



**HUGHSON CITY COUNCIL and**  
**HUGHSON REDEVELOPMENT AGENCY BOARD**

**A G E N D A**

**JULY 11, 2011**  
**REGULAR SESSION 7:00 P.M.**

Council Chambers  
7018 Pine Street, Hughson CA  
City Hall

July 11, 2011  
Regular Scheduled Meeting

**CALL TO ORDER:**

**ROLL CALL:** Mayor Ramon Bawanan  
Mayor Pro Tem Matt Beekman  
Councilmember Jill Silva  
Councilmember George Carr  
Councilmember Jeramy Young

**PLEDGE OF ALLEGIANCE:**

**INVOCATION:**

**AMERICANS WITH DISABILITIES ACT/CALIFORNIA BROWN ACT  
NOTIFICATION FOR THE CITY OF HUGHSON**

This agenda shall be made available upon request in alternative formats to persons with a disability as required by the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12132) and the Ralph M. Brown Act (California Government Code Section 54954.2).

**Disabled or Special needs Accommodations:** In compliance with the Americans with Disabilities Act, persons requesting a disability related modification or accommodation in order to participate in the meeting and/or if you need assistance to attend or participate in a City Council meeting, please contact the City Clerk's office at 209-883-4054. Notification at least 48 hours prior to the meeting will assist the City Clerk in assuring that reasonable accommodations are made to provide accessibility to the meeting.

**WAIVER WARNING**

**Waiver Warning:** If you challenge a decision/direction of the City Council/Redevelopment Agency in court, you may be limited to raising only those issues you or someone else raised at a public hearing(s) described in this Agenda, or in written correspondence delivered to the City of Hughson at or prior to, the public hearing(s).

**RULES FOR ADDRESSING CITY COUNCIL**

Members of the audience who wish to address the City Council are requested to complete one of the forms located on the table at the entrance of the Council Chambers and submit it to the City Clerk. Filling out the card is voluntary.

**PUBLIC COMMENT**

Members of the Audience may address the City Council on any item of interest to the public pertaining to the City and may step to the podium. State their name and City of Residence for the record. (requirement of Name and City of Residence is optional) and make their presentation. Please limit presentations to five minutes. Since the City Council cannot take action on matters not on the agenda, unless the action is authorized by Section 54954.2 of the Government Code, items of concern which are not urgent in nature can be resolved more expeditiously by completing and submitting to the City Clerk a Citizen Request Form which may be obtained from the City Clerk.

**1) CONSENT CALENDAR:**

All items are approved by a single action. A member of the Public, Staff, or the City Council may remove any of the items from the Consent Calendar for discussion.

- a) Approval of the Minutes from the June 27, 2011 regularly scheduled meeting.  
(CC/RDA) Spinale
- b) Approval of the Warrants for the Month of June 2011.  
(CC/RDA) Whiteside

**2) PRESENTATIONS:**

- a) Presentations to Honor Retiring Chief of Police Services, Janet Rasmussen.
- b) Presentation of the Underage Drinking Assessment by the Hughson Underage Drinking Task Force.

**CITY BUSINESS – CONSIDER THE FOLLOWING:**

- 3) Consider and Adopt Resolution No. 2011-049, approving a Fund Balance Policy in accordance with Governmental Accounting Standards Board Statement No 54 (GASB 54).  
(CC/RDA) Souza
- 4) Review and Update of the Auditors Recommendations.  
(CC/RDA) Souza

**PUBLIC HEARING**

The Public Hearing process includes a staff presentation; a presentation by the applicant and public testimony (in favor, opposed & rebuttal). Following closure of the Public Hearing, the City Council will respond to questions raised during the hearing.

**PUBLIC HEARING TO CONSIDER:**

No Public Hearing was scheduled.

**CORRESPONDENCE:**

No Correspondence was scheduled.

**CITY MANAGER REPORT:**

**CITY CLERK REPORT:**

**COMMUNITY DEVELOPMENT DIRECTOR REPORT:**

**DIRECTOR OF FINANCE REPORT:**

**POLICE SERVICES REPORT:**

**CITY ATTORNEY REPORT:**

**CITY COUNCIL MEMBERS REPORTS AND COMMENTS:**

**COMMUNITY EVENTS:**

- ↓ August 1-5<sup>th</sup> - Hughson United Methodist Church – Day Camp at 6th & Fox Road; 8:30-12:00 p.m. Must pre-register by phone: (209) 883-4952
- ↓ August 20, 2011 – The Hughson Historical Society will be honoring the longstanding Citizens at Saint Anthony's Church at 6:00 p.m.
- ↓ Stanislaus County Fair July 15-24th

**CLOSED SESSION TO DISCUSS THE FOLLOWING:**

No Closed Session was scheduled.

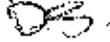
**ADJOURNMENT:**

\*Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda packet are available for public inspection in the City Hall office at 7018 Pine Street during normal Business hours and at Regular City Council meetings.

\*These documents are also available on the City of Hughson website at [www.hughson.org](http://www.hughson.org) subject to staff's availability to post the document before the meeting.

## CERTIFICATION

I, Dominique Spinale, Deputy City Clerk, or his/her designee, do hereby declare under penalty of perjury that the foregoing Agenda was posted on the outdoor bulletin board at the Hughson City Hall, 7018 Pine Street, Hughson, CA., and made available for Public Review, prior to or on this 8th day of July 2011 before 5:00 p.m.



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Dominique Spinale, Deputy City Clerk

**C/C AGENDA - ITEM**

**1a**





**HUGHSON CITY COUNCIL and**  
**HUGHSON REDEVELOPMENT AGENCY BOARD**

**MINUTES**

**JUNE 27, 2011**  
**REGULAR SESSION 7:00 P.M.**

Council Chambers  
7018 Pine Street, Hughson CA  
City Hall

June 27, 2011  
Regular Scheduled Meeting

**CALL TO ORDER:**

**ROLL CALL:**

Present: Mayor Ramon Bawan  
Mayor Pro Tem Matt Beekman  
Councilmember Jill Silva  
Councilmember George Carr  
Councilmember Jeramy Young

Staff Present: Bryan Whitemyer, City Manager  
Dan Schroeder, City Attorney  
Monica Streeter, Deputy City Attorney  
Thom Clark, Community Development Director  
Janet Rasmussen, Chief of Police Services  
Lisa Whiteside, Acting Finance Manager  
Dominique Spinale, Mgmt. Analyst/Deputy City Clerk  
Sam Rush, Public Works Superintendent

**PLEDGE OF ALLEGIANCE:** Mayor Ramon Bawan

**INVOCATION:** Reverend Spears

**AMERICANS WITH DISABILITIES ACT/CALIFORNIA BROWN ACT**  
**NOTIFICATION FOR THE CITY OF HUGHSON**

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**Mr. Martin Lemire asked the City Council and Staff to keep the community informed of the revival of the Hughson Fruit and Nut Festival.**

**The Hughson Library Branch Manager advised the City Council and public about the Summer Programs and events being offered at the library.**

**Reverend Spears thanked City Staff and Police Services for their assistance with the God and Country Event at Starn Park. He advised that the Event was very successful and fun.**

**1) CONSENT CALENDAR:**

All items are approved by a single action. A member of the Public, Staff, or the City Council may remove any of the items from the Consent Calendar for discussion.

- a) Approval of the Minutes: Regularly Scheduled Session of June 13, 2011 (CC/RDA) Spinale
- b) Approval of the Warrants for the Month of May and June 2011. (CC/RDA) Whiteside

- c) Approval of the Treasurers Report for the Month of May 2011.  
(CC/RDA) Whiteside
- d) Rejection of Claim for Damages made by Berenise Barajas.

**Councilmember Beekman pulled Items (b) and (c) for discussion.**

**Carr/Silva 5-0-0-0 motion passes to approve items (a) and (d) of the Consent Calendar.**

**Councilmember Beekman asked for additional information regarding some payments made in the warrants and the balances listed in the Treasurer's Report.**

**Staff was asked to research how the funds in the report labeled "small business loans" can be utilized. Staff will follow up when they have the information requested.**

**Beekman/Silva 5-0-0-0 motion passes to approve items (b) and (c) of the Consent Calendar.**

## **2) PRESENTATIONS:**

- a) Review and Discuss Waste Management's request to increase rates and authorize Staff to set a Public Hearing for the rate increases.  
(CC) Whitemyer (Staff Report Included)

**Jennelle Bechthold, Municipal Contract Manager with Waste Management, Inc presented a power point presentation on their request of the Council to approve a rate increase. The request included rate increases for refuse, recyclables, yard waste, and transportation services for the last three (3) years, as the Hughson City Council has not passed any rate increases for garbage services since 2008.**

**Waste Management requested the following increases:**

- **CPI rate adjustment of 1.70% for and 1.79% for 2010. (CPI adjustments are for previous twelve months each year)**
- **2.27% for the 2011 extraordinary fuel increase**
- **1.944% for the 2010 extraordinary fuel increase**
- **Stanislaus County Landfill tipping fee increase at the Fink Road Landfill from \$30.00 to \$33.00 per ton, effective July 1, 2009.**

**Ms. Bechthold explained to the Council the rising costs that have affected their company and its ability to provide services, therefore forcing them to make cuts within their company and services.**

**The Council deliberated on this item asking for additional information and further clarifications as to why the rate increases are necessary and what Waste Management has done to decrease their costs and adjust to the changes in the economy. Ms. Bechthold and Mr. Tom Sanchez with Waste Management discussed these items with the Council.**

**Mayor Bawanan requested the Public Hearing be scheduled for the meeting of July 25<sup>th</sup>, as he will not be present at the July 11<sup>th</sup> meeting. Council agreed.**

**Beekman/Young 5-0-0-0 motion passes to authorize Staff to set a Public Hearing for Waste Management's rate increases for the July 25, 2011 City Council Session.**

**CITY BUSINESS – CONSIDER THE FOLLOWING:**

- 3) Review and approve the formation of an Economic Development Committee.  
(CC) Whitemyer (Staff Report Included)

**City Manager Whitemyer reviewed the Staff Report with the Council and answered the Council's questions, advising that the City would take applications through August 1. The Council will hold an interview process in August and have the committed selected by September.**

**Councilmember Young suggested increasing the committee's jurisdiction. Council widened the boundaries to include all areas using the Hughson zip code of 95326.**

**City Attorney Dan Schroeder advised that members would only need to file Form 700 economic interests for their interests within the City limits only. He also recommended changing the wording in the Staff Report from "ex officio" to "staff support", as voting or non-voting does not change whether somebody is a member of a particular committee or not so they would count towards a quorum.**

**Bawanan/Beekman 5-0-0-0 motion passes to establish the City Council as the selection committee.**

**Bawanan/Silva 5-0-0-0 motion passes to establish the committee based on parameters and purpose of the committee as indicated in the staff report, with the modifications that the language "staff support" replaces "ex officio" and that the committee members live and/or have a business interest within the zip code of 95326.**

- 4) Consider the Adoption of Resolution No. 2011-045, appointing Acting Finance Manager Lisa Whiteside as the City Treasurer.  
(CC) Whiteside (Staff Report Included)

**Carr/Beekman 5-0-0-0 motion passes to adopt Resolution No. 2011-045.**

- 5) Consider the Adoption of Resolution 2011-037, approving Amendment #1 to the Stanislaus County Drug Enforcement Agreement (SDEA), dated June 8, 2008.  
(CC) Rasmussen (Staff Report Included) (Continued from May 23, 2011)

**Chief of Police Janet Rasmussen presented this item and answered any questions that were asked by Council.**

**Silva/Young 5-0-0-0 motion passes to adopt Resolution 2011-037.**

- 6) Consider the Adoption of Resolution No. 2011-046, authorizing the City Manager to enter into a contract for \$33,000 with California Consulting Incorporated for general grant writing and government affairs services.  
(CC) Whitemyer (Staff Report Included)

**City Manager Whitemyer presented this item to the Council. This item was discussed at a previous meeting and then agenized for action at this meeting.**

**Beekman/Carr 5-0-0-0 motion passes to adopt Resolution No. 2011-046.**

- 7) Consider the Adoption of Resolution No. 2011-047, Authorizing the Transfer of \$9,508 From the United Samaritan Foundation Community Center, Fund 50, to the United Samaritan Foundation, as well as an Additional Appropriation of \$2,000 for Fund 50 in the FY 2011-12 Budget.  
(CC) Clark (Staff Report Included)

**Mayor Bawanan declared a conflict of interest and excused himself from this item by leaving the Chamber.**

**Community Development Director Thom Clark presented this item and answered any questions asked by Council.**

**Silva/Carr 4-0-1-0 motion passes to adopt Resolution No. 2011-047.**

**Mayor Bawanan returned to the dais when the action on this item was completed.**

**PUBLIC HEARING**

The Public Hearing process includes a staff presentation, a presentation by the applicant and public testimony (in-favor, opposed & rebuttal). Following closure of the Public Hearing, the City Council will respond to questions raised during the hearing.

**PUBLIC HEARING TO CONSIDER:**

No Public Hearing was scheduled.

**CORRESPONDENCE:**

No Correspondence was scheduled.

**CITY MANAGER REPORT:**

- 8) Designation of Voting Delegates and Alternates- League of CA Cities Annual Conference – September 21-23, San Francisco.

**Councilmember Young was designated as Delegate and Councilmember Beekman was designated as the Alternate.**

**CITY CLERK REPORT:**

**COMMUNITY DEVELOPMENT DIRECTOR REPORT:**

**DIRECTOR OF FINANCE REPORT:**

**POLICE SERVICES REPORT:**

**CITY ATTORNEY REPORT:**

**CITY COUNCIL MEMBERS REPORTS AND COMMENTS:**

Councilmember Carr updated the Council on his attendance at the Turlock Mosquito Abatement District Meeting and reminded the Council and public that the County Fair is three weeks away.

Councilmember Beekman updated the Council on his attendance at the StanCOG meeting and the ribbon cutting and grand opening event of El Rancho Market.

Mayor Bawanan updated the Council on his attendance at the Mayor's Meeting on the 23<sup>rd</sup>. The next Mayor's Meeting is scheduled for July 13 and invites all fire and police chiefs to attend.

**COMMUNITY EVENTS:**

- ✦ July 9, 2011 – Quarterly Arboretum Day 8:30 a.m. -12:00 p.m.
- ✦ July 9, 2011 – Family Fun Day, Hughson Athletic Boosters, Citywide Event
- ✦ August 1-5<sup>th</sup> - Hughson United Methodist Church – Day Camp at 6th & Fox Road; 8:30-12:00 p.m. Must pre-register by phone: (209) 883-4952

✦ August 20, 2011 – The Hughson Historical Society will be honoring the longstanding Citizens at Saint Anthony's Church at 6:00 p.m.

9) **CLOSED SESSION: Council Members will meet in Closed Session for the following scheduled items:**

A. **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a)**

Gary Madsen, individually and as Trustee of the Gary Madsen 2003 Revocable Trust (Petitioner/Plaintiff) v. City of Hughson and Hughson City Council (Respondents/Defendants); and Feathers Glen, LLC and Kiper Development, Inc. (Real Parties in Interest) (Stanislaus County Superior Court, Case No. 633986)

B. **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: Two potential cases

10) Return to Open Session; report on Closed Session.

