authorize Staff To Publish A Summary Of Said Ordinance.

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

Ronnie Thompson, 136 West Stuhr Road, Newman, Stated That He Was Told That He May Have To Start Paying For Flood Insurance If He Decided To Refinance His Property.

Public Works Director Kim Noted That Congress Accepted The Chevron Levee Proposal Which Would Help Mr. Thompson. Kim Mentioned That He Is Trying To Utilize A Regional Effort To Move The Project Forward And Noted That Our Project Had Already Been Ranked Second Regionally.

There Being No Further Public Comment, Katen Closed The Public Hearing At 7:18 P.M.

ACTION: Ordinance No. 2014-4, Amending Title 4 Building Regulations, Chapter 4.11 Floodplain Management Of The Newman City Code, Had Its Second Reading By Title Only. On A Motion By Hutchins Seconded By Davis, Said Ordinance Was Adopted And Staff Was Authorized To Prepare And Publish A Summary Of Said Ordinance By The Following Vote: AYES: Davis, Hutchins, Candea, Martina, And Mayor Katen; NOES: None; ABSENT: None; NOT PARTICIPATING: None.

- c. Second Reading And Adoption Of Ordinance 2014-5, Amending Title 5 Zoning, Adding Chapter 29 Urban Growth Boundary, Of The Newman City Code And Authorize Staff To Publish A Summary Of Said Ordinance.

Mayor Katen Opened The Public Hearing At 7:25 P.M.

Ronnie Thompson, 136 West Stuhr Road, Newman, Expressed That He Was Concerned Because His Home Will Be In The Commercial/Industrial Zone Of The Proposed Northwest Annexation. He Also Inquired As To The Status Of The Riddle Mine Project.

City Manager Holland Noted That The City Is Currently Working On A Master Plan In The North West Master Plan Area In Newman But Pointed Out That The Urban Growth Boundary Process Was Separate From The Annexation Process. Holland Noted That Staff Would Be Happy To Meet With Him To Discuss His Concerns.

City Manager Holland Also Replied That It Was His Understanding That The Riddle Mine Project Was Still Working On Their Environmental Report.

There Being No Further Public Comment, Katen Closed The Public Hearing At 7:32 P.M.

ACTION: Ordinance No. 2014-5, Amending Title 5 Zoning, Adding Chapter 29 Urban Growth Boundary Of The Newman City Code, Had Its Second Reading By Title Only. On A Motion By Candea Seconded By Martina, Said Ordinance Was Adopted And Staff Was Authorized To Prepare And Publish A Summary Of Said Ordinance By The Following Vote: AYES: Davis, Hutchins, Candea, Martina, And Mayor Katen; NOES: None; ABSENT: None; NOT PARTICIPATING: None.

10. Regular Business

- a. Adopt Resolution No. 2014-34, A Resolution Calling For And Giving Notice Of The Holding Of A General Municipal Election To Be Held In The City Of Newman On Tuesday, November 4, 2014, For The Purposes Of Submitting To The Qualified Voters A Ballot Measure Amending The City Of Newman General Plan To Create An Urban Growth Boundary, Requesting Consolidation Thereof With The Statewide Election To Be Held On The Same Date, And Requesting The Stanislaus County Board Of Supervisors To Permit The Stanislaus County Clerk To Render Specific Services To The City Of Newman Relating To The Conduct Of The General Municipal Election.

ACTION: On Motion By Hutchins Seconded By Martina, Resolution No. 2014-34, A Resolution Calling For And Giving Notice Of The Holding Of A General Municipal Election To Be Held In The City Of Newman On Tuesday, November 4, 2014, For The Purposes Of Submitting To The Qualified Voters A Ballot Measure Amending The City Of Newman General Plan To Create An Urban Growth Boundary, Requesting Consolidation Thereof With The Statewide Election To Be Held On The Same Date, And Requesting The Stanislaus County Board Of Supervisors To Permit The Stanislaus County Clerk To Render Specific Services To The City Of Newman Relating To The Conduct Of The General Municipal Election, Was Adopted By The Following Vote: AYES: Davis, Hutchins, Candea, Martina, And Mayor Katen; NOES: None; ABSENT: None; NOT PARTICIPATING: None.

