



**CITY OF HUGHSON
CITY COUNCIL MEETING
CITY HALL COUNCIL CHAMBERS
7018 Pine Street, Hughson, CA**

**AGENDA
TUESDAY, MAY 29, 2018 – 7:00 P.M.**

CALL TO ORDER: Mayor Jeramy Young

ROLL CALL: Mayor Jeramy Young
Mayor Pro Tem George Carr
Councilmember Harold Hill
Councilmember Mark Fontana
Councilmember Ramon Bawan

FLAG SALUTE: Mayor Jeramy Young

INVOCATION: Hughson Ministerial Association

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.**

1. PUBLIC BUSINESS FROM THE FLOOR (No Action Can Be Taken):

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.

2. PRESENTATIONS:

- 2.1: A Proclamation of the Hughson City Council Declaring June as Disability Awareness Month.
- 2.2: Introduce New Water Distribution/Treatment Operator.

3. CONSENT CALENDAR:

All items listed on the Consent Calendar are to be acted upon by a single action of the City Council unless otherwise requested by an individual Councilmember for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

- 3.1: Approve the Minutes of the Regular Meeting of May 14, 2018.
- 3.2: Approve the Warrants Register.
- 3.3: Adopt Ordinance No. 2018-01, Amending Chapters 2.12 and 2.14 of the Hughson Municipal Code Concerning Number of Commissioners, the Method of Appointment, and Organization of the Planning Commission and the Parks, Recreation and Entertainment Commission.
- 3.4: Adopt Ordinance No. 2018-02, Amending Chapters 1.17, Establishing an Administrative Appeals Board.
- 3.5: Consideration of Resolution No. 2018-21, Amendment and Biennial Review of the City of Hughson's Conflict of Interest Code.
- 3.6: Consideration to Accept the Quarterly City of Hughson Legislative Report.

4. UNFINISHED BUSINESS: NONE.**5. PUBLIC HEARING TO CONSIDER THE FOLLOWING:**

- 5.1: Introduce and Waive the First Reading of Ordinance No. 2018-03, repealing Chapter 5.08 of the Hughson Municipal Code titled "Cable Television Franchises" and restating Chapter 5.08 of the Hughson Municipal Code titled "State Video Franchises".

6. NEW BUSINESS:

- 6.1: Authorize City Staff to Release Bid Documents for the Well No. 7 Replacement Project.

6.2: Adopt Resolution No. 2018-22, Appointing Planning Commissioners Members to Serve Concurrently as Members of the Administrative Appeals Board.

7. CORRESPONDENCE: NONE.

8. COMMENTS:

8.1: Staff Reports and Comments: (Information Only – No Action)

City Manager:

City Clerk:

Community Development Director:

Director of Finance:

Police Services:

City Attorney:

8.2: Council Comments: (Information Only – No Action)

8.3: Mayor’s Comments: (Information Only – No Action)

9. CLOSED SESSION TO DISCUSS THE FOLLOWING: NONE.

ADJOURNMENT:

WAIVER WARNING

If you challenge a decision/direction of the City Council 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).

UPCOMING EVENTS:

May 31	<ul style="list-style-type: none"> ▪ Hughson Fire Protection District Measure U Town Hall Meeting, Hughson Fire Department, 7:00 P.M.
June 1 – August 31	<ul style="list-style-type: none"> ▪ Hughson Downtown Farmers Market, Hughson Avenue, Friday’s 5:00 P.M.- 8:00 P.M.
June 12	<ul style="list-style-type: none"> ▪ Parks, Recreation & Entertainment Commission Meeting, City Hall Council Chambers, 6:00 P.M.



CITY OF HUGHSON AGENDA ITEM NO. 2.1 SECTION 2: PRESENTATIONS

Meeting Date: May 29, 2018
Subject: A Proclamation of the Hughson City Council Declaring
June as Disabilities Awareness Month
Presented By: Susana Diaz, Management Analyst/Deputy City Clerk
Approved By: _____

Staff Recommendation

Proclaim June 2018 as Disabilities Awareness Month.

Background and Overview:

Disabilities Awareness Month is celebrated each June to honor and recognize people with different abilities.

Every year the Hughson City Council proclaims the month of June as Disabilities Awareness Month and provides a Proclamation to the Society for Disabilities.

Ms. Carolyn Teixeira Gomes, Director of Development for the Society for Disabilities, will be present to accept the Proclamation from the City of Hughson.



Proclamation
June as Disabilities Awareness Month

WHEREAS, the City Council of the City of Hughson have recognized healthy communities as a priority; and,

WHEREAS, disabilities can affect all people, regardless of race, age, gender, or social status and the essence of life is not embodied by physical or mental perfection, but it is an integral part of the human spirit; and,

WHEREAS, increasing public awareness about diverse abilities is vital to fighting the stigma and discrimination that often serve as a barrier to employment, socialization, and individual well-being; and,

WHEREAS, there are an estimated 4,206,918 people with disabilities in the State of California, and over 75,890 people over the age of 5, with disabilities in Stanislaus County; and,

WHEREAS, within the next year, at least one out of eight Californians will experience a disability personally or through a family member; and,

WHEREAS, the City of Hughson wants to celebrate and recognize people with different abilities; and,

WHEREAS, people with different abilities are independent, productive, and part of the community; and

WHEREAS, education, understanding, access engagement, and relationships are important components of a connected, livable, and healthy community; and,

WHEREAS, communities thrive when residents appreciate the unique gifts inside people of all abilities; and,

WHEREAS, by developing relationships with our neighbors, we make our community a place where everyone participates and is a valued member; and,

WHEREAS, the Society for disabilities will commemorate June 2018, and each June hereafter, as *Disabilities Awareness Month*.

NOW, THEREFORE, LET IT BE PROCLAIMED by the City Council of the City of Hughson that June 2018 is Disabilities Awareness Month within the City of Hughson and we urge all our citizens to become aware of the needs and capabilities of person with disabilities.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Hughson to be affixed this 29th day of May 2018.

JERAMY YOUNG, Mayor



CITY OF HUGHSON AGENDA ITEM NO. 3.1 SECTION 3: CONSENT CALENDAR

Meeting Date: May 29, 2018
Subject: Approval of the City Council Minutes
Presented By: Susana Diaz, Deputy City Clerk

Approved By: _____

Staff Recommendation:

Approve the Minutes of the Regular Meeting of May 14, 2018

Background and Overview:

The draft minutes of the May 14, 2018 meeting are prepared for the Council's review.



**CITY OF HUGHSON
CITY COUNCIL MEETING
CITY HALL COUNCIL CHAMBERS
7018 Pine Street, Hughson, CA**

**MINUTES
MONDAY, MAY 14, 2018 – 7:00 P.M.**

CALL TO ORDER: Mayor Pro Tem George Carr

ROLL CALL:

Present: Councilmember Harold Hill
Councilmember Mark Fontana
Mayor Pro Tem George Carr
Councilmember Ramon Bawan

Absent: Mayor Jeramy Young

Staff Present: Raul L. Mendez, City Manager
Daniel J. Schroeder, City Attorney
Jaylen French, Community Development Director
Larry Seymour, Chief of Police Services
Shannon Eesenwein, Director of Finance and Admin Services
Lisa Whiteside, Finance Manager
Sam Rush, Public Works Superintendent
Jaime Velazquez, Utilities Superintendent
Eduardo Ruiz, Maintenance Worker I

FLAG SALUTE: Mayor Pro Tem George Carr

INVOCATION: Councilmember Harold Hill

1. PUBLIC BUSINESS FROM THE FLOOR (No Action Can Be Taken):

No Public Comment.

2. PRESENTATIONS:

2.1: Declaring May 20 through May 26, 2018, as National Public Works Week.

Mayor Pro Tem George Carr presented the National Public Works Week Proclamation to Public Works employees Sam Rush and Eduardo Ruiz.

2.2: Turlock Mosquito Abatement Update.

Michael Mitchel, Turlock Mosquito Abatement District representative, provided the update on Turlock Mosquito Abatement District activities and initiatives.

3. CONSENT CALENDAR:

All items listed on the Consent Calendar are to be acted upon by a single action of the City Council unless otherwise requested by an individual Councilmember for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

3.1: Approve the Minutes of the Regular Meeting of April 23, 2018.

3.2: Approve the Minutes of the Special Meeting of April 16, 2018.

3.3: Approve the Warrants Register.

3.5: Accept the City of Hughson 1,2,3-TCP Mitigation Feasibility Study.

3.6: Approval of the Memorandum of Understanding Between the City of Hughson and Operating Engineers Local Union No. 3 on Behalf of the City of Hughson Employees Association.

HILL/FONTANA 4-0-0-1 motion passes to approve the Consent Calendar as presented.

4. UNFINISHED BUSINESS: NONE.**5. PUBLIC HEARING TO CONSIDER THE FOLLOWING:**

5.1: Approval to Introduce and Waive the First Reading of Ordinance No. 2018-01, Amending Section 2.12 and 2.14 of the Hughson Municipal Code Concerning Number of Commissioners, the Method of Appointment, and Organization of the Planning Commission and the Parks, Recreation and Entertainment Commission.

City Attorney Daniel J. Schroeder presented the staff report on this item. Mayor Pro Tem George Carr opened the Public Hearing at 7:32 P.M. There was no public comment, Mayor Pro Tem Carr closed the Public Hearing at 7:32 P.M.

BAWANAN/HILL 4-0-0-1 motion passes to Introduce and Waive the First Reading of Ordinance No. 2018-01, Amending Section 2.12 and 2.14 of the Hughson Municipal Code Concerning Number of Commissioners, the Method of Appointment, and Organization of the Planning Commission and the Parks, Recreation and Entertainment Commission.

- 5.2:** Introduce and Waive the First Reading of Ordinance No. 2018-02, Amending Chapters 1.17, Establishing an Administrative Appeals Board.

City Attorney Daniel J. Schroeder presented the staff report on this item. Mayor Pro Tem George Carr opened the Public Hearing at 7:37 P.M. There was no public comment, Mayor Pro Tem Carr closed the Public Hearing at 7:37 P.M.

BAWANAN/FONTANA 4-0-0-1 motion passes to Introduce and Waive the First Reading of Ordinance No. 2018-02, Amending Chapters 1.17, Establishing an Administrative Appeals Board.

6. NEW BUSINESS:

- 6.1:** Adopt Resolution No. 2018-20, Accepting a New Legal Parcel (APN 018-049-XXX) and Granting Rights, Title and Interest in Real Property (APN 018-049-036) Back to the Original Owner.

Community Development Director Jaylen French presented the staff report on this item.

FONTANA/HILL 4-0-0-1 motion passes to approve the Resolution No. 2018-20, Approving a New Legal Parcel (APN 018-049-XXX) and Granting Rights, Title and Interest in Real Property (APN 018-049-036) Back to the Original Owner.

