



City of

LA HABRA

Planning Commission Report

Item No. 1.

MEETING DATE: June 22, 2023

TO: PLANNING COMMISSION

FROM: SUSAN KIM, DIRECTOR OF COMMUNITY & ECONOMIC DEVELOPMENT
By: Veronica Lopez, Community Development Administrative Assistant

**SUBJECT: DECLARATION OF PUBLIC NUISANCE AT COYOTE VILLAGE LOCATED AT 901-977
WEST IMPERIAL HIGHWAY**

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The request to determine whether a property constitutes a public nuisance was reviewed pursuant to the California Environmental Quality Act (CEQA) Guidelines and found to not be a project as defined under Section 15378(b)(5) because such a determination is an administrative action only, and therefore, is exempt from CEQA review.

RECOMMENDATION:

Recommendation:

That the Planning Commission hold a public hearing and adopt a resolution affirming the Notice of Public Nuisance and making written findings of fact.

DISCUSSION:

History:

The Coyote Village condominium development contains a covered storm drain channel that runs through the common areas. This storm drain has been the subject of at least two collapses in recent years. The first occurred on January 23, 2019 and the second on March 15, 2023. While located entirely on private property, the Coyote Village Homeowners Association ("HOA") sent City staff an email on March 16, 2023 (Attachment 1) requesting immediate assistance in clearing away debris from the collapsed channel to prevent flooding and further damage to the surrounding common areas and nearby residences. To protect the health and safety of the public, and with the written consent of the HOA, the City hired a contractor who immediately cleared the channel so water could freely flow again and made additional repairs to prevent future collapses (Attachments 2 and 3).

On March 27, 2023, the City sent the HOA a Notice of Public Nuisance ("Notice") stemming from the March 15, 2023 collapse (Attachment 4) because the Property was in violation of several provisions of the Chapter 18.74 of the La Habra Municipal Code. On April 25, 2023, the HOA timely appealed the Notice (Attachment 5) which triggered the requirement for a nuisance hearing before the Planning Commission.

Code Violations:

On March 16, 2023, City employees and officials observed the collapsed storm drain at the Property and took photos (Attachment 6). The collapsed storm drain constituted a public nuisance under the following authorities:

Civil Code 3479-3480:

Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.

A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

LHMC 18.74.040(A)(2):

To maintain land, the topography, geology or configuration of which causes erosion, subsidence or surface water runoff problems of such magnitude as to be injurious or potentially injurious to the public health, safety or general welfare.

LHMC 18.74.040(B)(1) & (B)(2):

To maintain buildings or structures, or portions thereof, which are damaged, dilapidated, or inadequately or improperly maintained such that they are structurally unsafe, or do not provide adequate egress, or which constitute a fire hazard, or which are otherwise dangerous to human life or which in relation to existing use constitute a serious threat to the public's health, safety and general welfare.

To maintain some activity or condition that would seriously endanger public health or safety and which is related to buildings, structures or appendages, walls, fences or landscaping which requires immediate correction, repair or adequate and proper maintenance, including but not limited to the existence of broken glass in doors or windows which are located in an area of public access; surfaces showing evidence of excessive dry rot, warping or termite infestation; absence of paint, stain, varnish or similar coating intended to protect the weatherability of any structural member; doors, aisles, passageways, stairways or other means of exit which do not provide a safe and adequate means of exit; any wall or other vertical structural member which lists, leans or is buckled to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base; or any other condition which because of a lack of proper sanitation or soundness, or as a result of dilapidation, decay, damage or faulty construction or arrangement, may be injurious to the public health and safety if not suppressed or regulated.

LHMC 18.74.040(C)(1):

To maintain or fail to maintain property, or any building or structure thereon, in such condition so that it is defective, unsightly, or in such condition of deterioration or disrepair that it causes or will cause a health or safety hazard or in such a manner as to constitute a public nuisance as defined in California Civil Code Section 3480, including, but not limited to, anything dangerous to human life or detrimental to human health, or any habitation that is overcrowded with occupants or that lacks adequate ventilation, sanitation or plumbing facilities, or that constitute a fire hazard.