- b. Second Reading And Adoption Of Ordinance 2014-6, An Ordinance Of The City Council Of The City Of Newman Approving A Second Amendment To The Sherman Ranch Development Agreement And Authorize Staff To Publish A Summary Of Said Ordinance.

ACTION: Ordinance No. 2014-6, An Ordinance Of The City Council Of The City Of Newman Approving A Second Amendment To The Sherman Ranch Development Agreement, Had Its Second Reading By Title Only. On A Motion By Candea Seconded By Martina, Said Ordinance Was Adopted And Staff Was Authorized To Prepare And Publish A Summary Of Said Ordinance By The Following Vote: AYES: Davis, Hutchins, Candea, Martina, And Mayor Katen; NOES: None; ABSENT: None; NOT PARTICIPATING: None.

- c. Adopt Resolution No. 2014-35, A Resolution Approving An Agreement With The Villas Communities, LLC And Authorizing The City Manager To Execute Said Agreement.

ACTION: On Motion By Martina Seconded By Candea, Resolution No. 2014-35, A Resolution Approving An Agreement With The Villas Communities, LLC And Authorizing The City Manager To Execute Said Agreement, Was Adopted By The Following Vote: AYES: Davis, Hutchins, Candea, Martina, And Mayor Katen; NOES: None; ABSENT: None; NOT PARTICIPATING: None.

- d. Adopt Resolution No. 2014-36, A Resolution Designating The Americans With Disabilities Act (ADA) Coordinator And Adopting ADA Grievance Procedure.

ACTION: On Motion By Hutchins Seconded By Davis, Resolution No. 2014-36, A Resolution Designating The Americans With Disabilities Act (ADA) Coordinator And Adopting ADA Grievance Procedure, Was Adopted By The Following Vote: AYES: Davis, Hutchins, Candea, Martina, And Mayor Katen; NOES: None; ABSENT: None; NOT PARTICIPATING: None.

11. Items From District Five Stanislaus County Supervisor.

Supervisor DeMartini Reported That The Bill That Authorizes The Construction Of The Orestimba Creek Flood Control Project Had Be Signed By President Obama. DeMartini Reminded Everyone About The Upcoming Canyon Classic Bike Rides/Race On June 14th In Del Puerto Canyon. He Noted That The West Side Walks Campaign Was Already Underway At The Local High School Tracks And Would Be Open To The Public On Wednesday's From 6-8 P.M. DeMartini Pointed-Out That The Annual Healthcare Summit Was Quickly Approaching And That It Would Be Held On August 21st At The West Side Theatre. He Concluded By Informing Everyone That The Next West Side Healthcare Taskforce Meeting Would Be In Patterson On June 26th.

12. Items From The City Manager And Staff.

City Manager Holland Reported The Both The June Recreation And Planning Commission Meetings Had Been Cancelled. Holland Reminded Everyone That The City Council Would Be Meeting Twice More in June; On June 17th And The 24th. He Noted That Staff Would Be Communicating With The Clerk Of The Board Of Supervisors To Move The Election Process Forward. Holland Mentioned That He Would Soon Be Meeting With Stanislaus County C.E.O. Stan Risen. He Informed The Council That Escrow Had Closed On The Souza Property. Holland Indicated That He Would Like To Schedule A Meeting Of The Public Safety Sub-Committee In The Near Future. He Concluded By Wishing Everyone A Happy Father's Day.

Public Works Director Kim Noted That Due To High Temperatures, Public Works Staff May Modify Their Schedule.

City Planner Ocasio Reported That The City Had Received The 2014 CalAPA Central Section Outstanding Planning Award For The City's Non-Motorized Transportation Plan.

13. Items From City Council Members.

Mayor Katen Noted That The Mayor Of Gustine Had Contacted Him Regarding A Fundraiser For The Annual Fourth Of July Festivities In Gustine. He Encouraged Everyone To Support Gustine's Efforts And Asked The Council To Help By Either Buying Or Selling Raffle Tickets For A 4x4 Pickup. Katen Reminded Everyone That The Annual Softball Challenge Would Take Place On Friday June 13th.

14. Adjournment.

ACTION: On Motion By Hutchins Seconded By Martina, The Meeting Was Adjourned At 8:03 P.M. By The Following Vote: AYES: Davis, Hutchins, Candea, Martina, And Mayor Katen; NOES: None; ABSENT: None; NOT PARTICIPATING: None.