- 6.2:** Approval to Authorize City Staff to Release Bid Documents for the 2nd Street Sidewalk Infill Project.

Community Development Director Jaylen French presented the staff report on this item.

BAWANAN/HILL 4-0-0-1 motion passes to authorize City Staff to Release Bid Documents for the 2nd Street Sidewalk Infill Project.

7. CORRESPONDENCE: No action was taken on these items.

- 7.1:** Planning Commission March 20, 2018 Minutes.

8. COMMENTS:**8.1: Staff Reports and Comments: (Information Only – No Action)****City Manager:**

City Manager Mendez recognized the Public Works staff and their dedicated work to the City of Hughson. He reported to the council that Governor Brown's May revised budget had been released and that he would share further detailed information in a staff report at the next council meeting.

Community Development Director:

Director French updated the council on the local construction projects related to Measure L and SB1 funding. He provided an update on the Downtown Revitalization Plan. He reminded council of the Hughson Bike to Work/School day on Friday, May 18, 2018.

Director of Finance and Administrative Services:

Director Esenwein reminded council that applications are currently being accepted for the Maintenance Worker I/II position, final filing date closes on May 24, 2018.

Police Services:

Chief Larry Seymour provided the City Council with the latest Crime Statistic Report.

8.2: Council Comments: (Information Only – No Action)

Councilmember Bawan attended the Hughson Fruit & Nut Festival sponsor dinner. He attended Duarte Nursery Friends Day, and the Hughson Clean Up Day. He thanked City staff for their dedicated work. He reminded council that he will be absent at the May 29, 2018 council meeting.

Councilmember Hill said that he attended the Stanislaus County Emergency Disaster Council and he attended the Duarte Nursery Friends Day. He attended the Fruit & Nut Festival sponsor dinner as well as the Fruit & Nut Festival on April 28, 2018. He attended the Hughson Fire Protection District's Annual Chicken Dinner Fundraiser.

Councilmember Fontana referenced his vacation to Japan and mentioned the Country's housing and transportation infrastructure. He attended the Hughson Fruit & Nut Festival.

Mayor Pro Tem Carr attended the Hughson Fruit & Nut Festival.

8.3: Mayor's Comments: (Information Only – No Action)**NONE.****9. CLOSED SESSION TO DISCUSS THE FOLLOWING:****NONE.****ADJOURNMENT:**

HILL/FONTANA 4-0-0-1 motion passes to adjourn the meeting at 8:02 P.M.

**_____
GEORGE CARR, Mayor Pro Tem**

**_____
LISA WHITESIDE, Finance Manager**



CITY OF HUGHSON AGENDA ITEM NO. 3.2 SECTION 3: CONSENT CALENDAR

Meeting Date: May 29, 2018
Subject: Approval of Warrants Register
Enclosure: Warrants Register
Presented By: Shannon Esenwein, Director of Finance/Admin Services

Approved By: _____

Staff Recommendation:

Approve the Warrants Register as presented.

Background and Overview:

The warrants register presented to the City Council is a listing of all expenditures paid from May 4, 2018 through May 24, 2018.

Fiscal Impact:

There are reductions in various funds for payment of expenses.



Hughson

Check Report

SE By Check Number

Date Range: 05/04/2018 - 05/25/2018

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
Bank Code: Payable Bank-Payable Bank						
00349	COSTCO WHOLESALE	05/04/2018	Manual	0.00	284.70	050406
00871	PAPA (PESTICIDE APPLICATO	05/10/2018	Regular	0.00	900.00	50407
00871	PAPA (PESTICIDE APPLICATO	05/10/2018	Regular	0.00	-900.00	50407
01264	VERIZON WIRLESS	05/10/2018	Regular	0.00	456.12	50408
00978	SAN JOAQUIN VALLEY	05/14/2018	Regular	0.00	787.50	50409
01008	SHORE CHEMICAL COMPANY	05/17/2018	Regular	0.00	1,539.07	50410
00464	EZ NETWORK SOLUTIONS	05/17/2018	Regular	0.00	3,335.05	50411
00016	ABS PRESORT	05/17/2018	Regular	0.00	814.97	50412
00032	AFLAC	05/17/2018	Regular	0.00	822.46	50413
01293	ALEXANDRO ESPINOZA	05/17/2018	Regular	0.00	290.00	50414
00049	ALLIED ADMINISTRATORS	05/17/2018	Regular	0.00	2,010.34	50415
00069	ANDREWS ELECTRIC	05/17/2018	Regular	0.00	938.13	50416
00104	AYERA TECHNOLOGIES INC.	05/17/2018	Regular	0.00	168.00	50417
01260	CARLA JAUREGUI	05/17/2018	Regular	0.00	44.00	50418
00284	CHARTER COMMUNICATION	05/17/2018	Regular	0.00	78.01	50419
01296	CONSUELO SALCEDO	05/17/2018	Regular	0.00	140.00	50420
01295	ELISET NEVAREZ	05/17/2018	Regular	0.00	100.00	50421
01298	ELIZABETH GONZALEZ	05/17/2018	Regular	0.00	210.00	50422
00463	EXPRESS PERSONNEL SERVICE	05/17/2018	Regular	0.00	873.86	50423
00464	EZ NETWORK SOLUTIONS	05/17/2018	Regular	0.00	3,690.25	50424
00498	FRANTZ WHOLESALE NURSERY	05/17/2018	Regular	0.00	837.91	50425
00504	FRENCH, JAYLEN	05/17/2018	Regular	0.00	115.00	50426
00527	GIBBS MAINTENANCE CO	05/17/2018	Regular	0.00	2,022.50	50427
00528	GILTON SOLID WASTE MANAGE	05/17/2018	Regular	0.00	40,525.10	50428
00546	GRANITE TELECOMMUNICATION	05/17/2018	Regular	0.00	1,769.11	50429
00611	HUGHSON CHRONICLE	05/17/2018	Regular	0.00	220.45	50430
01282	JAIME VELAZQUEZ	05/17/2018	Regular	0.00	145.64	50431
00720	LEGAL SHIELD	05/17/2018	Regular	0.00	25.90	50432
00738	LUNA, SAM	05/17/2018	Regular	0.00	100.00	50433
01294	MICHAEL BRASHER	05/17/2018	Regular	0.00	100.00	50434
00775	MISSION UNIFORM SERVICE	05/17/2018	Regular	0.00	390.00	50435
00824	NEUMILLER & BEARDSLEE	05/17/2018	Regular	0.00	5,919.14	50436
00855	OPERATING ENGINEERS LOCAL	05/17/2018	Regular	0.00	364.00	50437
00863	PACIFIC PLAN REVIEW	05/17/2018	Regular	0.00	6,087.17	50438
00879	PG & E	05/17/2018	Regular	0.00	264.74	50439
00901	PREFERRED ALLIANCE, INC.	05/17/2018	Regular	0.00	73.71	50440
01271	RAUL MENDEZ	05/17/2018	Regular	0.00	1,135.99	50441
00931	RAY A. MORGAN COMPANY	05/17/2018	Regular	0.00	591.75	50442
00983	SAUNDERS A/C & HEATING	05/17/2018	Regular	0.00	705.74	50443
01009	SHRED-IT USA LLC	05/17/2018	Regular	0.00	149.73	50444
01040	STANISLAUS COUNTY SHERIFF	05/17/2018	Regular	0.00	84,027.19	50445
01069	STEELEY, JARED WATER & WA	05/17/2018	Regular	0.00	2,547.50	50446
01090	SUTTER HEALTH PLUS	05/17/2018	Regular	0.00	10,657.56	50447
01093	SYNAGRO WEST, LLC	05/17/2018	Regular	0.00	451.99	50448
01169	UNUM LIFE INSURANCE CO.	05/17/2018	Regular	0.00	1,459.32	50449
01171	URBAN FUTURES INCORP	05/17/2018	Regular	0.00	2,150.00	50450
00168	W.H. BRESHEARS	05/17/2018	Regular	0.00	1,140.39	50451
01206	WARDEN'S OFFICE	05/17/2018	Regular	0.00	81.09	50452
01260	CARLA JAUREGUI	05/24/2018	Regular	0.00	55.00	50453
00305	CITY OF HUGHSON	05/24/2018	Regular	0.00	1,191.95	50454
00365	CSMFO	05/24/2018	Regular	0.00	25.00	50455
01300	EMERT CONSTRUCTION	05/24/2018	Regular	0.00	686.54	50456
00565	HAMPTON'S AUTOBODY & RESO	05/24/2018	Regular	0.00	1,314.59	50457
00614	HUGHSON FARM SUPPLY	05/24/2018	Regular	0.00	807.77	50458

Check Report

SE Date Range: 05/04/2018 - 05/25/2018

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
00627	HUGHSON NAPA AUTO & TRUCK	05/24/2018	Regular	0.00	612.21	50459
00623	HUGHSON TIRE	05/24/2018	Regular	0.00	20.00	50460
00837	NORTHSTAR CHEMICAL	05/24/2018	Regular	0.00	1,539.07	50461
01299	PADILLA, MARGARITA	05/24/2018	Regular	0.00	265.00	50462
00884	PITNEY BOWES	05/24/2018	Regular	0.00	500.00	50463
00889	PLATT	05/24/2018	Regular	0.00	1,945.01	50464
00967	RUSH, SAM	05/24/2018	Regular	0.00	775.00	50465
01040	STANISLAUS COUNTY SHERIFF	05/24/2018	Regular	0.00	100,381.75	50466
01055	STAPLES	05/24/2018	Regular	0.00	53.92	50467
01152	TYLER TECHNOLOGIES	05/24/2018	Regular	0.00	4,654.31	50468
00168	W.H. BRESHEARS	05/24/2018	Regular	0.00	854.71	50469
00862	P.E.R.S.	05/15/2018	Bank Draft	0.00	2,531.56	DFT0000107
00862	P.E.R.S.	05/15/2018	Bank Draft	0.00	3,694.48	DFT0000108
00571	THE HARTFORD	05/15/2018	Bank Draft	0.00	337.21	DFT0000110
00226	CalPERS SUPPLEMENTAL INCO	05/15/2018	Bank Draft	0.00	782.50	DFT0000111
00862	P.E.R.S.	05/15/2018	Bank Draft	0.00	528.75	DFT0000112
00862	P.E.R.S.	05/15/2018	Bank Draft	0.00	552.70	DFT0000113
01067	STATE OF CALIFORNIA	05/15/2018	Bank Draft	0.00	987.92	DFT0000114
00645	INTERNAL REVENUE SERVICE	05/15/2018	Bank Draft	0.00	1,321.78	DFT0000115
01067	STATE OF CALIFORNIA	05/15/2018	Bank Draft	0.00	37.51	DFT0000116
00645	INTERNAL REVENUE SERVICE	05/15/2018	Bank Draft	0.00	3,595.39	DFT0000117
01067	STATE OF CALIFORNIA	05/15/2018	Bank Draft	0.00	404.65	DFT0000118
00862	P.E.R.S.	05/15/2018	Bank Draft	0.00	10.96	DFT0000119
00862	P.E.R.S.	05/15/2018	Bank Draft	0.00	15.99	DFT0000120
00862	P.E.R.S.	05/15/2018	Bank Draft	0.00	0.98	DFT0000123
00862	P.E.R.S.	05/15/2018	Bank Draft	0.00	1.02	DFT0000124
01067	STATE OF CALIFORNIA	05/15/2018	Bank Draft	0.00	0.65	DFT0000125
00645	INTERNAL REVENUE SERVICE	05/15/2018	Bank Draft	0.00	4.44	DFT0000126
00645	INTERNAL REVENUE SERVICE	05/15/2018	Bank Draft	0.00	1.76	DFT0000127
01067	STATE OF CALIFORNIA	05/15/2018	Bank Draft	0.00	1.38	DFT0000128