Responsibility for property maintenance falls on the property owner. The HOA's failure to adequately maintain the storm drain and surrounding area has resulted in the recent collapse that caused these nuisance conditions to exist. While the City has already abated this immediate hazard to protect the public health and safety pursuant to LHMC 18.74.180 and with the HOA's consent, the financial responsibility for these costs should be borne by the HOA. Accordingly, the City has declared the property a public nuisance so the cost recovery provisions of LHMC 18.74.220 and Government Code 38773 can be used to make the City whole.

Issues on Appeal:

LHMC 18.74.130 provides that only those issues raised by the appellant shall be considered during the hearing. However, the HOA raises a host of issues in its written appeal that do not dispute the existence of nuisance conditions at the Property. Rather, the HOA essentially argues that the City is responsible for the collapsed tunnel because it has withheld State funding that could have been used to take preventative measures before March 15, 2023. While the City is hopeful that State funding will ultimately be made available to cover the costs of the emergency repairs, and in the event that State funding does not materialize, the City has the authority to assess these costs against the HOA so that general funds are not used to maintain private property.

The municipal code does not empower the Planning Commission to decide the ancillary issue of State funding and to apportion responsibility for creating a public nuisance. LHMC 18.74.170(A) only empowers the Commission to make a decision with respect to whether the alleged public nuisance exists. As noted, the HOA does not argue in its appeal that the collapsed tunnel is not a public nuisance. Conversely, the City has ample evidence that this hazardous condition qualifies as a public nuisance under the above listed authorities. Specifically, the collapsed tunnel:

- Is injurious to health and an obstruction to the free use of the property for all residents and visitors of the Coyote Village.
- Constitutes erosion, subsidence or surface water runoff problems of such magnitude as to be injurious to the public health, safety and general welfare.
- Is a damaged, dilapidated, and inadequately maintained improvement which is structurally unsafe and that interferes with egress and is otherwise dangerous to human life and constitutes a serious threat to the public's health, safety and general welfare.
- Is a condition that seriously endangers the public health and safety and which poses a threat of collapse to nearby residences, fences and landscaping and required immediate correction and was the result of dilapidation, decay, damage or faulty construction or arrangement and is injurious to the public health and safety.
- Is a condition that it is defective, unsightly, and in such condition of deterioration and disrepair that it caused a health or safety hazard because it posed an immediate risk of injury due to pooling water in the obstructed storm drain in close proximity to residences.

FISCAL IMPACT/SOURCE OF FUNDING:

There is no fiscal impact because the Planning Commission action is limited to making a determination on whether the collapsed storm drain constitutes a public nuisance only. The City has not initiated any financial liens at this time. By the Planning Commission declaring the subject property a public nuisance, the City holds the option to initiate the cost recovery provisions of LHMC 18.74.220 and Government Code 38773 at a later date in the future in the event that costs for additional abatement and/or emergency repair services already rendered are not recouped. Required notification to the property owner(s) would be provided in advance before proceeding with said cost recovery.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES):

The determination on whether a property constitutes a public nuisance is not subject to compliance with the City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit because this determination is an administrative action involving the assessment of existing site conditions only.

GENERAL PLAN RELEVANCE/CITY COUNCIL GOALS & OBJECTIVES:

Upholding staff's determination that the Property constitutes a public nuisance implements the following General Plan Policies:

- General Plan Goal LU7: Livable Neighborhoods. A City composed of neighborhoods with a variety of housing types that are desirable places to live, contribute to the quality of life, and well maintained.
- Policy LU 7.9: Housing Maintenance. Promote the maintenance of existing residential units and improvements to assure a quality and healthy living environment for residents and consistency with their neighborhood setting.
- Policy LU 7.10: Code Enforcement. Preserve and enhance residential neighborhoods through enforcement of land use and property standards, ensuring that adjacent nonresidential uses are buffered from residences in harmonious and attractive ways.
- City Council Goal 3: Maintenance and Improvement of City Infrastructure
- Objective D: Maintain sewer, water and storm drain pipelines.