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

Date: June 12, 2014

To: Mayor and City Council

From: Michael E. Holland, City Manager *MH*

Subject: City Manager contract extension and amendment.

Over that past two months, the City Council scheduled four (4) closed sessions to conduct a performance review of the City Manager. Following a positive evaluation, the Council has elected to enter into a new five (5) year contract with Michael E. Holland for City Manager services. Changes to the contract include a 5% merit increase (3% in base salary and an additional 2% towards deferred compensation match) and additional language with respect to Separation. (Severance payout remains unchanged.) The attached contract, with amended language, has been reviewed and approved by the City Attorney.

CITY MANAGER EMPLOYMENT AGREEMENT

This CITY MANAGER EMPLOYMENT AGREEMENT ("Agreement"), is made and entered into this ____ day of _____, 2014 ("Effective Date"), by and between the City of Newman, a municipal corporation of the State of California, ("City") and Michael Holland ("Employee"), an individual. City and Employee may individually be referred to herein as "Party" or collectively as "Parties". There are no other parties to this Agreement.

RECITALS

- A. City requires the services of a person with proven executive and administrative qualifications to fill the position of "City Manager" as created by Newman Municipal Code ("Municipal Code") Section 1.06.010. The City Manager shall be the administrative head of the City government under the direction and control of the Newman City Council ("City Council");
- B. Employee has served as City Manager uninterrupted since the City Council promoted him from Community Development Director in 2006. This contract represents the fourth contract between Employee and the City.
- C. City Council has evaluated Employee's knowledge, experience, administrative skills and abilities during Employee's current employment as City Manager, and has elected to continue his appointment to the position of City Manager pursuant to the terms of this Agreement;
- D. The Parties intend for this Agreement to replace the Employment Agreement entered into between City and Employee on April 1, 2011. This Agreement shall be the sole agreement between the Parties regarding the employment of Employee as City Manager and shall supersede any previous agreement; and
- E. This Agreement is entered into by the Parties pursuant to the authority of and subject to the provisions of California Government Code ("Government Code") Section 53260 et seq.

NOW, THEREFORE, in consideration of the above Recitals, and of the faithful performance of the terms and conditions contained herein, the Parties agree as follows:

Section 1. Recitals. The recitals set forth above ("Recitals") are incorporated herein by this reference and made a part of this Agreement. In the event of any inconsistencies between the recitals and Sections 1 through 12 of this Agreement, Sections 1 through 12 will prevail.

Section 2. Appointment of City Manager, Duties and Term.

Section 2.1. Appointment of City Manager and Duties. The City Council hereby appoints Employee to the position of City Manager, in and for the City to perform the function and duties of the City Manager as specified in Section 1.06.040 of the Municipal Code, and Employee accepts such appointment and employment pursuant to the terms of this Agreement.

Section 2.2. No Secondary Employment. . During the Term, as defined in this Agreement, Employee shall not hold secondary employment, and shall be employed exclusively by the City, subject to any exceptions approved in writing by the City Council. Provided, however, that Employee has the right to volunteer for such nonprofit organizations as he may see fit; and further provided that such volunteer services shall not interfere with his duties as City Manager.

Section 2.3. Exempt Employee. The general business hours for City employees are Monday through Friday, 8:00 a.m. to 5:00 p.m. However, it is recognized by the Parties that Employee, as the City Manager, is an exempt employee for purposes of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 *et seq.*). As such, Employee shall not receive overtime or extra compensation for hours worked outside of general business hours which are necessary to fulfill the duties of the City Manager position.

Section 2.4. Schedule. The City Manager's schedule of work each day and week shall vary in accordance with the work required to be performed. The Council recognizes that the City Manager must devote a great deal of his time outside normal office hours to business of the City and to that end, will be allowed to take compensatory time off as he shall deem appropriate during said normal office hours.

Section 2.5. Term. The term of this Agreement shall be for five (5) years from the Effective Date ("Term"). The City Council in its sole discretion may extend the Term. No later than six (6) months prior to the expiration of the Term, the City Council shall provide written notice to Employee as to whether the City Council intends to extend the Term. The City shall give the Employee written notice of non-renewal at least equal to the number of months then being used to calculate the amount of the Severance as defined in Section 8.3 of this Agreement.

