

# COYOTE VILLAGE HOMEOWNERS ASSOCIATION

965 W. Imperial Highway, #51  
La Habra, California 90631

April 25, 2023

Planning Commission  
City of La Habra  
c/o Veronica Lopez, Secretary  
110 East La Habra Boulevard  
La Habra, CA 90631

Email: VLopez@lahabraca.gov

**Re: Coyote Village Homeowner's Association's ("HOA") contest to the  
Notice of Public Nuisance from the City of La Habra ("City") dated  
March 27, 2023**

Members of the Planning Commission:

The HOA hereby contests and appeals the above referenced notice of public nuisance pursuant to the appeal procedure set forth in City Municipal Code §18.74.120, concerning the HOA real property and condominium complex located at 901-997 W. Imperial Highway (APN 019-451-07).

A covered channel traverses through and beneath the surface of the HOA property. This channel connects the public storm drain system both upstream and downstream. Surface water runoff and drainage is collected upstream by various drainage facilities owned and operated by public entities, concentrated into steady and single flows, and sent downstream in a single flow through public drainage courses that eventually connect to the covered channel within the HOA property. This flow of surface water runoff passes through the covered channel under the surface of the HOA property, and continues downstream through various storm water drainage facilities owned and operated by public entities.

The origin of the water is not from the HOA property, and the covered channel is simply a portion of the greater storm drain and surface water management system that benefits the public. The various public entities that own and operate the upstream and downstream public surface water runoff facilities to which the covered channel connects have incorporated the HOA property and the covered channel into the greater public storm water management system.

In January 2019, and then again in March 2023, after heavy rains, portions of the covered channel failed and collapsed, causing portions of HOA property above the covered channel to sink and collapse, as well. These events have affected the HOA, its residents, and the ability of surface water runoff originating upstream from the covered channel to be conveyed safely and efficiently downstream.

Despite litigation between the HOA and various public entities, including the City, a solution existed before March 15, 2023 and continues to exist, **right now**, to completely repair the covered channel.

On July 1, 2022, the office of Senator Josh Newman, Senate District 29, issued a press release announcing that Senator Newman had secured \$30 million in State funding “to bolster regional solutions to public safety issues...and address local infrastructure needs.” Included in the funding was \$8.5 million for the “Coyote Creek Imperial Channel Improvement Project in the City of La Habra.” The press release, which is attached, states:

State funding for the Coyote Creek-Imperial Channel Improvement Project will repair damage to an underground culvert in La Habra that collapsed during a period of heavy rainfall in 2019. The collapsed culvert has created a large sinkhole, approximately 120 feet long and 40 feet wide between sections of condominiums in an urbanized area. Without repair, the existing sinkhole is likely to grow, potentially affecting hundreds of nearby residential and commercial properties, threatening local flooding, and blocking traffic alongside Imperial Highway, which has an average daily traffic count of 52,000 vehicles, and is one of North Orange County’s busiest traffic corridors. This \$8.5 million investment will fully repair the damage and reinforce the culvert.

The \$8.5 million is available from the State to the City. Despite multiple requests since late-2022 by the HOA to the City, the funding is being withheld instead of being used for its intended purpose.

The HOA retained GeoKinetics, a Geotechnical Engineering firm, to undertake a Preliminary Conceptual Plan for the covered channel repair. GeoKinetics has experience in public sector work. The conceptual plan is feasible and the Preliminary Conceptual Plan was prepared with cognizance of the available budget secured by Senator Newman’s office.

On March 15, 2023, the covered channel collapsed again, worsening the original collapse, as predicted by Josh Newman’s press release and various experts close to this problem.

As a result, the HOA requested, and the City agreed to undertake various emergency procedures and work related to the new collapse of the covered channel. Portions of this work were procedures that would have had to occur regardless, as part of the ultimate repair plan for the channel.

The GeoKinetics’ concept plan for the repair project demonstrates the repairs are feasible. State funding, arranged through the great efforts of Senator Josh Newman, is and was available to solve all problems. The City is very much aware that the repair of the drainage channel cannot occur without the release of those funds. The City is also aware that this second collapse, and the recent channel blockage, and any future collapse may endanger countless properties upstream as well as the HOA property.