Attachments

1. HOA Request for Emergency Repairs
2. Consent to Emergency Repairs
3. Consent to Additional Repairs
4. Notice of Public Nuisance
5. Appeal
6. Resolution

From: Jim Sadro
To: Don Hasch; Steve Sanderson
Cc: Billie L. Hill, Billie L. Hill, Billie L. Hill, Billie L. Hill
Subject: Coyote Village Flood Tunnel - NEW COLLAPSE 3/15/23
Date: Thursday, March 16, 2023 9:15:34 AM

FYI.

Begin forwarded message:

From: Don <don.hasch@ybaoo.com>
Date: March 16, 2023 at 9:16:36 AM PDT
To: brian.morris@water.ca.gov, salween.miranda@water.ca.gov, Jim Sadro <JSadro@shabrca.gov>, Elias Stykati <estykati@shabrca.gov>, Rodney Sipma <rsipma@shabrca.gov>
Subject: Coyote Village Flood Tunnel - NEW COLLAPSE 3/15/23

DWR and City Team,
Emergency Request

Unfortunately, we had another collapse of a large section of the tunnel around 8pm last night. Water flow is significantly blocked. There does not appear to be any damage to buildings or surrounding structures. The tunnel walls also appear to be intact. Luckily, damage appears to be contained to the roof of the tunnel and the soil that was on the top of it.

We are in desperate need of emergency support as we have no means, finances, or resources to repair this large collapse.

Can you please coordinate with the appropriate contacts and determine what can possibly be done to assist in responding to this issue before the next rain storm? I ask that someone please contact me about this new unfortunate situation when possible.

Below are images of the recent portion for your reference.

Thank you
Don Hasch
HOA President
Coyote Village HOA
714-872-2082







PETERSON LAW GROUP

PROFESSIONAL CORPORATION
SUITE 290
19800 MAC ARTHUR BOULEVARD
IRVINE, CALIFORNIA 92612

TELEPHONE (949) 955-0127
FACSIMILE (949) 955-9007

Via email

March 17, 2023

Gary Kranker, Esq.
Jones & Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835

Email: gsk@jones-mayer.com

Re: Coyote Creek Imperial Channel Improvement Project

Dear Mr. Kranker:

Your letter of March 16, 2023 is a blatant attempt to use the current crisis to gain an advantage over my client, Coyote Village Homeowners Association (“HOA”) and its owner members, by attempting to force them to make admissions and concessions to their detriment. We will not address the merits of the pending litigation (the “Litigation”) [Orange County Superior Court Case No. 30-2020-01171883-CU-EI-CXC] in response to your letter of March 16, 2023. It is inappropriate to do so under the current emergency conditions.

Coyote Village Homeowners Association (“HOA”) does not admit or concede any fact or matter asserted by you in your letter. HOA does not waive any rights in the Litigation, whether as a result of the current emergency situation and crisis, the emergency work required under the circumstances, or for any other reason. All rights are also reserved on all claims asserted in the Litigation and for new claims that are arising daily.

In an effort to assist the repair progress, the HOA commissioned and provided the City with a concept plan for the repair project. 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 this channel blockage, and any future collapse may endanger countless properties upstream as well as the HOA property.

We learned last night, via a news report quoting you, that you are attributing the withholding of funds to the pending Litigation. You have never asked for or proposed a settlement plan for the Litigation of any kind. You did not even attend the last court Status Conference. Instead, yesterday, we received your letter attempting to assess my client with the repair costs that are included in the State appropriation. This is no time for the City to play games with State funds appropriated for this very repair.

Gary Kranker, Esq.
March 17, 2023

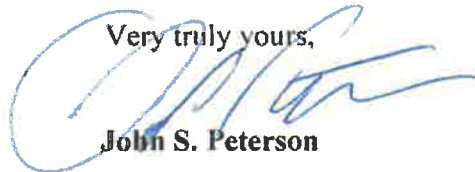
Page 2 of 2

Subject to the understanding that all parties are reserving all of their respective rights, including those asserted in the pending Litigation and as may be asserted based on recently occurring actions and inactions of defendants in the Litigation, and subject to HOA not waiving any rights or making any express or implied admissions, please be advised of the following:

- (1) The HOA is in receipt of your letter of March 16, 2023;
- (2) The HOA is requesting public assistance, including without limitation, from the City, County, State and/or Federal Government; further the HOA is cognizant that the State allocation of funds to repair the Coyote Creek Imperial Channel Improvement Project has become available;
- (3) The HOA will release the City and its contractor for reasonably and negligently, as opposed to intentionally, caused property damage to HOA property, beyond City and contractor's insurable limits, solely as a result of reasonably undertaken emergency repair activities;
- (4) Subject to these understandings, City and its contractors may have immediate access to the HOA property.

