

**HESPERIA CITY COUNCIL
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
HOUSING AUTHORITY
COMMUNITY DEVELOPMENT COMMISSION
FIRE PROTECTION DISTRICT
WATER DISTRICT
AGENDA**

Regular Joint Meetings
1st and 3rd Tuesday

Date: March 7, 2017
REGULAR MEETING

Time: 5:30 P.M. (Closed Session)
6:30 P.M. (Regular Meeting)

CITY COUNCIL MEMBERS

Paul Russ, Mayor

Russell Blewett, Mayor Pro Tem

Larry Bird, Council Member

Bill Holland, Council Member

Rebekah Swanson, Council Member

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Nils Bentsen, City Manager

Eric L. Dunn, City Attorney



City of Hesperia

Council Chambers
9700 Seventh Avenue
Hesperia, CA 92345

City Clerk's Office: (760) 947-1007

**Agendas and Staff Reports are
available on the City Website
www.cityofhesperia.us**

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NOTE: In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (760) 947-1007 or (760) 947-1056. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.

**REGULAR MEETING AGENDA
HESPERIA CITY COUNCIL
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
HESPERIA HOUSING AUTHORITY
HESPERIA COMMUNITY DEVELOPMENT COMMISSION
HESPERIA FIRE PROTECTION DISTRICT
HESPERIA WATER DISTRICT**

As a courtesy, please silence your cell phones, pagers, and other electronic devices while the meeting is in session. Thank you.

Prior to action of the Council, any member of the audience will have the opportunity to address the legislative body on any item listed on the agenda, including those on the Consent Calendar. Comments are limited to three (3) minutes for Public Comments, Consent Calendar and New Business and five (5) minutes for Public Hearings. PLEASE SUBMIT A COMMENT CARD TO THE CITY CLERK WITH THE AGENDA ITEM NUMBER NOTED.

CLOSED SESSION - 5:30 PM

Roll Call

*Mayor Paul Russ
Mayor Pro Tem Russell Blewett
Council Member Larry Bird
Council Member Bill Holland
Council Member Rebekah Swanson*

Conference with Legal Counsel – Existing Litigation
Government Code Section 54956.9(d)1

1. Victor Valley Family Resource Center, et al. v. City of Hesperia et al.
2. Settlement of Workers' Compensation Claim - Johnny Alloway, CHPB-0039 and CHPC-0072

Conference with Labor Negotiator
Government Code Section 54957.6

1. Negotiations between the City of Hesperia and the Teamster Local 1932 and non-represented employees with the City's Negotiator. (Staff person: Brian D. Johnson, Assistant City Manager/ Management Services)

CALL TO ORDER - 6:30 PM

A. Invocation

B. Pledge of Allegiance to the Flag

C. Roll Call

*Mayor Paul Russ
Mayor Pro Tem Russell Blewett
Council Member Larry Bird
Council Member Bill Holland*

Council Member Rebekah Swanson

D. Agenda Revisions and Announcements by City Clerk

E. Closed Session Reports by City Attorney

ANNOUNCEMENTS/PRESENTATIONS

1. Presentation to Employee of the Month for February to Osby Montes, Animal Control Officer by Donald Riser, Animal Services Manager
2. Presentation to Sultana High School Wrestling Team by the City Council
3. Community Events Calendar by Mayor Paul Russ

PUBLIC COMMENTS

Please complete a "Comment Card" and give it to the City Clerk. Comments are limited to three (3) minutes per individual. State your name for the record before making your presentation. Disclosure of your address is optional, but very helpful for the follow-up process.

Under the provisions of the Brown Act, the Council is prohibited from taking action on oral requests. However, Council/Agency/Authority/Commission/Board Members may respond briefly or refer the communication to staff. The Council/Agency/Authority/Commission/Board may also request the City Clerk to calendar an item related to your communication at a future meeting.

- 1) City Council
- 2) Fire District
- 3) Water District

JOINT CONSENT CALENDAR

1. Page 7 Consideration of the Draft Minutes from the Regular Meeting held Tuesday, February 21, 2017

Recommended Action:

It is recommended that the City Council approve the Draft Minutes from the Regular Meeting held Tuesday, February 21, 2017.

Staff Person: City Clerk Melinda Sayre

Attachments: [Draft CC Min 2017-02-21](#)

2. Page 13 Warrant Run Report (City - Successor Agency - Housing Authority - Community Development Commission - Fire - Water)

Recommended Action:

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, Fire District, and Water District.

Staff Person: Assistant City Manager/Management Services Brian Johnson

Attachments: [SR Warrant Run 3-7-2017](#)
[Attachment 1 - Warrant Runs](#)

3. Page 15 Parcel Map No. 19555

Recommended Action:

It is recommended that the City Council adopt Resolution No. 2017-009 approving Parcel Map No. 19555 to create four parcels and a remainder from 21 gross acres and a site plan review to construct 19,548 square feet of retail/commercial on 4.36 acres within the Regional Commercial (RC) zone of the Main Street and Freeway Corridor Specific Plan located on the southwest corner of Main Street and Cataba Road (Applicant: Lewis Retail Centers; APN: 3064-601-06).

Staff Person: Director of Development Services Michael Blay

Attachments: [SR Parcel Map 19555 3-7-2017](#)
[Resolution 2017-009](#)
[Attachment 2 - Parcel Map](#)

CONSENT ORDINANCES

WAIVE READING OF ORDINANCES

Approve the reading by title of all ordinances and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

4. Page 21 Consideration of Revision to Freeway Sign Regulations

Recommended Action:

Place on second reading and adopt by title waiving the text of Ordinance No. 2017-01, revising the City's freeway sign regulations.

Staff Person: Principal Planner Dave Reno

Attachments: [SR Freeway Signs 2-21-2017](#)
[Attachment 1 - Negative Declaration and Initial Study](#)
[Ordinance 2017-01](#)

PUBLIC HEARINGS

Please complete a "Comment Card" and give it to the City Clerk prior to the meeting. Comments are limited to five (5) minutes per individual. State your name for the record before making your presentation. Disclosure of your address is optional, but very helpful for the follow-up process.

WAIVE READING OF ORDINANCES

Approve the reading by title of all ordinances and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

PUBLIC HEARING

5. Page 57 Consideration of Development Code Amendment DCA17-00001, amending

the special event and temporary use regulations; Applicant: City of Hesperia;
Area affected: City-wide

Recommended Action:

The Planning Commission recommends that the City Council introduce and place on first reading Ordinance No. 2017-04 approving DCA17-00001, amending the special event and temporary use regulations.

Staff Person: Senior Planner Stan Liudahl

Attachments: [SR Special Event & Temporary Uses Ordinance 3-7-2017](#)

[Attachment 1 - Comparison Table](#)

[Ordinance 2017-04](#)

[Attachment 3 - Exhibit A](#)

6. Page 69

By-District Election System and District Composition AB 350 Public Hearings

Recommended Action:

It is recommended that the City Council receive and file the presentation provided by National Demographics Corporation Election Districting Consultant Douglas Johnson, hold a public hearing and accept public testimony regarding a series of public hearings at which the public is invited to provide input regarding the composition of districts to transition the City from an at-large election system to a by-district election system and provide direction to staff regarding the process of the transition.

Staff Person: City Clerk Melinda Sayre

Attachments: [SR By-District Election System and District Composition 3-7-2017](#)

NEW BUSINESS

7. Page 71

Permanent Water Rights Purchase from Lounsbury/JPMorgan Chase

Recommended Action:

It is recommended that the Board of Directors of the Hesperia Water District 1) authorize the purchase of 181 acre-feet of permanent Base Annual Production water rights in the Alto Subarea from Carolyn Lounsbury and JPMorgan Chase BK, National Association Co on behalf of Bank of America for \$4,200 per acre-foot; 2) authorize the lease of 145 acre-feet carryover rights for \$276 per acre-foot, for a combined total amount of \$800,220; and 3) authorize the City Manager to execute all documents related to the purchase and lease transactions.

Staff Person: Director of Development Services Michael Blay

Attachments: [SR Water Rights Purchase 3-7-2017](#)

[Attachment 1 - Draft Water Rights Purchase Agreement](#)

8. Page 93

Consideration of Annual Update of the City Council Procedures Manual and Adoption of Resolution No. 2017-007 amending the Public Safety Committee

Schedule

Recommended Action:

It is recommended that the City Council review the information provided herein and adopt the annual update of the City Council Procedures Manual, and adopt Resolution No. 2017-007 amending the Public Safety Committee (PSAC) meeting schedule.

Staff Person: City Clerk Melinda Sayre

Attachments: [SR City Council Procedures Manual Update 3-7-2017](#)

[Resolution 2017-07](#)

[Attachment 2 - 2017 Draft City Council Procedures Manual](#)

[Attachment 3 - Correspondence from Bob Nelson](#)

COUNCIL COMMITTEE REPORTS AND COMMENTS

The Council may report on their activities as appointed representatives of the City on various Boards and Committees and/or may make comments of general interest or report on their activities as a representative of the City.

CITY MANAGER/CITY ATTORNEY/STAFF REPORTS

The City Manager, City Attorney or staff may make announcements or reports concerning items of interest to the Council and the public.

ADJOURNMENT

I, Melinda Sayre, City Clerk of the City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, March 2, 2017 at 5:30 p.m. pursuant to California Government Code §54954.2.

Melinda Sayre,
City Clerk

Documents produced by the City and distributed less than 72 hours prior to the meeting regarding items on the agenda will be made available in the City Clerk's Office during normal business hours.

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City of Hesperia Meeting Minutes - Draft City Council

City Council Chambers
9700 Seventh Ave.
Hesperia CA, 92345

Tuesday, February 21, 2017

6:30 PM

REGULAR MEETING AGENDA
HESPERIA CITY COUNCIL
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
HESPERIA HOUSING AUTHORITY
HESPERIA COMMUNITY DEVELOPMENT COMMISSION
HESPERIA FIRE PROTECTION DISTRICT
HESPERIA WATER DISTRICT

CLOSED SESSION - 5:30 PM

Roll Call

Present: 5 - Mayor Russ, Mayor Pro Tem Blewett, Council Member Bird, Council Member Holland and Council Member Swanson

Absent: None

Conference with Legal Counsel – Existing Litigation
Government Code Section 54956.9(d)1

1. Center for Biological Diversity, et al. v. City of Hesperia, et al., San Bernardino County Case No. CIVDS1602824
2. Crestline Sanitation District v. City of Hesperia, San Bernardino County Case No. CIVDS1602789

Conference with Real Property Negotiators – Property Negotiations
Government Code Section – 54956.8

1. Negotiating parties Hesperia Housing Authority & FH II, LLC (Frontier)
Location: APN 0405-072-59
Under Negotiation: Price and Terms

Conference with Labor Negotiator
Government Code Section 54957.6

1. Negotiations between the City of Hesperia and the Teamster Local 1932 and non-represented employees with the City's Negotiator. (Staff person: Brian D. Johnson, Assistant City Manager/ Management Services)

One urgent item of potential litigation Government Code Section 54956.9(d) 2 was added to the closed session agenda with a unanimous vote by the City Council.

CALL TO ORDER - 6:30 PM

- A. Invocation by Alex Powell United Methodist Church
- B. Pledge of Allegiance to the Flag

C. Roll Call

Present: 5 - Mayor Russ, Mayor Pro Tem Blewett, Council Member Bird, Council Member Holland and Council Member Swanson

D. Agenda Revisions and Announcements by City Clerk

None

E. Closed Session Reports by City Attorney

One item of potential litigation added to the closed session litigation as a result of an urgent item that arose after the posting of the agenda. No reportable action.

ANNOUNCEMENTS/PRESENTATIONS

1. Animal Services update by Director of Development Service Michael Blay
2. Community Events Calendar by Mayor Paul Russ - *Community Clean-up day 4/8, San Bernardino County residents can exchange used oil filters for new filters at Auto Zone on Main Street 2/24, Inland Empire Housing Entity offering free training for small businesses.*

PUBLIC COMMENTS

David Telles commented on off road vehicle riders in neighborhoods and requested that Code Enforcement patrol on weekends due to garage sales and sales on corner stands.

Mickey Mouse commented on free speech and public comments in public meetings.

The City Council recessed at 7:10 p.m. and reconvened at 7:15 p.m.

Daniel Krist commented on community collaboration.

Cody Leis commented on labor negotiations with the Teamsters.

JOINT CONSENT CALENDAR

A motion was made by Holland, seconded by Bird, that the consent calendar be approved. The motion carried by the following vote:

Aye: 5 - Russ, Blewett, Bird, Holland and Swanson

Abstain: 0

1. Consideration of the Draft Minutes from the Regular Meeting held Tuesday, February 7, 2017 and the Special Meetings for the Hesperia Public Finance Authority and Hesperia Public Facilities Corporation held Tuesday, February 7, 2017

Recommended Action:

It is recommended that the City Council approve the Draft Minutes from the Regular Meeting held Tuesday, February 7, 2017 and the Special Meetings for the Hesperia Public Finance Authority and Hesperia Public Facilities Corporation held Tuesday, February 7, 2017.

Sponsors: City Clerk Melinda Sayre

2. Warrant Run Report (City - Successor Agency - Housing Authority - Community Development Commission - Fire - Water)

Recommended Action:

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, Fire District, and Water District.

Sponsors: Assistant City Manager/Management Services Brian Johnson

3. Treasurer's Cash Report for the unaudited period ended December 31, 2016

Recommended Action:

It is recommended that the Council/Board accept the Treasurer's Cash Report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, Fire District, and Water District.

Sponsors: Assistant City Manager/Management Services Brian Johnson

4. Authorize Submittal of Applications for CalRecycle Grants

Recommended Action:

It is recommended that the City Council adopt Resolution No. 2017-004 authorizing submittal of applications for all Department of Resources Recycling and Recovery (CalRecycle) grants for which the City is eligible for five (5) years from the date of adoption of this resolution.

Sponsors: Management Analyst Julie Ryan

5. Warehouse Commodity - Service Line Material

Recommended Action:

It is recommended that the Hesperia Water District Board Members authorize the City Manager to approve a one-time purchase in the amount of \$6,577.06 with Inland Water Works Supply for the purchase of service line pipe and locating wire.

Sponsors: Public Works Manager Mark Faherty and Maintenance Crew Supervisor Production Jeremy McDonald

6. Parcel Map 19788

Recommended Action:

It is recommended that the City Council adopt Resolution No. 2017-006 approving Parcel Map No. 19788 to create four parcels on 1.9 gross acres within the Low Density Residential (LDR) Zone of the Main Street and Freeway Corridor Specific Plan located approximately 167 feet east of Eighth Avenue, between Willow Street and Vine Street (APN: a portion of 0407-104-01).

Sponsors: Director of Development Services Michael Blay

7. Award Contract for Emergency Notification System

Recommended Action:

It is recommended that the City Council authorize the City Manager to award a contract to Emergency Communications Network in the amount of \$66,000 for a three year contract for a mass Emergency Notification System.

Sponsors: Assistant to the City Manager Rachel Molina

8. Warehouse Commodity - Mueller Parts

Recommended Action:

It is recommended that the Chair and Board Members of the Hesperia Water District authorize the City Manager to execute an increase to the current contract with Inland Waterworks Supply, for Mueller water products in the amount of \$40,000 with a new not-to-exceed amount of \$225,036.

Sponsors: Public Works Manager Mark Faherty and Maintenance Crew Supervisor Production Jeremy McDonald

PUBLIC HEARING

9. Consideration of Revision to Freeway Sign Regulations

Recommended Action:

The Planning Commission recommends that the City Council approve and place on first reading Ordinance No. 2017-01, revising the City's freeway sign regulations.

Sponsors: Principal Planner Dave Reno

The public hearing was opened. Bob Nelson commented on item 9. The public hearing was closed at 7:25 p.m.

A motion was made by Holland, seconded by Blewett, that this item be approved. The motion carried by the following vote:

Aye: 5 - Russ, Blewett, Bird, Holland and Swanson

Abstain: 0

NEW BUSINESS

10. Fiscal Year 2016-17 Mid-Year Budget Review

Recommended Action:

It is recommended that the Fiscal Year 2016-17 Mid-Year Budget Review be received and filed and the related following resolutions, which amend the respective Fiscal Year 2016-17 Budgets for the City of Hesperia, Community Development Commission, Hesperia Fire Protection District, and Hesperia Water District be approved:

- 1) City of Hesperia Resolution No. 2017-008
- 2) Hesperia Community Development Commission CDC 2017-01
- 3) Hesperia Fire Protection District HFPD 2017-01
- 4) Hesperia Water District HWD 2017-03

Sponsors: Assistant City Manager/Management Services Brian Johnson and Senior Financial Analyst Casey Brooksher

Roni Costello commented on item 10 regarding the widening of Ranchero Road.