**All five Council members were present for this Closed Session item. No reportable action was taken.**

**ADJOURNMENT: Mayor Bawanan adjourned this meeting at 9:17 p.m.**

These minutes were approved on this 11<sup>th</sup> day of July 2011 by a unanimous Consent of the Council/RDA by the following roll call vote: ( )

Ayes:

Noes:

Abstentions:

Absent:

APPROVED

ATTESTED

\_\_\_\_\_  
Ramon Bawanan, Mayor/Chair

\_\_\_\_\_  
Dominique Spinale, Deputy City Clerk



**CC AGENDA - ITEM 1b**



REPORT: Jul 07 11 Thursday  
 REM: Jul 07 11 Time: 14:30  
 Run By: KATHY DAILIN

City of Hughson  
 Cash Disbursement Detail Report  
 Check Listing for 06-11 Bank Account: 0100

PAGE: 031  
 ID#: FY DP  
 CL: HUG



Check Number	Check Date	Vendor Number	Name	Net Amount	Invoice #	Payment Information Description
36536	6/29/2011	\V003	VAZQUEZ, MONICA	\$ (2.00)	000A90701u	Ck# 036536 Reversed
37033	6/29/2011	\R010	RUWALCABA, AMY	\$ (80.00)	000A91101u	Ck# 037033 Reversed
38222	6/29/2011	\V008	VENEMA, CHERYL	\$ (0.41)	000A90701u	Ck# 038222 Reversed
38330	6/29/2011	\S012	SINGH, RUPINDER & SAIWIND	\$ (124.78)	000A90701u	Ck# 038330 Reversed
38632	6/29/2011	\SUB00	SUBWAY	\$ (18.00)	A91006u	Ck# 038632 Reversed
38643	6/29/2011	\H002	HA, TIANNI	\$ (63.46)	000A91001u	Ck# 038643 Reversed
38749	6/29/2011	\H010	HA, THANK	\$ (101.23)	000A91101u	Ck# 038749 Reversed
39007	6/29/2011	\C009	CAMPOS, GUADALUPE	\$ (13.70)	000B00101u	Ck# 039007 Reversed
39261	6/29/2011	\F014	PAOILLA, JAVIER	\$ (194.54)	000300501u	Ck# 039261 Reversed
41216	6/27/2011	NR500	NBS LOCAL GOVERNMENT SOLU	\$ (5,868.70)	LOS201121u	Ck# 041216 Reversed
				\$ (171.22)	LOS201120u	Ck# 041216 Reversed
			Check Total:	\$ (6,039.92)		
41218	6/30/2011	EMP01	STATE OF CALIFORNIA	\$ 1,285.49	010629	PAYROLL TAXES
41219	6/30/2011	HAR02	THE HARBOND	\$ 604.83	310629	DEFERRED COMPENSATION
41220	6/30/2011	PER01	P.C.R.S.	\$ 6,672.43	030629	RETIREMENT
41221	6/30/2011	STA23	CICStreet	\$ 20.00	010629	DEFERRED COMPENSATION
41222	6/30/2011	UNI07	UNITED WAY OF STANISLAUS	\$ 9.00	010629	UNITED WAY
41223	6/30/2011	ATT04	AIS&T MOBILITY	\$ 14.18	7459860	PHONE
				\$ (14.18)	7459860u	Ck# 041223 Reversed
			Check Total:	\$ -		
41224	6/30/2011	BAR01	PETTY CASH	\$ 27.85	320629	PETTY CASH
41225	6/30/2011	BAS01	BASIC CHEMICAL SOLUTIONS	\$ 478.24	51885401	BLEACH FOR WWTP
41226	6/30/2011	CAND1	MARY JANE CANTRELL	\$ 521.40	810627	MEDICAL BANK REIMB
41227	6/30/2011	CON14	CONDOR EARTH TECHNOLOGIES	\$ 3,884.22	61311	WWTP GROUNDWATER SAMPLING MAR-APR/2011
41228	6/30/2011	FAR03	FARMERS BROTHERS COFFEE	\$ 51.07	55055704	COFFEE
41229	6/30/2011	FED02	FED EX	\$ 18.05	753951409	SHIPPING
41230	6/30/2011	FIT00	FITZPATRICK HOMES	\$ 27,894.23	810629	REFUND LLD & BAD ASSESSMENTS FOR EUCLID NORTH
41231	6/30/2011	FOR03	FORWARD INCORPORATED	\$ 2,451.76	30995	SLUDGE DISPOSAL MAY 2011
				\$ 1,579.95	34119	SLUDGE DISPOSAL JUNE 2011
			Check Total:	\$ 4,031.71		
41232	6/30/2011	GILD1	GILTON SOLID WASTE MANAGE	\$ 4,050.00	511300	SLUDGE DISPOSAL
41233	6/30/2011	JBL00	JIFF AND HOLDING S, LLC	\$ 5,336.71	810629	REFUND LLD & BAD ASSESSMENTS FOR EUCLID SOUTH

41234	6/30/2011	N0500	NBS LOCAL GOVERNMENT SOLU	\$ 4,918.70	L03200121	ADMIN FEES 4/1-6/30/2011 & EXPENSES
				\$ 171.22	L06201120	EXPENSES INCURRED THROUGH 6/20/11
			Check Total:	\$ 5,089.92		
41235	6/30/2011	SHR02	SHREDDIT CENTRAL CA	\$ 111.72	47931170	SHREDDING
41236	6/30/2011	STA01	STANISLAUS COUNTY	\$ 63,608.40	B10629	STAN CNTY PUBLIC FACILITIES FEES FIVE 10/11
41237	6/30/2011	STA47	STANISLAUS COUNTY SHERIFF	\$ 2,863.89	1011429	SLEIF EXTRA PATROL, RECORDS APR/MAY 2011
				\$ 2,955.99	1011-423	VEHICLE CHARGES 5/2011
				\$ 964.62	1011-427	SLEIF - EXTRA PATROL, RECORDS 4/2011
			Check Total:	\$ 6,784.50		
41238	6/30/2011	UNI02	UNION SAFE DEPOSIT BANK	\$ 9,508.00	B10629	REIMBURSE PER DEVELOPMENT AGREEMENT
				\$ (9,508.00)	B10629u	CHK 041238 Reversed
			Check Total:	\$ -		
41239	6/30/2011	VSP01	VISION SERVICE PLAN	\$ 437.42	B10629	VISION INSURANCE 7/2011
41240	6/30/2011	WH05	WHEITEMYER, BRYAN	\$ 108.35	B10629	SUPPLIES FOR OPEN GYM BASKETBALL PROG
41241	6/30/2011	ATT03	AT&T	\$ 14.18	2450860	PHONE LD
41242	6/30/2011	HUG11	HUGHSON FARM SUPPLY	\$ 5.99	03340641N	STARTER ROFF
41243	6/30/2011	SAD00	SALINDERS A/C & HEATING	\$ 124.00	S1238	SERVICE CALL/ICE MACHINE
				\$ 82.00	S1936	COMMUNITY CENTER
						SERVICE CALL/AC POLICE DEPT
			Check Total:	\$ 205.00		
41244	6/30/2011	TID01	TURKOCK IRRIGATION DIST.	\$ 24,649.33	B10630	ELECTRIC
41245	6/30/2011	UNI03	UNITED SAMARITANS FOUND.	\$ 9,508.00	B10630	REIMBURSE PER DEVELOPMENT AGREEMENT
			Cash Account Total:	\$ 158,453.74		
			Total Disbursements:	\$ 158,453.74		

REPORT: Jul 07 11 Thursday  
 RUN...: Jul 07 11 Time: 14:57  
 Run By: KATHY DAHLIN

City of Hughson  
 Cash Disbursement Detail Report  
 Check Listing for 07 11 Bank Account: 0100

PAGE: 001  
 ID #: FY-10P  
 CP: HUG

Check Number	Check Date	Vendor Number	Name	Net Amount	-----Payment Information-----	
					Invoice #	Description
41246	7/7/2011	FGL00	FGL ENVIRONMENTAL	\$ 250.00	133556A	WWTP TESTING
				\$ 325.00	133778A	WWTP TESTING
				\$ 250.00	133749A	WWTP TESTING
				\$ 250.00	134033A	WWTP TESTING
				\$ 325.00	134154A	WWTP TESTING
				\$ 250.00	134216A	WWTP TESTING
				\$ 250.00	134366A	WWTP TESTING
				\$ 325.00	134373A	WWTP TESTING
				\$ 250.00	134498A	WWTP TESTING
				\$ 250.00	134643A	WWTP TESTING
				\$ 154.00	134644A	WWTP TESTING
				\$ 490.00	134849A	WATER MONITORING
				\$ 350.00	134851A	WATER MONITORING
				\$ 240.00	134854A	WATER MONITORING
				\$ 80.00	135103A	WELL WATER MONITORING
				\$ 32.00	135132A	WWTP TESTING
			Check Total:	\$ 4,071.00		
41247	7/7/2011	PG301	PG & F	\$ 165.07	B10707	UTILITIES
41248	7/7/2011	CHIA01	CHAPTER COMMUNICATION	\$ 84.50	B10707	IP ADDRESS 7-2011
41249	7/7/2011	E2N00	F2 NETWORK SOLUTIONS	\$ 2,356.55	T523520	IT SVCS 7/2011
41250	7/7/2011	FIR06	FIRE2WIRE	\$ 54.05	1402778	WEB HOSTING 7/10-8/10/11
41251	7/7/2011	POS02	POSTNET COMPLIANCE CENTER	\$ 301.53	10200855N	1 YEAR RENEWAL COMPLIANCE PLAN
41252	7/7/2011	RUS01	RUSH, SAM	\$ 100.00	B10707	REIMB FOR APPLICATION FOR 01 TEST RUSH/EUNA
41253	7/7/2011	TAS00	TASC/TOTAL ADMINISTRATIVE	\$ 289.50	310011315	ADMIN FEES 7/2011
41254	7/7/2011	WHI05	WHITEMYER, BRYAN	\$ 525.00	B10707	2011 ANNUAL LEAGUE OF CALIF CONF J.YOUNG
41255	7/7/2011	\6004	BROWN, ROBYN	\$ 65.32	000B10701	MQ CUSTOMER REFUND FOR BR00027
41256	7/7/2011	\6006	CORDOVA, JUAN & TRINIDAD	\$ 52.50	000B10701	MQ CUSTOMER REFUND FOR CDR0007
41257	7/7/2011	\6002	GALT, JON	\$ 35.50	000B10701	MQ CUSTOMER REFUND FOR GAL0006
41258	7/7/2011	\6012	GONZALEZ, MONICA	\$ 77.22	000B10701	MQ CUSTOMER REFUND FOR GON0008
41259	7/7/2011	\6013	GONZALEZ, MARIA M.	\$ 63.00	000B10701	MQ CUSTOMER REFUND FOR GON0026
41260	7/7/2011	\H003	HOLLIS, WILLIAM DALL	\$ 188.40	000B10701	MQ CUSTOMER REFUND FOR HOL0016
41261	7/7/2011	\6005	JONES, BILL & ISA	\$ 13.00	000B10701	MQ CUSTOMER REFUND FOR JON0015
41262	7/7/2011	\6001	LLERENAS, RAFAEL	\$ 7.08	000B10701	MQ CUSTOMER REFUND FOR LLC0001
41263	7/7/2011	\M004	MAGIEL, DANIEL	\$ 62.48	000B10701	MQ CUSTOMER REFUND FOR MAC0010
41264	7/7/2011	\0002	OCHOA, RDE	\$ 63.00	000B10701	MQ CUSTOMER REFUND FOR OCH0010
41265	7/7/2011	\6001	VALENCIA, EVANGELINA & R.	\$ 117.76	000B10701	MQ CUSTOMER REFUND FOR VAL0023
			Cash Account Total:	\$ 3,514.85		
			Total Disbursements:	\$ 3,514.85		



**CC AGENDA - ITEM 2a**



**CC AGENDA - ITEM 2b**



Reviewed Date: 7/8/2011	Approved: Bryan Whitemyer, City Manager	Meeting Date: July 11, 2011	Agenda Item: 2b
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## Executive Summary

**Presented By:** Bryan Whitemyer, City Manager  
**Meeting Date:** July 11, 2011  
**Subject:** Presentation of the Underage Drinking Assessment:  
Hughson, CA by the Hughson Underage Drinking Task  
Force  
**Enclosures:** 1) Underage Drinking Assessment Report  
2) Sample Social Host Ordinance  
**Budget Action:** None at this time  
**Desired Action:** Review and Discuss Presentation

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### Background:

In the Winter of 2010 the Hughson Family Resource Center formed the Hughson Underage Drinking Task Force which conducted an Underage Drinking Assessment for Hughson, California.

Members of the Task Force will be presenting their findings to the City Council.

Attached to this document is the "Underage Drinking Assessment: Hughson, CA" report as well as a copy of a sample Social Host Ordinance.

**Staff Recommendation:** Review and Discuss Presentation



**UNDERAGE DRINKING ASSESSMENT:  
HUGHSON, CA**  
Administered: Winter 2010

Presented by the Hughson Underage Drinking Task Force

For questions please contact:  
Vicki Fontana  
Executive Director, Hughson Family Resource Center  
(209) 883-2125

In the winter of 2009 the Hughson Family Resource Center (FRC) Youth Council, in partnership with community members and Hughson FRC board members, conducted an assessment on underage drinking in Hughson.

This group accessed a variety of resources including but not limited to:

- Hughson Police Services
  - In 2008/2009 Hughson Police Services noted that there were 7 calls for service involving alcohol and minors. (It should be noted that Law Enforcement does not appear to track many of their calls for service by age or substance and therefore we may be missing crucial information. This group may want to consider working with Law Enforcement to collect more specific information for our action planning purposes.)
  - There were 4 DUI arrests for underage drinkers 2008/2009. This is an increase of 50% from the previous year.
- State Department of Alcohol and Beverage Control
  - There are currently 17 active liquor licenses in the greater Hughson area
    - 8 on-site licensed locations and 9 off-site licensed locations
- 2007 California Healthy Kids Survey (CHKS)
  - Our group reviewed the results from the CHKS and the data was generally in line with our findings from our youth developed survey of the middle and high school.
- 2009/2010 Friday Night Live photovoice project.
  - See attached
- Hughson Unified School District
  - To date for school year August 2009 to current: 17 expulsions. (According to youth opinion the increase in expulsions are a secondary result due to risky behavior such as alcohol and drug use.)
  - Total expulsions in previous years:
    - 2004/2005: 9
    - 2005/2006: 6
    - 2006/2007: 9
    - NOTE: these are total expulsions for any reason, not just alcohol/drug related.
- Youth developed and administered survey
  - See attached results

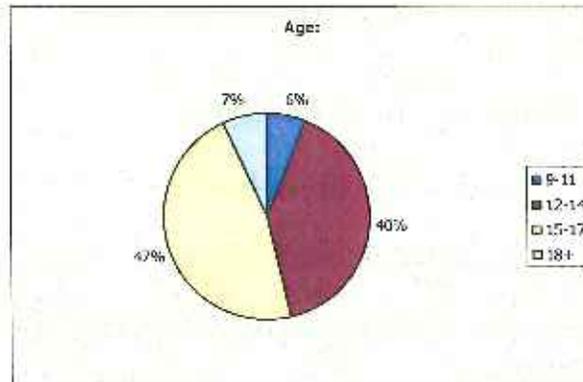
Based on this information, the following problem statements have been identified

1. There are young people in Hughson who are dealing with stress/depression issues and may be drinking because of it.
  - a. Youth need to be taught appropriate coping skills
  - b. There are limited resources available to youth struggling with depression and stress.
2. It appears that parent and other adults are either:
  - a. Unaware of the young people choosing to drink or
  - b. Accept that they do and are ok with it.
  - c. Not talking enough/effectively to young people about alcohol.
3. Youth don't have accurate perceptions of their peer's behavior.
  - a. Youth in Hughson believe other youth are drinking more than they actually are.
4. It is easy for young people to access alcohol.
5. Young people in Hughson are getting in cars with others who have been drinking.
6. There are a limited number of prevention/education programs in Hughson.
7. A significant number of youth who are drinking don't appear to care what alcohol does to their body.
8. Youth are aware of the legal consequences for drinking underage and they are still drinking.
9. It appears that young people are drinking without consistent and understood consequences.
10. Youth are drinking in their homes, their friend's homes, and at house parties. Many of them took their *first drink* at home.
11. Some youth are engaging in undesirable activities as a result of their drinking.

# DEMOGRAPHIC INFORMATION

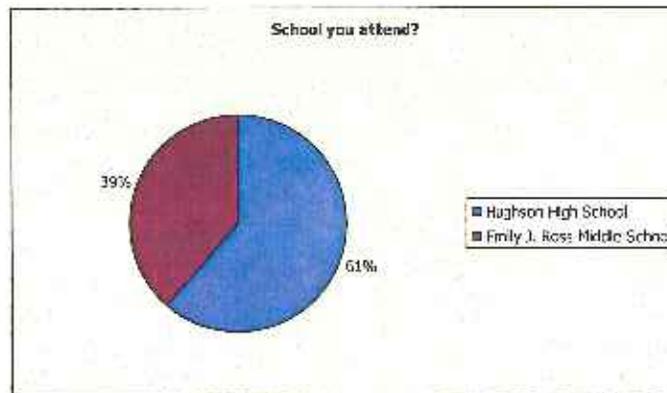
1.

<b>Age:</b>		
<b>Answer Options</b>	<b>Response Percent</b>	<b>Response Count</b>
9-11	6.2%	69
12-14	40.2%	449
15-17	46.7%	522
18+	7.0%	78
<b>answered question</b>		<b>1118</b>
<b>skipped question</b>		<b>20</b>



2.

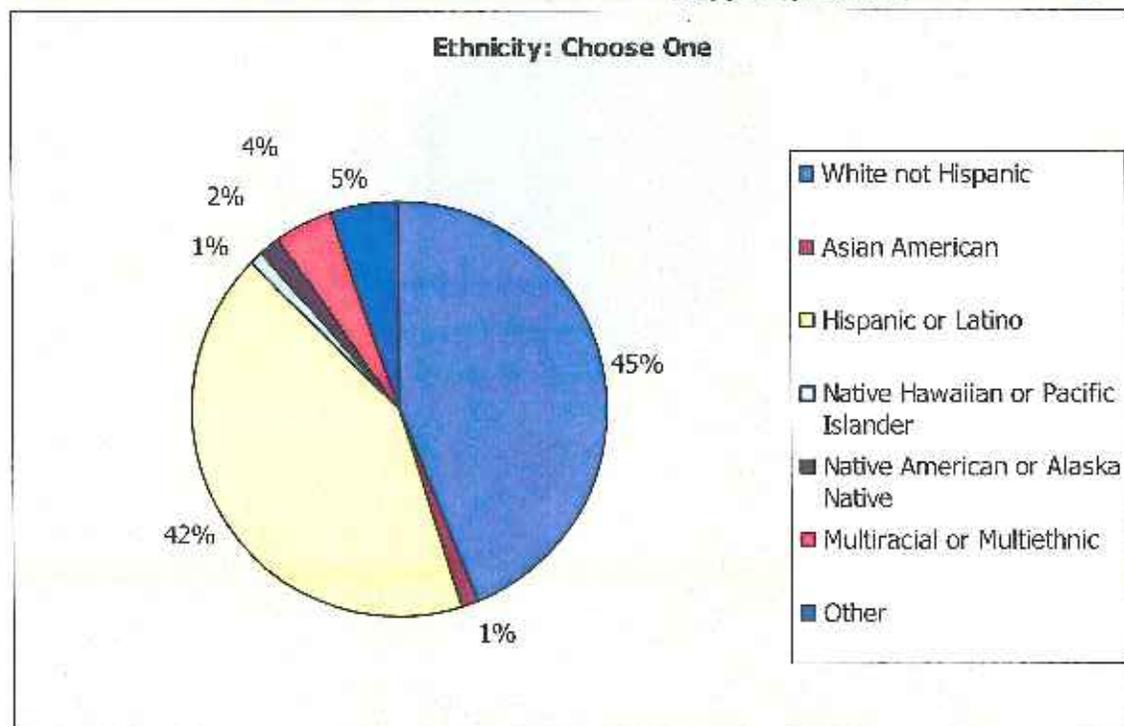
<b>School you attend?</b>		
<b>Answer Options</b>	<b>Response Percent</b>	<b>Response Count</b>
Hughson High School	61.4%	693
Emily J. Ross Middle School	38.6%	435
<b>answered question</b>		<b>1128</b>
<b>skipped question</b>		<b>10</b>



3.