Bank Code Payable Bank Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	95	63	0.00	296,938.21
Manual Checks	1	1	0.00	284.70
Voided Checks	0	1	0.00	-900.00
Bank Drafts	19	19	0.00	14,811.63
EFT's	0	0	0.00	0.00
	115	84	0.00	311,134.54

All Bank Codes Check Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	95	63	0.00	296,938.21
Manual Checks	1	1	0.00	284.70
Voided Checks	0	1	0.00	-900.00
Bank Drafts	19	19	0.00	14,811.63
EFT's	0	0	0.00	0.00
	115	84	0.00	311,134.54

Fund Summary

Fund	Name	Period	Amount
999	POOLED CASH/CONSOLIDATED CASH	5/2018	311,134.54
			311,134.54



CITY COUNCIL AGENDA ITEM NO. 3.3 SECTION 3: CONSENT CALENDAR

Meeting Date: May 29, 2018
Subject: Adopt Ordinance No. 2018-01, Amending Chapters 2.12 and 2.14 of the Hughson Municipal Code Concerning Number of Commissioners, the Method of Appointment, and Organization of the Planning Commission and the Parks, Recreation and Entertainment Commission.
Presented By: Daniel J. Schroeder, City Attorney
Susana Diaz, Management Analyst/Deputy City Clerk

Approved By: _____

Staff Recommendation:

Adopt Ordinance No. 2018-01, amending Section 2.12 and 2.14 of the Hughson Municipal Code concerning Number of Commissioners, the Method of Appointment, and Organization of the Planning Commission and the Parks, Recreation and Entertainment Commission.

Background and Overview:

The City of Hughson Municipal Code Chapters 2.12 and 2.14 currently provide procedures for the appointment of Planning Commissioners and Parks, Recreation & Entertainment Commissioners. Opinions issued by the State of California Attorney General have clarified the powers of an elected Mayor, pursuant to California Government Code section 40605. To conform to those Attorney General opinions the City desires to amend Chapters 2.12 and 2.14 as well as make other amendments to current procedures.

Discussion:

As a result of the opinions issued by the Attorney General of the State of California, City staff reviewed the administration of the Planning Commission and the Parks, Recreation & Entertainment Commission to determine which policies might be in conflict with the opinions of the Attorney General of the State of California and how to amend any portions of the ordinance as necessary to comply. City staff found that the existing policies would not comply with the Attorney General's opinions.

Taking a Look at the City of Hughson Municipal Code

Ordinance Amendment – Chapter 2.12 – Administration and Personnel

There are several components of the Commission's procedures requiring amendments such as establishment, removal, vacancies, meeting procedures, and organization. Below are the proposed amendments according to the opinions of the State of California Attorney General:

Establishment

"The Planning Commission shall consist of five members who shall be appointed by the *mayor*, with the approval of three affirmative votes of the city council."

Removal

"Members of the planning commission are subject to removal by the *mayor*, with the approval of three affirmative votes of the city council."

Vacancies

"Any vacancies in the commission shall be filled by the *mayor*, subject to the approval of three affirmative votes of the city council."

Meeting Procedures

All planning commission meetings shall be governed as follows:

- A. "All regular and special meetings of the commission shall be noticed and agendized in accordance with California Government Code Sections 54950 and following, as they now exist now or may be amended."
- B. A quorum consists of at least three commissioners.
- C. An affirmative vote of at least three commissioners shall be necessary for any actions.
- D. Each commissioner, including the chair, shall have one vote, and each commissioner, including the chair, may initiate or second motions.
- E. All actions of the commission shall be by minute action, and roll call vote."

Organization

"Immediately following their appointment and thereafter as soon as practicable following the first day of January of each year, the planning commission shall meet, organize, and elect one of its members to serve as the presiding officer, to be known as chairperson, to serve at the pleasure of the commission. It shall also elect a vice-chairperson from its membership. The secretary of the commission shall be the planning director or his or her designee. In addition, the commission shall immediately adopt, and later may change or alter, rules and regulations of organization and procedure consistent with the city ordinances and state laws. The commissions shall

keep written records of its proceedings which shall be open at all times to public inspection.”

Ordinance Amendment – Chapter 2.14 – Administration and Personnel

The proposed amendments according to the opinions of the State of California Attorney General are as follows:

Organization

“Immediately following their appointment and thereafter as soon as practicable following the first day of January of each year, the commission shall meet, organize, and elect one of its members to serve as the presiding officer, to be known as chairperson, to serve at the pleasure of the commission. It shall also elect a vice-chairperson from its membership. The secretary of the commission shall be the planning director or his or her designee. In addition, the commission shall immediately adopt, and later may change or alter, rules and regulations of organization and procedure consistent with the city ordinances and state laws. The commissions shall keep written records of its proceedings which shall be open at all times to public inspection.”

City staff is recommending this item to adjust the policies governing the Planning Commission and the Parks, Recreation & Entertainment Commissions based on the opinions of the State of California Attorney General.

Fiscal Impact:

There is no significant fiscal impact associated with the approval of the ordinance amendments.

CITY OF HUGHSON
CITY COUNCIL
ORDINANCE NO. 2018- 01

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUGHSON,
AMENDING CHAPTERS 2.12 AND 2.14 OF THE
HUGHSON MUNICIPAL CODE CONCERNING NUMBER OF
COMMISSIONERS, THE METHOD OF APPOINTMENT, AND
ORGANIZATION OF THE PLANNING COMMISSION AND THE PARKS,
RECREATION AND ENTERTAINMENT COMMISSION**

WHEREAS, the City of Hughson Municipal Code Chapters 2.12 and 2.14 currently provide procedures for the appointment of Planning Commissioners and Parks and Recreation Commissioners; and

WHEREAS, opinions issued by the Attorney General of the State of California have clarified the powers of an elected Mayor, pursuant to California Government Code section 40605; and

WHEREAS, the City desires to amend Chapters 2.12 and 2.14 to conform to those Attorney General opinions as well as make other amendments as contained herein;

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

Section 1 Section 2.12.010 of the Hughson Municipal Code is amended to read in full as follows

“2.12.010 Established.

The city planning commission is established. Except as otherwise provided in HMC 2.12.050, the commission shall consist of five members who shall be appointed by the mayor, with the approval of three affirmative votes of the city council.”

Section 2 Section 2.12.040 of the Hughson Municipal Code is amended to read in full as follows:

“2.12.040 Removal.

Members of the planning commission are subject to removal by the mayor, with the approval of three affirmative votes of the city council.”

Section 3 Section 2.12.050 of the Hughson Municipal Code is amended to read in full as follows:

“2.12.050 Vacancy and filling vacancies.

Any vacancies in the commission, shall, subject to the notice requirements of Government Code Section 54974, be filled by the mayor, subject to the approval of

three affirmative votes of the city council; provided, however, that the council may, by the affirmative vote of a majority of the council, decline to fill any vacancy arising after May 14, 1981, provided only that the number of positions on the commission which are not vacant is not less than five. In deciding which vacancies not to fill, if any, the council shall give consideration to the date of expiration of the term of that position so that the number of new terms commencing on each January 1st which are to be filled shall remain as equal as possible. Upon a vacancy occurring, leaving an unexpired portion of a term, any appointment to fill the vacancy shall be for the unexpired portion of the term. If a member of the commission absents himself from two regular meetings of the commission within a period of 12 calendar months, unless by prior permission of the commission expressed in its official minutes or misses three consecutive meetings without prior approval of the city council, his or her office may be declared vacant by the city council. If a commissioner is convicted of a crime involving moral turpitude or ceases to be a qualified elector of the city, his or her office shall become vacant and shall be so declared by the city council.”

Section 4 Section 2.12.070 of the Hughson Municipal Code is amended to read in full as follows:

“2.12.070 Meeting Procedure.

All planning commission meetings shall be governed as follows:

- A. All regular and special meetings of the commission shall be noticed and agendized in accordance with California Government Code Sections 54950 and following, as they now exist now or may be amended.
- B. A quorum consists of at least three commissioners.
- C. An affirmative vote of at least three commissioners shall be necessary for any actions.
- D. Each commissioner, including the chair, shall have one vote, and each commissioner, including the chair, may initiate or second motions.
- E. All actions of the commission shall be by minute action, and roll call vote.”

Section 5 Section 2.12.090 of the Hughson Municipal Code is amended to read in full as follows:

“2.12.090 Organization.

Immediately following their appointment and thereafter as soon as practicable following the first day of January of each year, the planning commission shall meet, organize, and elect one of its members to serve as the presiding officer, to be known as chairperson, to serve at the pleasure of the commission. It shall also elect a vice-chairperson from its membership. The secretary of the commission shall be the planning director or his or her designee. In addition, the commission shall immediately adopt, and later may change or alter, rules and regulations of organization and procedure consistent with the city ordinances and state laws. The

commissions shall keep written records of its proceedings which shall be open at all times to public inspection.”

Section 6 The definition of “Department” in Section 2.14.020 of the Hughson Municipal Code is amended to read in full as follows:

““Department” shall mean the city department responsible for parks, recreation, and entertainment.”

Section 7 Subsection (C) of Section 2.14.030 of the Hughson Municipal Code is amended to read in full as follows:

“C. Members of the commission shall be appointed by the mayor with the approval of three affirmative votes of the city council.”

Section 8 Subsection (B) of Section 2.14.040 of the Hughson Municipal Code is amended to read in full as follows:

“B. Should a vacancy occur on the commission for any reason, including expiration of terms, the vacancy shall be filled by appointment by the mayor, with the approval of three affirmative votes of the city council. Except in the case of a vacancy occurring due to expiration of a term, appointments to fill vacancies shall only be for the balance of the unexpired term of the vacant portion.”

Section 9 Subsection (A) of Section 2.14.050 of the Hughson Municipal Code is amended to read in full as follows:

“A. The commissioners serve at the will of the mayor and may be removed at any time by the mayor, with the approval of three affirmative votes of the city council.”

Section 10 Section 2.14.080 of the Hughson Municipal Code is amended to read in full as follows:

“2.14.080 Organization.