A motion was made by Holland, seconded by Bird, that this item be approved. The motion carried by the following vote:

Aye: 5 - Russ, Blewett, Bird, Holland and Swanson

Abstain: 0

11. Fiscal Year 2017-18 Budget Planning Report Update

Recommended Action:

It is recommended that the City Council receive and file the limited update to the Fiscal Year (FY) 2017-18 Budget Planning Report, as well as provide direction to staff for planning the upcoming budget.

Sponsors: Assistant City Manager/Management Services Brian Johnson and Senior Financial Analyst Casey Brooksher

The report was received and filed.

COUNCIL COMMITTEE REPORTS AND COMMENTS

Council Member Swanson commented on events attended in the previous two weeks including Youth in Government Day, Tri-Agency, the COP Installation dinner and appointments to City Council Advisory Committee James Roberts, Public Safety Advisory Committee Christopher Dustin.

Council Member Bird commented on VVTA meeting that Mayor Pro Tem Blewett attended in his place, COP Installation dinner, Chamber Luncheon attended, Youth in Government Day event, Sultana High Wrestling Team CIF dual and individual Championship, Hesperia High Boys Basketball team playing in the quarter finals at CIF.

Council Member Holland commented on SANBAG Policy meeting attended, SANBAG Desert/Mountain Division Meeting and League of California Cities Mountain Division Meeting, and appointed John Holland to the CCAC and Bob Rogers to the PSAC Committee.

Mayor Pro Tem Blewett commented on illegal use of Off Highway Vehicles, and sales on corners, commented on the kindness of individuals in the community.

Mayor Russ commented on attended the COP Installation dinner, the service of Citizen's On Patrol, Youth in Government Day event, grand openings attended including Shadow Ridge High School, Make Your Business Grow, Desert Mountain League of Cities Meeting in place of Council Member Holland, held meetings with constituents upon request, attending All-Staff meeting 2/22.

CITY MANAGER/CITY ATTORNEY/STAFF REPORTS

City Manager Nils Bentsen announced that Code Enforcement patrolled over the weekend and encouraged residents to report illegal activities.

ADJOURNMENT

8:18 p.m.

Melinda Sayre, City Clerk

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City of Hesperia STAFF REPORT



DATE: March 7, 2017

TO: Mayor and Council Members
City Council, as Successor Agency to the Hesperia Community Redevelopment Agency
Chair and Commissioners, Hesperia Housing Authority
Chair and Commissioners, Community Development Commission
Chair and Board Members, Hesperia Fire Protection District
Chair and Board Members, Hesperia Water District

FROM: Nils Bentsen, City Manager

BY: Brian D. Johnson, Assistant City Manager/Management Services
Anne Duke, Deputy Finance Director
Virginia Villasenor, Senior Accountant

SUBJECT: Warrant Run Report (City – Successor Agency – Housing Authority – Community Development Commission – Fire – Water)

RECOMMENDED ACTION

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, Fire District, and Water District.

BACKGROUND

The Warrant Run totals represented below are for the period February 4, 2017 through February 17, 2017.

<u>Agency/District</u>	<u>Accounts Payable*</u>	<u>Payroll</u>	<u>Wires</u>	<u>Totals</u>
City of Hesperia	\$2,781,029.16	\$207,250.15	\$0.00	\$2,988,279.31
Successor Agency	0.00	0.00	0.00	0.00
Housing Authority	7,590.20	3,796.17	0.00	11,386.37
Community Development Commission	24,945.49	5,612.63	0.00	30,558.12
Fire	56,071.56	0.00	0.00	56,071.56
Water	349,176.26	85,663.67	0.00	434,839.93
Totals	\$3,218,812.67	\$302,322.62	\$0.00	\$3,521,135.29

* Includes debt service payments made via Automated Clearing House (ACH) electronic deposit of funds.

ATTACHMENT(S)

1. Warrant Runs

City of Hesperia
WARRANT RUNS
02/04/2017 - 02/17/2017

FUND #	FUND NAME	W/E 2/10/2017	W/E 2/17/2017	WARRANT TOTALS	Wires	YEAR-TO DATE TOTALS *	PRIOR FY YTD DATE TOTALS
Accounts Payable							
100	GENERAL	\$ 1,748,284.01	\$ 163,146.52	\$ 1,911,430.53	\$ -	\$ 14,346,293.87	\$ 13,550,436.32
204	MEASURE I - RENEWAL	\$ 2,250.00	\$ -	\$ 2,250.00	\$ -	\$ 1,376,104.88	\$ 1,993,145.51
205	GAS TAX	\$ -	\$ 1,097.40	\$ 1,097.40	\$ -	\$ 1,173.46	\$ 439.51
207	LOCAL TRANSPORT-SB 325	\$ -	\$ -	\$ -	\$ -	\$ 321,361.28	\$ 590,054.95
251	CDBG	\$ 24,586.07	\$ 19,840.69	\$ 44,426.76	\$ -	\$ 902,398.14	\$ 329,366.07
253	CDBG - RLF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 116,437.99
254	AB2766 - TRANSIT	\$ -	\$ -	\$ -	\$ -	\$ 76,528.00	\$ 301,308.40
256	ENVIRONMENTAL PROGRAMS GRANT	\$ 842.02	\$ 200.00	\$ 1,042.02	\$ -	\$ 16,785.42	\$ 28,934.49
257	NEIGHBORHOOD STABILIZATION PROG	\$ 200.74	\$ -	\$ 200.74	\$ -	\$ 18,328.15	\$ 26,949.45
260	DISASTER PREPARED GRANT	\$ 160.68	\$ 19.99	\$ 180.67	\$ -	\$ 5,776.25	\$ 9,468.81
263	STREETS MAINTENANCE	\$ 39,114.52	\$ 3,153.36	\$ 42,267.88	\$ -	\$ 884,964.57	\$ 859,053.33
300	DEV. IMPACT FEES - STREET	\$ -	\$ -	\$ -	\$ -	\$ 52,540.93	\$ 117,372.12
301	DEV. IMPACT FEES - STORM DRAIN	\$ -	\$ -	\$ -	\$ -	\$ 67,267.81	\$ -
400	2004 STREETS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,750,903.62
401	CITY DEBT SERVICES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
402	WATER RIGHTS ACQUISITION	\$ -	\$ -	\$ -	\$ -	\$ 1,014,549.43	\$ 1,011,704.04
403	2013 REFUNDING LEASE REV BONDS	\$ -	\$ -	\$ -	\$ -	\$ 519,436.69	\$ 504,071.60
504	CITY WIDE STREETS - CIP	\$ -	\$ -	\$ -	\$ -	\$ 15,145.40	\$ 5,115.00
800	EMPLOYEE BENEFITS	\$ 167,882.55	\$ 72,652.17	\$ 240,534.72	\$ -	\$ 4,303,600.16	\$ 4,317,726.67
801	TRUST/AGENCY	\$ 68,441.93	\$ 69,050.29	\$ 137,492.22	\$ -	\$ 605,244.28	\$ 354,635.93
802	AD 91-1 AGENCY	\$ -	\$ -	\$ -	\$ -	\$ 278.46	\$ 819,231.91
804	TRUST-INTEREST BEARING	\$ 4,095.13	\$ -	\$ 4,095.13	\$ -	\$ 32,238.60	\$ 91,214.74
807	CFD 2005-1	\$ -	\$ 396,011.09	\$ 396,011.09	\$ -	\$ 1,156,512.72	\$ 1,267,538.60
815	PLAN REVIEW TRUST - FRONTIER	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	CITY	\$ 2,055,857.65	\$ 725,171.51	\$ 2,781,029.16	\$ -	\$ 25,716,528.50	\$ 30,045,109.06
200	HESPERIA FIRE DISTRICT	\$ 2,830.19	\$ 112.50	\$ 2,942.69	\$ -	\$ 5,443,479.03	\$ 5,270,011.56
502	FIRE STATION BUILDING	\$ 53,128.87	\$ -	\$ 53,128.87	\$ -	\$ 134,863.80	\$ 559,739.79
	FIRE	\$ 55,959.06	\$ 112.50	\$ 56,071.56	\$ -	\$ 5,578,342.83	\$ 5,829,751.35
160	REDEVELOP OBLIG RETIREMENT - PA1	\$ -	\$ -	\$ -	\$ -	\$ 5,207,412.75	\$ 5,153,781.58
161	REDEVELOP OBLIG RETIREMENT - PA2	\$ -	\$ -	\$ -	\$ -	\$ 397,850.06	\$ 408,892.49
162	REDEVELOP OBLIG RETIREMENT-HOUSING	\$ -	\$ -	\$ -	\$ -	\$ 2,426,539.00	\$ 2,260,102.72
173	SUCCESSOR AGENCY ADMINISTRATION	\$ -	\$ -	\$ -	\$ -	\$ 2,242.59	\$ 22.48
	SUCCESSOR AGENCY	\$ -	\$ -	\$ -	\$ -	\$ 8,034,044.40	\$ 7,822,799.27
370	HOUSING AUTHORITY	\$ 7,373.66	\$ 216.54	\$ 7,590.20	\$ -	\$ 3,949,296.23	\$ 103,555.49
	HOUSING AUTHORITY	\$ 7,373.66	\$ 216.54	\$ 7,590.20	\$ -	\$ 3,949,296.23	\$ 103,555.49
170	COMMUNITY DEVELOPMENT COMMISSION	\$ 24,789.75	\$ 155.74	\$ 24,945.49	\$ -	\$ 216,294.88	\$ 332,236.16
	COMMUNITY DEVELOPMENT COMMISSION	\$ 24,789.75	\$ 155.74	\$ 24,945.49	\$ -	\$ 216,294.88	\$ 332,236.16
700	WATER OPERATING	\$ 284,464.59	\$ 33,572.96	\$ 318,037.55	\$ -	\$ 4,391,865.31	\$ 4,071,496.46
701	WATER CAPITAL	\$ 29,789.08	\$ -	\$ 29,789.08	\$ -	\$ 108,849.47	\$ 47,334.15
710	SEWER OPERATING	\$ 732.36	\$ 617.27	\$ 1,349.63	\$ -	\$ 1,423,269.87	\$ 1,701,764.39
711	SEWER CAPITAL	\$ -	\$ -	\$ -	\$ -	\$ 432,760.00	\$ 6,199.60
	WATER	\$ 314,986.03	\$ 34,190.23	\$ 349,176.26	\$ -	\$ 6,356,744.65	\$ 5,826,794.60
	ACCOUNTS PAYABLE TOTAL	\$ 2,458,966.15	\$ 759,846.52	\$ 3,218,812.67	\$ -	\$ 49,851,251.49	\$ 49,960,245.93
REG. PAYROLL							
	City	\$ 207,250.15	\$ -	\$ 207,250.15	\$ -	\$ 3,432,317.31	\$ 3,778,312.63
	Housing Authority	\$ 3,796.17	\$ -	\$ 3,796.17	\$ -	\$ 64,114.57	\$ 49,827.75
	Community Development Commission	\$ 5,612.63	\$ -	\$ 5,612.63	\$ -	\$ 92,693.54	\$ 44,026.03
	Water	\$ 85,663.67	\$ -	\$ 85,663.67	\$ -	\$ 1,433,364.82	\$ 1,531,136.79
	PAYROLL TOTAL	\$ 302,322.62	\$ -	\$ 302,322.62	\$ -	\$ 5,022,490.24	\$ 5,403,303.20

* The year to date totals for this Warrant Report are for the 2016-17 fiscal year starting July 1; however, the year to date totals do not include \$47,625.25 of wires issued on 07/01/16.



DATE: March 7, 2017
TO: Mayor and Council Members
FROM: Nils Bentsen, City Manager
BY: Michael Blay, Director of Development Services
Jamie Carone, Administrative Analyst
SUBJECT: Parcel Map No. 19555

RECOMMENDED ACTION

It is recommended that the City Council adopt Resolution No. 2017-009 approving Parcel Map No. 19555 to create four parcels and a remainder from 21 gross acres and a site plan review to construct 19,548 square feet of retail/commercial on 4.36 acres within the Regional Commercial (RC) zone of the Main Street and Freeway Corridor Specific Plan located on the southwest corner of Main Street and Cataba Road (Applicant: Lewis Retail Centers; APN: 3064-601-06).

BACKGROUND

On June 18, 2014, the Development Review Committee approved Tentative Parcel Map No. 19555 to create four parcels and a remainder from 21 gross acres and a site plan review to construct 19,548 square feet of retail/commercial on 4.36 acres within the Regional Commercial (RC) zone of the Main Street and Freeway Corridor Specific Plan located on the southwest corner of Main Street and Cataba Road (APN: 3064-601-06).

Staff has reviewed the map and determined that it complies with all General Plan and zoning regulations, all required conditions of approval, and with all local ordinances related to the creation of these parcels.

ISSUES/ANALYSIS

There are no issues identified with this item.

FISCAL IMPACT

There are no significant fiscal impacts to the City related to this action.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Resolution No. 2017-009
2. Parcel Map No. 19555

RESOLUTION NO. 2017-009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING PARCEL MAP NO. 19555 TO CREATE FOUR PARCELS AND A REMAINDER FROM 21 GROSS ACRES AND A SITE PLAN REVIEW TO CONSTRUCT 19,548 SQUARE FEET OF RETAIL/COMMERCIAL ON 4.36 ACRES WITHIN THE REGIONAL COMMERCIAL (RC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN LOCATED ON THE SOUTHWEST CORNER OF MAIN STREET AND CATABA ROAD (LEWIS RETAIL CENTERS; APN: 3064-601-06).

WHEREAS, on June 18, 2014, the Development Review Committee approved Tentative Parcel Map No. 19555 to create four parcels and a remainder from 21 gross acres and a site plan review to construct 19,548 square feet of retail/commercial on 4.36 acres within the Regional Commercial (RC) zone of the Main Street and Freeway Corridor Specific Plan located on the southwest corner of Main Street and Cataba Road; and

WHEREAS, Parcel Map No. 19555 is to create four parcels and a remainder from 21 gross acres and a site plan review to construct 19,548 square feet of retail/commercial on 4.36 acres within the Regional Commercial (RC) zone of the Main Street and Freeway Corridor Specific Plan located on the southwest corner of Main Street and Cataba Road; and

WHEREAS, all legal prerequisites to the adoption of this resolution have occurred.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HESPERIA CITY COUNCIL AS FOLLOWS:

Section 1. Parcel Map No. 19555 is hereby approved and the City Clerk is authorized to present same to the County Recorder to be filed for record.

Section 2. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

ADOPTED AND APPROVED this 7th day of March, 2017.

Paul Russ, Mayor

ATTEST:

Melinda Sayre, City Clerk

PARCEL MAP NO. 19555

BEING A SUBDIVISION OF PARCEL A OF LOT LINE ADJUSTMENT LLA-2007-13, RECORDED
MARCH 7, 2008, AS DOCUMENT NO. 2008-103328 OF OFFICIAL RECORDS IN THE
OFFICE OF THE COUNTY RECORDER OF SAID COUNTY
IN THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 4 NORTH, RANGE 5 WEST,
SAN BERNARDINO MERIDIAN

JULY 2014

DAVID EVANS & ASSOCIATES, INC.

OWNER'S STATEMENT:

WE HEREBY STATE WE ARE ALL AND THE ONLY PARTIES HAVING ANY RECORD TITLE INTEREST IN THE LAND SUBDIVIDED AS SHOWN ON THIS MAP, AND WE CONSENT TO THE PREPARATION AND RECORDATION OF THIS PARCEL MAP.

WE HEREBY IRREVOCABLY OFFER TO DEDICATE TO THE CITY OF HESPERIA, THE PUBLIC IN GENERAL, AND TO ANY OF THE SEVERAL PUBLIC UTILITY COMPANIES WHICH ARE AUTHORIZED TO SERVE IN SAID SUBDIVISION, AN EASEMENT FOR PUBLIC ROADS, HIGHWAYS, AND PUBLIC UTILITY PURPOSES IN, UNDER, OVER, THROUGH, AND ACROSS MAIN STREET AND CATABA ROAD AS SHOWN ON THIS MAP.

OWNER:

LGC HESPERIA, LLC, A DELAWARE LIMITED LIABILITY COMPANY;

BY LEWIS MANAGEMENT CORP, A CALIFORNIA LIMITED LIABILITY COMPANY,
IT'S MANAGER

JOHN M. GOODMAN
AUTHORIZED AGENT

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF LGC HESPERIA, LLC IN JULY 2014. ALL THE MONUMENTS SHOWN HEREON ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR WILL BE SET IN SUCH POSITIONS ON OR BEFORE JULY 2015, IN COMPLIANCE WITH SECTIONS 66495 AND 66496 OF THE SUBDIVISION MAP ACT. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY.

