

### MEMORANDUM

DATE: January 22, 2020

TO: LAFCO Commissioners

FROM: Sara Lytle-Pinhey, Executive Officer *SLP*

SUBJECT: **Results of the Protest Hearing and Approval of Impartial Analysis for the Northwest Newman Phase I Reorganization to the City of Newman**

#### **RECOMMENDATION**

It is recommended that the Commission direct the Executive Officer to submit an impartial analysis for an election to be called by the City of Newman for the Northwest Newman Phase I Reorganization to the City of Newman.

#### **DISCUSSION**

On October 23, 2019, the Commission adopted Resolution 2019-19, approving the Northwest Newman Phase I Reorganization to the City of Newman and directing the Executive Officer to initiate protest proceedings. The Commission has previously delegated the conduct of protest hearings (also referred to as "conducting authority proceedings") to the Executive Officer, pursuant to Government Code Section 57000(c). The Executive Officer held a protest hearing on December 19, 2019, following the required notice period. The protest hearing process allows an opportunity for landowners and registered voters within the affected territory to submit protests via mail or in-person prior to close of the hearing.

Pursuant to Government Code Section 57075(a), there are three potential outcomes following a protest hearing:

- If a majority of registered voters within the territory protest, the proposal is terminated.
- If at least 25% (but less than 50%) of registered voters protest, the proposal is subject to an election. Or if at least 25% of landowners (who also own at least 25% of the assessed value of land) protest, the proposal is subject to an election.
- If neither of the above scenarios occur, the proposal is ordered (as originally approved by the Commission).

#### Protests Received

Staff received a total of 38 written protest forms for the proposal. Each of these forms were reviewed by LAFCO Staff, consistent with the requirements of the Cortese-Knox-Hertzberg Act which specifies the requirements for verification and valuation of protests. This process

includes verification of registered voter information with the County Elections Department and verification of landowner information with the current County Assessor Roll.

The following charts summarize the protests received:

**Registered Voters – Written Protests**

Total Registered Voters Residing Within the Annexation Area	55
Verified Protests Received	23
<b>Percent of Registered Voters Protesting</b>	<b>41.82%</b>

**Landowners – Written Protests**

Total Landowners Within the Annexation Area	34
Verified Protests Received	11
<b>Percent of Landowners Protesting</b>	<b>32.35%</b>
<b>Percent of Assessed Value of Land</b>	<b>20.56%</b>

As it has been determined that the number of registered voter protests exceeded 25%, but is less than a majority, the proposal is now subject to an election. The number of landowner protests also exceeded the 25% threshold; however, these protests accounted for less than 25% of assessed land value. Either the registered voter or landowner threshold can trigger an election on its own; therefore, the registered voter protest sufficiently warrants an election.

The Executive Officer has completed Conducting Authority Resolution No. 03-2019 (attached for the Commission’s information) noting the outcome of the protest hearing and need for an election. This information has been shared with the property owners and registered voters within the proposal area and the City of Newman, who has been requested to call for an election that will determine the final outcome.

**IMPARTIAL ANALYSIS**

Once the City of Newman calls for an election, the Commission has a very limited timeframe to review and submit an impartial analysis for the election. In order to ensure timely submittal and avoid the need for a special LAFCO meeting, Staff has prepared the following impartial analysis for the Commission’s review:

<p><b>IMPARTIAL ANALYSIS FOR THE PROPOSED REORGANIZATION CONSISTING OF ANNEXATION TO THE CITY OF NEWMAN AND DETACHMENT FROM THE WEST STANISLAUS FIRE PROTECTION DISTRICT AND CENTRAL CALIFORNIA IRRIGATION DISTRICT</b></p> <p><i>This is a ballot measure to determine if registered voters within the unincorporated area northwest of the existing city limits of Newman want to be annexed to the City of Newman.</i></p> <p><i>The proposed reorganization is known as the “Northwest Newman Phase I Reorganization to the City of Newman” and includes approximately 121 acres located northwest of the existing City limits, west of Highway 33, and south of Stuhr Road. If approved by voters, the reorganization would result in annexation to the City of Newman and simultaneous detachment from the West Stanislaus Fire Protection District and the</i></p>
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*Central California Irrigation District. The proposal, as approved by the Local Agency Formation Commission, is subject to certain terms and conditions as specified in the order adopted on October 23, 2019.*

*A "Yes" vote means you are in favor of the annexation to the City of Newman and detachment from the West Stanislaus Fire Protection District and Central California Irrigation District, commonly referred to as the Northwest Newman Phase I Reorganization. Annexation will place the area under the local jurisdiction of the City of Newman with responsibility for municipal services transferring from the County to the City. The territory would no longer be located within the boundaries of the West Stanislaus Fire Protection District and the Central California Irrigation District. Specific questions regarding current City and/or District services, land use, taxes, assessments and charges should be directed to the City and/or District.*