Section 3. At-Will Employment. Employee is an "at will" employee serving at the pleasure of the City Council as provided in Government Code Section 36506. Accordingly, the City Council may terminate Employee's employment at any time, with or without cause.

Section 4. Compensation and Evaluations.

Section 4.1. Base Salary. City agrees to pay Employee an annual base salary of One Hundred Forty One Thousand Three Hundred Ninety Six Dollars (\$141,396) or Eleven Thousand Seven Hundred Eighty Three Dollars (\$11,783) per month ("Base Salary"), payable in installments at the same time that the other City Management, as defined below, employees are paid.

Section 4.2. Merit Increases. The City Council may from time to time grant merit increases in Employee's Base Salary as follows: if after a Review and Evaluation as defined below, the City Council concludes that Employee's performance warrants an adjustment for merit, the City Council may grant a merit adjustment in an amount determined by the City Council, to be effective on a date determined by the City Council. Such merit adjustments may be in the form of lump sum payments, adjustments to the Base Salary or any other form determined by the City Council.

Section 4.3. Benefits. During the Term of this Agreement, Employee shall be entitled to receive the same benefits, including any deferred compensation, provided to the City's Management employees pursuant to the City's "Personnel Policy" attached as Exhibit A, as amended from time to time. In addition to, or in lieu of, the benefits provided to City Management employees, to the extent more advantageous to the Employee, Employee shall receive all benefits provided in Sections 5, 6, 7 and 8 below.

Section 4.4. Review and Evaluation. The City Council agrees to review and evaluate Employee's performance of his duties as City Manager pursuant to the terms of this Agreement ("Review and Evaluation") on not less than an annual basis, and to provide Employee with a written performance review. Notwithstanding the foregoing, City Council may undertake a performance Review and Evaluation of Employee at any time in its sole discretion.

Section 5. Health and Life Insurance Benefits.

Section 5.1. Health Insurance. During the Term of this Agreement, City agrees to provide and to pay the premiums for health, vision, and dental insurance for the Employee and his dependents equal to that which is provided to all other Management employees of the City.

Section 5.2. Life Insurance. The City shall provide a life insurance policy equal to three (3) times the Base Salary of the Employee during the Term of this Agreement. The Employee shall name the beneficiary of the life insurance policy.

Section 6. Vacation and Sick and Other Leave. As of the Effective Date, the Employee shall accrue vacation at a rate of 4 weeks per year. Employee is entitled to accrue all other leave in the same manner as other Management employees, and in the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time. Employee shall annually

be credited with administrative leave equal to that of other Management employees. In the event Employee voluntarily resigns from the City pursuant to Section 8.1 of this Agreement, Employee shall not be entitled to the monetary equivalent of any unused administrative leave accruals remaining at the time of separation.

Section 7. Monthly Vehicle Allowance and Deferred Compensation.

Section 7.1 Vehicle Allowance. During the Term of this Agreement, City agrees to pay to the Employee and in addition to the Base Salary and benefits provided herein, the sum of Five Hundred Dollars (\$500) per month, as a vehicle allowance to be used to offset the monthly costs of purchasing, leasing, operating and maintaining a vehicle. This vehicle allowance is meant to supplement monthly automobile related expenses, and said allowance shall not relieve Employee of his sole responsibility to obtain and pay for comprehensive automobile insurance coverage and to pay for all costs attendant to the purchase, lease, operation, maintenance, repair or replacement of said vehicle, regardless of whether the monthly costs exceed the \$500 allowance.

Section 7.2 Deferred Compensation. Employee and City recognize that Employee has agreed to accept an additional two percent (2%) above the current Deferred Compensation level (2%) in lieu of an equal increase in base salary. The Deferred Compensation match for the Employee shall be four (4%) percent.

Section 8. Termination of Employment and Severance.

Section 8.1 Voluntary Resignation. Employee may resign at any time and agrees to give the City at least thirty (30) days advance written notice of the effective date of Employee's resignation, unless the Parties otherwise agree in writing. If the Employee retires from full time public service with the City, the Employee agrees to make good faith effort to provide three (3) months advance written notice. During the notice period, all rights and obligations of the Parties under this Agreement shall remain in full force and effect. Promptly after the effective date of resignation, the City shall pay to Employee all Base Salary and benefit amounts accrued and owing under this Agreement. In the event of such voluntary resignation, Employee shall not be entitled to a Severance as defined below.