Contractors engaged by the City for the emergency repairs after the second collapse in March 2023 have made substantial progress clearing the channel, safely removing soil, including soil over an exposed roof component from the middle section, and soil from the east and west ends of the channel, replacing bracing within the channel, placing tarps over exposed areas, and inspecting and, if appropriate, securing the fencing to maintain a secure area.

State funds have been allocated since early this year through the California Department of Water Resources, by way of the City of La Habra. The City touted its efforts to obtain these funds in its press release #01-2023 dated March 21, 2023. Discussions to implement the repair have been underway between the City and the California Department of Water Resources. Several meetings have been scheduled, implemented or canceled, all without meaningful input to or from the HOA and its representatives. At this point, the HOA does not know when, if or how future and permanent repairs to the covered channel will begin, and no one is offering to let the HOA know when the HOA and its representatives will find out.

The HOA has learned that the City and its representatives and attorneys are attributing the withholding of funds to the pending litigation between the HOA and the City and to concerns about a gift of public funds. Under the guise of public nuisance, the City is now attempting to assess the HOA with repair costs that are included in the State's \$8.5 million appropriation for this exact purpose.

As the HOA understands it, the State funding is not being distributed, at least in part, based on arguments asserted by the City that repair of the channel and the public calamity it threatens might somehow be construed as a gift of public funds. In response, the HOA has offered to convey to the City a temporary construction easement over the channel to effectuate the repair, subject to mutual reservation of rights. Such a solution would allow the government agencies to avoid the stated concerns of working on private property, just as agencies routinely do in public projects on private property throughout the state, by way of eminent domain and other non-litigated "rights of entry" agreements. The conditions that existed as of March 16, 2023 and the resulting calamity are attributable, in part, based on the City's actions and inactions despite the State funding to solve the problem.

The funding is now available and ready to use for the purpose it was obtained for by Senator Newman. The funding, subject to a schedule of work and release that can be drafted and executed, will enable the covered channel to be fully repaired. The work completed in March is required for the repairs in any event. The HOA has no control over public waters. The Declaration of Public Nuisance against the HOA is wrong and meanspirited and it is appealed. The HOA asks that the Planning Commission set aside the Declaration of Public Nuisance. The HOA is ready, willing, and able to make the HOA property available to continue to facilitate the ultimate and permanent repair and deliver a temporary construction easement or other right of entry, but it cannot do so while the City refuses to release the funding secured from the State and while the City refuses to acknowledge the HOA's proposed solution of a temporary construction easement.

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I declare under penalty of perjury under the laws of the state of California that the facts stated in this appeal letter are true and correct to the best of my knowledge.

**Coyote Village Homeowner's Association**  
a California non-profit organization

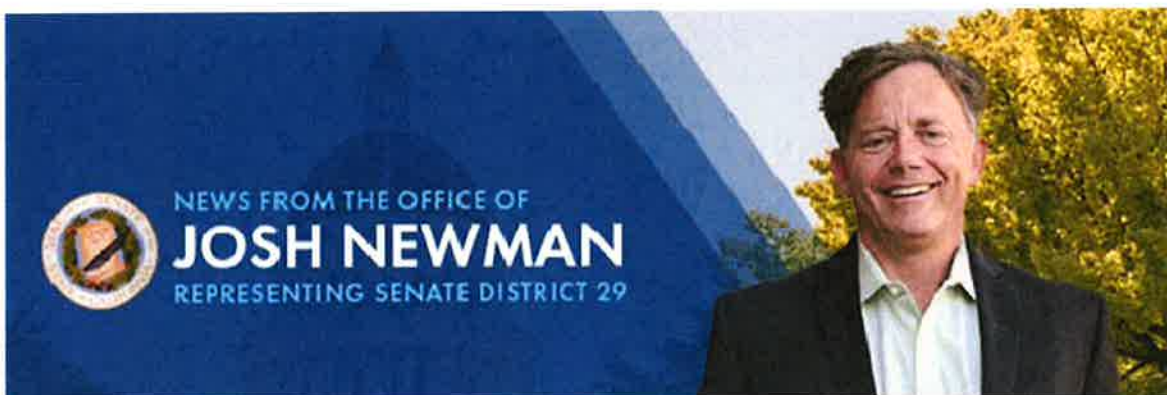
A handwritten signature in blue ink, appearing to read 'Don Hasch', is written over a horizontal line.