**Ethnicity: Choose One**

Answer Options	Response Percent	Response Count
White not Hispanic	43.9%	480
Asian American	1.3%	14
Hispanic or Latino	42.2%	461
Native Hawaiian or Pacific Islander	1.1%	12
Native American or Alaska Native	1.8%	20
Multiracial or Multiethnic	4.4%	48
Other	5.3%	58
Other (please specify)		45
<i>answered question</i>		<b>1093</b>
<i>skipped question</i>		<b>45</b>



In putting the survey together, the Tast Force mistakenly left out African American as an option. The "other" category was as follows:

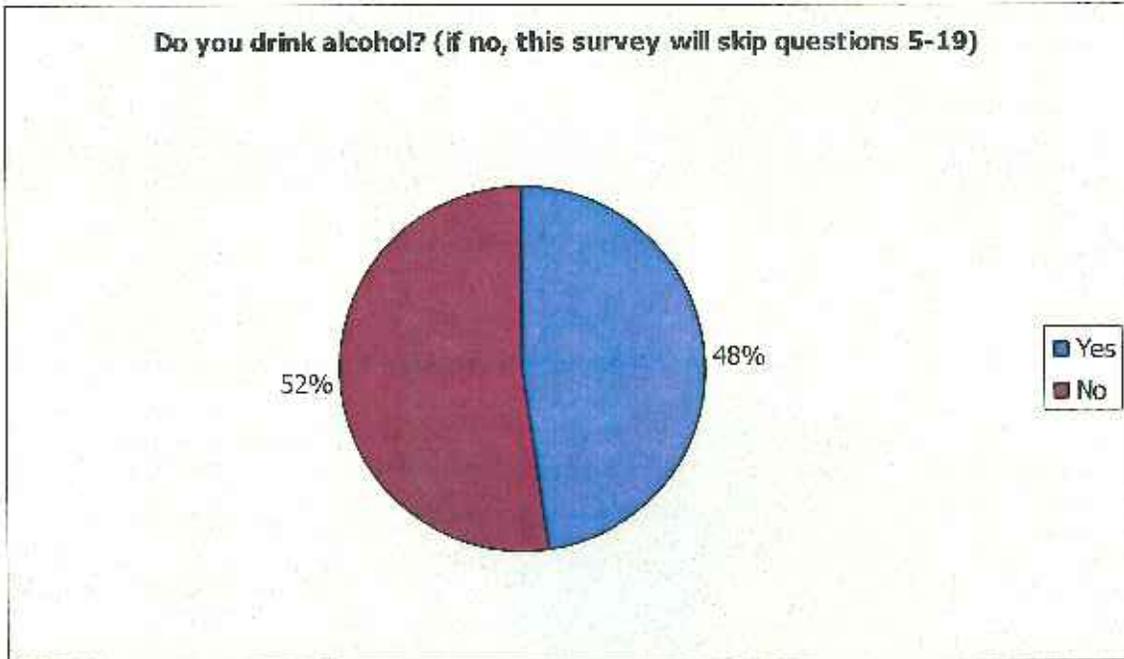
Mexican American: 2  
 African American: 11  
 Portuguese: 13  
 Assyrian: 2  
 Native American: 1  
 Creiol: 1  
 Middle Eastern: 1  
 Greek: 1

Multi Ethnic: 3  
 Czech: 1  
 Indian: 4  
 Hawaiian: 1  
 Italian: 1  
 Alien: 1  
 Atlantic Islander: 1

4.

**Do you drink alcohol? (if no, this survey will skip questions 5-19)**

Answer Options	Response Percent	Response Count
Yes	47.9%	541
No	52.1%	588
<i>answered question</i>		<b>1129</b>
<i>skipped question</i>		<b>9</b>

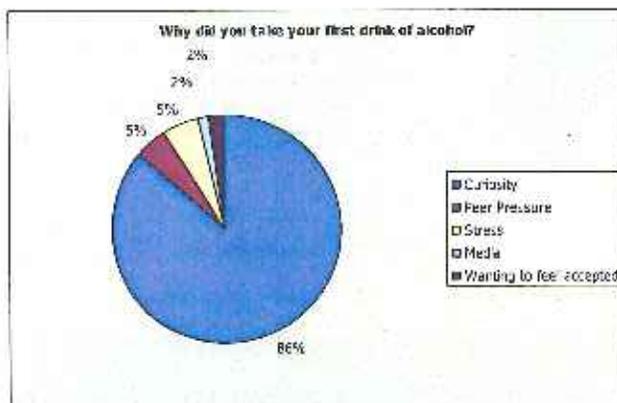


The following questions were answered by only those that answered "yes" to question #4.

5.

**Why did you take your first drink of alcohol?**

Answer Options	Response Percent	Response Count
Curiosity	86.3%	353
Peer Pressure	4.9%	20
Stress	4.9%	20
Media	1.7%	7
Wanting to feel accepted	2.2%	9
Other (please specify)		121
<b>answered question</b>		<b>409</b>
<b>skipped question</b>		<b>729</b>

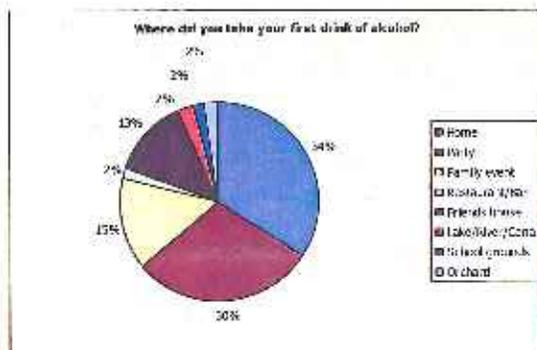


Family: 8      Just because: 43  
 I like the taste: 3  
 To have fun: 14  
 Curiosity: 10      Church: 13  
 Peer Pressure: 3  
 Depressed/Sad: 9  
 Special Event: 7  
 Don't know: 3  
 Don't drink 3  
 Misc: 2 (all of the above and media)

#6

**Where did you take your first drink of alcohol?**

Answer Options	Response Percent	Response Count
Home	34.2%	168
Party	29.5%	145
Family event	15.1%	74
Restaurant/Bar	1.6%	8
Friends house	12.8%	63
Lake/River/Canal	2.4%	12
School grounds	2.0%	10
Orchard	2.2%	11
Other (please specify)		43
<b>answered question</b>		<b>491</b>
<b>skipped question</b>		<b>647</b>

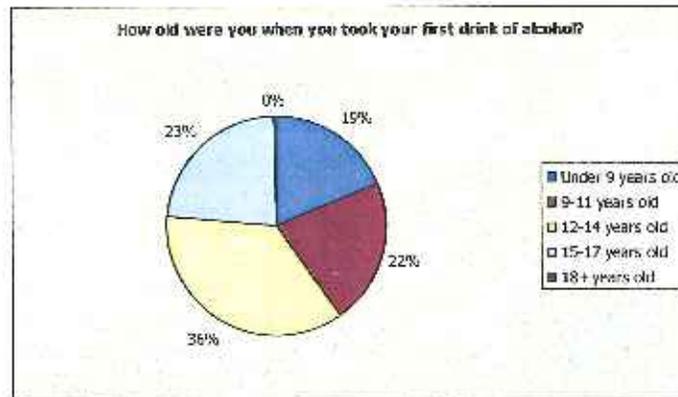


Another Country: 4      House: 7  
 Wedding: 1      Family Event: 6  
 Church: 15      Park: 3  
 I don't know: 6      Canal: 2

#7.

**How old were you when you took your first drink of alcohol?**

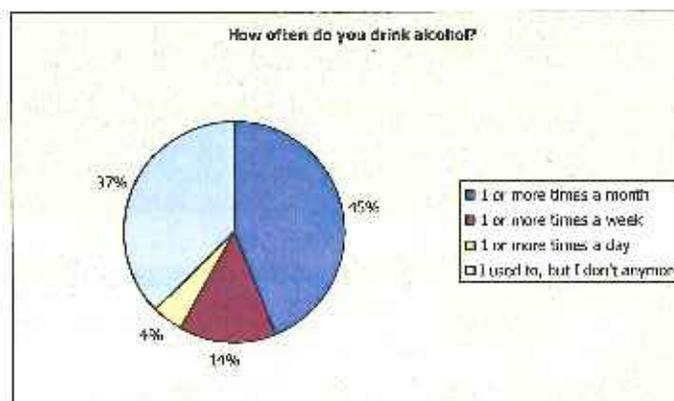
Answer Options	Response Percent	Response Count
Under 9 years old	18.7%	98
9-11 years old	21.7%	114
12-14 years old	36.0%	189
15-17 years old	23.2%	122
18+ years old	0.4%	2
<b>answered question</b>		<b>525</b>
<b>skipped question</b>		<b>613</b>



8.

**How often do you drink alcohol?**

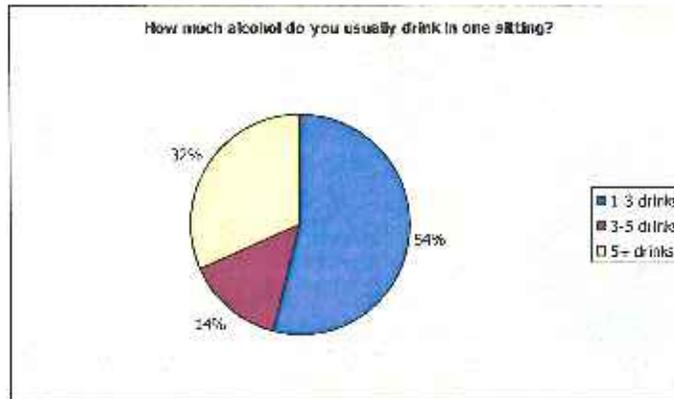
Answer Options	Response Percent	Response Count
1 or more times a month	44.0%	223
1 or more times a week	14.4%	73
1 or more times a day	4.3%	22
I used to, but I don't anymore	37.3%	189
<b>answered question</b>		<b>507</b>
<b>skipped question</b>		<b>631</b>



9.

**How much alcohol do you usually drink in one sitting?**

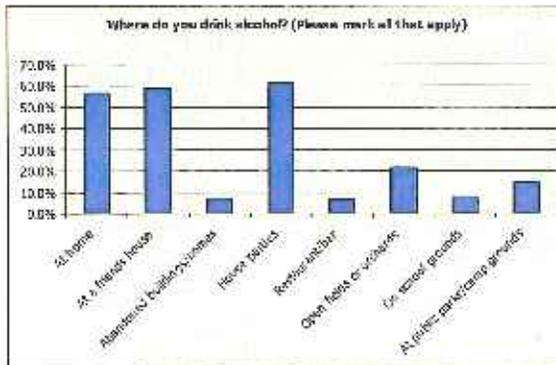
Answer Options	Response Percent	Response Count
1-3 drinks	54.0%	258
3-5 drinks	14.2%	68
5+ drinks	31.8%	152
<i>answered question</i>		<b>478</b>
<i>skipped question</i>		<b>660</b>



10.

**Where do you drink alcohol? (Please mark all that apply)**

Answer Options	Response Percent	Response Count
At home	56.6%	263
At a friends house	58.9%	274
Abandoned buildings/homes	6.9%	32
House parties	61.3%	285
Restaurant/bar	6.7%	31
Open fields or orchards	21.5%	100
On school grounds	8.0%	37
At public parks/camp grounds	14.6%	68
Other (please specify)		67
<i>answered question</i>		<b>465</b>
<i>skipped question</i>		<b>673</b>



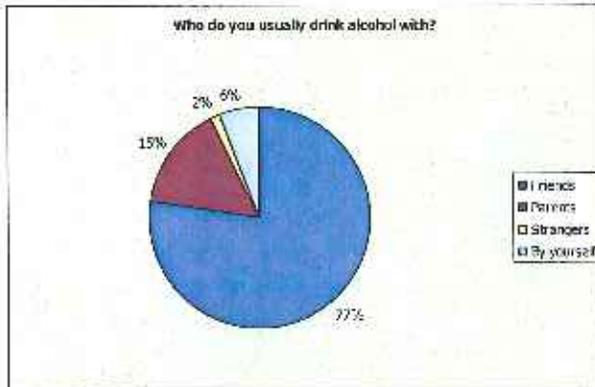
Other house: 1  
 I don't know: 1  
 Parks: 1  
 Lake: 3  
 Anywhere: 12  
 Church: 17

Home: 1  
 Family Events: 10  
 Orchard: 1  
 Vacation: 1  
 Curious: 1  
 Mexico: 2

11.

**Who do you usually drink alcohol with?**

Answer Options	Response Percent	Response Count
Friends	77.3%	338
Parents	15.3%	67
Strangers	1.6%	7
By yourself	5.7%	25
Other (please specify)		134
<i>answered question</i>		<b>437</b>
<i>skipped question</i>		<b>701</b>

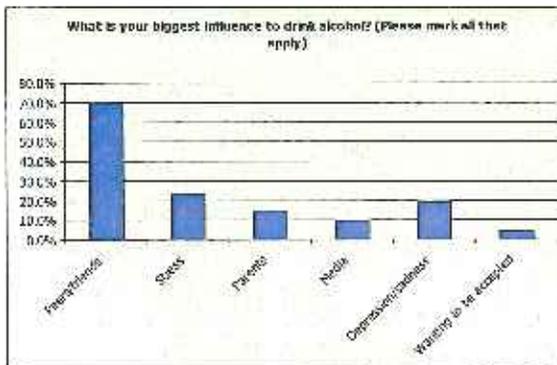


Family members: 69  
 Friends: 20      Sig. Others: 2  
 Strangers: 9      Anyone: 5  
 Alone: 13      W/ church: 16

12.

**What is your biggest influence to drink alcohol? (Please mark all that apply)**

Answer Options	Response Percent	Response Count
Peers/friends	69.4%	222
Stress	23.4%	75
Parents	14.7%	47
Media	9.7%	31
Depression/sadness	19.1%	61
Wanting to be accepted	4.7%	15
Other (please specify)		189
<i>answered question</i>		<b>320</b>
<i>skipped question</i>		<b>818</b>

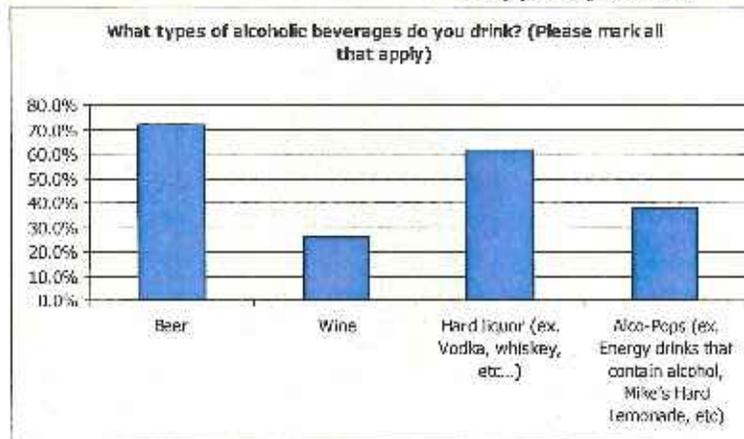


Taste good: 12      Feels good: 9  
 Have fun: 19      Curiosity: 23  
 Sadness/depression: 1  
 Just b/c: 63      Family: 6  
 Bored: 6      I don't know: 5  
 Church: 14      To get drunk: 5

13.

**What types of alcoholic beverages do you drink? (Please mark all that apply)**

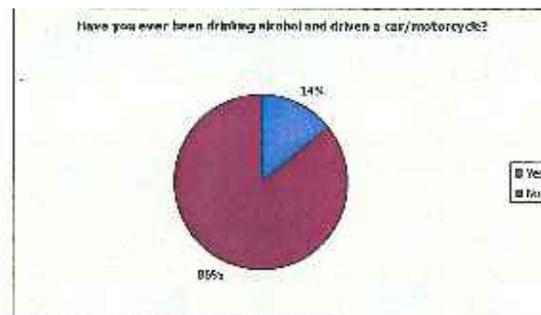
Answer Options	Response Percent	Response Count
Beer	71.7%	364
Wine	26.0%	132
Hard liquor (ex. Vodka, whiskey, etc...)	61.6%	313
Alco-Pops (ex. Energy drinks that contain alcohol, Mike's Hard Lemonade, etc)	37.6%	191
<b>answered question</b>		<b>508</b>
<b>skipped question</b>		<b>630</b>



14.