*A "No" vote means you are opposed to the annexation to the City of Newman and detachment from the West Stanislaus Fire Protection District and Central California Irrigation District, commonly referred to as the Northwest Newman Phase I Reorganization. If the measure fails to receive a majority of votes cast, the reorganization will be terminated and the area will remain unincorporated and within the boundaries of the West Stanislaus Fire Protection District and Central California Irrigation District.*

***The above statement is an impartial analysis of Measure \_\_\_\_\_. If you desire a copy of the measure, please call the elections official's office at (209) 525-5200 and a copy will be mailed at no cost to you.***

## **RECOMMENDED COMMISSION ACTION**

It is recommended that the Commission direct the Executive Officer to submit the impartial analysis for the election to be called by the City of Newman for the Northwest Newman Phase I Reorganization to the City of Newman.

*Attachment: Conducting Authority Resolution No. 03-2019*

**STANISLAUS LAFCO CONDUCTING AUTHORITY  
RESOLUTION NO. 03-2019**

**RESOLUTION OF THE EXECUTIVE OFFICER AS CONDUCTING AUTHORITY ORDERING  
THE NORTHWEST NEWMAN PHASE I REORGANIZATION TO THE CITY OF NEWMAN  
SUBJECT TO CONFIRMATION BY VOTERS**

**WHEREAS**, the Stanislaus Local Agency Formation Commission (LAFCO), on October 23, 2019, adopted LAFCO Resolution 2019-19, approving the Northwest Newman Phase I Reorganization to the City of Newman with certain terms and conditions;

**WHEREAS**, the reorganization consists of annexation to the City of Newman and simultaneous detachment from the West Stanislaus Fire Protection District and the Central California Irrigation District;

**WHEREAS**, the Commission set forth the reasons for the proposal, made findings and determinations, including those required of the California Environmental Quality Act (CEQA), and approved terms and conditions of the reorganization as described in Exhibit A, LAFCO Resolution No. 2019-19;

**WHEREAS**, the affected boundaries of the reorganization include approximately 121 acres located northwest of the existing City Limits of Newman, west of Highway 33, and south of Stuhr Road, as shown in Exhibit B;

**WHEREAS**, the territory is inhabited and does not have 100% landowner consent;

**WHEREAS**, pursuant to Section 99 of the Revenue and Taxation Code, the area is subject to a city-county tax sharing agreement applicable to the Northwest Newman Master Plan area;

**WHEREAS**, Government Code Section 56029 designates the Commission, as the conducting authority to conduct proceedings for the reorganization pursuant to Part 4 of Division 3 of the California Government Code commencing with Section 57000;

**WHEREAS**, pursuant to Government Code Section 57000(c), the Commission, on February 28, 2001, delegated all functions, duties, and responsibilities of the Commission as conducting authority to the Executive Officer;

**WHEREAS**, on October 23, 2019, the Commission adopted LAFCO Resolution No. 2019-19, making determinations, approving the proposal and directing the Executive Officer to complete protest proceedings;

**WHEREAS**, notice was given for the protest hearing, in the form and manner required by law, pursuant to Government Code Section 57025;

**WHEREAS**, pursuant to Government Code Section 57050, the Executive Officer has conducted the protest hearing for the reorganization on December 19, 2019 for the purpose of receiving written protests;

**WHEREAS**, following the conclusion of the hearing, the Executive Officer has determined that the written protests received and not withdrawn have been submitted by at least twenty-five percent but less than fifty percent of the registered voters;

**WHEREAS**, a resolution ordering the reorganization subject to confirmation by registered voters is required pursuant to Part 4 of the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 commencing with Section 57000 of the Government Code.

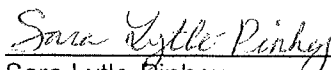
**NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED, AND ORDERED** by the Executive Officer of the Stanislaus Local Agency Formation Commission as follows:

1. The subject reorganization is hereby ordered subject to the confirmation of the registered voters residing within the affected territory.
2. The reorganization is subject to the terms and conditions contained in LAFCO Resolution No. 2019-19, attached hereto as Exhibit A; and the boundaries are further described on the map and legal description, attached hereto as Exhibit B.
3. The regular County assessment roll will be utilized.
4. No existing bonded indebtedness shall be affected by this change of organization.
5. Pursuant to Government Code Section 57118(d), the election shall be held within the territory subject to the reorganization.
6. The question to be submitted at the election called shall be in substantially the following form:

*Shall the order be confirmed that was adopted on October 23, 2019 by the Stanislaus Local Agency Formation Commission ordering a reorganization consisting of annexation to the City of Newman and detachment from the West Stanislaus Fire Protection District and Central California Irrigation District, subject to the terms and conditions specified in the order?*

7. If a majority of votes cast upon the question are in favor of the reorganization, the reorganization shall be confirmed and ordered and a Certificate of Completion for the reorganization shall be filed in the manner stated in Government Code Section 57000 et. seq., upon satisfaction of the terms and conditions set forth in LAFCO Resolution 2019-19.