WILLIAM G. HOFF,
L.S. NO. 6685

DATE

CITY ENGINEER'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP, AND THAT THE SUBDIVISION SHOWN THEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, IF REQUIRED, AND ANY APPROVED ALTERATIONS THEREOF, AND THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES HAVE BEEN COMPLIED WITH AND I AM SATISFIED THAT THE MAP IS TECHNICALLY CORRECT.

MICHAEL P. THORNTON
R.C.E. 44226, L.S. 6867
CITY ENGINEER/SURVEYOR

DATE

NOTARY ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA }
COUNTY OF _____ } SS

ON _____ BEFORE ME, _____, NOTARY PUBLIC

PERSONALLY APPEARED _____,
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES) AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND AND OFFICIAL SEAL:

PRINTED NAME _____ SIGNATURE _____

MY COMMISSION EXPIRES _____

MY PRINCIPAL PLACE OF BUSINESS IS IN _____ COUNTY.

CITY COUNCIL'S ACCEPTANCE CERTIFICATE:

THE UNDERSIGNED OFFICER ON BEHALF OF THE CITY COUNCIL PURSUANT TO AUTHORITY CONFERRED BY TITLE 17 OF THE CITY OF HESPERIA MUNICIPAL CODE, HEREBY APPROVES THIS MAP AND ACCEPTS MAIN STREET AND CATABA ROAD SUBJECT TO THEIR IMPROVEMENTS, AS DEDICATED AS SHOWN ON THIS MAP.

DATED: _____

MELINDA SAYRE
DEPUTY CITY CLERK, CITY OF HESPERIA

BOARD OF SUPERVISOR'S CERTIFICATE:

I HEREBY CERTIFY THAT A BOND IN THE SUM OF \$ _____ HAS BEEN EXECUTED AND FILED WITH THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, CONDITIONED UPON THE PAYMENT OF ALL TAXES, STATE, COUNTY, MUNICIPAL OR LOCAL, AND ALL SPECIAL ASSESSMENTS, COLLECTED AS TAXES, WHICH AT THE TIME OF FILING OF THIS MAP WITH THE COUNTY RECORDER ARE A LIEN AGAINST SAID PROPERTY, BUT NOT YET PAYABLE AND THAT THE SUBDIVIDER HAS FILED WITH ME A CERTIFICATE BY THE PROPER OFFICER GIVING HIS ESTIMATE OF THE AMOUNT OF SAID TAXES AND SPECIAL ASSESSMENTS, AND SAID BOND IS HEREBY ACCEPTED.

DATED: _____

LAURA H. WELCH
CLERK OF THE BOARD OF SUPERVISORS
COUNTY OF SAN BERNARDINO

BY: _____ DEPUTY

AUDITOR'S CERTIFICATE:

I HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF THIS OFFICE, AS OF THIS DATE, THERE ARE NO LIENS AGAINST THE REAL PROPERTY SHOWN UPON THIS MAP FOR UNPAID STATE, COUNTY, MUNICIPAL, OR LOCAL TAXES, SPECIAL ASSESSMENTS COLLECTED AS TAXES, EXCEPT TAXES OR SPECIAL ASSESSMENTS, NOT YET PAYABLE, ESTIMATED TO BE \$ _____.

DATED: _____

OSCAR VALDEZ
AUDITOR-CONTROLLER/TREASURER/TAX COLLECTOR
COUNTY OF SAN BERNARDINO

BY: _____ DEPUTY

SIGNATURE OMISSIONS

THE SIGNATURES OF THE COUNTY OF SAN BERNARDINO, THE HOLDER OF AN EASEMENT FOR WATER LINES, AS DISCLOSED IN DOCUMENT RECORDED MARCH 5, 1974, IN BOOK 8380, PAGE 786 OF OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, HAVE BEEN OMITTED UNDER THE PROVISIONS OF SECTION 66436 OF THE SUBDIVISION MAP ACT. SAID EASEMENT PLOTS OUTSIDE THE PROPERTY.

THE SIGNATURES OF THE UNITED STATES OF AMERICA, THE HOLDER OF WATER RIGHTS FOR MINING, AGRICULTURAL, MANUFACTURING OR OTHER PURPOSES AND RIGHTS TO DITCHES AND RESERVOIRS USED IN CONNECTION WITH SUCH WATER RIGHTS, AS DISCLOSED IN DOCUMENT RECORDED IN BOOK "E" OF PATENTS, PAGE 313, HAVE BEEN OMITTED UNDER THE PROVISIONS OF SECTION 66436 OF THE SUBDIVISION MAP ACT. SAID EASEMENT CANNOT BE LOCATED OF RECORD.

COMPOSITE DEVELOPMENT PLAN NOTE:

A COMPOSITE DEVELOPMENT PLAN (C.D.P.) AFFECTING THIS MAP IS ON FILE WITH THE CITY OF HESPERIA BUILDING AND SAFETY DEPARTMENT.

SAN BERNARDINO COUNTY RECORDER'S CERTIFICATE:

THIS MAP HAS BEEN FILED UNDER DOCUMENT NUMBER _____,
THIS _____ DAY OF _____, 20____, AT _____ m,
IN BOOK _____ OF _____ AT PAGE _____
AT THE REQUEST OF _____
IN THE AMOUNT OF \$ _____

BOB DUTTON
ASSESSOR-RECORDER
COUNTY OF SAN BERNARDINO

BY: _____
DEPUTY RECORDER

PARCEL MAP NO. 19555

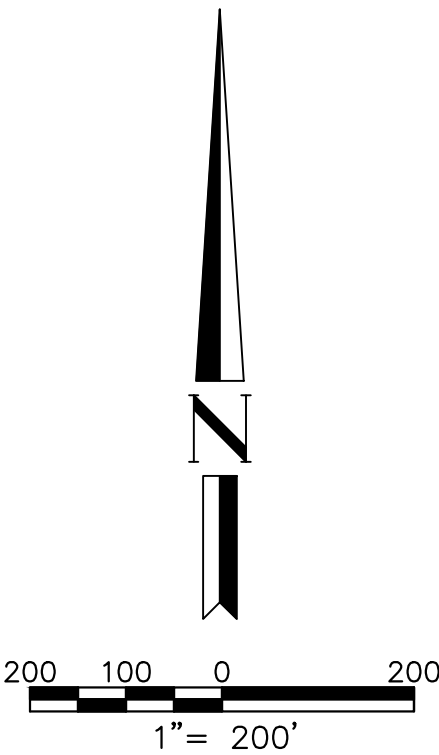
BEING A SUBDIVISION OF PARCEL A OF LOT LINE ADJUSTMENT LLA-2007-13, RECORDED
MARCH 7, 2008, AS DOCUMENT NO. 2008-103328 OF OFFICIAL RECORDS IN THE
OFFICE OF THE COUNTY RECORDER OF SAID COUNTY
IN THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 4 NORTH, RANGE 5 WEST,
SAN BERNARDINO MERIDIAN

JULY 2014

DAVID EVANS & ASSOCIATES, INC.

SURVEYOR'S NOTES

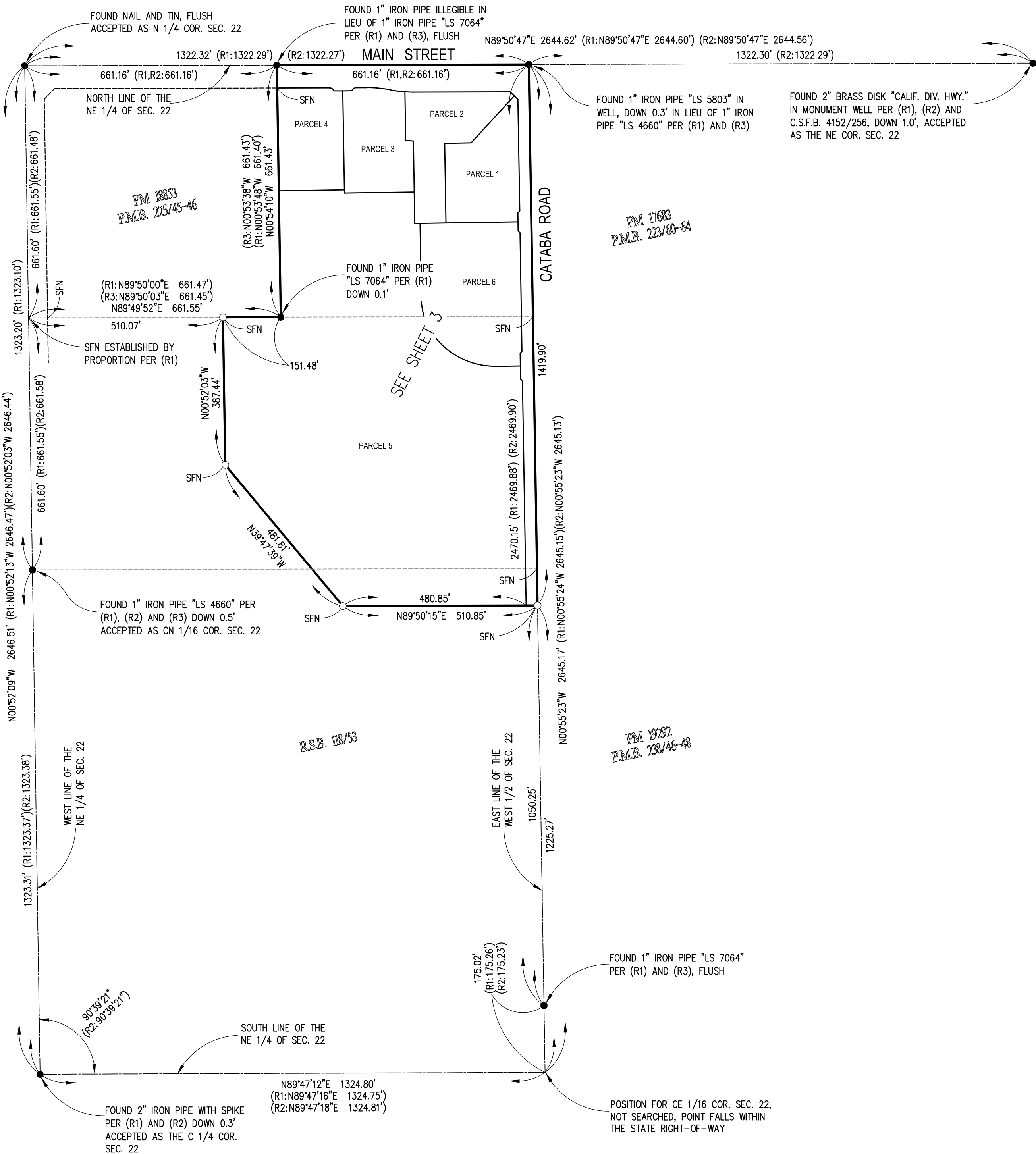
- INDICATES FOUND MONUMENT AS NOTED.
 - INDICATES SET 1" IRON PIPE 18" LONG WITH BRASS TAG STAMPED "L.S. 6685" 1/4" BELOW SURFACE. A NAIL AND BRASS TAG "L.S. 6685" SHALL BE SET IN LIEU OF IRON PIPE AT CORNERS LOCATED ON A CONCRETE SURFACE.
- ALL PARCEL CORNERS WILL BE SET WITH A MONUMENT AS DESCRIBED ABOVE.
- (RAD) INDICATES RADIAL BEARING.
- SFN INDICATES SEARCH FOUND NOTHING.
- (R1) INDICATES RECORD DATA PER RECORD OF SURVEY BOOK 118, PAGE 53.
- (R2) INDICATES RECORD DATA PER PARCEL MAP NO. 17683, P.M.B. 223/60-64.
- (R3) INDICATES RECORD DATA PER PARCEL MAP NO. 18853, P.M.B. 225/45-46.
- C.S.F.B. INDICATES COUNTY SURVEYOR'S FIELD BOOK.



BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS MAP IS TAKEN FROM THE NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 22, T. 4N., R. 5W., S.B.M., AS SHOWN ON PARCEL MAP NO. 17683, P.M.B. 223/60-64, BEING N 89°50'47" E

INDEX AND BOUNDARY ESTABLISHMENT



6 PARCELS
22.911± ACRES

IN THE CITY OF HESPERIA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

SHEET 3 OF 3 SHEETS

PARCEL MAP NO. 19555

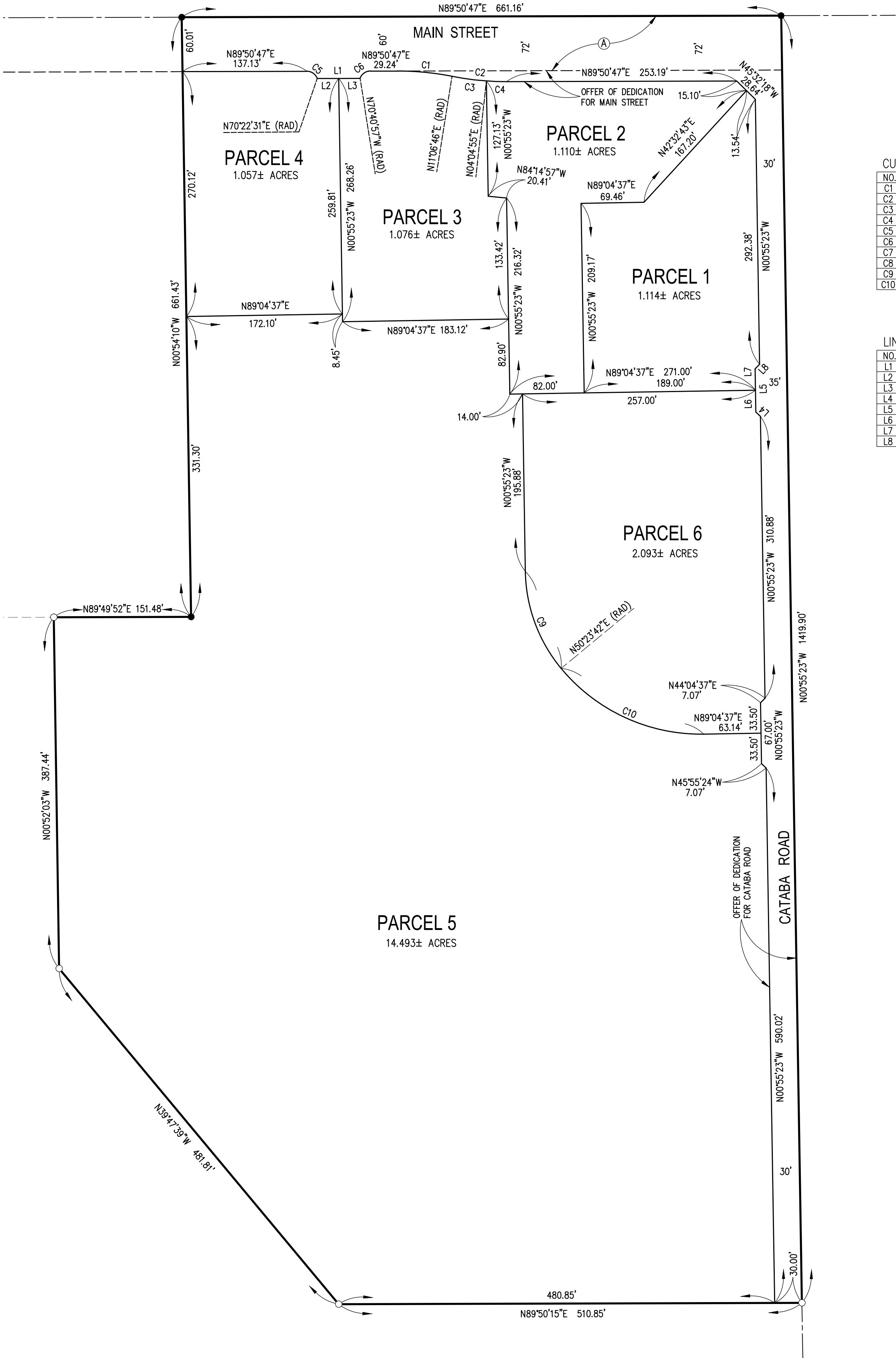
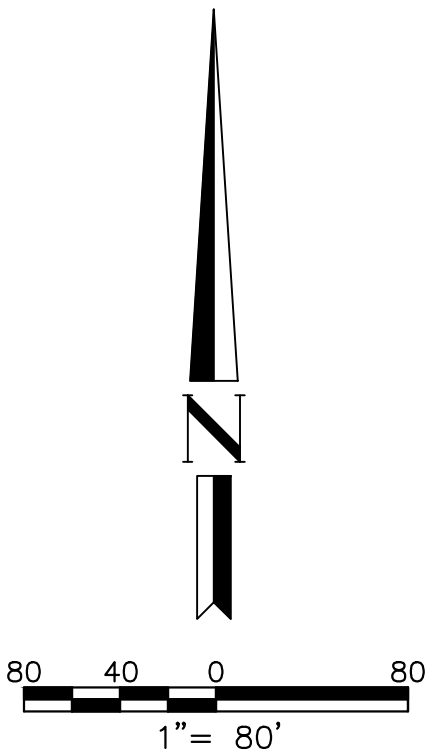
BEING A SUBDIVISION OF PARCEL A OF LOT LINE ADJUSTMENT LLA-2007-13, RECORDED
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OFFICE OF THE COUNTY RECORDER OF SAID COUNTY
IN THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 4 NORTH, RANGE 5 WEST,
SAN BERNARDINO MERIDIAN
JULY 2014 DAVID EVANS & ASSOCIATES, INC.