Section 8.2 Termination by City Council. The City may remove Employee and terminate this Agreement at any time with or without cause by a majority vote of the City Council at a duly authorized public meeting. City shall provide Employee with written notice containing written reasons for the intended removal ("Termination Notice") stating City's intention to remove Employee and terminate this Agreement, at least thirty (30) days before the effective date of Employee's removal. After delivering the Termination Notice to Employee, City may suspend Employee from duty as City Manager, and Employee's compensation shall continue until Employee's removal. If the Employee so requests in writing within seven (7) days of receiving the Termination Notice, City shall provide written reasons for the intended removal, which shall be provided to Employee within seven (7) days after receipt of such request from Employee, and at least fifteen

(15) days prior to the effective date of the removal. Within seven (7) days of Employee receiving the Termination Notice, Employee may make a written request for hearing before the City Council. Upon receiving a written notice for a hearing before the City Council, the City Clerk shall schedule the item on the next available regular City Council meeting; but in no event shall it be sooner than ten (10) days from receipt of notice. Notwithstanding Employee's right to request a hearing, the City Council may in its absolute discretion remove Employee for any reason, and Employee's removal and termination of this Agreement is not dependent upon any particular showing or degree of proof at the hearing, the purpose of which is solely to allow the Employee to present his grounds of opposition to his removal. In no event shall removal be complete until Employee's hearing is heard at a regular meeting of the City Council. Notwithstanding any provision in this Agreement to the contrary, The Employee shall not be removed during the 90-day period preceding or following an election for membership on the City Council, or during the 90-day period following any change in member of the City Council, except upon four/fifths vote of the City Council.

Section 8.3. Termination Without Good Cause. In the event City terminates this Agreement without Good Cause (defined below), the City shall pay Employee a sum equal to eight (8) months Base Salary ("Severance") and the cash value of all accrued leave balances. This Severance is subject to the restrictions of Government Code Section 53260, including without limitation, that the maximum amount of severance pay that Employee may receive shall not exceed an amount equal to that portion of the Base Salary paid monthly, multiplied by the number of months left on the Term of the unexpired Agreement. And further provided that, pursuant to Government Code Section 53243.2, any cash settlement related to the termination of this Agreement received by Employee from City shall be fully reimbursed to the City if Employee is convicted of a crime involving an abuse of his office or position while employed with City.

Severance pay shall be paid to the Employee, at the Employee's option, in either equal monthly installments commencing on the first day of the first month following termination or in a lump sum.

The City agrees to make a contribution to the Employee's deferred compensation account on the value of this compensation calculated using the rate ordinarily contributed on regular compensation. For a minimum period of eight (8) months following termination pursuant to this Section, the City shall pay the cost to continue the following benefits: health insurance for the Employee and all dependents as provided in this Agreement; and life insurance as provided this Agreement.

Section 8.4. Termination for Good Cause. In the event the City removes Employee and terminate this Agreement for Good Cause (defined below), the City shall not be required to pay any Severance under this Agreement, and City shall have no obligation to Employee beyond those benefits accrued as of Employee's last day of employment and those City is obligated to provide under federal or state law. "Good Cause" for purposes incident hereto, means a fair and honest cause or reason for termination. These reasons include, but are not limited to:

1. Conviction of a felony;
2. Conviction of a misdemeanor involving moral turpitude;
3. Material breach of the terms and conditions of this Agreement; or
4. Permanent disability of Employee, or Employee becoming otherwise unable to perform the duties of City Manager, by reason of sickness, accident, illness, injury, mental incapacity or health for a period of six (6) weeks following the exhaustion of all available leave balances and any applicable Family Medical Leave Act or California Medical Leave Act leaves, or where the same occurs for forty (40) working days over a sixty (60) working day period following exhaustion of such leaves.