Immediately following their appointment and thereafter as soon as practicable following the first day of January of each year, the commission shall meet, organize, and elect one of its members to serve as the presiding officer, to be known as chairperson, to serve at the pleasure of the commission. It shall also elect a vice-chairperson from its membership. The secretary of the commission shall be the planning director or his or her designee. In addition, the commission shall immediately adopt, and later may change or alter, rules and regulations of organization and procedure consistent with the city ordinances and state laws. The commissions shall keep written records of its proceedings which shall be open at all times to public inspection.”

Section 11 If any provision of this Ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or

applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the validity of any particular portion thereof.

Section 12 This ordinance is not intended to 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 13 Within fifteen (15) days after its final passage, the City Clerk shall cause this Ordinance to be published in full in accordance with California Government Code section 36933.

Section 14 This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

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 _____, 2018, and by a vote of the Council members present, further reading was waived.

On motion of Councilperson _____, seconded by _____, the foregoing Ordinance was passed by the City Council of the City of Hughson at a regular meeting held on _____, 2018, by the following votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

JERAMY YOUNG, Mayor

ATTEST:

SUSANA DIAZ, Deputy City Clerk



CITY COUNCIL AGENDA ITEM NO. 3.4 SECTION 3: CONSENT CALENDAR

Meeting Date: May 29, 2018
Subject: Adopt Ordinance No. 2018-02, Amending Chapters 1.17,
Establishing an Administrative Appeals Board
Presented By: Daniel J. Schroeder, City Attorney

Approved By: _____

Staff Recommendation:

Adopt Ordinance No. 2018-02, amending Section 1.17, establishing an Administrative Appeals Board.

Background and Overview:

In 2006, the City Council of the City of Hughson adopted Ordinance No. 06-11, which added Chapter 1.17 to the City of Hughson Municipal Code to provide for the administrative enforcement of violations of the Hughson Municipal Code and applicable state codes.

The Building Code mandates that every City establish a process for hearing and deciding appeals. A recent appeals court ruled that the process must include that appeals of any code enforcement violations be heard by either an appointed appeals board, an entity created to hear appeals (e.g. a civil service commission), or the city council. In interpreting state law, the court of appeals concluded that appeals before a single hearing officer violated state law. Currently, Chapter 1.17 of the Hughson Municipal Code provides for appeals before a "hearing officer" and not an appeals board. The proposed ordinance will amend Chapter 1.17 by removing appeals to hearing officers and creating an "appeals board" appointed by the City Council by resolution that would be responsible for presiding over administrative appeals hearings.

Discussion:

Cities throughout the state have widely used an appeals officer procedure to hear appeals of code enforcement matters. The City of Hughson's ordinance currently provides for use of a hearing officer in administrative appeals. In light of the recent appeals court decision, the City Attorney, together with City staff, recommends that the Chapter 1.17 of the Hughson Municipal Code be amended to replace appeals of code enforcement violations by hearing officers with an appeals board appointed by

the City Council. The proposed ordinance accomplishes this by establishing an administrative Appeals Board, defining it, to replace appeals to hearing officers by simply replacing "Hearing Officer" with "Appeals Board," providing a definition of "Appeals Board" as well as minor revisions for consistency purposes. The proposed ordinance authorizes the City Council to appoint five (5) members to the Appeals Board by resolution. The proposed ordinance will bring the City's ordinance into compliance with state law.

City staff is recommending this item to adjust the policies governing the procedures for hearing administrative appeals by establishing an independent "Appeals Board" be introduced and the first reading be waived. City staff will be bringing a resolution to the City Council at the May 29, 2018 regular meeting recommending that the members of the Hughson Planning Commission be appointed to the Appeals Board since appeals of code violations are very infrequent.

Fiscal Impact:

There is no significant fiscal impact associated with the approval of the ordinance amendments.

HUGHSON CITY COUNCIL
CITY COUNCIL
ORDINANCE NO. 2018-02

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUGHSON
AMENDING CHAPTER 1.17 OF THE HUGHSON MUNICIPAL CODE
ESTABLISHING AN ADMINISTRATIVE APPEALS BOARD**

WHEREAS, in 2006, the City Council of the City of Hughson adopted Ordinance No. 06-11, which added Chapter 1.17 to the City of Hughson Municipal Code to provide for the administrative enforcement of violations of the Hughson Municipal Code and applicable state codes; and

WHEREAS, the City Council desires to amend Chapter 1.17 to create an administrative appeals board responsible for all administrative hearings in Chapter 1.17;

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

Section 1 Chapter 1.17.020.C-O, of the Hughson Municipal Code is amended to read in full as follows:

C. “Administrative Order” means an order issued by the Appeals Board after a hearing, which requires a Responsible Party to correct violations; abate a public nuisance or to pay administrative fines, civil penalties and/or administrative costs; authorizes the City to abate a public nuisance, assess a Code Enforcement Lien, or to take any other action as authorized or required by this Code, the state codes and/or applicable Uniform Codes.

D. “Appeals Board” means the board of five (5) people appointed by the City Council by resolution responsible for presiding over administrative hearings conducted under this Code. A quorum of three (3) board members is required to hear an appeal.

E. “Assessment Lien” or “Code Enforcement Lien” means a lien recorded with the Stanislaus County Recorder’s Office for the purposes of collecting outstanding administrative citation fines, civil penalties, and administrative costs imposed as part of a cost recovery for an administrative or judicial code enforcement action.

F. “Building” means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, or property.

G. "Building Inspector" means that person hired or appointed by the City to determine compliance with all adopted building codes.

H. "City" means the area within the territorial city limits of the City of Hughson and such territory outside this City, over which the City has jurisdiction or control by virtue of any Constitutional or general law provisions, by contract, or any law. "City" shall also mean the City Council, the City Manager, or any City Official, Department, or employee authorized to act on behalf of the City.

I. "City Manager" means the appointed official of the City of Hughson who occupies the position of Chief Administrative Officer of the City.

J. "Code" means the City of Hughson Municipal Code, unless otherwise specified.

K. "Code Enforcement Official" means a specially designated City Code Enforcement Officer or any City employee authorized to enforce any provision of this Code, state codes, or applicable Uniform Codes within the City.

L. "Council" means the City Council of the City of Hughson.

M. "County" means the County of Stanislaus.

N. "Department" means any department of the City, including, but not limited to, Public Works, Parks and Recreation, Administration, Planning and Building, Finance, or any subsequently established City department.

O. "Department Head" shall include each of the directors or heads of the City Departments and shall also include the Police Chief, the City Engineer and their designated agents or representatives within those respective jurisdictions who are charged with the responsibility of enforcing of any provision of this Code."

Section 2 Chapter 1.17.020.S, of the Hughson Municipal Code is amended to read in full as follows:

"S. "Nuisance Abatement Order" means a written Order issued by the Appeals Board ordering a Property Owner or Responsible Party to abate a nuisance within a certain time, and if compliance is not achieved within the time allotted, authorizing the City to abate the nuisance at the Property Owner or Responsible Party's expense, including administrative costs."

Section 3 Chapter 1.17.210 of the Hughson Municipal Code is amended to read in full as follows:

“1.17.210 Lien or Special Assessment Against Real Property Authorized.

“Whenever the amount of any administrative penalty and/or administrative cost imposed in connection with real property pursuant to this Chapter has not been satisfied in full within ninety (90) days after the issuance of an Order by the Appeals Board ordering the payment of those fines, or an Order, Notice, Citation or other official directive to pay such fines issued by a Code Enforcement Official has been disregarded by the Responsible Party or has not been challenged by a timely writ of mandate, this obligation may constitute a special assessment against the real property on which the violation occurred, and upon confirmation and recordation with the office of the county recorder as a Notice of Lien, shall constitute a lien on said property in the amount of the assessment.”

Section 4 Chapter 1.17.220.B and F of the Hughson Municipal Code are amended to read in full as follows:

“B. The City Clerk or City Attorney shall then schedule a hearing before the Appeals Board and issue a Notice of Hearing pursuant to Section 1.17.330 not less than fifteen (15) days prior to the time set for the hearing. Parties served with the Notice of Hearing must respond to the Notice of Hearing, indicating their intent to appear at the hearing, no less than five (5) days prior to the time set for the hearing.”

...

“F. If a hearing is held under this section, the Appeals Board, after the hearing, shall issue an Order authorizing or modifying the lien and directing the recording thereof, or dismissing the lien.”

Section 5 Chapter 1.17.240 of the Hughson Municipal Code is amended to read in full as follows:

“1.17.240 Appeal Process

Any person directly aggrieved by an administrative decision of the Appeals Board regarding the imposition of a lien or special assessment may obtain review of the administrative decision by filing a petition for review with the Superior Court of Stanislaus County”

Section 6 Chapter 1.17.270.B of the Hughson Municipal Code is amended to read in full as follows:

“B. Administrative Citation Reviews are conducted by City personnel who are qualified, by either experience or training, to conduct the review. The Administrative Citation Review may be conducted by any City employee who is not the Code Enforcement Official that issued the Administrative Citation. In the event that there is no qualified City employee another qualified individual appointed by the City Manager or City Attorney may conduct the review.”

Section 7 Chapter 1.17.310.A, B and D of the Hughson Municipal Code is amended to read in full as follows:

“A. An Administrative Hearing is a formal hearing where the City and a Responsible Party present their respective cases and have matters in controversy that relate to code violations decided by the Appeals Board.

B. The Appeals Board is an impartial third party board with the training or expertise to conduct an Administrative Hearing. Qualifications and requirements pertaining to the Appeals Board are set forth in Section 1.17.410 *et seq.* of this Chapter.”

. . .

“D. At the conclusion of the Administrative Hearing, the Appeals Board will consider all relevant evidence presented at the hearing by the City and Responsible Party and will render a decision on the matter in controversy. The Appeal’s Board decision is final and may only be appealed in a court of law.”

Section 8 Chapter 1.17.320.C-E of the Hughson Municipal Code is amended to read in full as follows:

“C. If City staff submits an additional written report concerning the Administrative Citation to the Appeals Board for consideration at the review, then a copy of this report shall also be provided to the party requesting the hearing at least three (3) business days prior to the date of the hearing.

D. The recipient of an Administrative Citation may, at the time that he or she files the Request for Administrative Hearing form, waive the right to a formal hearing and elect instead to have the Administrative Hearing be based exclusively on written materials submitted to the Appeals Board. The recipient must submit all written materials within fifteen (15) days after he or she makes this election.

E. Requests made by applicants/respondents for rescheduling of a formal hearing will be accommodated by the City provided that they are made at least five (5) days before the scheduled hearing, and for good cause. Requests for rescheduling after this time frame may be considered by the City if for good cause which is independently substantiated (illness, or emergency situations). Requests for rescheduling made within twenty-four (24) hours of the scheduled hearing will be denied and referred to the Appeals Board at the scheduled hearing.”