EASEMENT NOTES

(A) IRREVOCABLE OFFER OF DEDICATION TO THE CITY OF HESPERIA FOR HIGHWAYS, ROADS AND PUBLIC UTILITY PURPOSES, RECORDED AUGUST 11, 1992 AS DOCUMENT NO. 92-333353 OF OFFICIAL RECORDS.

NOTE

SEE SHEET 2 FOR SURVEYOR'S NOTES, BASIS OF BEARINGS, INDEX AND BOUNDARY ESTABLISHMENT.



CURVE TABLE

NO.	DELTA	RADIUS	LENGTH
C1	11°15'59"	311.35'	61.22'
C2	11°15'59"	311.35'	61.22'
C3	07°01'51"	311.35'	38.21'
C4	04°14'08"	311.35'	23.02'
C5	70°31'44"	12.00'	14.77'
C6	70°31'44"	12.00'	14.77'
C7	21°45'41"	12.00'	4.56'
C8	48°46'02"	12.00'	10.21'
C9	38°40'55"	172.00'	116.12'
C10	51°19'05"	200.00'	179.13'

LINE TABLE

NO.	BEARING	DISTANCE
L1	N89°50'47"E	47.36'
L2	N89°50'47"E	23.68'
L3	N89°50'47"E	23.68'
L4	N45°55'23"W	7.07'
L5	N00°55'23"W	47.50'
L6	N00°55'23"W	24.00'
L7	N00°55'23"W	23.50'
L8	N44°04'38"E	7.07'

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City of Hesperia STAFF REPORT



DATE: February 21, 2017
TO: Mayor and City Council
FROM: Nils Bentsen, City Manager **SECOND READING AND ADOPTION**
BY: Dave Reno, AICP, Principal Planner
SUBJECT: Consideration of Revision to Freeway Sign Regulations

RECOMMENDED ACTION

The Planning Commission recommends that the City Council approve and place on first reading Ordinance No. 2017-01, revising the City's freeway sign regulations.

BACKGROUND

Chapter 16.36 of the City's Development Code establishes sign regulations for a variety of uses in the City, including freestanding signs for commercial and industrial developments. Currently, the largest signs permitted for development within 660 feet of the freeway right-of-way is 60 feet high, 450 square feet in area. This is permitted provided that at least three uses are to be displayed on the sign.

In 2013, the City established new regulations for freeway pylon signs. These signs were to be located along the freeway and intended to permit any business within the City (not just those on the same site) to advertise. The intent was to permit businesses that would otherwise not have any exposure to benefit from visibility along the freeway.

These signs were to be privately owned and operated, but would have to do so in accordance with the City's freeway pylon sign regulations. An agreement with the City would be required for sign's owner to allow any business in the City to advertise. In 2014, the City granted a conditional use permit for a sign to be located adjacent to the Main Street freeway interchange. In accordance with the City's ordinance, the sign was to be 85 feet high and 750 square feet in area. The sign also featured a 364 square foot digital display.

Signs adjacent to freeways are subject to the Outdoor Advertising Act, and may require a permit from the California Department of Transportation (Caltrans). Because of the City's requirement to permit any business to advertise, Caltrans determined that the sign is an off premise sign (similar to a billboard). Therefore, it was subject to Caltrans' permitting requirements. The Outdoor Advertising Act prohibits off premise signs from being taller than 25 feet high. As this is not consistent with the City's design requirements, the City's freeway pylon sign program cannot be implemented as intended and be consistent with the Outdoor Advertising Act.

On December 8, 2016, the Planning Commission held a public hearing on the proposed ordinance. No one from the public spoke regarding the revised regulations and the Commission had a few questions on the difference between on premise signs and billboards. Following the hearing, the Commission voted unanimously to recommend adoption of the Ordinance.

On January 10, 2017, the City Council opened the public hearing and continued this item indefinitely to permit staff to revise the ordinance. The revision concerns the one previously permitted sign freeway pylon sign discussed above. The revision will permit this sign to be constructed, provided that the agreement with the owner is revised to remove the requirement to permit any business in the City to advertise on the sign, which will be consistent with this new ordinance.

ISSUES/ANALYSIS

On premise signs (advertising businesses on the same site) are permitted in the City's code and do not require a permit from Caltrans. The proposed ordinance will delete the adopted freeway pylon sign program and permits signs taller than 60 feet under limited circumstances. Freeway signs between 60 and 100 feet in height and up to 1,000 square feet in area may be permitted, subject to a study to determine the optimal location in relation to freeway off-ramps, overpasses, existing development, and topography. Such signs must be located on, or within 1,000 feet of the premises of a development project consisting of at least 35 contiguous acres. No more than two signs may be permitted per development. Signs incorporating digital displays may not be closer than 1,000 feet from another digital display on the same side of the freeway. Such displays are subject to current Caltrans' specifications as to brightness, frequency of changeable copy and depiction of movement. The location and design of freeway signs must be included in an approved site sign plan for the development to ensure consistency with the design and architecture of the project.

An environmental initial study was completed, which concluded that adoption of these new regulations would not have significant negative impact on the environment. The signs are only intended for larger developments along the freeway corridor. Therefore, the number of signs possibly developed would be about the same as what was expected under the pylon sign program. As these signs must be approved as part of a site sign plan, they must be designed consistent with the architecture and theme of the associated development. Digital displays would still be subject to Caltrans limitations and must be no closer than 1,000 feet to any other digital display on the same side of the freeway, even those displays on existing billboards.

In conclusion, as the current City freeway pylon sign program does not comport with state regulations, it is necessary to eliminate those provisions. This ordinance is consistent with the City's policy objectives to enhance the development potential of the freeway corridor in order to establish sales tax generating businesses and create local jobs.

ALTERNATIVE(S)

1. The City Council may decide that the City's height limit for freeway signs be maintained at 60 feet. As these signs are intended to enhance the potential for larger developments, staff does not recommend this alternative.
2. Provide alternative direction to staff.

ATTACHMENT(S)

1. Negative Declaration ND-2016-06 and initial study.
2. Draft Ordinance No. 2017-01, with Exhibit "A"

ATTACHMENT 1

PLANNING DIVISION
9700 Seventh Avenue, Hesperia, California 92345
(760) 947-1224 FAX (760) 947-1221

NEGATIVE DECLARATION ND-2016-06
Preparation Date: November 10, 2016

Name or Title of Project: Freeway Sign Ordinance.

Location: 660 feet of the centerline of Interstate 15 and may be located near freeway interchanges that exist or are planned at Bear Valley Road, Main Street, Poplar/Muscatel Street, Ranchero Road or Oak Hill Road. (Citywide)

Entity or Person Undertaking Project: City of Hesperia

Description of Project: A Development Code Amendment (DCA16-00002) of the City of Hesperia to allow freeway signs between 60 and 100 feet in height along the Interstate 15 freeway. This is in addition to other on premise signs currently permitted for commercial or industrial development. Such signs must serve developments of at least 35 contiguous acres and no more than two signs would be permitted per development. The revised sign regulations would also remove the City's Pylon Sign program, adopted in 2014, as recent Caltrans decisions on these signs regard them as billboards and would not permit their construction as required by the City's pylon sign regulations. In addition, the City's current requirement to allow any business within the City to advertise does not comport with the State's definition of an on premise sign.

Statement of Findings: The City Council has reviewed the Initial Study for this proposed project and has found that there are no significant adverse environmental impacts to either the man-made or physical environmental setting with inclusion of the following mitigation measures and does hereby direct staff to file a Notice of Determination, pursuant to the California Environmental Quality Act (CEQA).

Mitigation Measures:

1. A Sign Plan Review shall be submitted in order to review architecture is consistent with approved Exhibit 'A', and to ensure digital display timing and lighting are consistent with Caltrans regulations.
2. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading.
3. If cultural resources are found during grading, then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law. Further, prior to completion of the project, the applicant shall submit a report describing all cultural resources encountered during grading.

A copy of the Initial Study and other applicable documents used to support the proposed Negative Declaration is available for review at the City of Hesperia Planning Department.

Public Review Period: November 14, 2016 through December 19, 2016.

Adopted by the City Council:

Attest:

DAVE RENO, AICP, PRINCIPAL PLANNER

**CITY OF HESPERIA INITIAL STUDY
ENVIRONMENTAL CHECKLIST FORM**

Project title: Freeway Signs

Lead agency name and address: City of Hesperia Planning Department, 9700 Seventh Avenue, Hesperia, CA 92345.

Contact person and phone number: Dave Reno, Principal Planner (760) 947-1235.

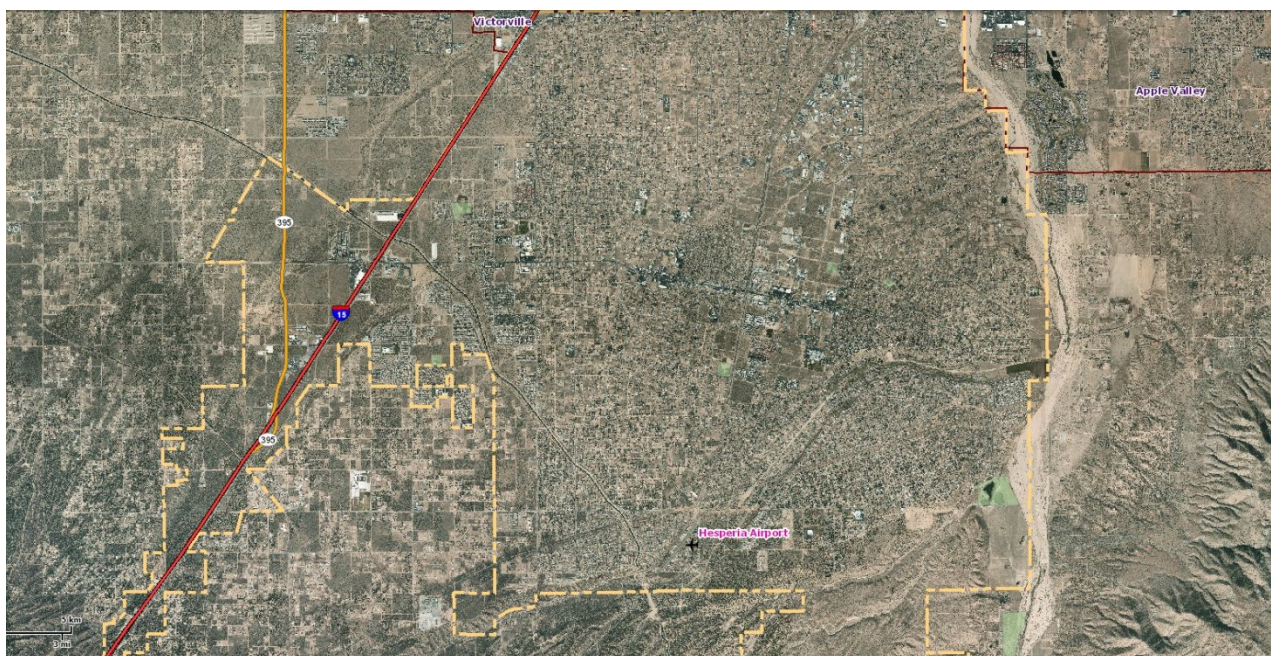
Project location: 660 feet from the Interstate 15 right-of-way located near freeway interchanges that exist or are planned at Bear Valley Road, Main Street, Poplar/Muscatel Street, Ranchero Road or Oak Hill Road.

Project sponsor's name and address: City of Hesperia, 9700 Seventh Avenue, Hesperia, CA 92345

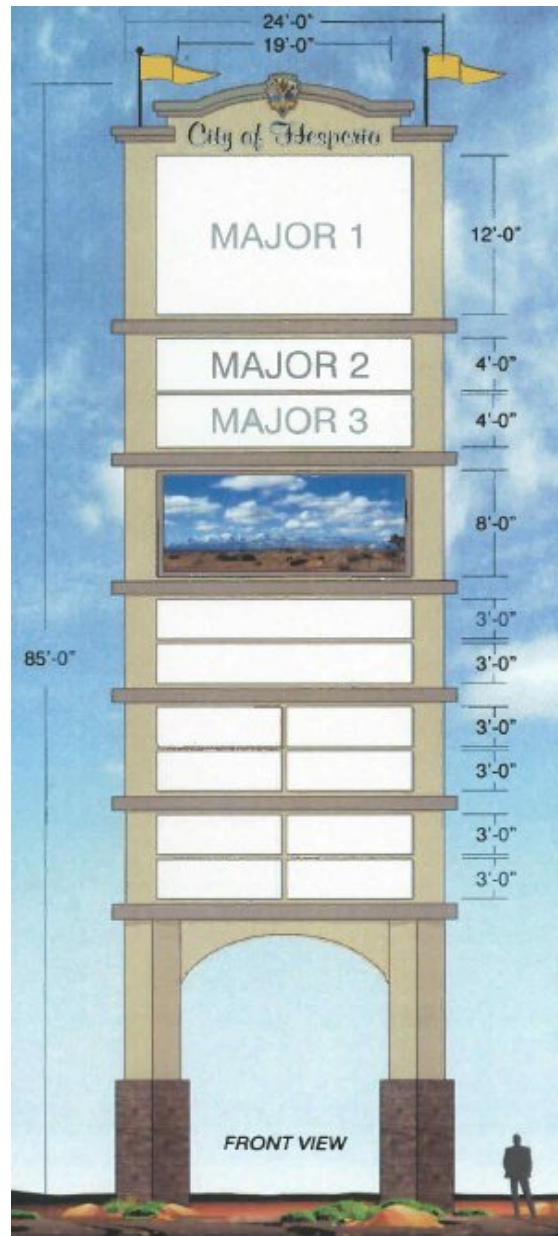
General plan designation: Regional Commercial, Auto Sales Commercial, Office Professional, Neighborhood Commercial, and Industrial Commercial.

Zoning: Regional Commercial, Auto Sales Commercial, Office Professional, Neighborhood Commercial, and Industrial Commercial.

Description of project: Development Code Amendment (DCA16-00002) of the City of Hesperia to allow freeway signs between 60 and 100 feet in height along the Interstate 15 freeway. This is in addition to other on premise signs currently permitted for commercial or industrial development. Such signs must serve developments of at least 35 contiguous acres and no more than two signs would be permitted per development. The revised sign regulations would also remove the City's Pylon Sign program, adopted in 2014, as recent Caltrans decisions on these signs regard them as billboards and would not permit their construction as required by the City's pylon sign regulations. In addition, the City's current requirement to allow any business within the City to advertise does not comport with the State's definition of an on premise sign.



Example of a Freeway Sign



Surrounding land uses and setting: (Briefly describe the project's surroundings.) Properties are located within Districts of the Main Street and Freeway Corridor Specific Plan (Specific Plan).

Other public agency whose approval is required (e.g., permits, financing approval, or participation agreement.) Review and approval is required from the City.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Agricultural Resources	<input type="checkbox"/>	Air Quality
<input type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Geology / Soils
<input type="checkbox"/>	Hazards & Hazardous Materials	<input type="checkbox"/>	Hydrology / Water Quality	<input type="checkbox"/>	Land Use / Planning
<input type="checkbox"/>	Mineral Resources	<input type="checkbox"/>	Noise	<input type="checkbox"/>	Population / Housing
<input type="checkbox"/>	Public Services	<input type="checkbox"/>	Recreation	<input type="checkbox"/>	Transportation / Traffic
<input type="checkbox"/>	Utilities / Service Systems	<input type="checkbox"/>	Mandatory Findings of Significance	<input type="checkbox"/>	

DETERMINATION: (Completed by the Lead Agency)

On the basis of this initial evaluation:

	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	
X	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required. I find that the proposed project MAY have a “potentially	
	I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the project, nothing further is required.	