Section 9. Indemnification. City shall defend, hold harmless and indemnify Employee against any tort, personnel, civil rights or professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager in accordance with California's Tort Claims Act (Government Code Section 825 et seq.), and shall provide a defense to Employee in accordance with Government Code Sections 995-996.5. The City may decline to defend and/or indemnify Employee only as permitted by the Government Code. City may compromise and settle any such claim or suit and pay the amount of any resulting settlement or judgment. Provided, however, that the City's duty to defend and indemnify shall be contingent upon Employee's good faith cooperation with such defense. In the event City provides funds for legal criminal defense pursuant to this Section, Employee shall reimburse City for such legal criminal defense funds if Employee is convicted of a crime involving an abuse of office or position, as provided by Government Code Sections 53243-53243.4.

Section 10. Bonding. City shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 11. Notices. Any notice or communication required hereunder between City and Employee must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such

purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, neither Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

12.5. Headings. The headings in this Agreement are included for convenience only and neither affect the construction or interpretation of any section in this Agreement nor affect any of the rights or obligations of the Parties to this Agreement.

12.6. Necessary Acts and Further Assurances. The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

12.7. Governing Law. This Settlement Agreement shall be governed and construed in accordance with the laws of the State of California.

12.8. Waiver. No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

12.9. Counterparts. This Settlement Agreement may be executed in counterparts and all so executed shall constitute an agreement which shall be binding upon the Parties hereto, notwithstanding that the signatures of all Parties and Parties' designated representatives do not appear on the same page.

12.10. Venue. Venue for all legal proceedings shall be in the Superior Court for the County of Stanislaus in the State of California.

12.11. Attorney's Fees and Costs. If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret sections of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

IN WITNESS WHEREOF, City and Employee have duly executed this Agreement, with the intention of being bound by it, on the date set forth above.

CITY:
City of Newman, a municipal corporation
of the State of California

EMPLOYEE:
By: _____
Michael E. Holland, an individual

By: _____
Ed Katen, City Mayor

Date Signed: _____

Date Signed: _____

Approved as to Form and Content:

By: _____
Nubia I. Goldstein, City Attorney

EXHIBIT "A"

City of Newman Personnel Policy

REPORT ON NEWMAN FALL FESTIVAL 2014

RECOMMENDATION:

Staff recommends the City Council approve the annual Fall Festival.

BACKGROUND:

The Fall Festival is a well established annual community event. Staff has been working with the Fall Festival Committee in organizing this year's event.

ANALYSIS:

As of the date and time of the preparation of this staff report, the organizing committee is in the intermediate stages of planning this year's event. Any subsequent changes will be reported out by staff during the presentation of this report and future reports.

Routine street closures and parade street closures have changed this year and are as follows:

- ❖ "R" Street – Will be closed between Fresno and Tulare Streets from Wednesday, August 27 at 5A.M. to Monday, September 1 at noon. The carnival will be set up on this street.
- ❖ Fresno Street – Will be closed between "R" and "Q" Streets from Saturday, August 30 at 5A.M. to Monday, September 1 at 12 A.M.
- ❖ Tulare Street – Will be closed between "R" and "Q" Streets Sunday, August 31 from 7A.M. to 7P.M.
- ❖ "Q" Street - Will be closed between Fresno and Tulare Streets from Saturday, August 30 at 5 A.M. to Monday, September 1 at 12 A.M.
- ❖ Fall Festival Parade Street Closures 9 A.M. to 2 P.M. on Sunday, August 31 - Mariposa Street will be closed from "S" to Main Street, Main Street from Mariposa to Fresno, Fresno Street from Main to "R" Street.

Scheduled events with a potential impact include:

- The fashion show has a tentative date of Sunday, August 24th at the Westside Theatre.
- The Miss Newman contest has been tentatively scheduled for Thursday, August 28th at the Westside Theatre.
- The Bailey's Legacy Fun Run has a tentative start time of 8 A.M. on Saturday, August 30th. There will be a 1 mile and a 5K run that will traverse the west side of the city. Volunteers will staff the event routes and assist with traffic concerns at the busier intersections.
- The "Evening Under the Stars" event (Wine and Cheese) has been tentatively scheduled in the Downtown Plaza for Friday, August 29th 7 P.M. to 11 P.M.