Section 9 Chapter 1.17.330.B of the Hughson Municipal Code is amended to read in full as follows:

“B. The Notice shall contain the date, time and place at which the hearing shall be conducted by the Appeals Board.”

Section 10 Chapter 1.17.340.A-G of the Hughson Municipal Code is amended to read in full as follows:

“A. No hearing to contest an Administrative Citation before the Appeals Board shall be held unless the fine has been deposited in advance or an Advance Deposit Hardship Waiver has been obtained in accordance with Section 1.17.290.

B. A hearing before the Appeals Board shall be set for a date that is not less than five (5) business days and not more than thirty (30) calendar days from the date that the request for hearing is filed in accordance with the provisions of this Chapter.

C. At the hearing, the party contesting the Administrative Citation and the City shall be given the opportunity to present sworn testimony and/or written evidence on the matter to the Appeals Board.

D. The Administrative Citation and any additional report submitted by City staff shall constitute prima facie evidence of the respective facts contained in those documents.

E. The Appeals Board has the authority to compel the attendance of property owners, Responsible Parties, and/or other witnesses at the hearing, to examine them under oath, and to compel them to produce all relevant evidence relating to the matter.

F. The Hearing need not be conducted according to the technical rules of local, state or federal law relating to evidence and witnesses, except as provided in this Section. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the

existence of any common law or statutory rule which might make improper the admission of the evidence over objections in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions or no objection was made to this use of hearsay evidence prior to the close of the hearing before the Appeals Board.

G. The Appeals Board may continue the hearing and request additional information from the City Official or the recipient of the Administrative Citation prior to issuing a written decision.”

Section 11 Chapter 1.17.360 of the Hughson Municipal Code is amended to read in full as follows:

“1.17.360 The Appeals Board’s Decision

“After considering all of the testimony and evidence submitted at the hearing, the Appeals Board shall issue a written decision to uphold, modify, or cancel the Administrative Citation and shall list in the decision the reasons for that decision. The decision of the Appeals Board shall be issued within thirty (30) days after the conclusion of the hearing, or the submission of all written materials if no hearing is requested, and the Appeals Board’s decision shall be final.

A. If the Appeals Board determines that the Administrative Citation should be upheld, then the fine amount on deposit with the City shall be retained by the City.

B. If the Appeals Board determines that the Administrative Citation should be upheld, and the fine has not been deposited pursuant to an Advance Deposit Hardship Waiver, the Appeals Board shall set forth in the decision a schedule on which the fine must be paid.

C. If the Appeals Board determines that the Administrative Citation should not be upheld or should be modified, and the fine was deposited with the City, then the City shall promptly refund the amount of the deposited fine or the amount due if the citation is modified. Unless the City returns the fine within thirty (30) days after it was deposited, this refund shall also include interest at the average rate earned on the City’s portfolio for the period of time that the fine amount was held by the City.

D. The recipient of the Administrative Citation shall be served with a copy of the Appeals Board’s written decision in the manner provided in Section 1.17.090.”

Section 12 Chapter 1.17.370 of the Hughson Municipal Code is amended to read in full as follows:

“1.17.370 Hearing -- Findings and Order

- A. The Appeals Board shall issue written findings on each code violation set forth in the Administrative Citation. The findings shall be supported by evidence received at the hearing.
- B. If the Appeals Board finds, by a preponderance of the evidence, that a code violation has occurred and that the violation was not corrected within the time period specified in the Administrative Citation, the Appeals Board shall issue an Administrative Order compelling the Responsible Party to correct the violation and pay all related fines, costs, or penalties.
- C. If the Appeals Board finds that no violation has occurred or that the violation was corrected within the time period specified in the Administrative Citation, the Appeals Board shall issue a finding of those facts.”

Section 13 Chapter 1.17.380 of the Hughson Municipal Code is amended to read in full as follows:

“1.17.380 Administrative Costs

- A. The Appeals Board may assess administrative costs against the Responsible Party when the Appeals Board determines that a code violation has occurred, and that compliance was not achieved.
- B. Administrative costs may include any and all costs incurred by the City (both direct and indirect costs) in investigating and commencing administrative proceedings for the violation as well as any and all costs incurred by the City in connection with the hearing before the Appeals Board, including but not limited to costs the City incurred in preparation for the Hearing and for participating in the Hearing itself and the costs of the City to conduct the Hearing. Failure to pay administrative costs in the amount specified in the Appeals Board’s Administrative Order, on or before the date specified in that Order, shall constitute a violation of this Code punishable as an infraction and shall further be subject to collection and late charges as otherwise provided for administrative penalties herein.”

Section 14 Chapter 1.17.390 of the Hughson Municipal Code is amended to read in full as follows:

“Failure to comply with the Administrative Order, including failure to pay the assessed administrative penalties and pay administrative costs

specified in the Administrative Order of the Appeals Board may be enforced as:

- A. A personal obligation of the violator; and/or
- B. A lien or special assessment upon the real property, if the violation is in connection with real property. The lien or special assessment shall remain in effect until all of the administrative penalties, interest and administrative costs are paid in full.

Failure to comply with an Administrative Order may also be punished as a misdemeanor pursuant to Chapter 1.12 of this Code.”

Section 15 Chapter 1.17.400 of the Hughson Municipal Code is amended to read in full as follows:

“Any person directly aggrieved by an administrative decision of the Appeals Board regarding an Administrative Citation or a code violation issue, or the imposition of a lien may obtain review of the administrative decision by filing a petition for review with the Superior Court of Stanislaus County.”

Section 16 Article V Chapters 1.17.410 through 1.17.440 of the Hughson Municipal Code are amended to read in full as follows:

“ARTICLE V. APPEALS BOARD

1.17.410 Appeals Board Generally

- A. The Planning Commission, set forth in Section 2.12.010 *et seq.* of Chapter 2.12, shall act as the Appeals Board for Administrative Hearings under this Code. The Appeals Board shall be qualified by experience or training to conduct the hearing and shall be selected in accordance with Section 2.12.010 *et seq.* of Chapter 2.12.
- B. The employment, performance evaluation, compensation and benefits of the Appeals Board shall not be directly nor indirectly conditioned upon the amount of Administrative Citation fines upheld by the Appeals Board.

“1.17.420 Powers of Appeals Board

The Appeals Board has the authority to conduct and direct Administrative Hearings and to make findings, and issue Administrative Orders which are legally binding on both the City and the appellant/respondent.

The Appeals Board may:

- A. Maintain authority over the case as necessary to ensure resolution and due process;
- B. Require the posting of a performance bond or some other equivalent means of guarantee that compliance will occur, if necessary;
- C. Administer oaths;
- D. Conduct pre-hearing conferences to deal with such matters as exploration of a settlement, preparation of stipulations, clarification of issues, and other issues; and
- E. Upon the request of a party to the hearing, subpoena both witnesses and documents.

“1.17.430 Disqualification of Appeals Board Member

Any person designated to serve as an Appeals Board member is subject to disqualification for bias, prejudice, interest, or for any other reasons for which a judge may be disqualified from presiding in a court of law.

“1.17.440 Parties’ Right to Object to Appointment of Appeals Board Member

- A. Any party may petition the City to disqualify a designated Appeals Board member after receipt of a notice indicating the identities of the Appeals Board members or discovering facts which establish grounds for a disqualification. The petition must be filed immediately with the City Clerk upon discovery of such facts.
- B. The City Manager or City Attorney shall determine whether to grant the petition for disqualification. A written statement of the facts and reasons for the determination shall be incorporated into the administrative record for the hearing.
- C. If a substitute Appeals Board member is required due to disqualification or unavailability, a substitute shall be appointed by the City Manager or City Attorney in accordance with these rules and regulations.”

Section 17 Chapter 1.17.550.A of the Hughson Municipal Code is amended to read in full as follows:

- “A. If the City determines that the public nuisance has not ceased or been abated on or before the compliance date specified in the Nuisance Cease and Desist Notice, or that the public nuisance has recurred prior to

the compliance date, the City Attorney shall advise the City Clerk's Office to set the matter for a Nuisance Abatement Hearing before the Appeals Board."

Section 18 Chapter 1.17.560 of the Hughson Municipal Code is amended to read in full as follows:

"1.17.560 Findings and Order

A. Within a reasonable period of time following the conclusion of the Nuisance Abatement Hearing, the Appeals Board shall make findings and issue its written determination in connection with the Nuisance Cease and Desist Order.

B. The findings made by the Appeals Board shall be supported by the evidence received at the hearing or otherwise submitted to the Appeals Board.

C. If the Appeals Board finds by a preponderance of the evidence that both of the following exist, then the Appeals Board shall issue a Nuisance Abatement Order, directing the Responsible Party or Property Owner to abate the nuisance within the time allotted ("Compliance Date"), and authorizing the City to abate the nuisance at the Responsible Party or Property Owner's expense if the nuisance is not abated by the Compliance Date:

1. The public nuisance occurred or recurred at or on the subject property after the Compliance Date specified in the Nuisance Abatement Cease and Desist Order; and

2. The party subject to that Nuisance Abatement Cease and Desist Order did not take all objectively reasonable steps to comply with that Order prior to the Compliance Date, or there was no situation or condition beyond the control of the party subject to the Nuisance Cease and Desist Notice that prevented compliance by the Compliance Date.

D. If the Appeals Board finds that compliance was achieved by the Compliance Date, or that no nuisance condition existed, no further action will be taken, and the Nuisance Cease and Desist Notice issued by the City will be dismissed."

Section 19 Chapter 1.17.570.A of the Hughson Municipal Code is amended to read in full as follows:

"A. If the Appeals Board determines that both of the elements set forth

in Section 1.17.560(C) exist, then the Appeals Board shall issue a Nuisance Abatement Order, which may impose any or all of the following:

1. An order to abate the nuisance within a set frame of time (“Compliance Date”) and if the nuisance is not abated by the Compliance Date, authorization for the City to abate the nuisance at the Responsible Party or Property Owner’s expense, including all fines and administrative costs associated with the nuisance abatement;
2. An order to discontinue the use of or certain activity at the subject property, temporarily or permanently, as needed to protect the health, safety or welfare of persons or property on or near the subject property or to eliminate, lessen or prevent the continuation, exacerbation or reoccurrence of the detrimental impacts created by the public nuisance;
3. An order imposing conditions on the continued use of or certain activity at the subject property, as needed to protect the health, safety or welfare of persons or property on or near the subject property or to eliminate, lessen or prevent the continuation, exacerbation or recurrence of the detrimental impacts created by the nuisance;
4. Where the implementation of conditions requires a development permit or an amendment to an existing development permit, an order conditioned upon the property owner applying for and obtaining the development permit or modification of an existing development permit applicable to the subject property;
5. An order to pay penalties of a certain amount to the City pursuant to Section 1.17.140; and
6. An order to pay reimbursement to the City for the City’s administrative costs incurred as a result of the public nuisance and/or the public nuisance abatement procedure pursuant to Section 1.17.180.”