**BE IT FURTHER RESOLVED** that pursuant to Government Code section 57000(d), the Executive Officer shall inform the City of Newman that a determination has been made that will require an election be conducted and request the City to direct the elections official to conduct the necessary election

  
Sara Lytle-Pinhey  
Executive Officer, Stanislaus LAFCO

1/15/2020  
Date

Exhibit A: LAFCO Resolution No. 2019-19  
Exhibit B: Map of Affected Area

Exhibit A

**STANISLAUS COUNTY LOCAL AGENCY  
FORMATION COMMISSION**

**RESOLUTION**

**DATE:** October 23, 2019

**NO.** 2019-19

**SUBJECT: LAFCO APPLICATION NO. 2018-02 – NORTHWEST NEWMAN PHASE I  
REORGANIZATION TO THE CITY OF NEWMAN**

On the motion of Commissioner Berryhill, seconded by Commissioner Bublak, and approved by the following vote:

Ayes: Commissioners: Berryhill, Bublak, DeMartini, Withrow and Van Winkle  
Noes: Commissioners: None  
Ineligible: Commissioners: Hawn and O'Brien  
Absent: Commissioners: Chiesa

**THE FOLLOWING RESOLUTION WAS ADOPTED:**

**WHEREAS**, the City of Newman has requested to annex approximately 121 acres known as the Northwest Newman Phase I Reorganization to the City of Newman and detach said acreage from the West Stanislaus Fire Protection District and Central California Irrigation District;

**WHEREAS**, the City of Newman adopted a Resolution of Application and pre-zoned the proposed annexation area, located within the City of Newman existing Sphere of Influence and Primary Area;

**WHEREAS**, there are more than 12 registered voters within the area and it is thus considered inhabited;

**WHEREAS**, the County and City have negotiated and reached an agreement as to a rate of exchange of property tax revenues, pursuant to Section 99 of the Revenue and Taxation Code, which is applicable solely to the Northwest Newman Master Plan area;

**WHEREAS**, there is one (1) active Williamson Act contracted land within the boundaries of the reorganization;

**WHEREAS**, pursuant to Government Code Section 51243.5, the Commission must determine whether a city may exercise an option not to succeed to a Williamson Act contract upon annexation;

**WHEREAS**, the City of Newman must succeed to Williamson Act Contract No. 76-2249 upon annexation, as the findings in Government Code Section 51243.5 have not been met;

**WHEREAS**, pursuant to Government Code Section 56856.5(c), the Commission may approve a change of organization or reorganization that would result in the annexation of Williamson Act lands only if it makes a specific finding;

**WHEREAS**, the City of Newman was the Lead Agency in preparing the environmental documentation which included the proposed annexation;

**WHEREAS**, the City of Newman, as Lead Agency, has certified a Final Environmental Impact Report for the proposal, in compliance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines;

**WHEREAS**, the City of Newman shall be responsible for monitoring and reporting to ensure CEQA compliance;

**WHEREAS**, the City of Newman has determined that there are impacts, which could not be mitigated to acceptable levels and adopted CEQA Findings of Fact and Statements of Overriding Considerations, as put forth in the City of Newman Resolution No. 2017-54;

**WHEREAS**, the Commission has reviewed the environmental documentation prepared by the City of Newman, including the Final Environmental Impact Report and Statements of Overriding Considerations, and has not identified any feasible mitigation measures that would substantially lessen the identified impacts of the proposal;

**WHEREAS**, the Commission is not aware of any legal challenge filed against the City's environmental determinations for the proposal;

**WHEREAS**, the Commission has reviewed the Plan for Agricultural Preservation submitted by the City for the proposal which provides information regarding impacts to agricultural lands and the City's strategy to minimize the loss of agricultural lands;

**WHEREAS**, at the time and in the form and manner provided by law, the Executive Officer provided notice of the October 23, 2019 public hearing by this Commission; and

**WHEREAS**, the Commission has heard all interested parties desiring to be heard and has considered the proposal and report by the Executive Officer and all other relevant evidence and information presented or filed at the hearing.