Please let us know when City personnel will initiate the required work so that the HOA can provide notices to the residents and assist in providing any parking, staging areas, or pathways that may be required. Thank you.

Very truly yours,

A handwritten signature in blue ink, appearing to read "John S. Peterson", is written over a circular blue stamp or seal.

John S. Peterson

cc: Don Hasch, President, HOA

From: [John Peterson](#)
To: [Gary S. Kranker](#)
Cc: [Richard D. Jones](#); [Keith F. Collins](#); [Rita J. Alger](#); [Katie Cram](#); [Kiana Kiarash](#); [Chris Peterson](#)
Subject: RE: Coyote Village Additional work
Date: Friday, March 31, 2023 11:28:16 AM
Attachments: [image001.png](#)
[image002.png](#)

Gary:

Further to our recent discussions, based on the same understandings and reservations we have mutually exchanged in emails and letters over the past few weeks, Coyote Village HOA, acting through its Board of Directors, requests that the City contractor continue to saw cut and remove portions of the pool deck area and related soil overlying the channel roof deck. This morning, the HOA's consultant and the Contractor's representative met on site to discuss the area in question, and as I understand it, both concluded it would be prudent to do so. Please let me know if this suffices for purposes of the City instructing the Contractor to continue with the work. Thank you.

John

John S. Peterson
Peterson Law Group PC
19800 MacArthur Boulevard, Suite 290
Irvine, California 92612
(949) 955-0127 (phone)
(949) 955-9007 (fax)
jsp@petersonlawgroup.com



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From: Gary S. Kranker <gsk@jones-mayer.com>
Sent: Wednesday, March 22, 2023 4:39 PM
To: John Peterson <jsp@petersonlawgroup.com>
Cc: Richard D. Jones <rjdj@jones-mayer.com>; Keith F. Collins <kfc@jones-mayer.com>; Rita J. Alger <rja2@jones-mayer.com>; Katie Cram <kc@petersonlawgroup.com>; Kiana Kiarash <kk@petersonlawgroup.com>; Chris Peterson <cdp@petersonlawgroup.com>
Subject: RE: Coyote Village Additional work

Dear John,

I spoke with my client, and they indicated that will stop before the tennis court and the pool deck area.

They will be out tomorrow to begin the work.
Please let me know if you have any further questions.

Sincerely,

Gary S. Kranker
Partner

Jones Mayer | 3777 N. Harbor Blvd. | Fullerton, CA 92835
☎ (714) 446-1400 | 📠 (714) 446-1448 | ✉ gsk@jones-mayer.com

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From: Gary S. Kranker

Sent: Wednesday, March 22, 2023 4:17 PM

To: John Peterson <jsp@petersonlawgroup.com>

Cc: Richard D. Jones <rdj@jones-mayer.com>; Keith F. Collins <kfc@jones-mayer.com>; Rita J. Alger <rja2@jones-mayer.com>; Katie Cram <kc@petersonlawgroup.com>; Kiana Kiarash <kk@petersonlawgroup.com>; Chris Peterson <cdp@petersonlawgroup.com>

Subject: RE: Coyote Village Additional work

Received. I am waiting to hear back from my client regarding your questions.