Section 20 Chapter 1.17.580.D of the Hughson Municipal Code is amended to read in full as follows:

“D. The City shall schedule a confirmation of costs hearing before the Appeals Board, unless waived in writing by all Responsible Parties.”

Section 21 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 22 If any provision of this Ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the validity of any particular portion thereof.

Section 23 The City Attorney shall prepare a summary of this Ordinance, City Clerk publish the summary in accordance with Section 36933 of the Government Code, and within fifteen (15) days after its final passage, the City Clerk shall cause a summary of this Ordinance 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 _____, 2018, 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 Hughson City Council at a regular meeting thereof held on _____, 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

JERAMY YOUNG, Mayor

ATTEST:

SUSANA DIAZ, Deputy City Clerk



CITY OF HUGHSON AGENDA ITEM NO. 3.5

SECTION 3: CONSENT CALENDAR

Meeting Date: May 29, 2018

Subject: Consideration of Resolution No. 2018-21, Amendment and Biennial Review of the City of Hughson's Conflict of Interest Code.

Enclosures: Resolution No. 2018-21
Attachment "A" Terms of the Code
Attachment "B" Positions Designated to Report
Attachment "C" Disclosure Categories
Attachment "D" Place of Filing

Presented By: Susana Diaz, Management Analyst/Deputy City Clerk

Approved By: _____

Staff Recommendation:

Adopt Resolution No. 2018-21, amending the City of Hughson's Conflict of Interest Code and add new positions, revise the titles of existing positions, delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions, and amend the "terms of the code".

Background and Overview:

The Political Reform Act (Government Code Sections 81000-91014) requires every local governmental agency to review its Conflict of Interest Code biennially. A notice must be submitted to the reviewing body indicating whether or not an amendment is necessary. The code reviewing body for the City of Hughson is the City Council. The Political Reform Act requires governmental officials and certain employees to publicly disclose their personal assets and income. They are also restricted from participating in decisions which may affect their personal economic interests. The Fair Political Practices Commission (FPPC) is the state agency responsible for issuing the State of Economic Interest, Form 700, and for interpreting the law's provisions. The Form 700 is the document that those subject to the Conflict of Interest Code are required to fill out annually and identify their financial interests.

Persons holding the position of Mayor, City Councilmember, Planning Commissioner, City Manager, City Attorney, and City Treasurer are required to annually file a Form 700 pursuant to Government Code §87200 directly with the

FPPC. In addition, local government agencies must adopt a local Conflict of Interest Code (Code). This Code must designate positions that make or participate in the making of decisions which may foreseeably have a material effect on any financial interest. The Code must be reviewed biennially to determine if amendments are required.

The Hughson City Council last amended the Conflict of Interest Code on October 10, 2016 with the adoption of Resolution No. 2016-35. On January 29, 2018, it was determined that an amendment to Hughson's Conflict of Interest Code was required due to the dissolution of the RDA Oversight Board Committee. City staff recommends updating the Code to comply with State law. Attached is the Resolution amending the Conflict of Interest Code for the City of Hughson. The Resolution designates City employee's disclosure categories as set forth in Government Code and is attached by reference in Exhibit "B".

Fiscal Impact:

There is no fiscal impact to the City associated with approval of this item. The City's Deputy City Clerk is responsible for ensuring the proper annual filing of the Form 700 by appropriate City officials as required and per the specified deadline.

CITY OF HUGHSON
CITY COUNCIL
RESOLUTION NO. 2018-21

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUGHSON
REVIEWING AND AMENDING THE CONFLICT OF INTEREST CODE FOR
DESIGNATED POSITIONS**

WHEREAS, the Hughson City Council adopted a Conflict of Interest Code pursuant to the Political Reform Act of 1974, Government Code Section 81000, et seq; and,

WHEREAS, the Hughson City Council last amended the Conflict of Interest Code on October 10, 2016 by adopting Resolution 2016-35; and,

WHEREAS, pursuant to Government Code Section 87306.5, each local government agency must review it's Conflict of Interest Code on a biennial basis and either amend the code or report that the Code is not in need of amendment; and,

WHEREAS, the City Council amends the Conflict of Interest Code adopted by Resolution 2018-21; and,

WHEREAS, Exhibit "B", listing the designated positions, is hereby amended to remove, change, and include the current designated positions; and

WHEREAS, the City of Hughson will continue to incorporate by reference Title 2, California Administrative Code Section 18730 and amendments to it, adopted by the Fair Political Practices Commission (FPPC), which will save time and money by minimizing the actions required of the Council to keep its code in conformity with the Reform Act.

NOW THEREFORE BE IT RESOLVED by the City Council for the City of Hughson as follows:

1. The terms of Title 2, California Administrative Code Section 18730 and any amendments to it duly adopted by the FPPC, along with attached "Exhibit "B" in which designated positions and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the City of Hughson.
2. Persons holding designated positions shall file Statements of Economic Interest, Form 700, pursuant to the Code with the City Clerk, who shall

be deemed the Filing Officer and who shall make the statements available to the public for inspection and reproduction.

PASSED AND ADOPTED by the City Council of the City of Hughson at its regular meeting held on this 29th day of May 2018 by the following roll call votes:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

JERAMY YOUNG, Mayor

ATTEST:

SUSANA DIAZ, Deputy City Clerk

ATTACHMENT A
CONFLICT OF INTEREST CODE FOR THE
CITY OF HUGHSON

The Political Reform Act, Government Code section 81000, et seq., requires each state and local government agency to adopt and promulgate a conflict of interest code. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs., Section 18730, which contains the terms of a standard conflict of interest code. It can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regs., Section 18730, and any amendments to it duly adopted by the Fair Political Practices commission, are hereby incorporated by reference and along with the attached Appendix consisting of this designated and disclosure categories are set forth, and the place of filing is specified, shall constitute the Conflict of Interest Code of the City of Hughson.

Designated employees shall file statements of economic interests with the agency. Upon receipt of the statements of the various designated members and employees, the designated agency shall make and retain a copy and forward the original of these statements to the place of filing, as indicated on Attachment D.

This disclosure category reads:

Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitations:

The City Manager may determine in writing that a particular consultant, although a “designated positions.” is hired to perform a range of duties that are limited in scope and thus is not required to comply with the disclosure requirements described in these categories. Such determination shall include a description of the Consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager shall forward a copy of this determination to the City Council. Nothing herein excuses any such consultant from any other provision of the Conflict of Interest Code

ATTACHMENT C
CONFLICT OF INTEREST CODE FOR THE
CITY OF HUGHSON

DISCLOSURE CATEGORIES FOR DESIGNATED EMPLOYEES

DEFINITION

"Unit" as used in this text means the particular department, board, committee, commission, office or other entity using the disclosure category.

DISCLOSURE CATEGORY

1. All investments and business positions in business, entities, sources of income and interests in real property.
2. Investments and business positions in business entities, and all sources of income.
3. Interests in real property.
4. Investments and business positions in business entities, and sources of income from "entities providing bids, supplies, services, vehicles, equipment or machinery, or engaged in construction, development, acquisition or sale of real property, or public works or other City-related projects, of the type used by the designated employee's unit.

ATTACHMENT D
CONFLICT OF INTEREST CODE FOR THE
CITY OF HUGHSON
PLACE OF FILING

PART I – DESIGNATED EMPLOYEES

Each employee filing a Form 700 – Annual Statement of Economic Interests shall file it with the City Clerk.

Where: Deputy City Clerk
City of Hughson
7018 Pine Street
Hughson, CA 95326

PART II – BOARDS, COMMITTEES AND COMMISSIONS

The City of Hughson Deputy City Clerk shall furnish to each designated member, upon their appointment and termination, a Form 700 – Annual Statement of Economic Interest and each completed form shall be filed with the Deputy City Clerk.

Where: Deputy City Clerk
City of Hughson
7018 Pine Street
Hughson, CA 95326

PART III – OFFICIALS LISTED IN GOVERNMENT CODE SECTION 87200

The City of Hughson Deputy City Clerk shall furnish the following public officials, upon their appointment and termination, a Form 700 – Annual Statement of Economic Interests: City Council Members, Mayor, Planning Commissioners, City Manager, City Attorney, City Treasurer, and/or Finance Director. The Clerk will retain a copy and originals will be forwarded to the FPPC.

Where: Deputy City Clerk
City of Hughson
7018 Pine Street
Hughson, CA 95326

These statements will be forwarded to the Fair Political Practices Commission (FPPC), 428 J. Street, Suite 620, Sacramento, CA 95814.



CITY OF HUGHSON AGENDA ITEM NO. 3.6 SECTION 3: CONSENT CALENDAR

Meeting Date: May 29, 2018
Subject: Consideration to Accept the Quarterly City of Hughson Legislative Report
Presented By: Raul L. Mendez, City Manager
Approved By: _____

Staff Recommendation:

Accept the Quarterly City of Hughson Legislative Report.

Background and Overview:

On March 24, 2014, the Hughson City Council adopted Resolution No. 2014-10, establishing the City of Hughson's Legislative Program. The Legislative Program contains General Principles (Home Rule, Annexation, Right of Way and Unfunded Mandates) and focuses on key policy areas: Environmental/Utilities and Public Works/Transportations/Telecommunications. The Legislative Program is intended to be a fluid document that is revisited periodically to enable the City Council and staff to react and respond when appropriate to legislative issues as they arise throughout the year in a timely manner. The document is made available to State and Federal elected representatives so that they are made aware of the issues that are important to Hughson and can advocate on those issues on the City's behalf. The City of Hughson's Legislative Program document is attached for reference.

Historically, the City of Hughson has conducted legislative advocacy through its work by designated members of the City Council with organizations such as the League of California Cities (LOCC) and the California Local Agency Formation Commission (CALAFCO). Due to limited staffing resources, this model has served the City of Hughson well. Occasionally, the City of Hughson is asked to consider taking positions of support or opposition on Federal and State legislation and such requests are handled on a case-by-case basis by the Hughson City Council through its regular or special meetings.

Under the current model, the City Manager and staff conduct the initial review of legislative requests. If determined to be consistent with the City's Legislative Program, they are further researched and then discussed with the Mayor and Mayor Pro Tem prior to bringing forward for consideration by the full City Council. Matters not brought forward due to a higher level of urgency are shared with the City Council in a quarterly legislative report by the City Manager after consulting with the Mayor

and Mayor Pro Tem on the appropriate action. This approach ensures that staffing resources are utilized wisely to only conduct extensive work and analysis on those legislative matters consistent with the adopted Hughson Legislative Program. Moreover, it ensures that City staff responds in a timely manner when appropriate.

The following is a summary of key legislative activity since the last reporting. City staff historically tries to prepare this report on a quarterly basis to keep the City Council and public informed of discussions and actions occurring at the Federal or State level.