**Have you ever been drinking alcohol and driven a car/motorcycle?**

Answer Options	Response Percent	Response Count
Yes	14.2%	73
No	85.8%	441
<b>answered question</b>		<b>514</b>
<b>ipped question</b>		<b>624</b>



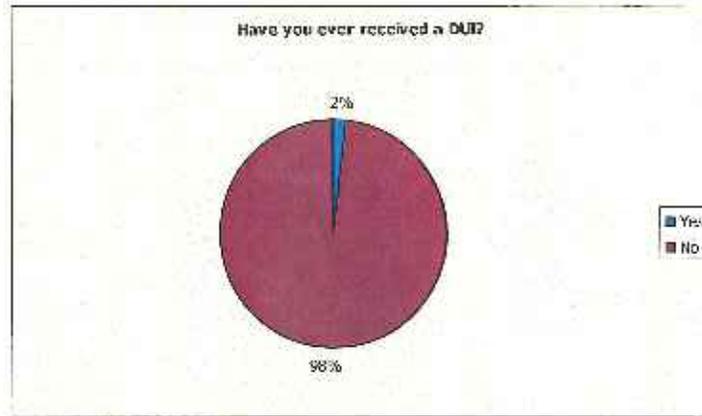
**Involvement in Drinking and Driving.** Driving under the influence is one of the main causes of traffic accidents and death among youth. To gauge the overall risk to students from drinking and driving, high school students were asked how often they had ever driven after drinking or been driven by someone else under the influence (Question #20). Of those who reported have consumed alcohol before, 12.4% reported drinking and then driving a car.

The Task Force would like to point out that most young people are reporting they are not drinking and driving. This is a positive message we may want to highlight.

15.

**Have you ever received a DUI?**

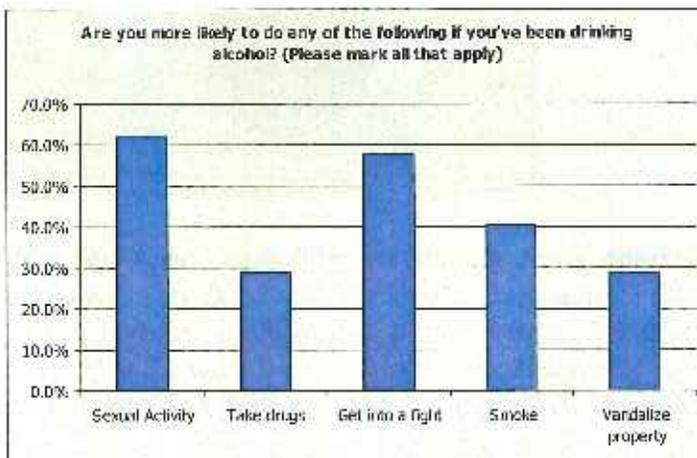
Answer Options	Response Percent	Response Count
Yes	1.9%	10
No	98.1%	503
<i>answered question</i>		<b>513</b>
<i>skipped question</i>		<b>625</b>



16.

**Are you more likely to do any of the following if you've been drinking alcohol? (Please mark all that apply)**

Answer Options	Response Percent	Response Count
Sexual Activity	62.1%	182
Take drugs	28.7%	84
Get into a fight	57.7%	169
Smoke	40.3%	118
Vandalize property	28.7%	84
Other (please specify)		171
<i>answered question</i>		<b>293</b>
<i>skipped question</i>		<b>845</b>

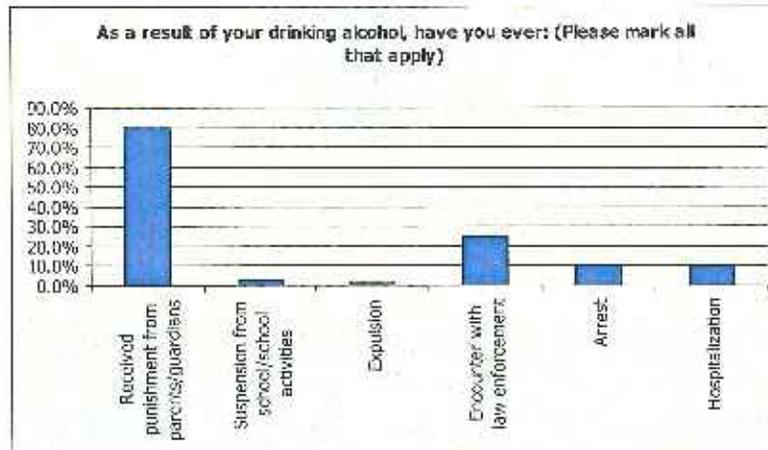


- None: 94
- Don't get that drunk: 5
- Have fun: 7
- Relax/chill: 7
- Substance use: 3
- Be dumb, act stupid: 8
- Emotional episode: 15
- Sleep: 6
- Use restroom a lot: 3

17.

As a result of your drinking alcohol, have you ever: (Please mark all that apply)

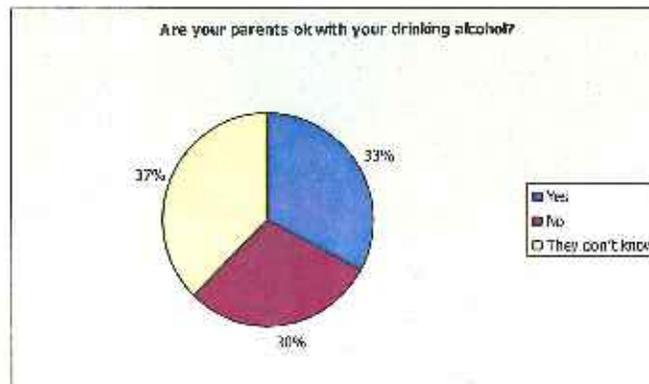
Answer Options	Response Percent	Response Count
Received punishment from parents/guardians	79.9%	167
Suspension from school/school activities	2.9%	6
Expulsion	1.4%	3
Encounter with law enforcement	24.4%	51
Arrest	10.0%	21
Hospitalization	9.6%	20
<b>answered question</b>		<b>209</b>
<b>skipped question</b>		<b>929</b>



18.

Are your parents ok with your drinking alcohol?

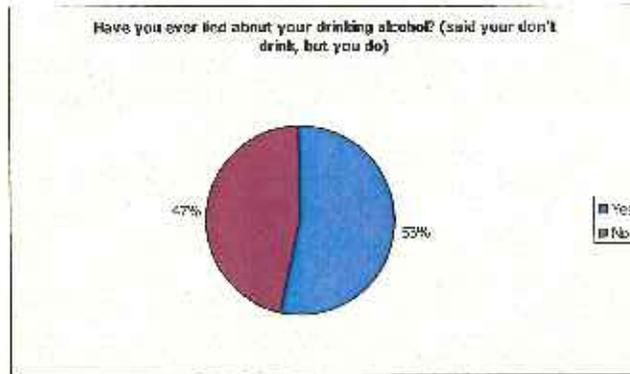
Answer Options	Response Percent	Response Count
Yes	32.7%	167
No	29.7%	152
They don't know	37.6%	192
<b>answered question</b>		<b>511</b>
<b>skipped question</b>		<b>627</b>



19.

**Have you ever lied about your drinking alcohol? (said your don't drink, but you do)**

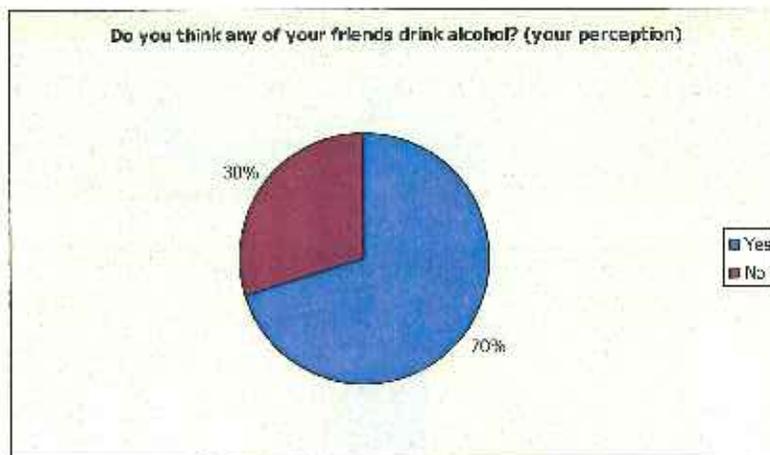
Answer Options	Response Percent	Response Count
Yes	53.4%	272
No	46.6%	237
<i>answered question</i>		<b>509</b>
<i>skipped question</i>		<b>629</b>



20.

**Do you think any of your friends drink alcohol? (your perception)**

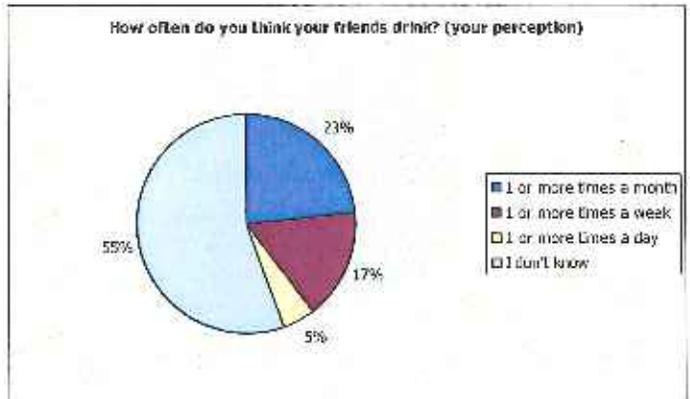
Answer Options	Response Percent	Response Count
Yes	70.2%	771
No	29.8%	327
<i>answered question</i>		<b>1098</b>
<i>skipped question</i>		<b>40</b>



21.

**How often do you think your friends drink? (your perception)**

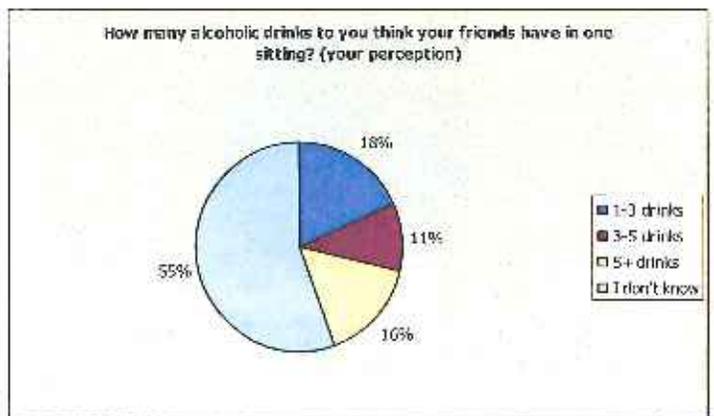
Answer Options	Response Percent	Response Count
1 or more times a month	23.2%	248
1 or more times a week	16.6%	178
1 or more times a day	4.6%	49
I don't know	55.6%	596
<b>answered question</b>		<b>1071</b>
<b>skipped question</b>		<b>67</b>



22.

**How many alcoholic drinks to you think your friends have in one sitting? (your perception)**

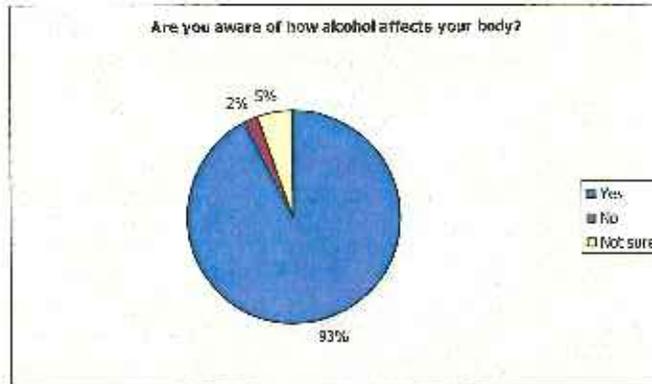
Answer Options	Response Percent	Response Count
1-3 drinks	18.2%	196
3-5 drinks	10.6%	114
5+ drinks	15.5%	167
I don't know	55.6%	597
<b>answered question</b>		<b>1074</b>
<b>skipped question</b>		<b>64</b>



23.

**Are you aware of how alcohol affects your body?**

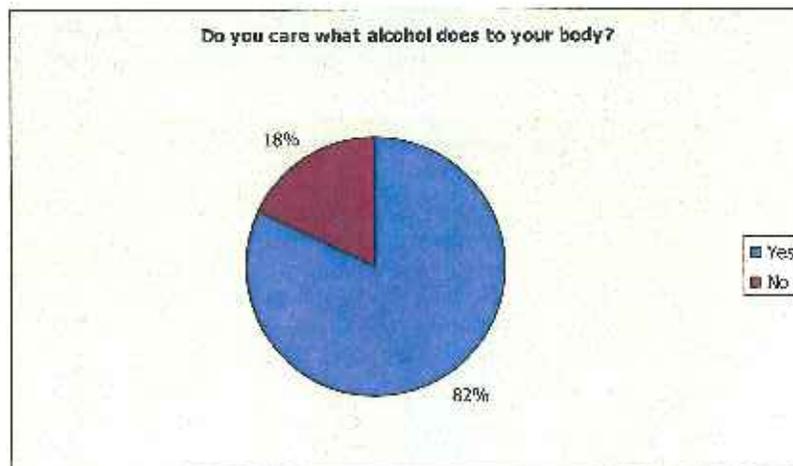
Answer Options	Response Percent	Response Count
Yes	92.4%	1018
No	2.2%	24
Not sure	5.4%	60
<i>answered question</i>		<b>1102</b>
<i>skipped question</i>		<b>36</b>



24.

**Do you care what alcohol does to your body?**

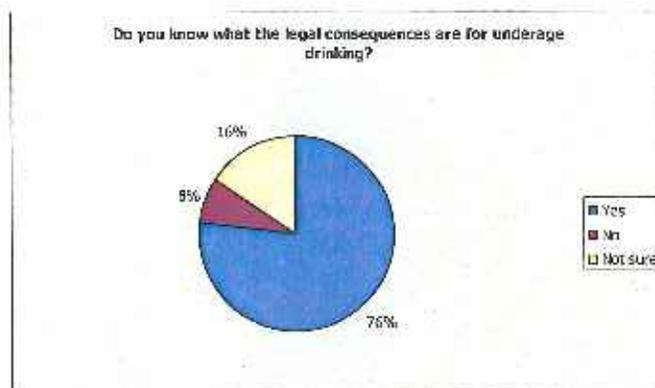
Answer Options	Response Percent	Response Count
Yes	82.0%	903
No	18.0%	198
<i>answered question</i>		<b>1101</b>
<i>skipped question</i>		<b>37</b>



25.

**Do you know what the legal consequences are for underage drinking?**

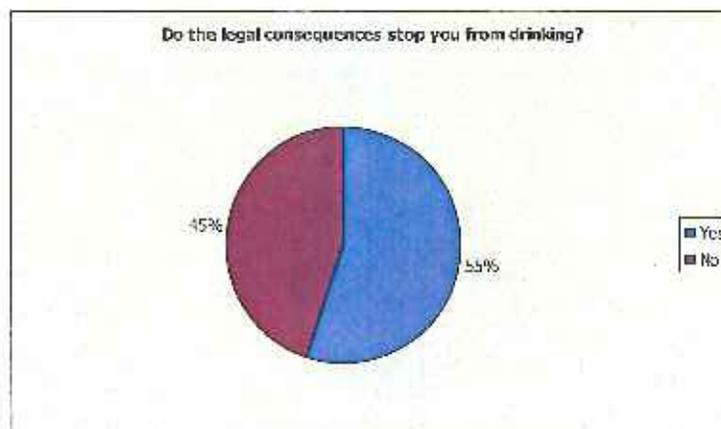
Answer Options	Response Percent	Response Count
Yes	76.6%	845
No	7.8%	86
Not sure	15.6%	172
<i>answered question</i>		<b>1103</b>
<i>skipped question</i>		<b>35</b>



26.

**Do the legal consequences stop you from drinking?**

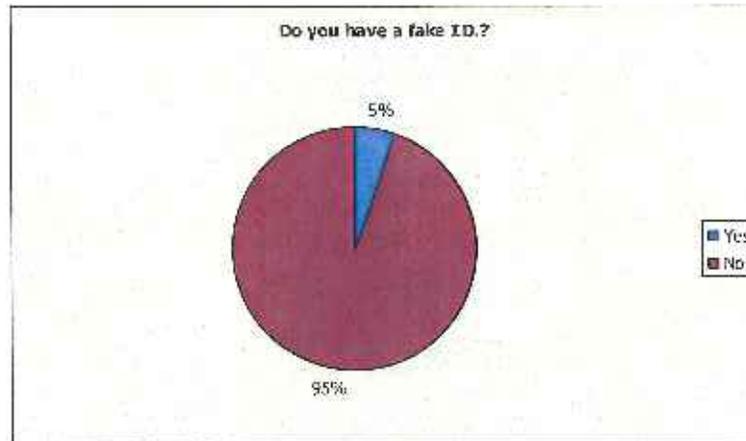
Answer Options	Response Percent	Response Count
Yes	55.0%	591
No	45.0%	483
<i>answered question</i>		<b>1074</b>
<i>skipped question</i>		<b>64</b>



27.