“De
minimis”

Signature

Date

Dave Reno - Principal Planner, Hesperia Planning Department

EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is provided for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including off- as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting information sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
9. The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance.

ENVIRONMENTAL IMPACTS:

ISSUES

I. AESTHETICS. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?		X		
<p>Comments.</p> <p>The City contains many scenic views of the Mojave Desert, the Mojave River, the San Bernardino and San Gabriel Mountains, as well as the Summit Valley area. The GPUEIR addresses the scenic vistas and focuses on preservation of natural open space to protect sensitive environments and specific amenities like washes, bluffs, Joshua tree forests and juniper woodlands (3). The proposed freeway signs will be located within the commercial corridors along the freeway and are not being proposed in a sensitive environment. Further, a state scenic highway does not traverse the City (2); although state Highways 138 and 173, which are located within the southern portion of the City, are eligible for being designated scenic highways. The proposed freeway signs will not be in proximity to these highways. Furthermore, the City does not contain any registered historic buildings.</p> <p>Construction of the freeway signs would not significantly change the visual character of the area. Development of similar signage is currently allowed for freeway oriented development. Signage allowed as part of this project will be in addition to signs that are currently allowed as part of any new development that qualifies for freeway signage, so the environmental impact would be slightly greater than that identified under the General Plan Update Environmental Impact Report (GPUEIR). Therefore, the impact of this project is not significant. Several commercial zoning designations including, Regional Commercial (RC), Auto Sales Commercial (ASC), Office Professional (OP), Neighborhood Commercial, (NC), and Commercial Industrial Business Park (CIBP) will be eligible for this type of development.</p> <p>The development of these freeway signs is subject to the maximum sign height of between 60 and 100 feet. Besides limiting the building height this project will set forth regulations and specify minimum architectural standards as implemented through the sign plan review process. The location, height and area will be subject to a study that will evaluate the optimal location in relation to freeway off-ramps, overpasses, existing development and topography. Signs incorporating digital displays may not be closer than 1000 feet from another digital display on the same side of the freeway and will be subject to current Caltrans regulations as to brightness, frequency of changeable copy and depiction of movement. Based upon these regulations, the use will not adversely affect day or nighttime views in the area. Finally these signs are limited to development of at least 35 contiguous acres. As such, staff does not expect many of these signs to be built, except for larger projects proximate to each existing or planned freeway interchange. Therefore, approval of the proposed project will not have a significant negative impact upon aesthetics.</p>				

II. AGRICULTURE RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and State Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X
Comments. The City contains few sites currently in agricultural use and only two properties within a Williamson Act contract. This action will not change the zoning of any properties designated as prime or unique farmland and will not negate any Williamson Act contract (6) . The City and its Sphere Of Influence (SOI) is located within the Mojave bioregion, primarily within the urban and desert land use classes (9) . The southernmost portions of the City and SOI contain a narrow distribution of land within the shrub and conifer woodland bioregions. These bioregions do not contain sufficient forest land for viable timber production and are ranked as low priority landscapes (10) . The project will affect the western portion of the City within the Interstate 15 corridor in the urban area and is substantially surrounded by urban development. During the nineteenth century, juniper wood from Hesperia was harvested for use in fueling bakery kilns. Use of juniper wood was discontinued when oil replaced wood in the early twentieth century (7) . As a consequence, local timber production has not occurred since that time. Therefore, this project will not have an impact upon forest land or timberland.				
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substandard pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X

Comments.

The General Plan Update and its Environmental Impact Report (EIR) addresses the impact of build-out in accordance with the Land Use Plan, with emphasis upon the impact upon sensitive receptors **(11 & 12)**. Sensitive receptors refer to land uses and/or activities that are especially sensitive to poor air quality. Sensitive receptors typically include homes, schools, playgrounds, hospitals, convalescent homes, and other facilities where children or the elderly may congregate. These population groups are generally more sensitive to poor air quality. The proposed signs will not contain sensitive receptors. The signs will not cause a significant increase in emissions and are within existing commercial areas and not near a point source emitting a significant amount of poor air quality.

The Mojave Desert Air Quality Management District (MDAQMD) has published a number of studies that demonstrate that the Mojave Desert Air Basin (MDAB) can be brought into attainment for particulate matter and ozone, if the South Coast Air Basin (SCAB) achieves attainment under its adopted Air Quality Management Plan. The High Desert and most of the remainder of the desert has been in compliance with most federal and state standards for many years and studies indicate that ozone levels have been decreasing over the past 20 years **(12)**. The ability of MDAQMD to comply with ozone ambient air quality standards will depend upon the ability of the South Coast Air Quality Management District (SCAQMD) to bring the ozone concentrations and precursor emissions into compliance with ambient air quality standards **(11 & 12)**.

All uses identified within the Hesperia General Plan are classified as area sources by the MDAQMD **(13)**. Programs have been established in the Air Quality Attainment Plan which addresses emissions caused by area sources. Both short-term (construction) emissions and the long-term (operational) emissions associated with the development were considered. Short-term airborne emissions will occur during the construction phase related to site preparation, land clearance, grading, excavation, and building construction; which will result in fugitive dust emissions. Construction equipment used during site preparation and construction activities will also generate emissions. Construction activities generally do not have the potential to generate a substantial amount of odors. The primary source of odors associated with construction activities are generated from the combustion petroleum products. However, such odors are part of the ambient odor environment of urban areas. In addition, the contractor will be required to obtain all pertinent operating permits from the Mojave Desert Air Quality Management District (MDAQMD) for any equipment requiring AQMD permits.

The General Plan Update identifies large areas where future residential, commercial, industrial, and institutional development will occur. The General Plan Update Environmental Impact Report (GPUEIR) analyzed the impact to air quality upon build-out of the General Plan. Based upon this analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with air quality impacts **(14)**. Finally these signs will not contribute to additional development not already considered under the GPEIR.

IV. BIOLOGICAL RESOURCES. Would the project:		Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?			X		
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?					X

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X
<p>Comments.</p> <p>The potential project sites for these signs are not expected to support the Mohave ground squirrel, given the very low population levels of the species in the region and proximity to existing development. Further, the project sites are outside the area considered suitable habitat for the species (17). The desert tortoise is also not expected to inhabit the site, given that the development of the sign will not impact substantial portion of land (15). If a sign is proposed in combination with a commercial or industrial project, then that development would be analyzed and any impacts associated with the project would be identified. The sites are also outside the range of the arroyo toad, which has been documented to inhabit a portion of the Tapestry Specific Plan and adjacent areas (16).</p> <p>The potential project sites are not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities. These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest, occur within the Tapestry Specific Plan and vicinity (16). The potential project sites are located along the western boundary of the northwest within a developed portion of the City (1 & 4). Consequently, approval of the ordinance will not have an impact upon biological resources, subject to the enclosed mitigation measures.</p>				
V. CULTURAL RESOURCES. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?		X		

Comments.

Based review of aerial photos, there is no evidence that historic resources exist within the project's potential sites. In addition, these sites are not on the list of previously recorded cultural resources **(18)**. This list, which was compiled as part of the 2010 General Plan Update; was created from the inventory of the National Register of Historic Properties, the California Historic Landmarks list, the California Points of Historic Interest list, and the California State Resources Inventory for San Bernardino County. Paleontological resources are not expected to exist on the project site. The Cultural Resources Sensitivity Map identifies the western portion of the City along Interstate 15 as area of cultural sensitivity **(19)**. Consequently, if cultural resources are found during grading activities, grading shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading. All cultural resources discovered shall be handled in accordance with state and federal law. A report of all resources discovered as well as the actions taken shall be provided to the City prior to issuance of a Certificate of Occupancy. This mitigation measure is listed on page 22.

In the event that human remains are discovered during initial site work, grading shall cease until the County Coroner has made the necessary findings in accordance with the California Environmental Quality Act (CEQA) **(20)**. Should the Coroner determine that the remains are Native American, the Native American Heritage Commission (NAHC) shall be contacted and the remains shall be handled in accordance with Public Resources Code Section 5097.98. Therefore, approval of the ordinance is not expected to have a significant impact upon cultural resources with inclusion of the mitigation measure.

VI. GEOLOGY AND SOILS. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
ii) Strong seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?		X		

Comments.

The potential project sites contain generally flat topography. No large hills or mountains are located within this area. According to Exhibit SF-1 of the General Plan Safety Element, no active faults are known or suspected to occur near or within the project sites. Further, they are not within an Alquist-Priolo Special Studies Zone or Earthquake Fault Zone **(21)**. The City and Sphere of Influence (SOI) is near several major faults, including the San Andreas, North Frontal, Cleghorn, Cucamonga, Helendale, and San Jacinto faults **(21 & 22)**. The nearest fault to the sites is the North Frontal fault, located approximately five miles to the east of the City.

The Alquist-Priolo Earthquake Fault Zoning Act prohibits structures designed for human occupancy within 500 feet of a major active fault and 200 to 300 feet from minor active faults **(23)**. The potential project sites are not located in an Alquist-Priolo Earthquake Fault Zone or within 500 feet of a fault **(21 & 22)**.

As a function of obtaining a building final, the proposed freeway signs will be built in compliance with the Hesperia Municipal Code and the Building Code **(44)**, which ensures that the signs will adequately resist the forces of an earthquake. In addition, prior to issuance of a grading permit, a soil study is required, which shall be used to determine the load bearing capacity of the native soil. Should the load bearing capacity be determined to be inadequate, compaction or other means of improving the load bearing capacity shall be performed in accordance with all development codes. Consequently, the impact upon the project regarding geology and soils is considered less than significant.

VII. GREENHOUSE GAS EMISSIONS. Would the project:

	Potentially Significant Less Than Significant With	Less Than Significant Least	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment (25) ?			X
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases (25, 26 & 27) ?			X

Comments.

Assembly Bill 32 requires the California Air Resources Board (CARB) to develop regulations and market mechanisms that will ultimately reduce California's greenhouse gas emissions to 1990 levels by 2020. In addition, Senate Bill 97 requires that all local agencies analyze the impact of greenhouse gases under CEQA and task the Office of Planning and Research (OPR) to develop CEQA guidelines "for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions..."

On April 13, 2009, OPR submitted to the Secretary for Natural Resources its proposed amendments to the state CEQA Guidelines for greenhouse gas emissions, as required by Senate Bill 97 (Chapter 185, 2007). The Natural Resources Agency forwarded the adopted amendments and the entire rulemaking file to the Office of Administrative Law (OAL) on December 31, 2009. On February 16, 2010, OAL approved the Amendments, which became effective on March 18, 2010 **(28)**. This initial study has incorporated these March 18, 2010 Amendments.

Lead agencies may use the environmental documentation of a previously adopted Plan to determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project complies with the requirements of the Plan or mitigation program under specified circumstances. As part of the General Plan Update, the City adopted a Climate Action Plan (CAP)**(25)**. The CAP provides policies along with implementation and monitoring which will enable the City of Hesperia to reduce greenhouse emissions 28 percent below business as usual by 2020, consistent with AB 32 **(26)**.

Development of the proposed signs will not increase the greenhouse gas (GHG) emissions beyond that analyzed within the General Plan Update Environmental Impact Report (GPUEIR). If the sign is proposed in combination with a commercial or industrial project, then that development would be analyzed and any impacts associated with the project would be identified.

The apartment buildings will be equipped with energy efficient mechanical systems for heating and

VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

Comments.

Many hazardous chemicals are used in construction of buildings and structures. However, proper use of these materials will not result in a hazardous waste release. The apartments will not involve the routine transport or storage of hazardous wastes. These wastes are limited to regular household cleansers and other over-the-counter hazardous chemical products. Therefore, the potential project sites do not have the potential to become a hazardous waste site.

The project site is currently vacant and is not listed within any of the following hazardous site database systems, so it is unlikely that hazardous materials currently exist on-site:

- National Priorities List www.epa.gov/superfund/sites/query/basic.htm. List of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. There are no known National Priorities List sites in the City of Hesperia.
- Site Mitigation and Brownfields Reuse Program Database www.dtsc.ca.gov/database/Calsites/Index.cfm. This database (also known as CalSites) identifies sites that have known contamination or sites that may have reason for further investigation. There are no known Site Mitigation and Brownfields Reuse Program sites in the City of Hesperia.
- Resource Conservation and Recovery Information System www.epa.gov/enviro/html/rcris/rcris_query_java.html. Resource Conservation and Recovery Information System is a national program management and inventory system of hazardous waste handlers. There are 53 Resource Conservation and Recovery Act facilities in the City of Hesperia. However, the project site is not a listed site.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) (<http://cfpub.epa.gov/supercpad/cursites/srchsites.cfm>). This database contains information on hazardous waste sites, potential hazardous waste sites, and remedial activities across the nation. There is one Superfund site in the City of Hesperia. However, the project site is not located within or adjacent to the Superfund site.
- Solid Waste Information System (SWIS) (<http://www.ciwmb.ca.gov/SWIS/Search.asp>). The SWIS database contains information on solid waste facilities, operations, and disposal sites throughout the State of California. There are three solid waste facilities in the City of Hesperia; however the project site is not listed.
- Leaking Underground Fuel Tanks (LUFT)/ Spills, Leaks, Investigations and Cleanups (SLIC) (<http://geotracker.waterboards.ca.gov/search/>). This site tracks regulatory data about underground fuel tanks, fuel pipelines, and public drinking water supplies. There are fourteen LUFT sites in the City of Hesperia, six of which are closed cases. The project site is not listed as a LUFT site and there are no SLIC sites in the City of Hesperia.
- There are no known Formerly Used Defense Sites within the limits of the City of Hesperia <http://hq.environmental.usace.army.mil/programs/fuds/fudsinv/fudsinv.html>.

The proposed ordinance does not conflict with air traffic nor emergency evacuation plans. The potential sites are located over 5 miles west of the Hesperia Airport and is therefore not within a restricted use zone associated with air operations **(29)**. Consequently, implementation of the project will not cause safety hazards to air operations.

The project's potential for exposing people and property to fire and other hazards was also examined. The site is located within an urbanized area and is not in an area susceptible to wildland fires. The southernmost and westernmost portions of the City are at risk, due primarily to proximity to the San Bernardino National Forest **(30 & 31)**. All new structures associated with this project will be constructed to the latest building standards including applicable fire codes. Consequently, approval of the site plan review and associated freeway signs will not have any impact upon or be affected by hazards and hazardous materials.

VIII. HYDROLOGY AND WATER QUALITY. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				X
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				X
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				X
f) Otherwise substantially degrade water quality?				X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary of Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X

Comments.

Development of these signs will not disturb more land than would otherwise be developed at each potential site. Consequently, a Notice of Intent (NOI) and a general construction National Pollution Discharge Elimination System (NPDES) permit will not be required prior to land disturbance **(33)**.

This development will not significantly change absorption rates and potential drainage patterns, or the amount of surface water runoff, as the project consist of the development of signs alone **(4)**. If the sign is proposed in combination with a commercial or industrial project, then that development would be analyzed and any impacts associated with the project would be identified. The City is downstream of three dams. These are the Mojave Forks, Cedar Springs, and Lake Arrowhead Dams. In the event of a catastrophic failure of one or more of the dams, the project site would not be inundated by floodwater **(34)**. The areas most affected by a dam failure are located in the low lying areas of southern Rancho Las Flores, areas adjacent to the Antelope Valley Wash, and properties near the Mojave River.

The City of Hesperia is located just north of the Cajon Pass at an elevation of over 2,500 feet above sea level, which is over 60 miles from the Pacific Ocean. As such, the City is not under threat of a tsunami, otherwise known as a seismic sea wave **(24)**. Similarly, the potential for a seiche to occur is remote, given the limited number of large water bodies within the City and its sphere. A seiche would potentially occur only in proximity to Silverwood Lake, Hesperia Lake and at recharge basins **(24)**. The subject property exhibits at most a two percent slope. In addition, the water table is significantly more than 50 feet below the surface. The area north of Summit Valley contains steep slopes which have the potential to become unstable during storm events **(35)**. Therefore, the conditions necessary to create a mudflow; a steep hillside with groundwater near the surface, do not exist at this location.