Sincerely,

Gary S. Kranker
Partner

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From: John Peterson <jsp@petersonlawgroup.com>

Sent: Wednesday, March 22, 2023 3:45 PM

To: Gary S. Kranker <gsk@jones-mayer.com>

Cc: Richard D. Jones <rdj@jones-mayer.com>; Keith F. Collins <kfc@jones-mayer.com>; Rita J. Alger <rja2@jones-mayer.com>; Katie Cram <kc@petersonlawgroup.com>; Kiana Kiarash <kk@petersonlawgroup.com>; Chris Peterson <cdp@petersonlawgroup.com>

Subject: RE: Coyote Village Additional work

Gary:

Subject to the continuing reservations articulated in our respective emails and letters of last week and this week, the Board of the HOA has approved the below described work. Please let me know how far on the ends the contractor will go. I assume they will stop before the tennis court and the pool deck area?

John S. Peterson

Peterson Law Group PC

19800 MacArthur Boulevard, Suite 290

Irvine, California 92612

(949) 955-0127 (phone)

(949) 955-9007 (fax)

jsp@petersonlawgroup.com



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From: Gary S. Kranker <gsk@jones-mayer.com>

Sent: Wednesday, March 22, 2023 10:50 AM

To: John Peterson <jsp@petersonlawgroup.com>

Cc: Richard D. Jones <rdj@jones-mayer.com>; Keith F. Collins <kfc@jones-mayer.com>; Rita J. Alger <rja2@jones-mayer.com>

Subject: Coyote Village Additional work

Dear John,

The cost estimate for additional work at the channel is as follows:

The approximate cost to continue to remove the existing overburden above the reinforced concrete box (RCB) is as follows:

Item A

For the Center Section of the alignment it will take approximately five (5) normal working days at \$15,000 per day for a total of seventy five thousand dollars (\$75,000.00).

Item B

For the portion of the alignment from the damaged area towards the Orange County Public Works Right of Way it will take approximately ten (10) normal working days at \$15,000 per day for a total of one hundred fifty thousand dollars (\$150,000.00).

The total cost is estimated at \$225,000.00

Please confirm that the HOA understands that while the City will try to fund the work using the money has been allocated to the project, if for some reason those funds do not come available, the HOA and its members will be responsible for the costs.

The contractor is ready to begin the additional work tomorrow. Please let me know by the end of the business day today, if the HOA agrees to the above scope and costs allocation.

Sincerely,

Gary S. Kranker
Partner

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City of La Habra

CODE ENFORCEMENT DIVISION

"A Caring Community"

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Post Office Box 337
La Habra, CA 90633-0785
Office: (562) 383-4138
Fax: (562) 383-4476
www.lahabracity.com

March 27, 2023

Coyote Village Homeowners Association
Attn: Don Hasch
965 W. Imperial Hwy., #51
La Habra, CA 90631

Notice of Public Nuisance

Dear Mr. Hasch,

On March 16, 2023, the City of La Habra ("City") received an email from you notifying the City that a portion of the channel roof, located at 901 - 997 W. Imperial Hwy, APN #019-451-07, at the Coyote Village Homeowners Association ("HOA") property, collapsed into the channel. This collapse was similar in nature to a prior collapse of the channel roof that occurred on January 23, 2019. The recent collapse created a blockage which prevented stormwater from traversing the channel and threatened to flood nearby residences and create further structural damage to the channel. The City's position, as to both the January 23, 2019 channel roof collapse and the channel roof collapse of March 15, 2023 is that the channel and its condition are not the City's responsibility because it is private property and the HOA has failed to appropriately maintain the channel roof since sometime in the 1970's or early 1980's. In your March 16, 2023 email, you requested emergency assistance from the City to make necessary repairs. After further discussions between the City and legal counsel for the HOA, the HOA authorized the City in writing to immediately proceed with repairs to the channel blockage and to perform additional repairs to a non-collapsed portion of the channel roof to prevent a third collapse.

With your consent and pursuant to LHMC 18.74.180, the City retained a qualified contractor to immediately perform the necessary repairs to the collapsed and non-collapsed portions of the channel roof. However, prior to their abatement by the City, these conditions qualified as a public nuisance under Civ. Code § 3480 and LHMC § 18.74.040(A)(2), (B)(1), (B)(2) and (C)(1). If you wish to contest this notice, you have 30 days to file a written appeal with the secretary to the La Habra Planning Commission as set forth in LHMC § 18.74.120.