State Budget

Governor Brown's May Revise Budget

Governor Jerry Brown held a press conference on Friday, May 11, 2018 to release his Revised Fiscal year 2018-2019 budget proposal for the fiscal year that begins July 1.

Known as the May Revise, the proposal includes \$137.6 billion in General Fund spending and a total spending amount of \$199.3 billion. Fiscal Year 2018–2019 marks the Governor's 16th and final budget and he expressed a desire to leave the state's finances in order as he completes his fourth term in office.

With revenues expected to come in higher than what the Governor projected in January, he continues to prioritize building reserves and one-time spending. He proposes to fully fund the Rainy Day reserve at \$13.8 billion by the end of Fiscal Year 2018–2019, with an additional \$3.2 billion into the state's traditional budget reserve. The May Revise allocates \$4 billion in new one-time spending to address some of California's most urgent needs.

In response to requests for additional funding to address homelessness, led by mayors of California's 11 largest cities and supported by the League, the Governor proposes an additional \$359 million in spending to address homelessness. He characterized this as a "bridge" to provide upfront funding before the state has revenues derived from a recent tax on various real estate transactions through last year's SB 2 (Atkins) and proceeds from a \$4 billion housing bond pending on the November ballot enacted by SB 3 (Beall). While the May Revise contains less funding than the proposals pending in the Legislature, it is encouraging to see the Governor willing to negotiate with the Legislature and local governments on this important issue.

The Governor is also proposing to end the legal uncertainty associated with the No Place Like Home program by asking voters to approve an amendment to Proposition 63, the Mental Health Services Act. The proposed ballot measure would ask voters to validate that funding from Proposition 63 can be used to fund a \$2 billion bond for permanent supportive housing for homeless individuals or those at risk of becoming homeless, who need mental health services.

The other one-time funding allocations in the May Revise are \$2 billion for deferred

maintenance on state infrastructure including courts, universities, state facilities and flood control; and \$312 million for mental health services.

During the press conference, the Governor expressed concern about the pending ballot measure to take away SB 1 transportation funds and also alluded to another proposal anticipated to be on the ballot that would create additional uncertainty for local governments (presumably the American Beverage Association and California Business Roundtable-sponsored measure that would significantly limit local tax and fee authority).

When asked about pensions, the Governor said that “the story is not over.” He stressed that there will be several developments in the next few years, including court decisions, that could make significant changes to the pension system. The Governor, who signed the Public Employees’ Pension Reform Act in 2012, noted that these reforms will have a greater impact each year as the workforce brings on new employees. The May Revise summary references the pressure from pensions on local governments. However, in the Governor’s remarks, he warned that the state is not in a position to bail out cities and counties on pension challenges.

Legislative Outlook

Through the League of California Cities Central Valley Division Representative, Stephen Qualls, City staff is kept abreast of key discussions at the State level. Key legislation/ballot measures of recent interest per the League advocacy efforts is as follows:

Current Action Items

AB 2812 (Limón) Office of Cloud Migration and Digital Innovation (Support)

AB 2812 would create the Office of Local Cloud Migration and Digital Innovation under the purview of the California Department of Technology (CDT).

AB 1912 (Rodriguez). Public Employees’ Retirement: Joint Powers Agreements: Liability (Oppose)

AB 1912 places substantial burdens and new unworkable requirements on cities by applying retroactive as well as prospective joint and several liability for all retirement related obligations to any current or former member of a JPA throughout its existence.

SB 1302 (Lara) Cannabis: Local Jurisdiction: Prohibitions on Delivery (Oppose)

SB 1302 would prohibit local jurisdictions from adopting or enforcing ordinances that would prohibit a cannabis licensee from delivering cannabis within or outside of the boundaries of that local jurisdiction.

2018 Statewide Ballot Measures

Transportation Protection: Proposition 69, June Ballot

The League supports this ballot measure that prohibits the Legislature from diverting new transportation funds for other purposes. It extends constitutional protections to new revenues generated by SB 1 that are not currently protected and guarantees that transportation funds can only be used for transportation improvement purposes.

SB 1 Repeal Effort: Signature gathering for November Ballot

The League opposes the effort to repeal SB 1. Signatures are being gathered for a November 2018 initiative that would repeal SB 1 and deprive communities of vital road safety and transportation improvement projects.

Housing Bond: November Ballot qualified

The League supports this measure that contains a \$4 billion general obligation bond to fund affordable housing programs and the veterans homeownership program (CalVet).

Parks and Water Bond: Proposition 68, June Ballot

The League supports this measure that contains a \$4 billion bond to address the state's most important water, parks and natural resource needs. Each city will receive per-capita funding of at least \$200,000 and be eligible to apply for millions of dollars in grants for parks and water infrastructure.

2018 League of California Cities Events

Legislative Action Day, Sacramento – April 18, 2018.

-The City Manager and Community Development Director joined the Central Valley Division Delegation at the event. Visited Assemblymember Health Flora and a staff member from Senator Tom Berryhill to discuss local issues.

City Attorney Spring Conference, San Diego – May 2-4, 2018.

-The City Attorney attended the annual conference and shared with the City Manager the major items of interest.

Mayors and Council Members Executive Forum/Advanced Leadership Workshops, Monterey – June 27-29, 2018.

Annual Conference and Expo, Long Beach – September 12-14, 2018.

Fiscal Impact:

Implementation of the City of Hughson's Legislative Program is managed by existing staff and through existing budgeted allocations.



CITY COUNCIL AGENDA ITEM NO. 5.1 SECTION 5: PUBLIC HEARING

Meeting Date: May 29, 2018
Subject: Introduce and Waive the First Reading of Ordinance No. 2018-03, Repealing Chapter 5.08 of the Hughson Municipal Code Concerning Cable Television Franchises and Restating Chapter 5.08 State Video Franchises Ordinance

Presented By: Daniel J. Schroeder, City Attorney

Approved By: _____

Staff Recommendation:

Introduce and waive the first reading of Ordinance No. 2018-03, Repealing Chapter 5.08 of the Hughson Municipal Code Concerning Cable Television Franchises and Restating Chapter 5.08 State Video Franchises Ordinance

Background and Overview:

In 2007, the legislature enacted the Digital Infrastructure and Video Competition Act of 2006 ("Digital Act") adding to the California Public Utilities Code section 5800 et seq. that limits a municipality's rights associated with cable franchise agreements. Prior to the Digital Act, the City of Hughson had the authority to regulate and enter into cable franchise agreements with one or more cable operators serving the City. The Digital Act eliminated a city's authority to negotiate with individual cable service/open-video systems providers for services in their local area. Instead, that Digital Act established the California Public Utilities Commission ("PUC") as the sole franchising authority permitted to issue franchises to cable/video service providers. However, the Digital Act did reserve to cities the right to charge a franchise fee equal to five percent (5%) of the franchisee's gross revenues. It also requires franchisees to maintain public, education, and governmental access ("PEG") channels.

The proposed ordinance will repeal the existing franchise ordinance in Chapter 5.08 and replace it with a new Chapter 5.08 consistent with the Digital Act.

Discussion:

Chapter 5.08 of the City of Hughson Municipal Code ("HMC") contains cable franchise regulations that predate the Digital Act. In accordance with the HMC, the last franchise agreement entered into was on May 12, 1997 with Sonic Cable

Television of Northern California which expired on May 11, 2012. The agreement was not renewed since the franchise authority rested no longer with the city but rather with the PUC pursuant to the Digital Act. As part of the City's ongoing updating of the HMC, this amendment is proposed to bring the HMC into alignment with the Digital Act by first repealing the existing cable franchise ordinance contained in Chapter 5.08 of the HMC and simultaneously enacting a new Chapter 5.08 establishing the following rights as allowed by the Digital Act:

1. Establishing a franchise fee requiring the holder of a State cable franchise providing cable service within the City to pay the City a franchise fee equal to five percent (5%) of its gross revenues on a quarterly basis.
2. Establishing a late payment charge at a rate per year equal to the highest prime lending rate, during the delinquency period, plus one percent (1%).
3. That State video franchise holders provide, at a minimum, three public, educational, and government ("PEG") channels for exclusive use by the City, or its designee, for provide public, educational, and governmental purposes as long as the City uses it for at least eight (8) hours per day, as measured on a quarterly basis.
4. The State video franchise holder shall pay to the City a PEG channel fee equal to one percent (1%) of its gross revenues.

City staff is recommending this item to bring the HMC into conformity with the Digital Act.

Fiscal Impact:

There is no significant fiscal impact associated with the approval of the ordinance amendments.

**CITY OF HUGHSON
CITY COUNCIL
ORDINANCE NO. 2018-03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUGHSON,
REPEALING CHAPTER 5.08 OF THE HUGHSON MUNICIPAL CODE
CONCERNING CABLE TELEVISION FRANCHISES AND RESTATING
CHAPTER 5.08 STATE VIDEO FRANCHISES ORDINANCE**

WHEREAS, the City of Hughson Municipal Code Chapters 5.08 currently authorizes the City to construct operate, maintain and reconstruct cable television systems within the City; and

WHEREAS, the California Public Utilities Code section 5800 *et seq.*, enacted in 2007, limited a municipality's rights associated with cable franchise agreements by designating the California Public Utilities Commission the sole franchising authority permitted to issue franchises to video service providers; and

WHEREAS, the City desires to repeal Chapters 5.08 and adopt a new Chapter 5.08 to conform with the Digital Infrastructure and Video Competition Act;

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

Section 1 Chapter 5.08 of the City of Hughson Municipal Code is hereby amended by repealing Chapter 5.08 in its entirety and adopting a new Chapter 5.08 to read in full as follows:

"5.08.010 Purpose.

This chapter is designed to regulate video service providers, holding State video franchises, operating within the City. Beginning January 1, 2007, the State of California, through the California Public Utilities Commission ("CPUC"), has the sole authority to issue State video franchises pursuant to the Digital Infrastructure and Video Competition Act of 2006.

5.08.020 Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. Words not defined shall be given their common and ordinary meaning.

A. "DIVCA" means the Digital Infrastructure and Video Competition Act of 2006 codified at California Public Utilities Code section 5800 *et seq.*

- B. "City" means the City of Hughson.
- C. "Franchise fee" is defined as set forth in the Public Utilities Code section 5830, or its successor.
- D. "Gross revenues" is defined as set forth in the Public Utilities Code section 5860, or its successor.
- E. "Holder" is defined as set forth in the Public Utilities Code section 5830, or its successor.
- F. "Material breach" is defined as set forth in the Public Utilities Code section 5900, or its successor.
- G. "State franchise" is defined as set forth in the Public Utilities Code section 5830, or its successor.
- H. "Video service" is defined as set forth in the Public Utilities Code section 5830, or its successor.
- I. "Video service provider" is defined as set forth in the Public Utilities Code section 5830, or its successor.