**Do you have a fake I.D.?**

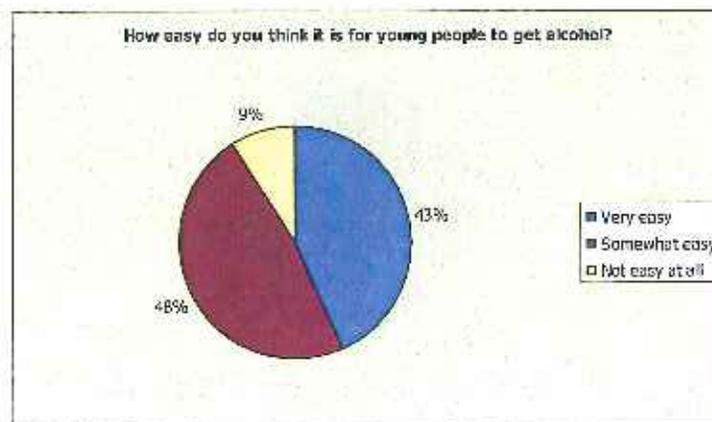
Answer Options	Response Percent	Response Count
Yes	5.2%	57
No	94.8%	1030
<i>answered question</i>		<b>1087</b>
<i>skipped question</i>		<b>51</b>



28.

**How easy do you think it is for young people to get alcohol?**

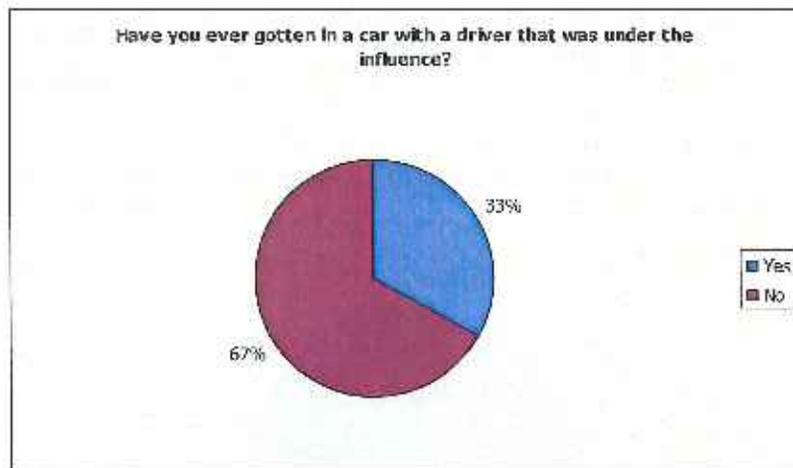
Answer Options	Response Percent	Response Count
Very easy	43.3%	477
Somewhat easy	47.9%	527
Not easy at all	8.8%	97
<i>answered question</i>		<b>1101</b>
<i>skipped question</i>		<b>37</b>



29.

Have you ever gotten in a car with a driver that was under the influence?

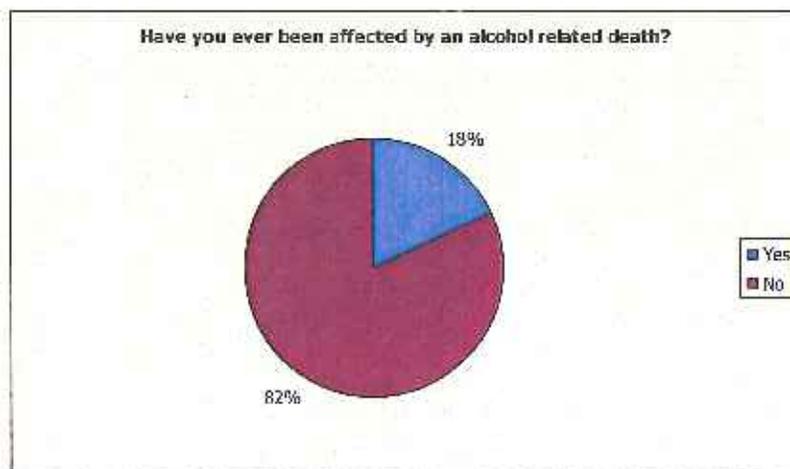
Answer Options	Response Percent	Response Count
Yes	33.0%	361
No	67.0%	732
<i>answered question</i>		<b>1093</b>
<i>skipped question</i>		<b>45</b>



30.

Have you ever been affected by an alcohol related death?

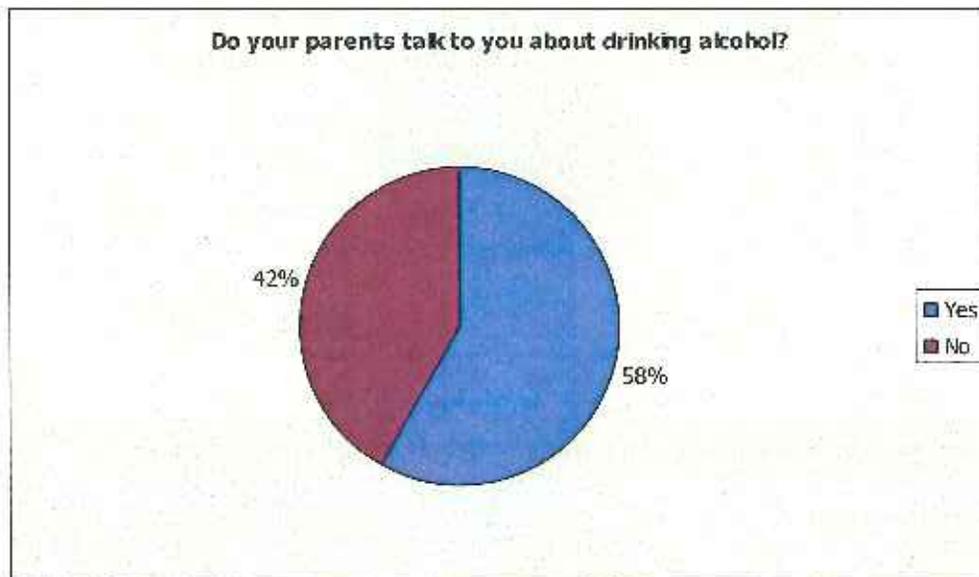
Answer Options	Response Percent	Response Count
Yes	18.1%	198
No	81.9%	895
<i>answered question</i>		<b>1093</b>
<i>skipped question</i>		<b>45</b>



31.

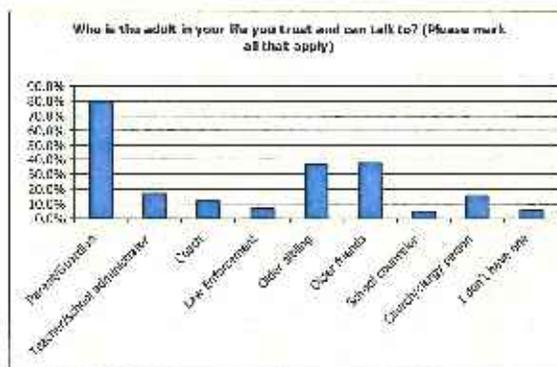
**Do your parents talk to you about drinking alcohol?**

Answer Options	Response Percent	Response Count
Yes	58.4%	639
No	41.6%	455
<i>answered question</i>		<b>1094</b>
<i>skipped question</i>		<b>44</b>



**Who is the adult in your life you trust and can talk to? (Please mark all that apply)**

Answer Options	Response Percent	Response Count
Parent/Guardian	79.0%	826
Teacher/school administrator	16.5%	172
Coach	12.0%	125
Law Enforcement	6.6%	69
Older sibling	37.0%	387
Older friends	37.3%	390
School counselor	4.9%	51
Church/clergy person	15.7%	164
I don't have one	6.1%	64
Other (please specify)		152
<b>answered question</b>		<b>1045</b>
<b>skipped question</b>		<b>93</b>



Best friends/friends: 45  
 Family member other than parents: 90  
 Sig. Other: 9  
 Friend's parents: 3  
 Other adults: 16 (prof. and religious leaders)  
 Pets: 2  
 Parents: 2  
 No answer: 5

Youth development emphasize the importance of providing environmental supports that come in the form of caring relationships with other people that have high expectations. Youth have developmental needs for love, security, respect and meaning. According to the resiliency research, there is power in teachers and schools to lead youth in positive directions, even among those young people who grow up in adverse situations. According to the California Healthy Kids Survey, researchers have found that 70-80% of these young people demonstrate healthy adjustment and achievement when schools are sensitive to them and their burdens and provide supportive activities

**Is there anything in your community or your school to help or educate young people about alcohol use? (please list)**

<b>Answer Options</b>	<b>Response Count</b>
	718
<i>answered question</i>	<b>718</b>
<i>skipped question</i>	<b>420</b>

<b>Number</b>	<b>Response Date</b>	<b>Response Text</b>
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No/ I don't know: 308  
School/ School Staff: 141  
State Requirement: 80  
D.A.R.E.: 60  
Red Ribbon Week: 33  
Parents/Family: 22  
Yes: 24  
Drug Store/ Every 15 Mins.: 21  
People other than parents/family: 16  
Law Enforcement/Community Centers/Church: 29  
Misc.: 66

**HUGHSON CITY COUNCIL**

**ORDINANCE NO 07-05 (NOT ADOPTED)**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUGHSON  
ADDING CHAPTER 9.25; PROHIBITING UNDERAGE DRINKING AND  
ASSESSING LIABILITY FOR THOSE WHO KNOWINGLY HOST  
GATHERINGS WHERE MINORS CONSUME ALCOHOL TO THE HUGHSON  
MUNICIPAL CODE**

WHEREAS, the City Council of the City of Hughson ("Council") recognizes the need for an effective strategy for reducing underage drinking parties on private property; and

WHEREAS, there is a drain on law enforcement resources and other emergency response services to premises where alcoholic beverages are served to or consumed by a minor is significant; and

WHEREAS, such a law is necessary to protect, public health, safety and the general welfare of the public.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF HUGHSON DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.25 is added to the Hughson Municipal Code to read in full as follows:

**9.25.010. TITLE.**

This Chapter shall be known as the "Underage Drinking/Social Host Liability Ordinance."

**9.25.020. LEGISLATIVE FINDINGS.**

A. Minors often obtain, possess, or consume alcoholic beverages at gatherings held at private residences or other private property, places or premises, including rented commercial premises which are under the control of a person who knows or should know of the consumption of alcoholic beverages by minors yet persons responsible for the occurrence of such gatherings often fail to take reasonable steps to prevent the consumption of alcoholic beverages by minors at these gatherings.

B. Consumption of alcoholic beverages by minors, who are under the legal age to consume alcohol in the State of California, is harmful to the minors themselves and poses an immediate threat to the public health, safety and welfare in that it increases alcohol abuse by minors, physical altercations, violent crimes including rape and other sexual

offenses, accidental injury, neighborhood vandalism, and excessive noise disturbance, all of which may require intervention by local law enforcement.

C. Law enforcement responses to gatherings involving consumption of alcoholic beverages by minors often require extensive resources to manage the incident. Further, when law enforcement personnel respond to gatherings involving the consumption of alcoholic beverages by minors it takes away valuable resources from other service calls in the community, thereby placing the community at increased risk. Law enforcement, fire and emergency response services are not currently reimbursed for the response cost associated when called to a premise or gathering where minors obtain, possess, or consume alcoholic beverages.

D. The prohibitions found in this Chapter are reasonable and expected to deter the consumption of alcoholic beverages by minors by holding responsible persons who know of, or should know of, the illegal conduct yet fail to stop or prevent it. In addition, the revenue received by the City of Hughson after cost reimbursement will be directed toward alcohol abuse and prevention education programs in the community.

#### **9.25.030. INTENT AND PURPOSE.**

The purposes of this Chapter are:

- A. To protect public health, safety and general welfare;
- B. To enforce laws prohibiting the service to and consumption of alcoholic beverages by minors; and
- C. To reduce the costs of providing law enforcement, fire, and other emergency response services to premises where alcoholic beverages are served to or consumed by a minor, by holding the responsible person, social host and/or landowners responsible for the costs associated with providing law enforcement and other emergency response services.

#### **9.25.040. DEFINITIONS.**

The terms used in this chapter have the meaning provided by state law except as expressly provided herein.

- A. "Adult" is any person over the age of eighteen (18) years.
- B. "Alcoholic Beverage" includes any liquid or solid material intended to be ingested by a person which contains ethanol, also known as ethyl alcohol, drinking alcohol, or alcohol, including, but not limited to, alcoholic beverages as defined in Section 23004 of the Business and Professions Code, intoxicating liquor, malt beverage, beer, wine, spirits, liqueur, whiskey, rum, vodka, cordials, gin, and brandy, and any mixture containing one

or more alcoholic beverages. Alcoholic beverage includes a mixture of one or more alcoholic beverages whether found or ingested separately or as a mixture.

C. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

D. "Response Costs" are the costs associated with response by law enforcement, fire, or other emergency response providers to a gathering, including but not limited to: (1) salaries and benefits of law enforcement, code enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with a gathering, and the administrative cost associated with or attributed to such response(s); (2) the cost of any medical treatment for any law enforcement, code enforcement, fire, or other emergency response personnel injured responding to, remaining at, or leaving the scene of a gathering; (3) the cost of repairing any City equipment or property damaged, and the cost of the use of any such equipment in, responding to, remaining at, or leaving the scene of a gathering; and (4) any other allowable costs related to enforcement of Sections 9.25.050 and 9.25.060.

E. "Family Gathering" is a gathering where each minor present is supervised by his or her parent or legal guardian.

F. "Legal Guardian" means (1) a person who, by court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

G. "Minor" is any person under the age of twenty-one (21) years.

H. "Juvenile" is any person under the age of eighteen (18) years.

I. "Parent" is a person who is a natural parent, adoptive parent, foster parent, or step-parent of another person.

J. "Gathering" is a party, gathering or event where a group of two (2) or more persons have assembled or are assembling for a social occasion or social activity.

K. "Premise" means any residence or other private property, place, or premises, including any commercial or business premises.

L. "Social Host" is a person who knowingly hosts, permits, or allows a gathering to take place where one or more minors consume one or more alcoholic beverage on property owned or controlled by the person and the person knows or reasonably should have known that the minor is consuming or has consumed an alcoholic beverage.

M. "Responsible person" means a person or persons with a right of possession of the premises including, but not limited to:

1. An owner of the residence or other private property, place or premises, including any commercial or business premises;
2. A tenant or lessee of the residence or other private property, place or premises, including any commercial or business premises;
3. The landlord of another person responsible for the gathering;
4. The person(s) in charge of the residence or other private property, place or premises, including commercial or business premises; and
5. The person(s) who organizes, supervises, officiates, conducts or controls the gathering or any other person(s) accepting responsibility for such a gathering.
6. If a responsible person or social host for the party or gathering is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the response costs incurred pursuant to this Chapter. To incur liability for response costs imposed by this Chapter, the responsible person or social host for the gathering must be aware of the gathering, but need not be present at such gathering which results in the imposition of response costs pursuant to this Chapter.

**9.25.050. CONSUMPTION OF ALCOHOL BY MINOR PROHIBITED IN PUBLIC PLACE, PLACE OPEN TO PUBLIC, OR PLACE NOT OPEN TO PUBLIC.**

Except as permitted by state law, it is unlawful for any minor to:

- A. Consume at any public place or any place open to the public any alcoholic beverage; or
- B. Consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of the alcoholic beverages that minor is being supervised by his or her own parent or legal guardian.

**9.25.060. HOSTING, PERMITTING, ALLOWING A PARTY, GATHERING OR EVENT WHERE MINORS CONSUME ALCOHOLIC BEVERAGES PROHIBITED.**

- A. It is unlawful and a misdemeanor for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one minor consumes an alcoholic beverage, whenever the person having control of the premises either knows a minor is or has consumed an alcoholic beverage or reasonably should have known that a minor is or has consumed an alcoholic beverage had the person taken all reasonable steps to prevent the consumption of alcoholic beverages by a minor as set forth in subsection (B) of this section.
- B. It is the duty of any person having control of any premises, who knowingly hosts, permits or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering. Reasonable steps

include, but are not limited to, (i) controlling access to alcoholic beverages at the gathering, (ii) controlling the quantity of alcoholic beverages at the gathering, (iii) verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards to ensure minors do not consume alcoholic beverages while at the gathering, and (iv) supervising the activities of minors at the gathering.

C. This section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between a minor and his or her parent or legal guardian, as permitted by Article I, Section 4, of the California Constitution or if the event is a family gathering.

D. This section shall not apply to any California Department of Alcoholic Beverages Control licensee at any premises regulated by the Department of Alcoholic Beverages Control.

#### **9.25.070. PRIMA FACIE EVIDENCE.**

Whenever a responsible person and/or social host having control of the premises is present at the premises at the time that a minor obtains, possesses, or consumes any alcoholic beverage, it shall be prima facie evidence that such adult had the knowledge or should have had the knowledge, that the minor obtained, possessed, or consumed an alcoholic beverage at the gathering.

#### **9.25.080. SEPARATE VIOLATION FOR EACH INCIDENT.**

Each incident in violation of Sections 9.25.050 and 9.25.060 shall constitute a separate offense.

#### **9.25.090. ENFORCEMENT AUTHORITY.**

The City of Hughson's Police Services personnel, City Attorney, and Code Enforcement Officers are authorized to administer and enforce the provisions of this chapter.

#### **9.25.100. ENFORCEMENT REMEDIES.**

In addition to any other remedies available by law, including criminal prosecution, the City of Hughson may seek administrative penalties, response costs, and other costs associated with enforcement of Sections 9.25.050 and 9.25.060, through all remedies or procedures provided by statute, ordinance, or law, including but not limited to, Chapter 1 of the Code. Sections 9.25.050 and 9.25.060 shall not limit the authority of peace officers to make arrests for any criminal offense arising out of conduct regulated by Sections 9.25.050 and 9.25.060.

If a violation of Sections 9.25.050 and/or 9.25.060 is prosecuted administratively the mandatory minimum penalty shall be five-hundred dollars (\$500.00) for the first offense,

and one-thousand dollars (\$1,000.00) for a second offense, and one-thousand-five-hundred dollars (\$1,500.00) for a third offense in a twelve-month period.