The Fall Festival Committee has asked that the following downtown standards be waived for the "Evening Under the Stars" event:

- Day of operation. This is a Friday event. Per standards, Sunday is the preferred day.
- Hours of operation. This event is scheduled until 11 P.M. Per standards, events are to end by 9 P.M.
- Music hours of operation. Amplified music is scheduled until 11 P.M. Per standards, music to cease by 8 P.M.
- Clean-up deposit. Downtown standards require a \$1,000.00 deposit refundable upon satisfactory cleaning of the affected area. The Fall Festival Committee assures staff that they will thoroughly clean up.
- Waive ordinance 09.01.021, Drinking in Public, for the event area and timeframe.
- Waive electrical and restroom use fees.
- Waive glass cup and bottle usage standard.

All other Standards for Downtown events will apply.

Event organizers are preparing a site plan for the event. There will be screened security fencing around the upper level with one entrance/exit at the archway on Main Street and one entrance/exit near the restrooms. There will be four private security guards hired by the Fall Festival Committee. One will staff each entrance/exit and two will remain inside the venue. The Fall Festival Committee will acquire all the necessary permits from the Alcoholic Beverage Control. All parking lots, alleys, and sidewalks will remain open for traffic.

The Fall Festival Committee has secured the \$3,000,000.00 insurance and liability policy with the city named as an additional insured. The organizing committee is requesting city services, as has been provided in past years, and is aware that any costs not covered by City Council action will be the responsibility of the Fall Festival Committee. The committee is also working with the Public Works Superintendent on the required number of portable restrooms, trash receptacles, and barricades as well as other needs in the park. There are no changes in this area as well, as these are the same requests as were approved by the City Council last year.

Other requests not covered by the Committees request are:

1. Waive Business License fees for vendors in the park
2. Exclusive use of City Park
3. Waive permit to have alcohol in the park.
4. Authorize the use of the entire City Park as a Beer Garden. (This has been approved by ABC in previous years.)

The Police Department has been working with the Fall Festival Committee to assess police coverage. Previous security issues for this event have involved intoxicated subjects and altercations involving juveniles and young adults. The Fall Festival Committee will retain a private security firm to cover additional carnival security and overnight park security.

FISCAL IMPACT:

The Police Department will again fully staff the park with all available personnel. It is staff's recommendation that all applicable costs be invoiced to the Fall Festival Committee.

CONCLUSION:

This staff report is submitted for City Council consideration and action. Staff recommends the City Council approve the 2014 Fall Festival. Staff also recommends that any costs be invoiced to the Fall Festival Committee.

Respectfully submitted,



Brett Short
Police Lieutenant

REVIEWED/CONCUR:



Michael Holland
City Manager

Honorable Mayor and Members
of the Newman City Council

**APPROVE FISCAL YEAR 2014-2015 ANNUAL BUDGET AS PRESENTED
IN THE PRELIMINARY BUDGET DOCUMENT**

RECOMMENDATION:

It is recommended that the Newman City Council approve the following:

1. Resolution No. 2014- , adopting the 2014-2015 Annual Budget
2. Resolution No. 2014- , establishing the appropriations limit for Fiscal Year 2014-15.

BACKGROUND:

The Fiscal Year 2014-15 Preliminary Budget was presented to the City Council on June 10th at the Budget Workshop. This budget puts forth staffs recommended spending plans of the City for all funds for the 2014-15 Fiscal Year. The budget includes the salaries and benefits of all city employees, operating costs of all city departments, the cost of the year's debt service payments, and the cost of various capital projects to be undertaken during the year.

The appropriations limit is required to be established every year. Proposition 4 passed in 1979 and Proposition 111 passed in 1990, known as the Gann Initiative, creates a restriction on the amount of revenue which can be appropriated in any fiscal year. The limit is based on actual appropriations during the 1978-79 fiscal year (based year), and is allowed to increase each year based upon the calculation using a percentage change in population at of January 1 of each year in conjunction with a change in the cost of living from previous fiscal year. These calculations are provided to us by the California Department of Finance each May. The fiscal year 2014-15 appropriations limit is \$11,654,366. The City's budgeted appropriation subject to limit from proceeds of taxes is \$4,323,638. Therefore, the City's appropriation is under the legal limit by \$7,330,728. The Gann Limit calculation is shown on Exhibit A of the resolution.