Sincerely,

Cynthia Bastreri
Code Enforcement Supervisor

cc: John Peterson
Gary Kranker

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.

City of La Habra
Planning Commission
April 25, 2023
Page 4

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

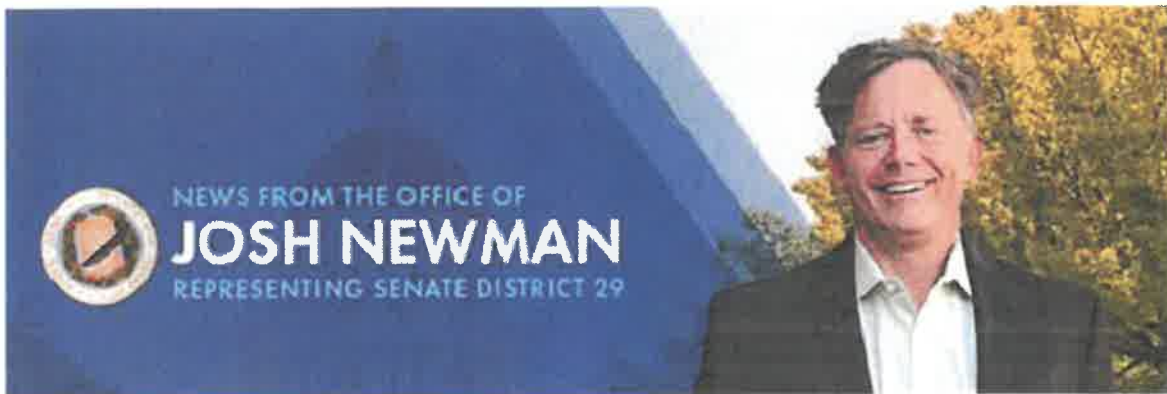


Don Hasch, President

cc: John S. Peterson,
Peterson Law Group PC

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From: Cootsona, Lizzie <Lizzie.Cootsona@sen.ca.gov>
Sent: Friday, July 1, 2022 9:11 AM
To: Cootsona, Lizzie <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

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.

###

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,

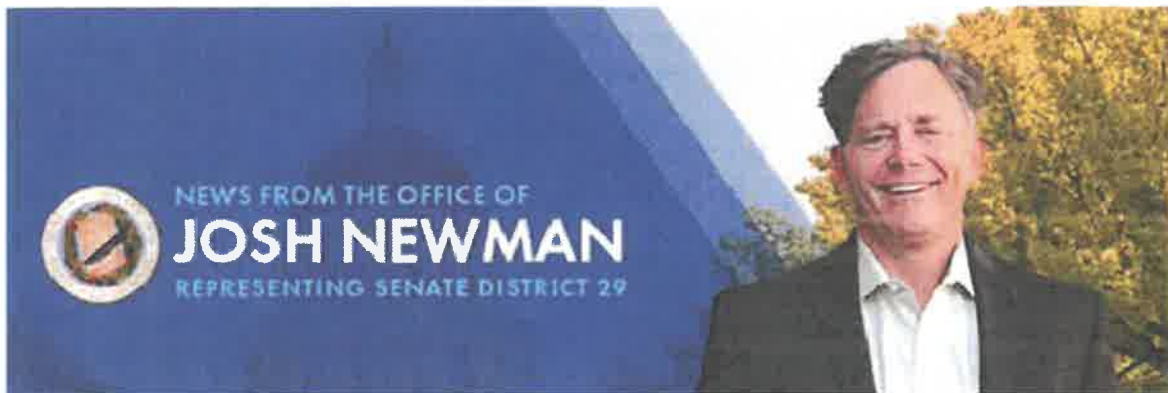
Lizzie Cootsona

Communications Director

Office of Senator Josh Newman | 29th District

☎ (916) 651-4029 | 📠 (530) 592-5547 | 🌐 sd29.senate.ca.gov

Follow the Senator on Social Media:



RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA, AFFIRMING THE NOTICE OF PUBLIC NUISANCE ISSUED TO THE COYOTE VILLAGE HOMEOWNERS ASSOCIATION