**9.25.110. PUBLIC NUISANCE AND RECOVERY OF RESPONSE COSTS.**

A. In addition to any other remedies available by law, a violation of Section 9.25.050 and/or 9.25.060 shall constitute a public nuisance, as an immediate threat to the public health, safety and welfare.

B. As a public nuisance, the gathering of underage drinkers may be summarily abated by the City's Police Services Personal by all reasonable means, singularly or in combination, including, but not limited to:

1. An order requiring the gathering to be disbanded;
2. Issuance of an administrative citation under this Code;
3. Issuance of an administrative citation, misdemeanor citation and/or arrest of any law violators under any other applicable ordinances and/or statutes.

C. When law enforcement, fire, or other emergency response provider responds to a gathering at which a minor obtains, possesses, or uses alcoholic beverages within the City of Hughson all responsible persons and/or social host(s) shall be jointly and severally liable for the City of Hughson's response costs to abate the nuisance.

**9.25.120. BILLING AND COLLECTION.**

A. The amount of response costs shall be deemed a debt owed to the City of Hughson by the responsible person and/or social host, or if the responsible person and or social host is a juvenile, by the juvenile's parents or guardians. Any person owing such costs shall be liable in a civil action brought in the name of the city for recovery of such costs, including reasonable attorney fees.

Notice of the costs for which the responsible person is liable shall be mailed via first-class mail. The notice shall contain the following information.

1. The name of the person(s) being held liable for the payment of such costs;
2. The address of the private property or private premises where the party occurred;
3. The date and time of the response;
4. The law enforcement, fire, or emergency service provider(s) who responded;
5. An itemized list of the response costs for which the person(s) is being held liable.

The responsible person must remit payment of the noticed response costs to the City of Hughson within thirty (30) calendar days of the date of the notice. The payment of any such costs shall be stayed upon the filing of a timely appeal pursuant to Section 9.25.150.

B. The failure of any person to pay the penalties assessed by an administrative citation and/or response costs within the time specified on the administrative citation or response cost bill may result in referring the matter to the Finance Department or other designated agent for collection, including the recording of a code enforcement lien pursuant to the procedures set forth in Title 1 of the Hughson Municipal Code.

#### **9.25.130. SPECIAL FUND.**

A. There is hereby established a special fund for the purposes of receiving and expending civil penalties and response costs collected. This special fund shall be known and designated as the Prevention of Underage Drinking Fund.

B. Expenditure of monies. The appropriation of all monies in the Prevention of Underage Drinking Fund shall be made exclusively for the purposes of Prevention of Underage Drinking Programs within the City of Hughson.

C. Accumulation of monies in the fund. The balance remaining in the Prevention of Underage Drinking Fund at the close of any fiscal year shall be deemed to have been provided for a specialized purpose and shall be carried forward and accumulated in said fund for the purposes set forth herein.

#### **9.25.140. APPEALS.**

A. Any person upon whom is imposed a fine/penalty pursuant to Section 9.25.010 and/or response costs pursuant to Section 9.25.110 shall have the right to appeal the imposition of such fine/penalty or response costs pursuant to the appeal procedures set forth in Chapter 1 of the Hughson Municipal Code.

B. Failure to appeal shall constitute a failure to exhaust administrative remedies and result in the citation and/or response cost becoming a final administrative enforcement order.

#### **9.25.150. SEVERABILITY.**

If any provisions of this Chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

Section 2. This ordinance is not intended to impose, and shall not be construed or given effect in a manner that imposes, upon the city or any officer or employee thereof, a mandatory duty of care toward persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. This ordinance shall become effective thirty (30) days after its final passage.

Section 4. Within fifteen (15) days after its final passage, the City Clerk shall cause this ordinance to be published and posted in accordance with Section 36933 of the Government Code.

The foregoing ordinance was introduced and the title thereof read at the regular meeting of the City Council of the City of Hughson held on, June 25, 2007, and by a unanimous vote of the council members present, further reading was waived.

On motion of Councilperson \_\_\_\_\_, seconded by Councilperson \_\_\_\_\_ the foregoing ordinance was duly passed by the City Council of the City of Hughson at a regular meeting thereof held on June 25, 2007, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTENTIONS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
KENNETH A. MOORE, Mayor

ATTEST:

\_\_\_\_\_  
MARY JANE CANTRELL, CMC  
City Clerk

## Chapter 9.24 CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES

### Sections:

- 9.24.010 Definitions.
- 9.24.020 Drinking and possession – Public areas.
- 9.24.030 Drinking and possession – Private parking lots.
- 9.24.040 Possession – Posted premises.
- 9.24.050 Posting.

### **9.24.010 Definitions.**

Certain words and phrases are defined in this section to clarify their use in this chapter. Where a definition is not given or where a question of interpretation arises, the definition that shall control is the normal meaning of the word within the context of its use.

A. "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume, and which is fit for human consumption either alone or when diluted, mixed or combined with other substances.

B. "Licensee" means and includes any person holding any retail package off-sale alcoholic beverage license issued pursuant to Division 9 of the California Business and Professions Code.

C. "Person" means and includes any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number.

D. "Posted premises" means and includes any premises subject to licensure, the parking lot immediately adjacent thereto, and any public sidewalk immediately adjacent thereto, on which clearly visible notices indicate to the patrons of the licensee and parking lot and to persons on the public sidewalk that the provisions of HMC 9.24.040 apply. Posted premises shall not include, and the provisions of HMC 9.24.040 shall not apply to, any private residential parking lot which is immediately adjacent to any such premises.

E. "Premises subject to licensure" means and includes any premises subject to licensure under any retail package off-sale alcoholic beverage license issued pursuant to Division 9 of the California Business and Professions Code. (Ord. 86-01 § 1, 1986)

### **9.24.020 Drinking and possession – Public areas.**

It is unlawful for any person to drink any alcoholic beverage or to possess any can, bottle or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, on any public sidewalk, alley, street or highway, or in any city-owned park or other city-owned public place, unless the consumption of alcoholic beverages in such public place or places has been authorized by the city council. This section shall not be deemed to make punishable any such act or acts which are

prohibited by the California Vehicle Code or by any other law of the state. (Ord. 86-01 § 1, 1986)

**9.24.030 Drinking and possession – Private parking lots.**

It is unlawful for any person to drink any alcoholic beverage or to possess any can, bottle or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, upon that portion of private property open to the public and within 500 feet of any public sidewalk, alley, street or highway which is used or intended to be used for the parking or storage of motor vehicles by customers or employees of any business, commercial or industrial establishment, without the express written permission of the owner, his or her agent, or person in lawful possession thereof. This section shall not be deemed to make punishable any such act or acts which are prohibited by the California Vehicle Code or by any other law of the state. (Ord. 86-01 § 1, 1986)

**9.24.040 Possession – Posted premises.**

It is unlawful for any person who has in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, to enter, be or remain on the posted premises of any licensee in the city. This section shall not be deemed to make punishable any such act or acts which are prohibited by the California Vehicle Code or by any other law of the state. (Ord. 86-01 § 1, 1986)

**9.24.050 Posting.**

All licensees doing business within the city shall post the premises subject to licensure, the parking lot immediately adjacent thereto, and any public sidewalk immediately adjacent thereto with notices, in a form acceptable to the chief of police, indicating to the patrons of the licensee and parking lot, and to persons on the public sidewalk that the provisions of HMC 9.24.040 apply. Posting shall not be required of any private residential parking lot which is immediately adjacent to the premises subject to licensure. (Ord. 86-01 § 1, 1986)

## Chapter 18 - PROHIBITION AGAINST UNDERAGE DRINKING AND SOCIAL HOST LIABILITY

4-18.01 - Title.

4-18.02 - Legislative Findings.

4-18.03 - Intent and Purpose.

4-18.04 - Definitions.

4-18.05 - Consumption of Alcohol by Minor Prohibited in Public Place, Place Open to Public, or Place Not Open to Public.

4-18.06 - Hosting, Permitting, Allowing a Party, Gathering or Event Where Minors Consume Alcoholic Beverages Prohibited.

4-18.07 - Prima Facie Evidence.

4-18.08 - Separate Violation for Each Incident.

4-18.09 - Enforcement Authority.

4-18.10 - Enforcement Remedies.

4-18.11 - Public Nuisance and Recovery of Response Costs.

4-18.12 - Billing and Collection.

4-18.13 - Special Fund.

4-18.14 - Appeals.

4-18.15 - Severability.

### 4-18.01 - Title.

This chapter shall be known as the "Prohibition Against Underage Drinking and Social Host Liability Ordinance."

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

### 4-18.02 - Legislative Findings.

(a)

Minors often obtain, possess, or consume alcoholic beverages at gatherings held at private residences or other private property, places or premises, including rented commercial premises which are under the control of a person who knows or should know of the consumption of alcoholic beverages by minors yet persons responsible for the occurrence of such gatherings often fail to take reasonable steps to prevent the consumption of alcoholic beverages by minors at these gatherings.

(b)

Consumption of alcoholic beverages by minors who are under the legal age to consume alcohol in the State of California, is harmful to the minors themselves and poses an immediate threat to the public health, safety and welfare in that it increases alcohol abuse by minors, physical altercations, violent crimes including rape and other sexual offenses, accidental injury, neighborhood vandalism, and excessive noise disturbance, all of which may require intervention by local law enforcement.

(c)

Law enforcement responses to gatherings involving consumption of alcoholic beverages by minors often requires extensive resources to manage the incident. Further, when law enforcement personnel respond to gatherings involving the consumption of alcoholic beverages by minors it takes away valuable resources from other service calls in the community, thereby placing the community at increased risk. Law enforcement, fire and emergency response services are not currently reimbursed for the response cost associated when called to a premise or gathering where minors obtain, possess, or consume alcoholic beverages.

(d)

The prohibitions found in this chapter are reasonable and expected to deter the consumption of alcoholic beverages by minors by holding responsible persons who know of, or should know of, the illegal conduct yet fail to stop or prevent it. In addition, the revenue received by the City of Modesto after cost reimbursement will be directed toward alcohol abuse and prevention education programs in the community.

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

### 4-18.03 - Intent and Purpose.

The purposes of this chapter are:

(a)

To protect public health, safety and general welfare;

(b) To enforce laws prohibiting the service to and consumption of alcoholic beverages by minors; and

(c) To reduce the costs of providing law enforcement, fire, and other emergency response services to premises where alcoholic beverages are served to or consumed by a minor, by holding the responsible person, social host and/or landowners responsible for the costs associated with providing law enforcement and other emergency response services.

(Ord. 3437-C.S., § 1, effective 4-26-07)

#### 4-18.04 - Definitions.

The terms used in this chapter have the meaning provided by State law except as expressly provided herein.

(a) "Adult" is any person over the age of eighteen (18) years.

(1) (b) "Alcoholic beverage" means and includes any liquid or solid material intended to be ingested by a person which contains ethanol, also known as ethyl alcohol, drinking alcohol, or alcohol, including, but not limited to, alcoholic beverages as defined in Section 23004 of the Business and Professions Code, intoxicating liquor, malt beverage, beer, wine, spirits, liqueur, whiskey, rum, vodka, cordials, gin, and brandy, and any mixture containing one or more alcoholic beverages. Alcoholic beverage includes a mixture of one or more alcoholic beverages whether found or ingested separately or as a mixture.

(2) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

(c) "Response costs" are the costs associated with response by law enforcement, fire, or other emergency response providers to a gathering, including, but not limited to: (1) salaries and benefits of law enforcement, code enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with a gathering, and the administrative cost associated with or attributed to such response(s); (2) the cost of any medical treatment for any law enforcement, code enforcement, fire, or other emergency response personnel injured responding to, remaining at, or leaving the scene of a gathering; (3) the cost of repairing any City equipment or property damaged, and the cost of the use of any such equipment in, responding to, remaining at, or leaving the scene of a gathering; and (4) any other allowable costs related to enforcement of Sections 4-18.05 and 4-18.06.

(d) "Family gathering" is a gathering where each minor present is supervised by his or her parent or legal guardian.

(e) "Legal guardian" means: (1) a person who, by court order, is the guardian of the person of a minor; or (2) a public or private agency with whom a minor has been placed by the court.

(f) "Minor" is any person under the age of twenty-one (21) years.

(g) "Juvenile" is any person under the age of eighteen (18) years.

(h) "Parent" is a person who is a natural parent, adoptive parent, foster parent, or step-parent of another person.

(i) "Gathering" is a party, gathering or event where a group of two (2) or more persons have assembled or are assembling for a social occasion or social activity.

(j) "Premise" means any residence or other private property, place, or premises, including any commercial or business premises.

(k) "Social host" is a person who knowingly hosts, permits, or allows a gathering to take place where one (1) or more minors consume one (1) or more alcoholic beverages on property owned or controlled by the person and the person knows or reasonably should have known that the minor is consuming or has consumed an alcoholic beverage.

(l) "Responsible person" means a person or persons with a right of possession in the premises including, but not limited to:

(1) An owner of the residence or other private property, place or premises, including any commercial or business premises;

(2)

- (3) A tenant or lessee of the residence or other private property, place or premises, including any commercial or business premises;
  - (4) The landlord of another person responsible for the gathering;
  - (5) The person(s) in charge of the residence or other private property, place or premises, including commercial or business premises;
  - (6) The person(s) who organizes, supervises, officiates, conducts or controls the gathering or any other person(s) accepting responsibility for such a gathering; and
- If a responsible person or social host for the party or gathering is a juvenile, then the parents or guardians of that juvenile and the juvenile will be jointly and severally liable for the response costs incurred pursuant to this chapter. To incur liability for response costs imposed by this chapter, the responsible person or social host for the gathering must be aware of the gathering, but need not be present at such gathering which results in the imposition of response costs pursuant to this chapter.

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

#### **4-18.05 - Consumption of Alcohol by Minor Prohibited in Public Place, Place Open to Public, or Place Not Open to Public.**

Except as permitted by State law, it is unlawful for any minor to:

- (a) Consume at any public place or any place open to the public any alcoholic beverage; or
- (b) Consume at any place not open to the public any alcoholic beverage, unless in connection with the consumption of the alcoholic beverages that minor is being supervised by his or her own parent or legal guardian.

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

#### **4-18.06 - Hosting, Permitting, Allowing a Party, Gathering or Event Where Minors Consume Alcoholic Beverages Prohibited.**

- (a) It is unlawful and a misdemeanor for any person having control of any premises to knowingly host, permit, or allow a gathering to take place at said premises where at least one minor consumes an alcoholic beverage, whenever the person having control of the premises either knows a minor is or has consumed an alcoholic beverage or reasonably should have known that a minor is or has consumed an alcoholic beverage had the person taken all reasonable steps to prevent the consumption of alcoholic beverages by a minor as set forth in subsection (b) of this section.
- (b) It is the duty of any person having control of any premises, who knowingly hosts, permits or allows a gathering at said premises to take all reasonable steps to prevent the consumption of alcoholic beverages by any minor at the gathering. Reasonable steps include, but are not limited to: (1) controlling access to alcoholic beverages at the gathering, (2) controlling the quantity of alcoholic beverages at the gathering, (3) verifying the age of persons attending the gathering by inspecting drivers' licenses or other government-issued identification cards to ensure minors do not consume alcoholic beverages while at the gathering, and (4) supervising the activities of minors at the gathering.
- (c) This section shall not apply to conduct involving the use of alcoholic beverages that occurs exclusively between a minor and his or her parent or legal guardian, as permitted by Article I, Section 4, of the California Constitution or if the event is a family gathering.
- (d) This section shall not apply to any California Department of Alcoholic Beverages Control licensee at any premises regulated by the Department of Alcoholic Beverages Control.

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

#### **4-18.07 - Prima Facie Evidence.**

Whenever a responsible person and/or social host having control of the premises is present at the premises at the time that a minor obtains, possesses, or consumes any alcoholic beverage, it shall be prima facie evidence that such adult had the knowledge or should have had the knowledge, that the minor obtained, possessed, or consumed an alcoholic beverage at the gathering.

**4-18.08 - Separate Violation for Each Incident.**

Each incident in violation of Sections 4-18.05 and 4-18.06 shall constitute a separate offense.

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

**4-18.09 - Enforcement Authority.**

The Modesto Police Department is authorized to administer and enforce the provisions of this chapter. The City Attorney and the Police Chief and/or their designees may exercise any enforcement powers provided by law.

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

**4-18.10 - Enforcement Remedies.**

In addition to any other remedies available by law, including criminal prosecution, the City of Modesto may seek administrative penalties, response costs, and any other cost associated with enforcement of Sections 4-18.05 and 4-18.06, through all remedies or procedures provided by statute, ordinance, or law. Sections 4-18.05 and 4-18.06 shall not limit the authority of peace officers to make arrests for any criminal offense arising out of conduct regulated by Sections 4-18.05 and 4-18.06.

If a violation of Sections 4-18.05 and/or 4-18.06 is prosecuted administratively the mandatory minimum penalty shall be five hundred dollars (\$500.00) for the first offense, one thousand dollars (\$1,000.00) for a second offense, and one thousand five hundred dollars (\$1,500.00) for a third offense in a twelve (12) month period.

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

**4-18.11 - Public Nuisance and Recovery of Response Costs.**

(a)

In addition to any other remedies available by law, a violation of Section 4-18.05 and/or 4-18.06 shall constitute a public nuisance, as an immediate threat to the public health, safety and welfare.