ANALYSIS:

All funds are projected to end the fiscal year with positive balance; with the exception of Fund 17 – State Grants, Fund 42 – Storm Drain, Fund 71 Capital Repair/Replacement, and Fund 73 – Successor Agency. Fund 17 is due to the timing of receipt of funds. Fund 42 is due to outstanding fee credits which decline as development continues. Fund 71 is due to the L.J.N. Memorial refurbishment and Fund 73 is mostly due to prior year SERAF borrowing from Fund 74.

Adoption of the budget includes:

1. Appropriating \$4,323,638 for the General Fund as shown on page 14 of the Preliminary Budget.
2. Appropriating \$3,526,954 for Special Revenue Funds as shown on page 50 of the Preliminary Budget.
3. Appropriating \$4,257,718 for Enterprise Funds as shown on page 90 of the Preliminary Budget.
4. Appropriating \$950,151 for Capital Project Funds as shown on page 102 of the Preliminary Budget.

FISCAL IMPACT:

The City's General fund is projected to end the fiscal year with a \$2,195,512 balance as shown on page 5 of the Preliminary Budget. The deficit of \$(438,233) includes a conservative estimate for expenditures and revenues. We expect to achieve a much more positive result by the end of the fiscal year.

CONCLUSION:

Staff has worked diligently to minimize this deficit. Staff recommends that Council approve the preliminary budget as presented. The spending plan for 2014-15 continues to provide the valuable services the citizens of Newman have come to expect and deserve from the City.

ATTACHMENTS:

1. Resolution No. 2014- A Resolution Adopting City of Newman Budget
2. Resolution No. 2014- A Resolution Establishing Appropriation Limit
3. EXHIBIT A - City of Newman - Appropriations Calculations (Gann Limit) and letter from DOF.

Respectfully submitted:

REVIEWED/CONCUR:


Lewis A. Humphries
Finance Director


Michael E. Holland
City Manager

RESOLUTION NO. 2014-

A RESOLUTION ADOPTING THE BUDGET FOR FISCAL YEAR 2014-2015

WHEREAS, the City Council of the City of Newman has reviewed the Final Budget for the Fiscal Year 2014-2015; and

WHEREAS, included in said budget are the necessary estimates of anticipated revenues and assessed evaluations of the properties subject to taxation by the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman hereby adopts the Final Budget for The Fiscal Year 2014-2015.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 17th day of June, 2014 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 of the City of Newman

RESOLUTION NO. 2014-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWMAN ESTABLISHING
FISCAL YEAR 2014-2015 APPROPRIATIONS LIMITATION**

WHEREAS, Article 13b of the California Constitution refers to a governmental entity's requirement for the establishment of an appropriations limit; and

WHEREAS, Senate Bill 1352, Chapter 1205, 1980, statutes adds Revenue and Taxation Code, Section 7910 which requires each local government to establish its appropriation limits by resolution each year at a regularly scheduled meeting.

NOW, THEREFORE, BE IT RESOLVED that the City of Newman's appropriations limitation for Fiscal Year 2014-2015 shall be \$11,654,366 as per Exhibit "A" attached.

BE IT FURTHER RESOLVED that any challenge to the appropriations limits as per the above mentioned government codes must be brought to the City of Newman's attention within sixty (60) days of the effective 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 17th day of June, 2014 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 of the City of Newman

EXHIBIT "A"

**CITY OF NEWMAN
APPROPRIATIONS LIMITATION**

The appropriations limitation imposed by Proposition 4 and modified by Proposition 222 creates a restriction on the amount of revenue that can be appropriated in any fiscal year. The revenues, which are subject to the limitation, are those considered "proceeds of taxes." The basis for calculating the limit began in 1978-79 (base year established by Proposition 13) and is increased each year based on population growth and inflation.

FY 2013-2014 Limitation \$11,631,219

Annual Adjustments:

Change in population (California Department of Finance)	=	0.43%
Change in per capita personal income (Department of Finance)	=	-0.23%
Population Factor Converted to a Ratio	$\frac{0.43+100}{100}$	= 1.0043
Per Capita Factor Converted to a Ratio	$\frac{-0.23+100}{100}$	= 0.9977

Calculation of FY 2014-2015 Limitation

\$11,631,219 X 1.0043 X 0.9977 = **\$11,654,366**