5.08.030 Franchise fees.

A. Pursuant to the Digital Infrastructure and Video Competition Act of 2006 ("DIVCA"), the City shall receive a franchise fee from all State video franchise holders operating within the City. State video franchise holder shall pay the City a franchise fee equal to five percent (5%) of the Holder's gross revenues.

B. The franchise fee shall be paid to the City on a quarterly basis, within forty-five (45) days after the end of each calendar quarter. Each payment shall be accompanied by a summary detailing the basis of the Holder's calculation.

C. Failure to pay the required franchise fee shall result in a late payment charge at a rate per year equal to the highest prime lending rate, during the delinquency period, plus one percent (1%).

5.08.040 PEG Channels and PEG Channel fees.

A. State video franchise holders shall provide, at a minimum, three public, educational, and government ("PEG") channels. The PEG channels shall be exclusively used by the City, or its designee, to provide public, educational, and governmental channels.

B. Any PEG channel that is not utilized by the City for at least eight (8) hours per day, as measured on a quarterly basis, may no longer be made available to the City, and may be programmed at the State video franchise holder's discretion. At the time the City can certify to the State video franchise

holder a schedule for at least eight (8) hours of daily programming, the holder of the State franchise shall restore the PEG channels for use by the City.

C. The City shall determine the content to be provided over the PEG channels; the State video franchise holder is only responsible for the transmission of the City's requested content.

D. The PEG channels shall be receivable by all subscribers without the need for any equipment other than the equipment necessary to receive the lowest cost tier of service.

E. The State video franchise holder shall pay to the City a PEG channel fee equal to one percent (1%) of the State video franchise holder's gross revenues. Such fee shall only be used by the City as authorized under federal law.

F. The PEG channel fee shall be paid to the City on a quarterly basis, within forty-five (45) days after the end of each calendar quarter.

5.08.050 Customer Service and Consumer Protection.

State video franchise holders shall comply with all State and Federal customer service and protection standards pertaining to video service. The city shall enforce all of the customer service and protection standards with respect to complaints received from its residents.

5.08.060 Penalty Schedule for Customer Service and Consumer Protection Violations.

The following penalties shall be applied to State video franchise holders in material breach of customer service or protection standards.

A. The City shall give the video service provider written notice of any alleged material breach of the customer services standard. Any written notice may be personally delivered, mailed by prepaid, certified mail or overnight courier, or transmitted by facsimile or electronic mail transmission (including PDF). The video service provider shall have 30 days from receipt of the notice to remedy the specified material breach. Notice shall be deemed to have been given on the day the notice is personally delivered, three days after the notice is mailed by prepaid certified or registered mail, one working day after the notice is sent by overnight courier, or the day the notice is faxed or sent electronically.

B. First Violation: Video service provider shall be responsible for a monetary penalty, which shall be remitted to the City, in the amount of five hundred dollars (\$500) for each day of each material breach, not to exceed one thousand five hundred dollars (\$1,500) for each occurrence of a material breach, or the maximum amount allowable under DIVCA.

C. Second Violation: If a material breach has occurred and the City has provided notice and a fine or penalty has been assessed, and if a subsequent material breach of the same nature occurs within 12 months, the video service provider shall be responsible for a monetary penalty, which shall be remitted to the City, in the amount of one thousand dollars (\$1,000) for each day of each material breach, not to exceed three thousand dollars (\$3,000) for each occurrence of the material breach, or the maximum amount allowable under DIVCA.

D. Third, and Additional Violations: If a third or further material breach of the same nature occurs within 12 months, of first or second violation, and the City has provided notice and a fine or penalty has been assessed, the video service provider shall be responsible for a monetary penalty, which shall be remitted to the City, in the amount of two thousand five hundred dollars (\$2,500) for each day of each material breach, not to exceed seven thousand five hundred dollars (\$7,500) for each occurrence of the material breach, or the maximum amount allowable under DIVCA.

5.08.070 Business Records Examination.

The City may examine, once per year, the business records of any state video franchise holder in order to verify the holder's gross revenues. State video franchise holders shall retain all business records reflecting any gross revenues for at least four years. In the event that it is determined that the State video franchise holder has underpaid its required franchise fees by more than five percent (5%) during the examination period, the holder shall pay the reasonable and actual costs of the examination. Conversely, if the examination discloses that the holder has not underpaid franchise fees, the City shall bear the reasonable and actual costs of the examination."

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 If any provision of this Ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the validity of any particular portion thereof.

Section 4 The City Attorney shall prepare a summary of this Ordinance, City Clerk publish the summary in accordance with Section 36933 of the Government Code, and within fifteen (15) days after its final passage, the City Clerk shall cause a summary of this Ordinance 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 _____, 2018, 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 Hughson City Council at a regular meeting thereof held on _____, 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

JERAMY YOUNG, Mayor

ATTEST:

SUSANA DIAZ, Deputy City Clerk



CITY OF HUGHSON AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date: May 29, 2018
Subject: Authorize City Staff to Release Bid Documents for the Well No. 7 Replacement Project
Presented By: Jaylen French, Community Development Director
Approved By: _____

Staff Recommendation:

Authorize City staff to release bid documents for the Well No. 7 Replacement Project.

Background:

The project includes the construction of a new water well site (Hughson Well No. 9), which will include a water treatment system, a 1.0 million gallon concrete storage/blending tank, as well as the re-drilling of Well No. 5 in a new location on the same parcel (to be called Hughson Well No. 10) and new water distribution pipeline to connect the well sites.

Discussion:

An engineer's cost estimate has been prepared and approved for the full project of \$8,327,753, inclusive of contingency (20%) and Design, Environmental and Inspection (15%).

This item is to seek authorization to release the bid documents for the first phase of the Well No. 7 Replacement Project—well drilling. City staff expects the documents to be released in the next couple of weeks now that the land exchange for the Well No. 10 site has been approved by the City Council and recorded with the County.

Upon authorization, City staff will release the bid documents, accept bids and award to the lowest responsible bidder after evaluation of the bid to ensure accuracy, completion and that it meets all City and other requirements. Subsequently, City staff will coordinate with the selected contractor to initiate the work. It is expected that work will begin in the late-Spring or early-Summer 2018. The construction work should take approximately 1 month to complete.

Fiscal Impact:

The City received funding through the California Safe Drinking Water State Revolving Fund (SDWSRF) in the amount of \$8,327,753. The City Council approved a funding agreement with the State of California, which provides up to \$5 million in grant with the remainder available in the form of a loan at 0% interest over 30 years. In July 2015, the City of Hughson adopted a water rate increase to be able to finance the debt service associated the project.

The City of Hughson's Fiscal Year 2017-2018 Budget, adopted by the City Council on September 25, 2017 and mid-year budget adjustment, adopted April 23, 2018 includes the full project cost. The engineer's estimate for this phase of the project is: \$927,000.00. The City has currently spent down \$195,219.00 of the grant in design, engineering and environmental work.



CITY COUNCIL AGENDA ITEM NO 6.2 SECTION 6: NEW BUSINESS

Meeting Date: May 29, 2018
Subject: Adopt Resolution No. 2018-22, Appointing Planning Commissioners Members to Serve Concurrently as Members of the Administrative Appeals Board
Presented By: Daniel J. Schroeder, City Attorney

Approved By: _____

Staff Recommendation:

Adopt Resolution No. 2018-22, appointing Planning Commissioners Members to serve concurrently as Members of the Administrative Appeals Board.

Background and Overview:

Currently, appeals of administrative decisions involving Hughson Municipal Code violations are presided over a single hearings officer. Due to a recent court decision holding that administrative appeals of code violations must be heard by an appeals board or the City Council, on May 14, 2018, the City Council of the City of Hughson introduced and waived the first reading of Ordinance No. 2018-02 ("Ordinance") establishing an Administrative Appeals Board ("Appeals Board") that would replace the hearing officer and preside over appeals of administrative decisions involving code violations. The Appeals Board will be comprised of five (5) Board Members. The Ordinance is scheduled for a second reading and adoption on the May 29, 2018 City Council meeting right before presentation of this item.

Upon adoption of the Ordinance, the City Council will need to appoint five (5) people to the newly created Appeals Board. The proposed resolution will make those appointments.

Discussion:

When a member of the public is cited for a violation of the Hughson Municipal Code ("HMC"), they may appeal that citation administratively with City staff for an administrative decision as set forth in Chapter 1.17 of the HMC. If the person cited desires an appeal of the administrative decision, currently the HMC authorizes an appeal to a hearing officer. Due to a recent appeals court decision, the City is amending Chapter 1.17 of the HMC to replace the hearing officer with an Administrative Appeals Board ("Appeals Board") comprised of five (5) members.

Historically, appeals of administrative decisions has been relatively rare and has not occurred for several years. As a result, City staff is recommending that the City Council appoint people appointed to serve as Commissioners on the Planning Commission to serve concurrently on the Appeals Board to avoid appointing five (5) other citizens to service on the Appeals Board since the Appeals Board might not meet for several years. Appointing different people to the Appeals Board could result in those Board members having nothing to do during their terms on the Appeal Board since appeals of code violations are very infrequent. By appointing members of the Planning Commission to serve concurrently on the Appeals Board, that situation is avoided. Since the Commission already conducts hearings on certain matters brought before it, when there is an appeal of a code violation to the Appeals Board, they would already be familiar with the appeals process that would be followed.

City staff is recommending that the City Council adopt Resolution No. 2018-22 automatically appointing members of the Hughson Planning Commission as members of the Appeals Board.

Fiscal Impact:

There is no significant fiscal impact associated with the approval of the ordinance amendments.

CITY OF HUGHSON
CITY COUNCIL
RESOLUTION NO. 2018-22

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
HUGHSON APPOINTING PLANNING COMMISSIONERS
MEMBERS TO SERVE CONCURRENTLY AS MEMBERS OF
THE ADMINISTRATIVE APPEALS BOARD**

WHEREAS, the City of Hughson in adopting Ordinance No. 2018-02 (“Ordinance”) has created an administrative appeals board (“Appeals Board”) that is responsible for presiding over administrative hearings involving appeals of administrative decisions involving code violations,

WHEREAS, pursuant to the Ordinance, the Appeals Board is comprised of 5 members that are appointed by the City Council by resolution,

WHEREAS, the City Council desires to appoint each commissioner of the Planning Commission to serve concurrently as a member of the Appeals Board,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hughson that each person appointed to serve as a Commissioner on the Planning Commission shall automatically be appointed to serve as a member of the Administrative Appeals Board.

BE IT FURTHER RESOLVED by the City Council of the City of Hughson that term of office for each member of the Administrative Appeals Board shall commence automatically on their appointment to the Planning Commission and terminate automatically when they are no longer a member of the Planning Commission.

PASSED AND ADOPTED, by the City Council of the City of Hughson at its regular meeting held on this 29th day of May 2018 by the following roll call votes:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

JERAMY YOUNG, Mayor

ATTEST:

SUSANA DIAZ, Deputy City Clerk