The Mojave Water Agency (MWA) has adopted a regional water management plan (Plan) for the Mojave River basin. The Plan references a physical solution that forms part of the Judgment in City of Barstow, et. al. vs. City of Adelanto, et. al., Riverside Superior Court Case No. 208548, an adjudication of water rights in the Mojave River Basin Area (Judgment). Pursuant to the Judgment and its physical solution, the overdraft in the Mojave River Basin is addressed, in part, by creating financial mechanisms to import necessary supplemental water supplies. The MWA has obligated itself under the Judgment “to secure supplemental water as necessary to fully implement the provisions of this Judgment.” Based upon this information, the project will not have a significant impact on water resources not already addressed in the Judgment or the City’s Urban Water Management Plan (UWMP) adopted in 1998. Furthermore, a letter dated May 21, 1997 from the MWA’s legal counsel confirmed for the City that the physical solution stipulated to by the Hesperia Water District provides the mechanism to import additional water supplies into the basin **(32)**.

The Hesperia Water District (HWD) is the water purveyor for the City and much of its Sphere Of Influence (SOI). The UWMP indicates that the City is currently using less than half of its available water supply and that supply is not projected to exceed demand beyond the year 2030 **(32)**. The HWD has maintained a water surplus through purchase of water transfers, allocations carried over from previous years, and recharge efforts. Therefore, the impact upon hydrology and water quality associated with the site plan review and associated freeway signs are considered less than significant.

IX. LAND USE AND PLANNING. Would the project:				
	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Physically divide an established community?				X

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
<p>Comments.</p> <p>The potential sites for freeway signs are mostly vacant and are surrounded by vacant land with the exception of the properties at Main Street and Bear Valley Road, which are currently vacant but located within an area with existing commercial development (1). The potential on premise signs are consistent with the General Plan because they support commercial and industrial lands uses intended in the land use element (4).</p> <p>The potential sites are not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities. These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest community; exist within the Tapestry Specific Plan and vicinity (16). The project sites are located approximately seven miles northwest of this sensitive area and is within a developed portion of the City.</p>				
X. MINERAL RESOURCES. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X
<p>Comments.</p> <p>According to data in the Conservation Element of the City's General Plan, no naturally occurring important mineral resources occur within the potential project sites (36). Known mineral resources within the City and sphere include sand and gravel, which are prevalent within wash areas and active stream channels. Sand and gravel is common within the Victor Valley. Consequently, the proposed project would not have an impact upon mineral resources.</p>				
XI. NOISE. Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

Comments.

Approval of the proposed signs will result in both construction noise and operational noise, mostly associated with trucks and vehicular traffic to and from the site. According to the General Plan, the majority of noise sources within the City are mobile sources, which include motor vehicles **(37)**. Freeways, major arterials, railroads, airports, industrial, commercial, and other human activities contribute to noise levels. Apart from the noise during construction, noises associated with this type of project will be mostly from traffic caused by arriving and departing vehicles to do maintenance on the signs.

Noise levels associated with construction activities may be significantly higher than the existing ambient noise levels in the vicinity of the project site. Noise generated by construction equipment, including trucks, graders, backhoes, well drilling equipment, bull-dozers, concrete mixers and portable generators can reach high levels and is typically one of the sources for the highest potential noise impact of a project. However, the construction noise would diminish as construction is completed.

The proposed project must adhere to the requirements of the City of Hesperia Noise Ordinance **(38)**. The Noise Ordinance contains an exemption from the noise level regulations during grading and construction activities occurring between 7:00 A.M. and 7:00 P.M., Monday through Saturday, except federal holidays.

The potential project sites are over 5 miles west of the Hesperia Airport. At this distance, the project is not impacted by any safety zones associated with this private airport **(39)**. The project sites are even farther from the Southern California Logistics Airport (SCLA) and the Apple Valley Airport and will not be affected by any safety zones for these airports.

The General Plan Update identifies areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the noise impact upon build-out of the General Plan to the maximum allowable density permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a Statement of Overriding Considerations dealing with noise impacts **(14)**. This project is consistent with the Specific Plan and no appreciable difference in noise impact will occur.

XII. POPULATION AND HOUSING. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

Comments.

The subject property is within the Commercial and Industrial Districts of the Specific Plan (5). Since the project proposes to develop signs to advertise larger commercial or industrial development, its potential effect as a growth-inducing factor is less than significant. As the signs are part of a larger development then development would be analyzed any impacts associated with the project would be would be identified. Consequently, the proposed project will not cause a significant additional population or housing impact. In addition, this project will not displace any existing housing, necessitating the construction of replacement housing elsewhere, since the site is currently vacant.

The sites are currently served by water, sewer, and other utility systems (40). Therefore, development of the project would not cause a significant negative impact upon existing public facilities. Completion of the project would also have a less than significant impact upon population and housing, as no increase in density for residential uses is proposed.

XIII. PUBLIC SERVICES.	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for the new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				X
Fire protection?				X
Police protection?				X
Schools?				X
Parks?				X
Other public facilities?				X

Comments.

The proposed project will not create an increase in demand for public services (5), therefore it will not be greater than that anticipated as part of the GPUEIR. The potential sites are currently adjacent to both sewer and water lines adequate to serve the development. Therefore, the impact of the site plan review and associated freeway signs on public services are less than significant.

XIV. RECREATION.	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X	
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

<p>Comments.</p> <p>This project will not result in an increase in population growth beyond that which is planned for in the City's Land Use Element and the Specific Plan. Construction of these signs will allow for advertising of businesses located along the freeway. The impact will not result in an increase in population growth beyond that which is planned for in the City's Land Use Element and the Specific Plan, as no residential uses are proposed. Therefore, its impact upon existing recreational facilities will be minimal.</p>				
XV. TRANSPORTATION / TRAFFIC. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?			X	
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?			X	
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?				X
<p>Comments.</p> <p>The potential project sites are located within the Commercial and Industrial Districts of the Specific Plan. Consequently, the GPEIR analyzed development on this site. This project will not increase additional traffic not already accounted as part of the development that is being advertised on the proposed freeway pylon signs.</p> <p>The General Plan Update identifies areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the impact upon transportation at build-out of the General Plan to the maximum allowable density permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a Statement of Overriding Considerations dealing with transportation impacts (14). The proposed signs will not cause an increase in traffic from that which was analyzed under the GPUEIR. Consequently, the impact of the project upon transportation systems is less than significant.</p>				
XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X

c) Require or result in the construction of new storm water drainage facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X
<p>Comments.</p> <p>The Mojave Water Agency (MWA) has adopted a regional water management plan for the Mojave River basin. The Plan references a physical solution that forms part of the Judgment in City of Barstow, et. al. vs. City of Adelanto, et. al., Riverside Superior Court Case No. 208548, an adjudication of water rights in the Mojave River Basin Area (Judgment). Pursuant to the Judgment and its physical solution, the overdraft in the Mojave River Basin is addressed, in part, by creating financial mechanisms to import necessary supplemental water supplies. The MWA has obligated itself under the Judgment "to secure supplemental water as necessary to fully implement the provisions of this Judgment." Based upon this information the project will not have a significant impact on water resources not already addressed in the Judgment or the City's Urban Water Management Plan (UWMP) adopted in 1998. Furthermore, a letter dated May 21, 1997 from the MWA's legal counsel confirmed for the City that the physical solution stipulated to by the Hesperia Water District provides the mechanism to import additional water supplies into the basin (32).</p> <p>The Hesperia Water District (HWD) is the water purveyor for the City and much of its Sphere Of Influence (SOI). The UWMP evidences that the City is currently using less than half of its available water supply and that supply is projected to exceed demand beyond the year 2030 (32). The HWD has maintained a surplus water supply through purchase of water transfers, allocations carried over from previous years, and recharge efforts.</p> <p>The City is in compliance with the California Integrated Waste Management Act of 1989, which requires that 50 percent of the solid waste within the City be recycled (43). Currently, approximately 71 percent of the solid waste within the City is being recycled (41 & 42). About 152 tons of solid waste is disposed at the landfill and 214 tons are recycled of the total solid waste produced by the City per day. The waste disposal hauler for the City has increased the capacity of its Materials Recovery Facility (MRF) to 600 tons per day in order to accommodate future development. Since the project to allow the development of freeway signs and no commercial development is being associated or analyzed in this study, the project will not cause a significant negative impact upon utilities and service systems.</p>				
XVII. MANDATORY FINDINGS OF SIGNIFICANCE.				
	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				X
Comments. Based upon the analysis in this initial study, a Negative Declaration may be adopted. Development of this project will have a minor effect upon the environment. These impacts are only significant to the degree that mitigation measures are necessary.				
XVIII. EARLIER ANALYSES.				
Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c)(3)(D). In this case a discussion identifies the following: The Certified General Plan Environmental Impact Report.				
a) Earlier analyses used. Earlier analyses are identified and stated where they are available for review.				
b) Impacts adequately addressed. Effects from the above checklist that were identified to be within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards are noted with a statement whether such effects were addressed by mitigation measures based on the earlier analysis.				
c) Mitigation measures. For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which are incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project are described.				
The following mitigation measure is recommended as a function of this project: <ol style="list-style-type: none"> 4. A Sign Plan Review shall be submitted in order to review architecture is consistent with approved Exhibit 'A', and to ensure digital display timing and lighting are consistent with Caltrans regulations. 5. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading. 6. If cultural resources are found during grading, then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law. Further, prior to completion of the project, the applicant shall submit a report describing all cultural resources encountered during grading. 				
Authority: Public Resources Code Sections 21083 and 21087.				

REFERENCES

- Aerial photos of the City of Hesperia taken February, 2015.
- (1)
 - (2) Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Page 3.1-7.
 - (3) Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Page 3.1-8.
 - (4) Freeway Pylon Ordinance, Exhibit "A"
 - (5) Figure 6.7 of the 2008 Main Street and Freeway Corridor Specific Plan.
 - (6) Williamson Act map within Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Exhibit 3.2-2
 - (7) Conservation Element of the 2010 City of Hesperia General Plan Update, Page CN-34.
 - (8) United States Soil Conservation Service Soil Survey of San Bernardino County, California, Mojave River Area Map 31 and Pages 21 and 22.
 - (9) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.5.
 - (10) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.1.4.
 - (11) Air Quality Section of the 2010 City of Hesperia General Plan Update, pages CN-47 thru CN-50.
 - (12) Section 3.3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.3-1 thru 3.3-30.
 - (13) Mojave Desert Air Quality Management District, Federal Particulate Matter (PM10) Attainment Plan, July 31, 1995.
 - (14) Statement of overriding considerations for the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR) adopted by Resolution No. 2008-053.
 - (15) Section 3 of the 2010 City of Hesperia General Plan Conservation Element, Exhibit CN-4.
 - (16) Section 3 of the 2010 City of Hesperia General Plan Conservation Element, Exhibit CN-3.
 - (17) Section 3 of the 2010 City of Hesperia General Plan Conservation Element, Exhibit CN-5.
 - (18) Appendix C of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, C-1 thru C-34.
 - (19) Section 5 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, Exhibit 5e.
 - (20) Section 7 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, pages 61 and 62.
 - (21) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, Exhibit SF-1.
 - (22) Section 1.2.2 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, Figure 1-2.
 - (23) Chapter 1 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 1-12.
 - (24) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, pages SF-5 thru SF-11.

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- (25) Section 1 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 1.
-
- (26) Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 18.
-
- (27) Table 5 of Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan, pages 20 and 21.
-
- (28) Hazardous Materials Section of the 2010 Hesperia General Plan Safety Element, pages SF-31 thru SF-33.
-
- (29) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element, pages LU-60 and LU-61.
-
- (30) Map showing very high fire hazard areas, flood zones, and significant hazardous materials sites of the 2010 City of Hesperia General Plan Update Safety Element, Exhibit SF-2.
-
- (31) Fire Hazard Section of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.7-9.
-
- (32) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, pages CN-7 thru CN-10.
-
- (33) Section 3.8.3 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.8-15.
-
- (34) Dam Inundation Map for the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 3-22.
-
- (35) Table 3.6-2 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.6-24.
-
- (36) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, page CN-20.
-
- (37) Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, page NS-4 thru NS-12.
-
- (38) Section 16.20.125 of the Hesperia Municipal Code, pages 464 thru 467.
-
- (39) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element, Exhibit LU-3.
-
- (40) Current Hesperia water and sewer line atlas, page H13.
-
- (41) Quarterly data of the San Bernardino County Disposal Reporting System for the 2010 calendar year.
-
- (42) 2010 California Department of Resources, Recycling and Recovery Annual AB939 Report.
-
- (43) California Integrated Waste Management Act (AB 939).
-
- (44) 2013 California Building Code.
-

ORDINANCE NO. 2017-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, ADOPTING A DEVELOPMENT CODE AMENDMENT TO AMEND FREEWAY SIGN REGULATIONS (DCA16-00002)

WHEREAS, On January 5, 1998, the City Council of the City of Hesperia adopted Ordinance No. 250, thereby adopting the Hesperia Municipal Code; and

WHEREAS, The City of Hesperia Development Code regulations pertaining to signs requires modification to allow on premise freeway signs as an advertising opportunity for businesses located within the City; and

WHEREAS, The City has initiated a Development Code Amendment to provide for on premise freeway signs of a certain size within the City's freeway corridor; and

WHEREAS, Approval of this Development Code amendment requires adoption of a negative declaration pursuant to the California Environmental Quality Act (CEQA). The negative declaration and initial study prepared for this project concludes that there are no significant adverse impacts resulting from this development code amendment; and

WHEREAS, On December 8, 2016, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and concluded said hearing on that date; and

WHEREAS, On January 10, 2017 and February 21, 2017, the City Council of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and concluded said hearing on February 21, 2017; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

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

Section 1. The City Council hereby specifically finds that all of the facts set forth in this Ordinance are true and correct.

Section 2. Based upon substantial evidence presented to the Council, including written and oral staff reports, the Council specifically finds that the proposed Ordinance is consistent with the goals and objectives of the adopted General Plan.

Section 3. Based upon substantial evidence presented to this Council during the above-referenced January 10, 2017 and February 21, 2017, hearings, including public testimony and written and oral staff reports, this Council has determined that the amendment will enable the City to allow additional advertising opportunities for businesses located within the City.

Section 4. Based on the findings and conclusions set forth in this Ordinance, this Council hereby adopts Development Code Amendment DCA16-00002 and its negative declaration (ND-2016-06), amending Title 16, Chapter 16.36 (Sign Regulations) as shown on Exhibit "A."

Section 5. This Ordinance shall take effect thirty (30) days from the date of adoption.

Section 6. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution No. 2007-101.

ADOPTED AND APPROVED this 7th day of March, 2017.

Paul Russ, Mayor

ATTEST:

Melinda Sayre, City Clerk

EXHIBIT "A"

Deletions are shown as ~~strikeouts~~ and additions are shown in red text.

Chapter 16.36 (Sign Regulations) of the Hesperia Development Code is hereby revised as follows:

The following definitions are hereby amended or deleted:

"Billboard" means any outdoor advertising structure or sign which has a flat surface sign space upon which advertising may be posted, painted, or affixed, and which is designed or made available for the rental or lease of such sign space for advertising. Billboards shall not mean any on-premises sign or ~~"city freeway pylon signs."~~ Billboards may utilize digital advertising displays as part or all of their surface area.

"On premises sign" A sign that is either of the following: (1) a sign that advertises the business conducted, services rendered, or goods produced or sold upon the property on which the sign is placed; or (2) a sign that is within 660 feet of the edge of the right-of-way of the freeway and advertises business conducted, services rendered, or goods produced or sold within 1000 feet of the sign and which meets the requirements of a freeway sign under Section 16.36.060(C)(9) **and is taller than 60 feet in height.** On-premise signs shall not be considered "Off-site signs" for purposes of Sections 16.36.050(A) or 16.36.080."

~~"City freeway pylon sign" means a city owned or controlled or regulated sign, located on private property or property owned or leased by the city and approved for participation in the "city freeway pylon sign program" per Section 16.36.092. Said signs must be located within six hundred sixty (660) feet of the centerline of Interstate 15, for the purpose of displaying eligible major businesses, freeway oriented businesses and industries located within the city. In addition, city sponsored and/or civic activities and events, as well as emergency notices may also be displayed on this sign.~~

"Relocation agreement" means an agreement entered into between the city or ~~redevelopment agency~~ and a billboard or property owner to relocate or replace an existing billboard to another property or to reconstruct it on the same property. Reconstruction may also include converting a billboard to a digital advertising display.

Section 16.36.060(C)(9) is revised to read as follows:

Freeway Signs. **Freeways signs are signs located within six hundred sixty (660) feet of the freeway.** Freeway signs may be forty (40) feet high and two hundred (200) square feet in area. When two or more uses record an agreement to share signage, a freeway sign with two signs may be up to three hundred (300) square feet in area and fifty (50) feet in height. A freeway sign with three or more signs may be up to four hundred fifty (450) square feet in area and sixty (60) feet in height.