(b)

As a public nuisance, the gathering of underage drinkers may be summarily abated by police by all reasonable means, singularly or in combination, including, but not limited to:

(1)

An order requiring the gathering to be disbanded;

(2)

Issuance of an administrative citation under this chapter;

(3)

Issuance of an administrative citation, misdemeanor citation and/or arrest of any law violators under any other applicable ordinances and/or statutes.

(c)

When law enforcement, fire, or other emergency response provider responds to a gathering at which a minor obtains, possesses, or uses alcoholic beverages within the City of Modesto all responsible persons and/or social host(s) shall be jointly and severally liable for the City of Modesto's response costs to abate the nuisance.

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

**4-18.12 - Billing and Collection.**

(a)

The amount of response costs shall be deemed a debt owed to the City of Modesto by the responsible person and/or social host. If a juvenile, by the juvenile's parents or guardians. Any person owing such costs shall be liable in a civil action brought in the name of the city for recovery for such costs, including reasonable attorney fees.

Notice of the costs for which the responsible person is liable shall be mailed via first-class mail. The notice shall contain the following information:

(1)

- (1) The name of the person(s) being held liable for the payment of such costs;
- (2) The address of the private property or private premises where the party occurred;
- (3) The date and time of the response;
- (4) The law enforcement, fire, or emergency service provider(s) who responded;
- (5) An itemized list of the response costs for which the person(s) is being held liable.

The responsible person must remit payment of the noticed response costs to the Modesto Police Department within thirty (30) calendar days of the date of the notice. The payment of any such costs shall be stayed upon the filing of a timely appeal pursuant to Section 4-18.15.

(b)

The failure of any person to pay the penalties assessed by an administrative citation and/or response costs within the time specified on the administrative citation or response cost bill may result in the Police Chief or his/her authorized designee referring the matter to the Finance Department or other designated agent for collection. The Police Chief or his/her designated agent may pursue any other legal remedy to collect the penalties and/or response costs including the recording of a code enforcement lien pursuant to the procedures set forth in Section 1-6.701.

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

#### **4-18.13 - Special Fund.**

(a)

There is hereby established a special fund for the purposes of receiving and expending civil penalties and response costs collected. This special fund shall be known and designated as the Prevention of Underage Drinking Fund.

(b)

Expenditure of Monies. The appropriation of all monies in the Prevention of Underage Drinking Fund shall be made exclusively for the purposes of Prevention of Underage Drinking Programs within the City of Modesto.

The underage drinking program shall include the enforcement of, education for, and prevention of underage drinking. Expenditures shall include, but not be limited to, purchase of equipment, contractual services, material and supplies, or any other expenditures related to the prevention of underage drinking with the City of Modesto. The administration of the fund shall conform to this Code and all accounting principles practiced by the City.

(c)

Accumulation of Monies in the Fund. The balance remaining in the Prevention of Underage Drinking Fund at the close of any fiscal year shall be deemed to have been provided for a specialized purpose and shall be carried forward and accumulated in said fund for the purposes set forth herein.

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

#### **4-18.14 - Appeals.**

(a)

Any person upon whom is imposed a fine/penalty pursuant to Section 4-18.10 and/or response costs pursuant to Section 4-18.11 shall have the right to appeal the imposition of such fine/penalty or response costs pursuant to the appeal procedures set forth at Sections 1-6.501 through 1-6.509 of the Modesto Municipal Code.

(b)

Failure to appeal shall constitute a failure to exhaust administrative remedies and result in the citation and/or response cost becoming a final administrative enforcement order.

*(Ord. 3437-C.S., § 1, effective 4-26-07)*

#### **4-18.15 - Severability.**

If any provisions of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

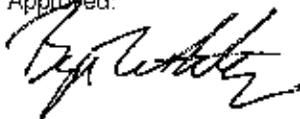
*(Ord. 3437-C.S., § 1, effective 4-26-07)*



**CC AGENDA - ITEM 3**



Reviewed Date:  
7/7/2011

Approved:  


Meeting Date:  
July 11, 2011

Agenda Item:  
3



## Executive Summary

**Presented By:** Margaret Souza, Interim Finance Director  
**Meeting Date:** July 11, 2011  
**Agenda Item:** 3  
**Subject:** Approval of Fund Balance Policy  
**Desired Action:** Consider and Adopt Resolution No. 2011-049, approving a Fund Balance Policy in accordance with Governmental Accounting Standards Board Statement No 54 (GASB 54).

---

### Purpose:

The purpose of this agenda item is to approve a fund balance policy in accordance with Governmental Accounting Standards Board Statement No 54.

### Background:

In February 2009, the Governmental Accounting Standards Board (GASB) issued Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions. The new standard does not change the total amount of a given fund balance, but it substantially alters the categories and terminology used to describe the components that make up a fund balance. The new categories and terminology reflect an approach that focuses, not on financial resources available for appropriation within a fund, but on the extent to which the City is bound to honor constraints on the specific purposes for which amounts in the fund can be spent. This staff report is being presented to provide information to the City Council on the new reporting standard, and to formally adopt the City's definitions of reported fund balances.

The term fund balance is used to describe the difference between assets (what is owned) and liabilities (what is owed) reported within a fund. In the past, fund balances have been classified into three separate components: Reserved, Designated and Undesignated. There are almost always important limitations on the purpose for which all or a portion of the resources of a fund can be used. (This starts with the basic structure of Fund Accounting.) The force of these limitations can vary significantly, depending on their source. The various components of the new fund balance reporting standard are designed to indicate the extent to which the City is bound by these limitations placed upon the resources. The new

components are listed in the Fund Balance Policy attached. A sample report is also attached. Staff will be working with the Auditor to classify the City's accounts. This will be a long process, but will be completed when the Final Audit is prepared.

**Fiscal Impact:**

There is no direct impact of implementing GASB Statement No. 54. The amounts reported as the total fund balance in any given fund are not altered. Only the reporting of the individual components that make up total fund balance is changed. These new classifications are required to be used on external formal financial reporting documents, such as the Annual Financial Report (audit).

# City of Hughson Fund Balance Policy

## PURPOSE:

This Fund Balance Policy establishes procedures for reporting fund balance classification, establishes General Fund balance reserve requirements, and establishes a hierarchy of fund balance expenditures. The policy also authorizes and directs the Finance Director to prepare financial reports, which accurately categorize fund balance per Governmental Accounting Standards Board Statement No. 54: *Fund Balance Reporting and Governmental fund Type Definitions* (GASB 54). Further, this policy is established in order to provide a measure of financial protection for the City of Hughson against unforeseen circumstances and to comply with GASB Statement No. 54. No other policy or procedure supersedes the authority and provisions of this policy.

## I. FUND BALANCE COMPONENTS

Fund balance is essentially the difference between the assets and liabilities reported in a governmental fund. GASB 54 establishes the following five components of fund balance, each of which identifies the extent to which the City is bound to honor constraints on the specific purposes for which amounts can be spent.

### A. Non-Spendable Fund Balance

The non-spendable fund balance classification includes amounts that cannot be spent because they are either (a) not in a spendable form or (b) legally or contractually required to be maintained intact. The "not spendable form" criterion includes items that are not expected to be converted to cash, for example, inventories and prepaid amounts. It also includes the long term amount of loans and notes receivable.

### B. Restricted Fund Balance

The restricted fund balance classification includes amounts that reflect constraints placed on the use of resources (other than non-spendable items) that are either (a) externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or (b) imposed by law through constitutional provisions or enabling legislation.

### C. Committed Fund Balance

The committed fund balance classification includes amounts that can only be used for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision making authority. Those committed amounts cannot be used for any other purpose unless the government removes or changes the specified use by taking the same type of action (for example legislation, resolution, ordinance) it employed to previously commit those amounts. Committed fund balance also should incorporate contractual obligations to the

extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements.

D. Assigned Fund Balance

The assigned fund balance classification includes amounts that are constrained by the government's intent to be used for specific purposes, but that are neither restricted nor committed. Such intent needs to be established by (a) the governing body itself or (b) a body or official to which the governing body has delegated the authority to assign amounts to be used for specific purposes.

E. Unassigned Fund Balance

The unassigned fund balance classification includes amounts that do not fall one of the above four categories. This classification represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the General Fund. The General Fund is the only fund that should report this category of fund balance.

## II. GENERAL FUND BALANCE RESERVE

Per GASB 54, governments have the option to formally set aside unrestricted fund balance amounts for use in emergencies, revenue shortages, or budget imbalances. The authority to set aside such amounts can be established by statute, ordinance, resolution, charter, or constitution. These amounts may be spent only if certain specific circumstances exist. Reserved amounts should be reported in the general fund as restricted or committed. The notes to the financial statements disclose the authority for establishing the arrangement, the requirement for additions to the amount, the conditions under which amounts may be spent, and the balance.

The City Council adopted Resolution 2008-02 establishing General Fund Contingency Reserve. The Reserve Policy states that the City will maintain reserve funds to stabilize the City's fiscal base for anticipated fluctuations in revenues and expenditures, provide for unanticipated expenditures of a nonrecurring nature or to meet unexpected increases in service delivery costs within the fiscal year. In 2009, \$730,000 was transferred from General Fund to establish the new reserve. Ongoing, the reserve balance should be maintained at 33% of the General Fund's operating budget. Funds can only be expended with the City Council's approval.

## III. HEIRARCHY OF SPENDING FUND BALANCE

The City's current fund balance practice provides that restricted fund balance be spent first when expenditure is incurred for which both restricted and unrestricted fund balance is available. Similarly, when an expenditure is incurred for purposes for which amounts in any of the unrestricted classifications of fund balance can be used; committed amounts are to be spent first, followed by assigned amounts and then unassigned amounts. GASB 54 mandates that this hierarchy of expending fund balance be reported in new categories, using new terminology, and be formally adopted by the City Council. It should be noted that the new categories

only emphasize the extent which the City is bound to honor expenditure constraints and the purposes for which amounts can be spent. The total reported fund balance would remain unchanged.

#### IV. COMPARISON OF PAST PRACTICE AND GASB 54 BALANCE TYPES

##### A. General Fund

- Past Practice Definition- The General Fund is used to account for all financial resources not accounted for in another fund.
- GASB 54 Definition- The General fund is used to account for all financial resources not accounted for in another fund.

##### B. Special Revenue Funds

- Past Practice Definition- Special Revenue Funds account for proceeds of specific revenue sources that are legally restricted to expenditure for specified purposes.
- GASB 54 Definition- Special Revenue Funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service of capital projects. The term "proceeds of specific revenue sources" establishes that one or more specific restricted or committed revenues should be the foundation for a special revenue fund.

##### C. Capital Projects

- Past Practice Definition- Capital Project Funds account for financial resources to be used for the acquisition or construction of major capital facilities.
- GASB 54 Definition- Capital Project Funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditure for capital outlays, including the acquisition or construction of capital facilities and other capital assets. Capital Project Funds excluded those types of capital related outflows financed by proprietary funds, or for assets that will be held in trust for individuals, private organizations, or other governments.

##### D. Debt Service

- Past Practice Definition- Debt Service funds account for the accumulation of resources for, and the payment of, general long-term debt principal and interest.
- GASB 54 Definition- Debt Service funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditure for principal and interest.

FUND BALANCE COMPONENTS

PAST PRACTICE ELIMINATED CLASSIFICATIONS	NEW GASB 54 CLASSIFICATIONS
Reserved	Non-Spendable  Restricted
Unreserved and Designated	Committed  Assigned
Unreserved and Undesignated	Unassigned

**CITY OF HUGHSON**  
**CITY COUNCIL**  
**HUGHSON REDEVELOPMENT AGENCY**

**RESOLUTION NO. 2011-049**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUGHSON AND THE  
BOARD OF DIRECTORS OF THE HUGHSON REDEVELOPMENT AGENCY  
CLASSIFYING THE VARIOUS COMPONENTS OF FUND BALANCE AS DEFINED IN  
GOVERNMENTAL ACCOUNTING STANDARD BOARD STATEMENT NO. 54**

**WHEREAS**, the City Council of the City of Hughson hereby finds and declares the following;

**1. Findings:**

- A. The Governmental Accounting Standards Board has issued Statement No. 54 entitled "Fund Balance Reporting and Governmental Fund Type Definitions".
- B. This City Council desires to classify the various components of fund balance reported by the City as defined in Governmental Accounting Standards Board Statement No. 54.

**2. Actions:**

- A. The City Council of the City of Hughson hereby defines the various components of fund balance as reported by the City as presented in the attached Policy
- B. The classification and reporting of fund balance components as required by Governmental Accounting Standards Board Statement No. 54 will become effective starting with the 2010/11 fiscal year.
- C. The City Council designates the City Manager as the City official to determine and define the amounts of those components of fund balance that are classified as "Assigned Fund Balance".

It is hereby certified that the foregoing Resolution No. 2011-049 was duly introduced and adopted by the City Council of the City of Hughson at its regular meeting held on this 11th day of July, 2011 by the following roll call votes:

**AYES:**

**NOES:**

**ABSTENTIONS:**

**ABSENT:**

Approved

Attested

\_\_\_\_\_  
Ramon Bawanan, Mayor/Chair

\_\_\_\_\_  
Dominique Spinale, Deputy City Clerk

## EXHIBIT A

### General Fund - Fund Balance June 30, 2010

#### Before GASB No. 54

Reserved:			
	Advances	356,838	
	Prepaid expenditures	18,224	
	Inventory	30,536	
	Encumbrances	<u>7,725</u>	413,323
Unreserved, Designated:			
	Capital Improvements	<u>28,331</u>	28,331
Unreserved, Undesignated:			
	Reported in General Fund	<u>2,010,551</u>	2,010,551
	Total Fund Balance		<u><u>2,452,205</u></u>

#### After GASB No. 54

Fund Balances:			
Nonspendable:			
	Advances	356,838	
	Prepaid expenditures	18,224	
	Inventory	<u>30,536</u>	405,598
Assigned:			
	Encumbrances	7,725	
	Capital Improvements	<u>28,331</u>	36,056
Unassigned:			
	Available at 6-30-2010	<u>2,010,551</u>	2,010,551
			<u><u>2,452,205</u></u>

	General Fund	Major Special Revenue Funds		Major Debt Service Fund	Major Capital Projects Fund	Other Funds
		Highway Fund	School Aid Fund			
<b>Fund balances:</b>						
<b>Nonspendable:</b>						
Inventory	\$ 125,000	\$ 108,000	\$ 16,000	---	---	---
Permanent fund principal	---	---	---	---	---	\$ 164,000
<b>Restricted for:</b>						
Social services	240,000	---	---	---	---	---
Parks and recreation	80,000	---	---	---	---	---
Education	56,000	---	---	---	---	---
Highways	---	---	---	---	\$ 444,000	---
Road surface repair	---	24,000	---	---	---	---
Debt service reserve	---	---	---	\$ 206,000	---	---
School construction	---	---	---	---	301,000	---
Law enforcement	---	---	---	---	---	214,000
Other capital projects	---	---	---	---	51,000	---
Other purposes	30,000	---	---	---	---	---
<b>Committed to:</b>						
Zoning board	16,000	---	---	---	---	---
Economic stabilization	210,000	---	---	---	---	---
Homeland security	110,000	---	---	---	---	---
Education	50,000	---	103,000	---	---	---
Health and welfare	75,000	---	---	---	---	---
<b>Assigned to:</b>						
Parks and recreation	50,000	---	---	---	---	---
Library acquisitions	50,000	---	---	---	---	---
Highway resurfacing	---	263,000	---	---	---	---
Debt service	---	---	---	306,000	---	---
Public pool	---	---	---	---	121,000	---
City Hall renovation	---	---	---	---	60,000	---
Other capital projects	50,000	---	---	---	471,000	---
Other purposes	33,000	---	73,000	---	---	176,000
<b>Unassigned:</b>	525,000	---	---	---	---	---
<b>Total fund balances</b>	<b>\$ 1,746,000</b>	<b>\$ 380,000</b>	<b>\$ 192,000</b>	<b>\$ 512,000</b>	<b>\$ 1,448,000</b>	<b>\$ 554,000</b>

This level of detail is not required for display on the face of the balance sheet. Fund balance categories and classifications are presented in detail or in the aggregate if sufficient detail is provided in the notes to the financial statements.

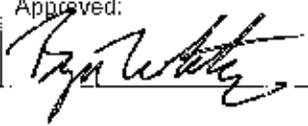
#### Exhibit 2

	General Fund	Major Special Revenue Funds		Major Debt Service Fund	Major Capital Projects Fund	Other Funds
		Highway Fund	School Aid Fund			
<b>Fund balances:</b>						
<b>Nonspendable</b>	\$ 125,000	\$ 108,000	\$ 16,000	---	---	\$ 164,000
<b>Restricted</b>	406,000	24,000	---	\$ 206,000	\$ 786,000	214,000
<b>Committed</b>	461,000	---	103,000	---	---	---
<b>Assigned</b>	230,000	263,000	73,000	306,000	632,000	176,000
<b>Unassigned</b>	525,000	---	---	---	---	---
<b>Total fund balances</b>	<b>\$ 1,746,000</b>	<b>\$ 380,000</b>	<b>\$ 192,000</b>	<b>\$ 512,000</b>	<b>\$ 1,448,000</b>	<b>\$ 554,000</b>



**CC AGENDA - ITEM 4**



Reviewed Date: 7/17/2011	Approved: 	Meeting Date: July 11, 2011	Agenda Item: 4
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## Executive Summary

**Presented By:** Margaret Souza, Interim Director of Finance  
**Meeting Date:** July 11, 2011  
**Agenda Item:** 4  
**Subject:** Review of Auditor's Recommendations  
**Budget Action:** None  
**Desired Action:** Update Item Only

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### Background:

In March, staff presented the Final Audit Report 2009-10 to Council. At that time there were 11 issues and recommendations that needed to be addressed. Most of the issues were resolved or were being worked on. Council requested that they be updated at yearend as to the progress of these recommendations. Attached is the original report.