**Don Hasch, President**

cc: John S. Peterson,  
Peterson Law Group PC

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**From:** Cootsona, Lizzie <[Lizzie.Cootsona@sen.ca.gov](mailto:Lizzie.Cootsona@sen.ca.gov)>  
**Sent:** Friday, July 1, 2022 9:11 AM  
**To:** Cootsona, Lizzie <[Lizzie.Cootsona@sen.ca.gov](mailto:Lizzie.Cootsona@sen.ca.gov)>  
**Subject:** RELEASE: State Senator Josh Newman Secures \$30M in State Funding for Community Investments



**FOR IMMEDIATE RELEASE:** July 1, 2022

**CONTACT:** Lizzie Cootsona, [Lizzie.Cootsona@sen.ca.gov](mailto:Lizzie.Cootsona@sen.ca.gov)

### **State Senator Josh Newman Secures \$30M in State Funding for Community Investments**

**Sacramento, Calif.** — State Senator Josh Newman (D-Fullerton) announced today that his district budget priorities were included and fully funded in the 2022-23 California State Budget. As a result of Senator Newman's advocacy, the [Budget Act of 2022](#) includes funding to bolster regional solutions to public safety issues and homelessness, support local entrepreneurs, expand wraparound health and human services, and address local infrastructure needs.

Funding details:

- **\$8 million** for long-term stability and development of the **North Orange County Public Safety Collaborative**
- **\$8.5 million** to support the work of the **RevHub Social Entrepreneurship Collaborative**
- **\$5 million** to expand the reach of **Access California Services**
- **\$8.5 million** for the **Coyote Creek Imperial Channel Improvement Project** in the City of La Habra

Program details:

Created in 2017, the **North Orange County Public Safety Collaborative** has proven highly effective in devising regional solutions to homelessness, youth violence, and the challenges associated with post-incarceration re-entry across 13 cities in Orange County. This additional \$8 million allocation will allow for the continuation and optimization of this groundbreaking regional and collaborative model which represents a clear improvement on the historically siloed approaches and programs for reaching high-risk populations while continuing to keep our communities safe.

The **RevHub Social Entrepreneurship Collaborative** seeks to ensure that the hardest-to-reach populations and communities in North Orange County have access to entrepreneurial training, mentorship, micro-grants, and investment capital. This \$8.5 million investment will bolster programmatic efforts to create jobs, boost economic development and create new pathways to entrepreneurship across Orange County.

**Access California Services (AccessCal)** is an established and successful non-profit community-based organization in Anaheim delivering wraparound culturally and linguistically sensitive health and human services to underserved, vulnerable, and low-income communities in the North Orange County area, with an emphasis on immigrants and refugees. This \$5 million allocation will support the construction of a new site, which will replace their current, much smaller facility in West Anaheim, and expand AccessCal's reach across the region.

State funding for the **Coyote Creek-Imperial Channel Improvement Project** will repair damage to an underground culvert in La Habra that collapsed during a period of heavy rainfall in 2019. The collapsed culvert has created a large sinkhole, approximately 120 feet long and 40 feet wide between sections of condominiums in an urbanized area. Without repair, the existing sinkhole is likely to grow, potentially affecting hundreds of nearby residential and commercial properties, threatening local flooding, and blocking traffic alongside Imperial Highway, which has an average daily traffic count of 52,000 vehicles, and is one of North Orange County's busiest traffic corridors. This \$8.5 million investment will fully repair the damage and reinforce the culvert.

To schedule an interview with Senator Newman, contact Lizzie Cootsona at 916.651.4029.

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*State Senator Josh Newman represents the 29th Senate District, which is comprised of portions of Los Angeles County, Orange County, and San Bernardino County. The 29th District includes all or parts of the cities of Anaheim, Brea, Buena Park, Chino Hills, City of Industry, Cypress, Diamond Bar, Fullerton, La Habra, La Palma, Placentia, Rowland Heights, Stanton, Walnut, West Covina and Yorba Linda. Senator Newman is a former United States Army officer, businessperson, and veterans' advocate, and lives in Fullerton with his wife and daughter.*

Best,

Lizzie Cootsona

Communications Director

Office of Senator Josh Newman | 29th District

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*Follow the Senator on Social Media:*