Notwithstanding the paragraph above, freeway signs between 60 and 100 feet in height and up to 1000 square feet in area may be permitted, subject to a study to determine the optimal location in relation to freeway off-ramps, overpasses, existing development, and topography. Such signs must be located on, or within 1000 feet of the premises of a development project consisting of at least 35 contiguous acres. No more than two signs may be permitted per development. Signs incorporating digital displays may not be closer than 1000 feet from another digital display on the same side of the freeway. Such displays are subject to current Caltrans' specifications as to brightness, frequency of changeable copy and depiction of movement. The location and design of freeway signs must be included in an approved site sign plan for the development to ensure consistency with the design and architecture of the project.

Section 16.36.092 is hereby deleted:

~~16.36.092 – City freeway pylon signs.~~

~~A. The city freeway pylon sign program ("program") is intended to permit freeway advertising of eligible business and industries along the Interstate 15 freeway corridor to enable exposure not otherwise available to such businesses due to their location within the city.~~

~~B.~~

~~To qualify for participation in the program, the sign, or any portion thereof, must meet all of the following criteria:~~

~~1.~~

~~The sign must be owned by the city, leased by the city, or the sign owner must have entered into a city freeway sign program agreement with the city.~~

~~2.~~

~~The sign must be located within six hundred sixty (660) feet of the centerline of Interstate 15.~~

~~3.~~

~~Freeway pylon signs containing digital displays shall not be within one thousand (1,000) feet of other freeway pylon signs with digital displays or within five hundred (500) feet of other freeway pylon signs located along the same side of the highway.~~

~~4.~~

~~The sign must be designed substantially similar to the design indicated in [Section 16.36.092\(H\)](#).~~

~~C.~~

~~Approval of Participation in the Program.~~

~~1.~~

~~The city manager may deem any sign that is owned or leased by the city, and which meets all qualifications above in subsection (b), to be a participating city freeway pylon sign.~~

~~2.~~

~~Owners of privately owned signs must apply to the city to participate in the program. A city freeway sign program agreement is required and shall be approved by the city council. This agreement is between the private sign owner and city in which the sign owner grants city control over all or a certain portion of the sign to use for the city~~

~~freeway pylon sign program in compliance with all regulations in [Section 16.36.092](#), and shall provide provisions for the content, maintenance, and removal of the sign.~~

~~D.~~

~~Once approved for participation in the program, all city freeway pylon signs shall require planning commission approval of a site plan review. The sign shall comply with the following regulations for the non-digital display portion of the sign:~~

~~1.~~

~~Only advertisements for eligible businesses, as defined below, with a city issued business license, shall be displayed.~~

~~2.~~

~~Eligible businesses, in order of priority, for city freeway pylon signs located near the Ranchero Road freeway interchange include: auto malls comprised of at least three dealers, new car dealers, major retailers (more than one hundred thousand (100,000) square feet), minor retailers (between one hundred thousand (100,000) and twenty thousand (20,000) square feet), regional shopping centers or malls with a combined floor area of fifty thousand (50,000) square feet or more, hotel or motels, neighborhood shopping centers of at least fifteen thousand (15,000) square feet, minor retailers of twenty thousand (20,000) square feet or less, full service restaurants, theatres, (motion picture or live action), vehicle fuel stations, fast food outlets, industries within the city with at least fifty (50) employees, any city, county, park district or school district sponsored organizations, and businesses located outside the city and at least one hundred (100) miles from city limits.~~

~~3.~~

~~Eligible businesses, in order of priority, for city freeway pylon signs in all other locations include: major retailers (more than one hundred thousand (100,000) square feet), minor retailers (between one hundred thousand (100,000) and twenty thousand (20,000) square feet), auto malls comprised of at least three dealers, regional shopping centers or malls with a combined floor area of fifty thousand (50,000) square feet or more, hotel or motels, new car dealers, neighborhood shopping centers of at least fifteen thousand (15,000) square feet, minor retailers of twenty thousand (20,000) square feet or less, full service restaurants, theatres, (motion picture or live action), vehicle fuel stations, fast food outlets, industries within the city with at least fifty (50) employees, any city, county, park district or school district sponsored organizations, and businesses located outside the city and at least one hundred (100) miles from city limits.~~

~~4.~~

~~Eligible businesses may apply to city or the private owner, if such sign is privately owned, to obtain advertising space on a city freeway pylon sign. Such application shall be approved provided the applicant's proposal complies with all requirements of [Section 16.36.092](#). Eligible businesses may replace other businesses already on the sign that are lower in priority, after the lease on the occupied space expires. The applicant may choose to occupy a vacant space if available, or to be placed on the city's waiting list or sign operator's waiting list.~~

~~5.~~

~~A waiting list of eligible businesses with approved applications shall be maintained and eligible business shall be notified when a space becomes available. If the sign is owned by the city, a waiting list shall be maintained by the city. If the sign is privately owned, the list shall be maintained by the private owner. The eligible~~

~~businesses on the waiting list shall be contacted in order of priority, not in the order they were placed on the waiting list.~~

~~6.~~

~~Private sign owners may give priority to their tenants but shall allow other eligible businesses on vacant sign spaces and on the digital display.~~

~~7.~~

~~Displaced businesses may renew their lease for any remaining available spaces, or be placed on the waiting list.~~

~~8.~~

~~Notwithstanding the above, shall any vacancies occur for longer than one hundred eighty (180) days, the space shall be offered to the next eligible business at the same or lower rates paid by other tenants on the sign.~~

~~E.~~

~~Digital Display Portions of City Freeway Pylon Signs.~~

~~1.~~

~~Any business or industry within the city, with a city issued business license, regardless of priority, may advertise on the digital display portion of the sign on a first come, first serve basis. City, county, park district or school district sponsored organizations may also advertise on the digital display portions of the sign, subject to availability.~~

~~2.~~

~~The city at its discretion, may advertise public service announcements, traffic conditions or Amber alerts that are a benefit to the community and the traveling public, and may displace other digital display advertisements at any time with these types of announcements.~~

~~3.~~

~~The digital display shall not depict or simulate any motion or video (i.e. video clips or flashing, etc.). Any slide (image) shall be displayed for a minimum of six seconds and transitions between slides shall not take more than one second.~~

~~F.~~

~~City freeway pylon signs do not replace and are not intended as a substitute for any business signage otherwise permitted under this code. Participation in the program is voluntary.~~

~~G.~~

~~Sign Content.~~

~~1.~~

~~Advertisement of "adult" oriented goods or services is prohibited. The advertisement promotes or encourages, or appears to promote or encourage, a transaction related to, or uses brand names, trademarks, slogans or other materials which are identifiable with, films rated "X" or "NC 17," adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments, adult telephone services, adult internet sites, and escort services.~~

~~2.~~

~~All content, except for public agency announcements, service announcements, and Amber alerts, shall be for commercial purposes only.~~

H.

~~Design Standards.~~

- ~~1.~~
~~Signs shall be limited to eighty-five (85) feet in height.~~
- ~~2.~~
~~Architecture and design shall be similar to Figures 1 and 2 and will require approval as part of the site plan review.~~
- ~~3.~~
~~All signs shall include the city's name and logo.~~
- ~~4.~~
~~Design shall incorporate a variety of colors and materials.~~

Figure 1

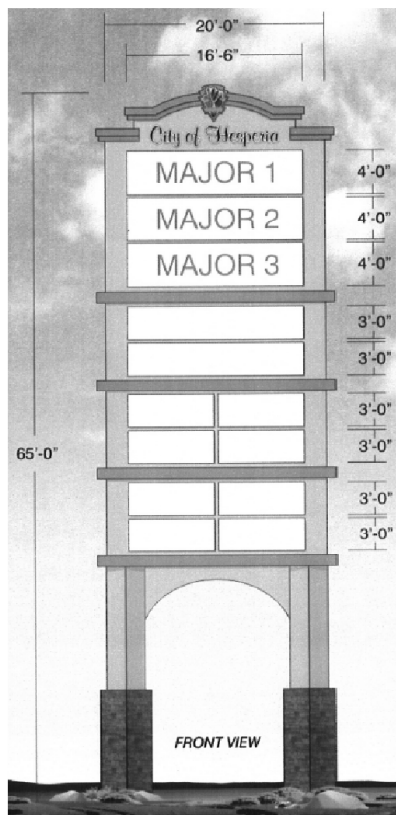
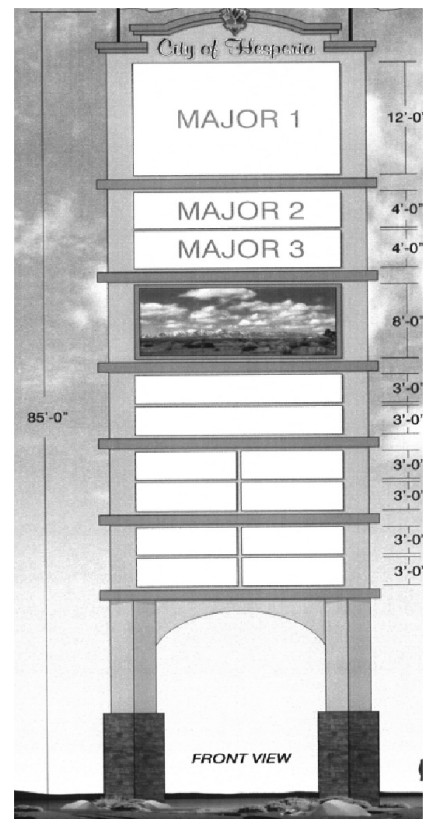


Figure 2



~~(Ord. No. 2013-015, § 4(Exh. A), 11-5-13)~~

Section 16.36.120 is revised to read as follows:

Previously permitted signs and amortization.

A. "Grandfathering" of Permitted Signs. Any sign **previously approved or** erected with permits in accordance with any prior code or this chapter in effect at the time of **the approval or** construction, may remain in place indefinitely. Permitted signs made nonconforming by this chapter are included in this provision, unless they subsequently become subject to subsection (D) of this section.

B. Persons who cannot produce evidence of a **prior approval or** permit as required by subsection (A) of this section may appeal the abatement of their sign to the **Planning Commission** ~~community enhancement committee~~. The appeal fee shall be set by resolution of the city council. The committee shall hold a public hearing on the matter and may consider the following factors:

1. Special topographic circumstances of the site, building or the sign;
2. Special historical or cultural significance to the community;
3. Special architectural significance or design limitations that would necessitate the type of sign requested;
4. Other factors including, but not limited to, adjacent structures or signs, public improvements, specimen trees or existing landscaping that are relevant in the placement or design of the sign in relation to its location within the development.

D. Abatement of Existing Signs. Notwithstanding the status of any sign, whether previously permitted, grandfathered or approved by the **Planning Commission** ~~committee~~, that fall within the criteria listed below, shall immediately be removed from the site, without compensation, under any of the criteria as follows:

1. Any sign which has been more than fifty (50) percent destroyed or damaged (other than destruction of the facial copy) and the display cannot be repaired within thirty (30) days of the date of its damage or destruction;
2. Any sign which is a danger to the public or is unsafe; and
3. Any sign that constitutes a traffic hazard, such as a sign that simulates or interferes with signs or signals, (not created by the relocation of any street or highway or by any other act of the city);
4. Any sign erected without a permit after the effective date of the ordinance codified in this chapter.

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DATE: March 7, 2017

TO: Mayor and Council Members

FROM: Nils Bentsen, City Manager

BY: Dave Reno, Principal Planner
Stan Liudahl, AICP, Senior Planner

SUBJECT: Consideration of Development Code Amendment DCA17-00001, amending the special event and temporary use regulations; Applicant: City of Hesperia; Area affected: City-wide

RECOMMENDED ACTION

The Planning Commission recommends that the City Council introduce and place on first reading Ordinance No. 2017-04 approving DCA17-00001, amending the special event and temporary use regulations.

BACKGROUND

Proposal: An amendment to the special event and temporary use ordinance providing regulations specific to major special events as well as to modify the existing special event and temporary use regulations to reflect current practices. The proposed amendment is also part of an overall goal to update the Permits and Procedures (16.12) Chapter of the Development Code, which outlines the process for permitting development projects and land uses in the City.

On February 9, 2017, the Planning Commission unanimously (5-0) forwarded this item to the City Council with a recommendation for approval. The Commission's only concern was the reason that the amendment was initiated. Staff explained that the current special event application procedures didn't afford staff sufficient time to process a recently proposed annual bicycle tour. There were no comments received during the public comment period or public hearing.

ISSUES/ANALYSIS

Land Use: This Development Code Amendment (DCA) has been filed by the City specifically to amend the existing regulations to include new application procedures for major special events (Attachment 2). Currently, the application procedure does not differentiate between large and small special events. A recent bicycle tour requiring multiple street closures and a church procession requiring a partial street closure illustrated the need to amend the application procedures. These events typically require the use of public services or facilities, require additional security for crowd control, or necessitate the presence of fire or police for safety or medical response purposes. In addition, this DCA will amend portions of the special event and temporary use regulations to reflect current practice.

Staff researched six jurisdictions to determine how applications for special events and temporary uses are processed (Attachment 1). Based upon this data, staff recommends that applications for major events be submitted at least 60 days prior to the event. Current practice requires that all special event applications be filed a minimum of two weeks prior to the event. The data also suggests that major events be defined as events which have between 200 and 1,000 attendees. Staff recommends that major events be those events which will have approximately 500 attendees or requires a partial or complete street closure. Additionally, staff recommends that any event which requires police and/or fire staff onsite will also be processed as a major event. The number and duration of events in these six jurisdictions are comparable to the City's regulations, which allow four events per year not to exceed 21 days per quarter. As such, staff does not recommend that the number or duration of special events within Chapter 16.12 be changed.

Environmental: Approval of the Development Code Amendment is exempt from the requirements of the California Environmental Quality Act per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Development Code Amendment is also exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City's CEQA Guidelines, as Development Code Amendments are exempt if they do not propose to increase the density or intensity allowed in the General Plan.

Conclusion: Staff supports the Development Code Amendment, as it will provide application procedures specific to major special events as well as to codify current practices pertaining to special events and temporary uses.

FISCAL IMPACT

None.

ALTERNATIVE(S)

1. The City Council could define major special events as those events with 1,000 persons or greater in attendance instead of 500. Unless the venue is located at a facility with a large number of parking spaces, such as the Civic Plaza Park, the impact of 1,000 attendees will likely have a significant negative impact upon the site of the event and surrounding properties. Many sites, including churches contain approximately 125 parking spaces, which is an approximate number of spaces needed for 500 persons. Any event which requires police and/or fire staff onsite will also be processed as a major event. Therefore, staff does not support this alternative.
2. The City Council may increase or decrease the number of days prior to filing an application to consider a major special event. Current practice requires that special event applications be submitted at least two weeks prior to the event. The bicycle tour and the procession required street closures, which require additional time to process. Consequently, staff recommends that applications for major events be filed at least 60 days prior to the event. Therefore, staff does not support this alternative.
3. Provide alternative direction to staff.

ATTACHMENT(S)

1. Temporary Use Ordinance Comparison Table
2. Ordinance No. 2017-04
3. Exhibit "A" to Ordinance 2017-04

ATTACHMENT 1

TEMPORARY USE ORDINANCE COMPARISON

Jurisdiction	Filing Time Frame	Type of Temporary Use	Maximum Allowable Time Frame	Approval Body
Apple Valley	10 days prior to the public hearing	Major special event ¹	4 events/year not to exceed 14 days/event	Town Council
		Minor special event ²		Planning Director
	NA ³	Parking lot/sidewalk sales	4 events/year not to exceed 7 days for grand openings and 3 days for other promotions	
Banning	10 days prior to the public hearing	Special Temporary Event	15 days	City Council
	NA ³	Parking lot/sidewalk sales	2 events per calendar year not to exceed three consecutive days	Community Development Director
Hesperia	14 days prior to event per division policy	Temporary Special event	4 events/year not to exceed 21 continuous days/event or more than 4 consecutive weekends	Development Services Director or designee
Indio	30 days prior to event	Major Music Festival Event Permit required	5 events/year not to exceed 3 events occurring in consecutive weekends	City Council
		Temporary Use Permit	10 days/year not to exceed 7 consecutive days	
	15 days prior to event	Parking lot/sidewalk sales	6 events/year not to exceed 10 days	Community Development Director
Lancaster	60 days prior to event ⁴	Any event with 50 or more participants	12 events/year from January 15th to November 15th	Planning Director
		Parking lot/sidewalk sales		
Palmdale	NA ³	Temporary Use Permit ⁵	15 days/180 day period not to exceed 3 events in consecutive weekends ⁶	Planning Director
	Accessory use	Parking lot/sidewalk sales	10 (one-day) events per 90 day period ⁷	
Victorville	15 days prior to event	Major temporary uses	90 ⁸ days/year without approval of CUP	Zoning Administrator
		Parking lot/sidewalk sales	6 periods/year for not more than 18 days	

¹ Major special events are temporary uses with more than 1,000 participants at one time.