**NOW, THEREFORE, BE IT RESOLVED** that this Commission:

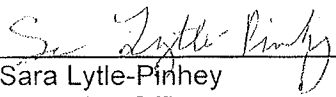
1. Acting as a Responsible Agency pursuant to CEQA Guidelines Sections 15051, 15052, 15096, and 15391, the Commission has reviewed and considered the Final Environmental Impact Report for the Northwest Newman Master Plan, and adopts the same findings regarding the environmental impacts of the proposal and the statement of overriding considerations, all as approved and adopted by the City of Newman acting as the Lead Agency and put forth in Newman City Council Resolution No. 2017-54; and additionally makes the following findings:
  - A. As a "Responsible Agency", Stanislaus LAFCO has independently evaluated the City's certified EIR, and has complied with all actions and guidelines pursuant to CEQA Guidelines Section 15096, and has reached an independent conclusion that determines the EIR adequately addresses the potential impacts related to the proposal that the Stanislaus LAFCO has been asked to approve;

- B. On the basis of substantial evidence in light of the whole record, none of the conditions identified in the CEQA Guidelines Section 15052 have occurred that would necessitate LAFCO assuming the role of Lead Agency from the City of Newman;
  - C. On the basis of substantial evidence in light of the whole record, none of the conditions identified in CEQA Guidelines Section 15162 or 15163 have occurred that would necessitate preparation of a Subsequent EIR or Supplemental EIR as certified by the City of Newman;
  - D. On the basis of substantial evidence in light of the whole record, in compliance with CEQA Guidelines Section 15096(g)(2), that there are no feasible alternatives to the proposal or feasible mitigation measures within the Stanislaus LAFCO's powers that would substantially lessen or avoid any significant effect the proposal would have on the environment;
  - E. On the basis of substantial evidence in light of the whole record, in compliance with CEQA Guidelines Section 15096(h), that the Stanislaus LAFCO, as a "Responsible Agency" adopts the same findings put forth in Newman City Council Resolution No. 2017-54 as required by Section 15091(a) for each significant effect of the proposal and makes the findings in Section 15093 as necessary, adopts the same Statement of Overriding Considerations, also contained in said referenced resolution, and to further require the filing of a Notice of Determination in compliance with CEQA Guidelines Section 15096(i); and,
  - F. The City of Newman shall be responsible for the Mitigation Monitoring and Reporting Program, all as approved and adopted by the City to ensure CEQA Compliance.
2. Determines, the City of Newman shall succeed to Williamson Act Contract No. 76-2249, upon annexation, as the criteria contained in Government Code Section 51243.5, have not been met.
  3. Finds, pursuant to Government Code Section 56856.5, the reorganization of the "Northwest Newman Master Plan Phase I" area is appropriate to provide necessary urban services to a planned, well-ordered, and efficient urban development pattern by the City of Newman, and whose adopted plans and policies includes appropriate consideration for the preservation of open space lands within those urban development patterns upon annexation.
  4. Determines that the Plan for Agricultural Preservation, as submitted by the City, contains sufficient evidence demonstrating consistency with the goals of the Commission's Agricultural Preservation Policy.
  5. Determines that the approval of the reorganization is consistent with overall Commission policies and the City's General Plan and that the City has provided sufficient evidence to show that the required services are available and will be provided upon development of the area.



6. Approves the proposal subject to the following terms and conditions:
  - A. The applicant shall pay State Board of Equalization fees and any remaining fees owed to LAFCO.
  - B. The applicant agrees to defend, hold harmless and indemnify LAFCO and/or its agents, officers, and employees from any claim, action or proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul LAFCO's action on a proposal or any action relating to or arising out of such approval, and provide for the reimbursement or assumption of all legal costs in connection with that approval.
  - C. The effective date shall be the date of recordation of the Certificate of Completion.
  - D. The application shall be processed as a reorganization consisting of the annexation of territory to the City of Newman and detachment from the West Stanislaus Fire Protection District and Central California Irrigation District.
  - E. Upon the effective date of the annexation, all rights, title, and interest of the County, including the underlying fee where owned by the County in any and all public improvements, including, but no limited to the following: sidewalks, trails, landscaped areas, open space, street lights, signals, bridges, storm drains, and pipes shall vest in the City; except for those properties to be retained by the County.
  - G. Pursuant to Government Code Section 56889, the City shall adopt the rules and procedures required by the Williamson Act, including but not limited to the rules and procedures required by Government Code Sections 51231, 51237, and 51237.5.
7. Designates the proposal as the "Northwest Newman Phase I Reorganization to the City of Newman."
8. Designates the Commission as conducting authority pursuant to Government Code Section 56029 for the reorganization.
9. Authorizes and directs the Executive Officer, pursuant to Government Code Section 56881(d), to initiate the protest proceedings for the reorganization pursuant to Part 4, commencing with Section 57000, in compliance with this Resolution and upon receipt of a map and legal description accepted to form by the Executive Officer.

ATTEST:

  
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Sara Lytle-Pinhey  
Executive Officer