### Briefly:

#1 thru #3 (Capital Assets and Financial Statements reconciliations) – these have been completed for Fiscal Year 2009-10. The City's books balance with the Audit Report. We are working on 2010-11 now.

#4 and #5 - The issue of Separation of Duties and Payroll Processing has been resolved.

#6 – Water Meters, last reading run showed that only 20 meters needed to be reread. Of those 20, only 2 were broken. Considering that there are 1,800 accounts, 2 broken meters is great. In addition, we have implemented a procedure to verify all vacant, unbilled accounts. Using MOM, a list is produced and checked by the Public Works staff. We want to ensure that all accounts with service are being charged. The last listing showed 60 unbilled accounts within the area and 10 of those had their water on. These have been disconnected and hopefully customers will sign up. This process will be done on a regular basis, to ensure that all occupied homes are signed up for service.

#7 and #8 - (Building Permits and Payroll Files). These matters have been resolved.

#9 – Housing Loans – Currently the City has the services of an intern from CSUS. Her duties include reviewing and monitoring these loans. Files were incomplete, but the matter is being taken care of.

#10 and #11 – RDA. These matters have been resolved.

Currently we are in process of closing the 2010-11 books. As reconciliations occur, staff is documenting the procedure. It is a basic process, but there are different ways of approaching it.

**Fiscal Impact:**

There is no direct impact, but it is a part of the job.

**CITY OF HUGHSON**  
**MANAGEMENT REPORT**  
**AND**  
**AUDITOR'S COMMUNICATION LETTER**

**June 30, 2010**

**CITY OF HUGHSON**

June 30, 2010

**TABLE OF CONTENTS**

<b>Transmittal Letter</b> .....	1
<b>Required Communication</b> .....	3
<b>Current Year Recommendations:</b>	
<b>Material Weaknesses:</b>	
2010-1 Recording of capital assets.....	5
2010-2 Lack of reconciliation of financial statements.....	5
2010-3 Lack of proper accruals of year end receivables and liabilities.....	5
<b>Significant Deficiencies:</b>	
2010-4 Lack of segregation of duties over cash receipts.....	6
2010-5 Lack of segregation of duties over payroll.....	6
2010-6 Water usage not charged due to broken meters.....	6
2010-7 Lack of board approval for building permit fees.....	7
2010-8 Missing personnel files.....	7
2010-9 Lack of reconciliation of loans receivable.....	7
2010-10 RDA Report Filing.....	8
2010-11 RDA Expenditures.....	8
<b>Status of Prior Year Recommendations</b> .....	9



**MOSS, LEVY & HARTZHEIM LLP**

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March 8, 2011

Members of the City Council  
City of Hughson  
Hughson, California

In planning and performing our audit of the financial statements of the City of Hughson (City), as of and for the fiscal year ended June 30, 2010, in accordance with auditing standards generally accepted in the United States of America, we considered the City's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be significant deficiencies or material weakness and therefore, there can be no assurance that all such deficiencies have been identified. However, as discussed below, we identified certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies presented in the current recommendations section as finding 2010-1 through 2010-3 to be material weaknesses in internal control.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies presented in the current year recommendations section as finding 2010-4 through 2010-11 to be significant deficiencies in internal control.

The City's written responses to the findings identified in our audit are described in the current year recommendations section. We did not audit the City's responses and, accordingly, we express no opinion on them. In addition, we would be pleased to discuss the recommendations in further detail at your convenience, to perform any additional study of these matters, or to assist you in implementing these recommendations.

We have included in this letter a summary of communication with the members of the City Council as required by professional auditing standards. We would like to thank the City's management and staff for the courtesy and cooperation extended to us during the course of our engagement. The accompanying communications and recommendations are intended solely for the information and use of management, the members of the City Council, and others within the City, and is not intended to be and should not be used by anyone other than these specified parties.

*Moss, Levy & Hartwig*

MOSS, LEVY & HARTWIG, LLP  
Beverly Hills, CA



MOSS, LEVY & HARTZHEIM LLP

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March 8, 2011

Members of the City Council  
City of Hughson  
Hughson, California

We have audited the financial statements of the governmental activities, the business type activities, each major fund, and the aggregate remaining information of the City of Hughson (City) for the fiscal year ended June 30, 2010. Professional standards require that we provide you with the information about our responsibilities under auditing standards generally accepted in the United States of America, *Government Auditing Standards*, and OMB Circular A-133 as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated November 8, 2010. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Findings

*Qualitative Aspects of Accounting Practices*

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the City of Hughson are described in Note 1 to the financial statements. As discussed in Note 1 of the notes to the basic financial statements effective July 1, 2009, the City adopted the provisions of Governmental Accounting Standards Board (GASB) Statement No. 45 *Accounting and Financial Reporting by Employers for Postemployment Benefits Other than Pensions*; GASB Statement No. 51, *Accounting and Financial Reporting by Intangible Assets*; GASB Statement No. 53 *Accounting and Financial Reporting for Derivative Instruments*; GASB Statement No. 57, *OPFB Measurements by Agent Employers and Agent Multiple-Employer Plans*; and GASB Statement No. 58, *Accounting and Financial Reporting for Chapter 9 Bankruptcies*. We noted no transactions entered into by the City of Hughson during the fiscal year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the City's financial statements were:

Management's estimate of the funding progress for CALPERS is based on CALPERS's estimate. The estimated historical cost of capital assets and the estimated useful life of the capital assets were based on historical data, industry guidelines, and an outside consultant which was hired by the City in a previous

fiscal year. We evaluated the key factors and assumptions used to develop these estimates in determining that they are reasonable in relation to the financial statements taken as a whole.

*Difficulties Encountered in Performing the Audit*

We encountered no significant difficulties in dealing with management in performing and completing our audit.

*Corrected and Uncorrected Misstatements*

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. All adjusting entries that were proposed as a result of audit procedures were corrected by management.

*Disagreements with Management*

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

*Management Representations*

We have requested certain representations from management that are included in the management representation letter dated March 8, 2011.

*Management Consultations with Other Independent Accountants*

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the City of Hughson's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

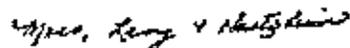
*Other Audit Findings or Issues*

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the City of Hughson's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

*Other Information in Documents Containing Audited Financial Statements*

This information is intended solely for the information and use of the members of the City Council and Management of the City and is not intended to be and should not be used by anyone other than these specified parties.

Very truly yours,



MOSS, LEVY & HARTZHEIM, LLP  
Beverly Hills, CA

## CURRENT YEAR RECOMMENDATIONS

### Material Weaknesses

#### 2010-1 Lack of reconciliation of capital assets:

During the review of capital assets, it was noted that the City does not have adequate procedures in place to maintain a list of the City's capital assets. The City does not track additions, deletions, and transfers to the asset list and also does not calculate depreciation expense and total accumulated depreciation of the City's assets.

##### Effect:

Without adequate procedures in place to maintain a list of capital assets, the government-wide statement of net assets could be materially misstated and the City is not able to properly safeguard its assets.

##### Recommendation:

We recommend that the City implement procedures to adequately maintain a list of capital assets and to accurately capture fixed asset additions, deletions, depreciation expenses and accumulated depreciation in accordance with City policies and procedures as well as accounting principles generally accepted in the United States of America.

##### Management's Response:

In 2008, the City engaged the services of a consultant (CBIZ) to analyze the capital assets values. This established a base line of the City's assets. From this time forward, information is tracked via the "warrant process" as new capital items are purchased. Periodically, posting of surplus items and depreciation journal entries need to be made. The data is available, and will be posted. Procedures will be written to clarify the process.

#### 2010-2 Lack of reconciliation of financial statements:

During the review of fund balance, it was noted that the City does not have procedures in place to reconcile the audited financial statements with the City's accounting records.

##### Effect:

Due to the lack of reconciliation of the audited financial statements to the City's accounting records, numerous entries that were reflected on the statements were not posted to the City accounting records, resulting in a misstatement of fund balances with the City's books and records. Audit adjustments were needed to correct these misstatements.

##### Recommendation:

We recommend that the City ensure that procedures are in place to reconcile the City's accounting records to the audited financial statements.

##### Management's Response:

The current financial system (MOM) has numerous reports available to reconcile the accounting records. The 2009-10 is currently being reconciled. The key is to post the journal entries that have been made as a result of the past two audits. Common accounting practices for the reconciliation will be implemented.

#### 2010-3 Lack of proper accruals of year end receivables and liabilities:

During the review of receivables and payables, it was noted that the City does not have adequate procedures in place to properly record year end accruals of receivables and payables. Numerous audit adjustments were necessary to correct year end balances.

##### Effect:

Due to the lack of procedures to properly record year end accruals of receivables and payables, the City materially misstatements receivable and payable balances as of year-end. Audit adjustments were needed to correct these misstatements.

##### Recommendation:

We recommend that the City ensure that procedures are in place to properly record all year end accruals of receivable and payables in accordance with City policy and procedures as well as accounting standards generally accepted in the United States of America.

Management's Response:

Currently the City keeps the General Ledger books open for sixty days. Any payment made that was incurred prior to June 30<sup>th</sup>, will be posted in the prior year. The problem seemed to have been that invoices slipped through and were paid during the current period and some invoices were received well after the sixty days. Greater vigilance will be taken in the future to prevent this from happening. Receivables are handled manually and will also be tracked better. The auditor is looking for a list of all payables and receivables. This will not be difficult to do. Many liabilities are carryover, year to year. The customary practice will be used to reconcile them through the year. Some outstanding liabilities have been refunded.

**Significant Deficiencies**

**2010-4 Finding – Lack of segregation of duties over cash receipts:**

During the review of internal controls, it was noted that one staff member is responsible for both preparing the bank reconciliations and reconciling daily cash receipts to the general ledger.

Effect:

A lack of segregation of duties increases the risk that errors and irregularities may occur and go undetected. It could adversely affect the City's ability to initiate, authorize, record, process or report financial data reliably, which could lead to a misappropriation of funds.

Recommendation:

We recommend that the City ensure that the internal control deficiencies mentioned above are rectified with increased segregation of duties and establish a centralized purchasing and receiving position.

Management's response:

The staff for City of Hughson is small. Two employees manage all counter activities (which includes opening the mail). With the help of a supervisor, all things are double checked. The supervisor does the bank reconciliations while the two Account Clerks handle cash receipts and deposit preparation. A review of duties is taking place and implementation of a more thorough process will be evaluated.

**2010-5 Finding – Lack of segregation of duties over payroll:**

During the review of internal controls, it was noted that one staff member is responsible for entering payroll information into the computer system, preparing payroll checks, distributing payroll checks, reconciling the payroll bank account, and entering payroll changes. It was also noted that multiple users have access to change payroll rates and no log is kept of changes made.

Effect:

A lack of segregation of duties increases the risk that errors and irregularities may occur and go undetected. It could adversely affect the City's ability to initiate, authorize, record, process or report financial data reliably, which could lead to a misappropriation of funds.

Recommendation:

We recommend that the City ensure that the internal control deficiencies mentioned above are rectified with increased segregation of duties and establish a centralized purchasing and receiving position. Also, the City should restrict access to the payroll module and ensure that a log is kept all adjustments to wage rates.

Management's response:

Currently, payroll time slips/shoots are verified and approved by Department Heads and Supervisors. These are keyed in to generate payroll by Finance Personnel. A second employee proofs keying in and any changes made to the record. Further enhancements are being made to proof the payroll process. Additionally, only two Finance employees have access to payroll. Two is necessary to provide adequate coverage to do the process. Others (such as the Manager) have access to "view" payroll files.

**2010-6 Finding – Water usage not charged due to broken meters:**

During the utility cash receipts, it was noted that three out of 25 customers tested were not being charged for water usage due their water meters being damaged and not repaired.

Effect:

Without charging certain customer for water usage due to broken meters, the City is not in compliance with regulations and policies set forth by the City Council regarding residential water usage.

Recommendation:

We recommend that the City repair broken water meters as soon as possible and ensure that all customers are being charged for water usage.

Management's response:

Meters are read on a monthly bases, via an electronic transmitter. Of the 1876 meters, about 100 registered no reading this first run. These are reread. Of those, 18 meters were not registering a reading and were determined to be broken. These are fixed as the Public Works employees have the time and materials. Also, to further confirm that all occupied homes are signed up for service, staff has developed a listing which assists Public Works employees to track those lots which are not signed up for service but do have water usage.

2010-7 Lack of board approval for building permit fees:

During the test of building permit cash receipts, it was noted that certain fees being assessed on permits were not part of the Council approved fee schedule.

Effect:

When fees being assessed by the City are not part of the Council approved fee schedule, the City is not in compliance with the rules and regulations set forth by the City Council.

Recommendation:

We recommend that the City ensure that all fees being assessed are part of the Council approved fee schedule.

Management's Response:

All fees collected have received approval from the Council. While the approvals may have been done at separate times, Customers are given a Fee Schedule summarizing all the charges. (See Attached) There are fees that are passed down to us by the County or the State. Council has no authority over these charges.

2010-8 Missing personnel files:

During the test of payroll, it was noted that out of the 25 employees tested, eleven I-9 forms, seven W-4 forms and seven employment application were missing in total.

Effect:

When essential personnel information and documentation is not being obtained and/or retained by the City, the City is not in compliance with Federal and State employment regulations.

Recommendation:

We recommend that the City ensure that all employees have I-9 forms, W-4 forms and employment on file with the City

Management's Response:

Active Employee Personnel Files are being updated to verify that all required documents have been included. Any missing documents will be added to the files.

2010-9 Lack of reconciliation of loans receivable:

During the review of loans receivable, it was noted that the City does not adequately maintain a list of loans given out by the City in various programs. The City also does not correctly record the receipt of loan repayments to loan balances and deferred revenue.

Effect:

Due to the lack of reconciliation of loans receivables, the City was not able to adequately record loan balances which resulted in material misstatements of the City's accounting records. Audit adjustments were made to correct these misstatements.

Recommendation:

We recommend that the City ensure that adequate procedures are in place to reconcile loan balances and also to correctly account for loan repayments and deferred revenue.

Management's Response:

Many personnel changes have occurred and loans are now being tracked. A written procedure will document the process.

2009-10 RDA Report Filing:

During the compliance audit for the Redevelopment Agency, we noted that for the Fiscal Year Ended June 30, 2009 none of the required reports under the California Health and Safety Code were filed within 6 months of the close of the fiscal year.

Effect:

The Agency was not in compliance with the Health and Safety Code for filing of required reports.

Recommendation:

Complete and close its books in a timely fashion to allow staff and auditors enough time to complete and file the required reports.

Management's Response:

The Agency will establish a procedure to ensure timely filing.

2010-11 RDA Expenditures:

During the compliance audit for the Redevelopment Agency, it was noted that the Agency transferred out \$19,500 from its Low and Moderate Income Housing Fund to the City's Code Enforcement Fund.

Effect:

This transfer may not be for the purpose of low and moderate income housing, as set forth by the Health and Safety Code.

Recommendation:

Any expenditures that are specific to low and moderate income housing and administrative costs (if written and approved) can be paid from this fund.

Questioned Costs:

\$19,500

Management's Response:

The City will transfer funds back to the Low and Moderate Income Housing Fund.

## **STATUS OF PRIOR YEAR RECOMMENDATIONS**

### **2009-01 Recording Capital Assets**

#### **(Material Weakness)**

##### **Observation**

During the year, the City utilized an outside firm to conduct an asset inventory. As part of this inventory, the firm identified several properties that had not previously been recorded by the City. The net amount affecting the City was \$16.5 million. This amount does not include infrastructure assets that the City elected to record under GASB Statement No. 34 as discussed in Note (5) to the financial statements.

##### **Recommendation**

We recommend that the City establish a process to ensure that all capital assets are properly recorded and depreciated on an annual basis. This includes properly tracking and documenting all capital projects and evaluating all purchases for potential capitalization. This procedure also should include periodic review of minutes from the City Council and Redevelopment Agency Board of Directors meetings. This will ensure that the Finance Department is aware of all capital projects and upcoming capital purchases.

##### **Status**

Not implemented, see Finding 2010-1.

### **2009-02 Proper Accrual of Year End Liabilities and Receivables**

#### **(Material Weakness)**

##### **Observation**

During our audit of the accounts payable and accrued expenses balances, we noted \$171,858 in liabilities that were not properly accrued in the current fiscal year. We also noted that the City was not able to locate documentation for two liabilities samples that were selected for testing. Furthermore, we identified a settlement payment during our review of the attorney responses in the amount \$200,000 that was not properly accrued.

During our audit of the accounts receivable balance, we identified three receivables that were not properly accrued in the current fiscal year for a total of \$121,434.60.

##### **Recommendation**

We recommend that the City establish a process to ensure that all liabilities and receivables are recorded in the proper period. This procedure should include a review of all payments occurring after year-end and all receipts received after year-end to determine the appropriate fiscal year. A secondary review of the liabilities and receivables accruals should be conducted to ensure accuracy. In addition, management should consider the effect of legal actions against the City as of the balance sheet date to ensure liabilities are appropriately captured.

##### **Status**

Not implemented, see Finding 2010-3.