WHEREAS, Chapter 18.74 of the La Habra Municipal Code contains the City of La Habra's nuisance ordinance whereby the City Council has declared the conditions that constitute a public nuisance and the procedures for abatement thereof; and

WHEREAS, the Coyote Village Homeowners Association ("HOA") governs a condominium development located at 901-997 W. Imperial Highway ("Coyote Village" or "Property"); and

WHEREAS, the Property contains a covered storm drain that underwent a partial collapse on January 23, 2019 and again on March 15, 2023; and

WHEREAS, on March 16, 2023 the HOA requested the City take immediate action to clear debris from the collapsed storm drain and consented to additional preventative action to protect the Property and nearby residences from further damage; and

WHEREAS, the City contracted with a construction company to make these emergency repairs and preventative measures; and

WHEREAS, the City issued a Notice of Public Nuisance ("Notice") to the HOA on March 27, 2023 stemming from the collapsed storm drain; and

WHEREAS, the HOA timely appealed the Notice and requested a hearing before the Planning Commission; and

WHEREAS, the Planning Commission held a properly noticed public hearing on June 22, 2023 whereby it heard and considered evidence from the City and the HOA on whether the Property constitutes a public nuisance; and

NOW THEREFORE, BE IT RESOLVED, BY THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA, AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and are a substantial part of this resolution.

SECTION 2. Findings of Fact. The Planning Commission hereby makes the following findings of fact:

1. The Property has at all times relevant to these proceedings been maintained by the HOA as private property.
2. The HOA has at all times relevant to these proceedings been responsible for the proper care and maintenance of the Property.
3. On March 15, 2023 the roof of the storm drain channel at the Property partially collapsed into the storm drain and created a blockage that prevented free water flow.

4. The HOA requested the City's assistance in taking immediate action to clear the storm drain and to take additional measures to prevent further damage.
5. With the HOA's consent, the City took emergency and preventative action at the Property to address the threat to the public health, safety and welfare.

SECTION 3: Conclusions of Law. The Planning Commission hereby makes the following conclusions of law:

1. The collapsed storm drain created an immediate threat to the public health, safety and welfare.
2. The collapsed storm drain constitutes a public nuisance under Civil Code 3479-3480 because it is injurious to health and an obstruction to the free use of the property for all residents and visitors of the Coyote Village.
3. The collapsed storm drain constitutes a public nuisance under LHMC 18.74.040(A)(2) because it constitutes erosion, subsidence or surface water runoff problems of such magnitude as to be injurious to the public health, safety and general welfare.
4. The collapsed storm drain constitutes a public nuisance under LHMC 18.74.040(B)(1) & (B)(2) because it is a damaged, dilapidated, and inadequately maintained improvement which is structurally unsafe and that interferes with egress and is otherwise dangerous to human life and constitutes a serious threat to the public's health, safety and general welfare.
5. The collapsed storm drain constitutes a public nuisance under LHMC 18.74.040(C)(1) because it is a condition that seriously endangers the public health and safety and which poses a threat of collapse to nearby residences, fences and landscaping and requires immediate correction and was the result of dilapidation, decay, damage or faulty construction or arrangement and is injurious to the public health and safety.

SECTION 4: The Notice of Public Nuisance is hereby upheld and the Property is hereby declared to be a public nuisance.

SECTION 5: The HOA is hereby ordered to take all necessary steps to repair the storm drain channel to prevent a future collapse within 30 days, or longer with the City's consent.

PASSED, APPROVED AND ADOPTED THIS 22nd day of June, 2023.

Esther Rojas, Chair

ATTEST:

Veronica Lopez, Secretary

APPROVED AS TO FORM:

Richard Jones, City Attorney

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS.
CITY OF LA HABRA }

I, Veronica Lopez, secretary for the Planning Commission of the City of La Habra, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. _____ introduced and adopted at a Regular Meeting of the Planning Commission of the City of La Habra held _____ on _____ the 22nd day of June, 2023 by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Witness my hand and the official seal of the City of La Habra this 22nd day of June, 2023.

Veronica Lopez, Secretary