² Minor special events are temporary uses with between 200 and 1,000 participants at one time.

³ Not Applicable.

⁴ The Planning Director may accept an application less than 60 days prior to the event.

⁵ Approval of a Temporary Use Permit is required for circuses, carnivals, rodeos, concerts and similar enterprises.

⁶ Approval of a Conditional Use Permit is required to exceed 15 days/180 day period.

⁷ Approval of a Temporary Use Permit is required for individual events which occur over one day. Grand openings are restricted to a one-day event per year.

⁸ Initially, the temporary use may be approved for up to 30 days. The Zoning Administrator may grant up to two 30-day extensions to a maximum of 90 days for any calendar year.

ORDINANCE NO. 2017-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, ADOPTING A DEVELOPMENT CODE AMENDMENT TO AMEND THE SPECIAL EVENT AND TEMPORARY USE REGULATIONS (DCA17-00001)

WHEREAS, on January 5, 1998, the City Council of the City of Hesperia adopted Ordinance No. 250, thereby adopting the Hesperia Municipal Code; and

WHEREAS, the City proposes to amend Article XI of Chapter 16.12 of the City of Hesperia Development Code regulations which pertain to special events and temporary uses; and

WHEREAS, the City finds that it is necessary to amend the special event and temporary use regulations to provide additional requirements for major special events and to amend the temporary use regulations consistent with current policies; and

WHEREAS, the proposed Development Code amendment is exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Development Code Amendment is also exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City's CEQA Guidelines, as Development Code Amendments are exempt if they do not propose to increase the density or intensity allowed in the General Plan; and

WHEREAS, on February 9, 2017, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and concluded said hearing on that date; and

WHEREAS, on March 7, 2017, the City Council of the City of Hesperia conducted a hearing on the Application and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

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

Section 1. The City Council hereby specifically finds that all of the facts set forth in this Ordinance are true and correct.

Section 2. Based upon substantial evidence presented to the City Council, including written and oral staff reports, this Council specifically finds that the proposed Ordinance is consistent with the goals and objectives of the adopted General Plan.

Section 3. Based on the findings and conclusions set forth in this Ordinance, this Council hereby adopts Development Code Amendment DCA17-00001, amending the special event and temporary use regulations as shown on Exhibit "A."

Section 4. This Ordinance shall take effect thirty (30) days from the date of adoption.

Section 5. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution No. 2007-101.

ADOPTED AND APPROVED on this 21st day of March 2017.

Paul Russ, Mayor

ATTEST:

Melinda Sayre, City Clerk

EXHIBIT “A”

The following are modifications to Chapter 16.12 (additions are in underlined red text and deletions are shown with ~~red and strikethrough~~):

Chapter 16.12

PERMITS AND PROCEDURES

ARTICLE XI. - SPECIAL EVENTS AND TEMPORARY USES

16.12.370 - Purpose of provisions.

The purpose of this article is to control and regulate special events and other land use activities of a temporary or recurring nature that may adversely affect the public health, safety, and welfare. The intent is to ensure that these events and uses will be compatible with surrounding land uses, to protect the rights of adjacent residences and landowners, and to minimize any adverse effects on surrounding properties and the environment.

(Ord. 2002-11 Exh. A (part), 2002)

(Ord. No. 2012-14, § 3(Exh. A), 8-7-12)

16.12.375 - General provisions.

- A. A temporary use or structure which does not have a valid and current use permit as specified herein is declared to be a public nuisance, subject to the enforcement provisions of the development code and other applicable laws.
- B. A change in ownership or operator of a use or structure subject to a permit as specified in this article, or a change of structure or modification of the structure or use allowed on a parcel subject to such a permit, shall not affect the time periods established by this article to allow such temporary uses, special events or structures.
- C. Noncompliance with the conditions set forth in approving the permit shall be grounds for the reviewing authority to cancel and void any use permit for a temporary use. Except in the case of a demonstrated emergency, the reviewing authority shall give prior notice of such an action to the permittee. The permittee may appeal such a decision by filing an appeal as allowed and specified in Section 16.12.055. The revocation shall be considered in accordance with Section 16.12.075.
- D. Unless otherwise specified in this article, the development services director, or his or her designee, is authorized to approve, conditionally approve with reasonable conditions, or to deny a permit for a temporary use or special event. The approval may establish conditions and limitations, including but not limited to: days and hours of operation, provision of parking areas, signing and lighting, traffic circulation and access, temporary or permanent site improvements, and other measures necessary to minimize detrimental effects on surrounding properties.
- E. The development services director, or his or her designee, may require a cash deposit or cash bond to defray the costs of cleanup of a site by the city in the event the applicant fails to leave the property in a presentable and satisfactory condition, or to guarantee removal and/or reconversion of any temporary use to a permanent use allowed in the subject land use designation.

(Ord. 2002-11 Exh. A (part), 2002)

(Ord. No. 2012-14, § 3(Exh. A), 8-7-12)

16.12.380 - Special event permits.

- A. All special events shall be subject to the following requirements, as applicable:
1. The approval period for any special event shall be for the time period specified on the approval but in no circumstances shall it exceed more than twenty-one (21) continuous days, or more than four consecutive weekends of operation in any ninety-day period.
 2. Adequate provisions for traffic circulation, off-street parking, and pedestrian safety shall be provided to the satisfaction of the development services director, or his or her designee.
 3. Sanitation facilities shall be provided for the duration of the event; the number and location to be determined by the reviewing authority.
 4. Security personnel shall be provided as required by the city police department.
 5. Parking accommodations for amusement enterprise workers and support vehicles shall be provided as required by the reviewing authority.
 6. Noise attenuation for generators and carnival rides shall be provided as approved by the reviewing authority.
 7. Adequate emergency access shall be provided as approved by the fire department.
 8. A certificate of insurance shall be submitted to the planning division, naming the city as co-insured, for not less than one million dollars (\$1,000,000.00) of general liability coverage, prior to issuance of any permits. This requirement may be waived for small events entirely on private property with no impacts to public facilities.
 9. Adequate staging area shall be provided as approved by the development services director, or his or her designee.
 10. Any platforms, stages, tents, or screening devices erected for the event shall be constructed to the satisfaction of the building official and/or fire marshal. The structure shall be removed from the site immediately following the event.
 11. If involvement by government personnel (public works, fire, and police) is required, a deposit to cover estimated costs shall be submitted prior to issuance of the permit. Upon completion of the event, the city will, within twenty (20) working days, either refund any unused portion of the initial deposit, or require payment of any additional expenses incurred.
 12. In cases where food and/or alcohol products will be sold to the general public in conjunction with the event, proof that permits were obtained from the county department of environmental health services and other applicable agencies shall be submitted prior to issuance of any permits.
 13. Portable searchlights may be permitted, provided that the beam, when lit, shall not be at an angle of less than sixty (60) degrees from the horizontal, and that no advertising is located on the searchlight or its supporting structure.
 14. Inflatable signs, balloons or bounce houses may be permitted provided that they are securely tethered. Insurance as specified in subsection (9) shall be required for any event using such inflatable devices.
- B. Special Event Permits. A special event permit shall be required for the following uses, including but not limited to:
1. Parking lot and sidewalk sales for businesses located within a commercially designated property. Any special event for the sale of automobiles, boats, recreational vehicles, pools, spas, trucks, heavy equipment, mobile homes, sheds, modular buildings or similar items shall be limited to businesses with their primary establishment within the Victor Valley, including the town of Apple Valley and the

cities of Adelanto, Hesperia and Victorville. The city may, at its option, issue a permit to an applicant with a primary business establishment out of this area, should no special event to sell the proposed items have occurred within the previous three months. The applicant is required to establish the point of sale for the event to be within the city for sales tax purposes. Prior to approval of a permit, the city shall receive a copy of the seller's permit evidencing that the point of sale is within the city.

2. Swap meets, outdoor art and craft shows and exhibits.
3. Fairs, concerts, or festivals, held outdoors or in temporary enclosures.
4. Circuses, carnivals, rodeos, pony riding, or similar traveling amusement enterprises.
5. Parades and other events conducted within the public right-of-way.
6. Auctions or distress sales.
7. Special events for charitable organizations on facilities they occupy on a continual basis.

(Ord. No. 2012-14, § 3(Exh. A), 8-7-12)

16.12.382 - Temporary uses.

A. A temporary occupancy permit, temporary special event and/or building permit shall be required for the following uses:

1. A temporary special event permit is required for food and drink carts located on the property adjacent to established commercial or industrial uses hosting the event. In addition, the use shall have obtained permits from the county department of environmental health services. The regulations within Section 16.16.061 entitled "mobile food vehicle regulations" will apply if the cart meets the definition within Section 16.08.532.
2. Christmas tree lots or pumpkin patches shall obtain approval of a temporary special event subject to the following guidelines and conditions:
 - a. Christmas tree lots may operate during the week before Thanksgiving through December 25th. This time does not include reasonable setup or teardown activities. Pumpkin patches may operate during the last week of September through October 31st. Such uses shall be located on unoccupied portions of corner lots abutting at least one road designated on the city's master plan of arterial highways. The sale of Christmas trees may also occur on developed commercial sites occupied by existing retailers that sell trees and plants.
 - b. All lighting shall be directed away from and shielded from adjacent residential areas.
 - c. Adequate provisions for traffic circulation, off-street parking, and pedestrian safety shall be provided as approved by the development services director, or his or her designee.
 - d. All requirements of the city, fire and police departments shall be met for the duration of the use.
3. Trailer coaches, motor homes, or mobile homes may be placed on active construction sites, for use as temporary living quarters for security personnel, or as a temporary residence for the subject property owner with approval of a temporary occupancy permit. The following restrictions shall apply:

a. The development services director may approve a temporary vehicle for the duration of the construction project, or for a specified period, but not for more than one year. If exceptional circumstances exist, a one-year extension may be granted; provided, that the building permit for the first permanent dwelling or structure on the same site has also been extended.

b. Installation of these vehicles may occur only after a valid building permit has been issued by the building division.

c. Vehicles permitted pursuant to this section shall not exceed a maximum gross square footage of six hundred fifty (650) square feet in size (tongue not included), and shall have a minimum of two hundred fifty (250) square feet for one or two persons, or a minimum of six hundred (600) square feet for occupancy by three or more persons. The unit must have a valid California vehicle license. Pickup campers shall not be permitted.

d. The temporary vehicle installation must meet all requirements of the county department of environmental health services and the city building and safety division.

e. Any permit issued pursuant to this section in conjunction with a construction project shall become invalid upon cancellation or completion of the building permit for which this use has been approved, or the expiration of the time for which the approval has been granted.

f. The permitted vehicle shall be removed from the site within thirty (30) days of the final approval of the building permit. A motor home, fifth-wheel trailer, or other recreational vehicle permitted under this section shall be disconnected from all utilities at the time of final approval.

g. Any vehicle permitted under this section shall be connected to approved sewage, electrical and water facilities at all times when the vehicle is authorized by a temporary occupancy permit

h. A building permit for the installation of a mobile home to be used as a temporary residence permitted under this section shall not be issued, if more than ten years have elapsed between the date of manufacture and the date of the application for the issuance of the permit to install the mobile home.

4. Temporary Office Modules. Temporary structures, such as office trailers or prefabricated structures for use as interim offices, classrooms or for security personnel shall require approval of a temporary occupancy permit. The temporary structure shall be allowed in any designation that allows the use pursuant to Section 16.12.085. Recreational vehicles, cargo containers, and mobile homes shall not be used for this purpose. The location of such structures shall be fully screened from the public right-of-way or adjacent residential properties. The city may limit the time allowed for the use of such temporary structures, where it is feasible for such offices, classrooms or security facilities to be integrated into permanent structures.

5. Model Homes. Model homes may be used as offices solely for the sale of homes within a recorded tract with approval of a temporary occupancy permit, subject to the following conditions:

a. The sales office may be located in the garage of one of the model homes, a temporary office trailer, or within the livable portion of one of the models.

b. Approval shall be for a three-year period, at which time the sales office shall be terminated, and if applicable, the structure remodeled to a single-family dwelling. Extensions may be granted by the building official in one-year

increments, but no extension shall be granted if over ninety (90) percent of the development is sold.

c. A cash deposit, letter of credit, or other security approved by the city shall be submitted to the city, in an amount to be set by the city, to ensure the restoration or removal of the structure.

d. The sales office is to be used only for transactions involving the sale, rent, or lease of lots and/or structures within the tract in which the sales office is located, contiguous tracts, or a planned community. However, the planning commission may consider off-site model homes sales offices where permitted by the land use designation, subject to the granting of a temporary occupancy permit as specified in Section 16.12.382.

e. Failure to terminate the sales office and remodel the structure, or failure to apply for an extension on or before the expiration date, will result in forfeiture of the cash deposit, a halt in further construction or inspection activity on the project site, and enforcement action to ensure the remodeling of the structure.

f. Street improvements and temporary off-street parking at a rate of two spaces per model shall be completed as approved by the planning division, prior to commencement of sales activities or the display of model homes. Access to the parking area shall be prohibited from the rear of double frontage lots. Future street right-of-way along the front or street side yard, with a fully paved surface, may be used for no more than five of the required parking spaces, prior to the time that said right-of-way is accepted by the city for public use.

g. All fences proposed in conjunction with the model homes and sales office shall be located outside the public right-of-way.

h. Flags, pennants, or other on-site and off-site advertising shall be regulated pursuant to Chapter 16.36 of the Development Code.

i. Use of signs shall require submission of a sign permit application for review and approval prior to installation.

6. Off-Site Model Homes. A model home sales office, when not located within one of the three circumstances identified in item Section 16.12.382(A)(5)(d), shall be considered an off-site model home sales office, requiring approval of a temporary occupancy permit. The following criteria shall apply:

a. A sales office may only be located within the dwelling itself, or within the garage. Trailers, modular units, or any similar temporary structure shall not be permitted.

b. The structure shall be constructed pursuant to the minimum requirements of the land use designation in which it is located.

c. Paved parking areas shall provide for at least five spaces and shall be located in proximity to the model home sales office. This off-street parking area shall be completed prior to the commencement of activities or display of model homes and shall include applicable handicapped parking spaces, signs and pavement markings.

d. All fences proposed in conjunction with the model home sales office shall be located outside of the public right-of-way.

e. Adequate on-site lighting shall be provided to ensure a safe and secure environment, while at the same time being designed and placed in such a manner as to prevent stray light or glare from becoming a nuisance factor for

adjacent residentially designated properties and abutting roadways. The lighting design employed shall be a low-level type of system and is not intended to provide the same level of lighting as a comparable commercial or office use. A detailed lighting plan shall be submitted for review and approval to the building division.

f. The temporary occupancy permit shall be for a five-year period. Time extensions may be granted up to a maximum of another two years. Any requests for extension of this temporary use permit beyond the maximum of seven years would require the approval of a conditional use permit, pursuant to Article III of this chapter.

g. Adequate access from a public right-of-way shall be provided to the structure. A twenty-six (26) foot wide driveway shall be provided as approved by the city engineer.

h. The structure shall meet all requirements of the city building division, including but not limited to the installation of handicapped accessible restroom facilities, and adequate utility facilities.

i. With the exception of the paved parking and signs, an off-site model home shall be developed and landscaped as a single-family residence. Full landscaping, utilizing drought-resistant type materials, shall include a permanent, underground irrigation system, specimen size trees, and the use of shrubbery, ground cover, non-plant landscape materials, to produce an efficient yet pleasing outdoor environment.

j. When the temporary occupancy permit allowing a model home has expired, the home shall be converted and/or remodeled to conform to all requirements for single-family homes, including a two-car garage. A detached garage may be constructed to meet this requirement.

k. A city business license shall be required.

(Ord. 2002-11 Exh. A (part), 2002)

(Ord. No. 2012-14, § 3(Exh. A), 8-7-12)

16.12.385 - Application procedure.

Applications for temporary use permits and special event permits shall be filed with the planning division in a manner prescribed by the city, along with a fee as adopted by resolution of the city council at least 14 days prior to the event for minor events unless a shorter time frame is authorized by the Director of Development Services. Any special event permit which requires a partial or complete street closure or which may be attended by approximately 500 people shall be considered a major event. Major special events may require approval of a traffic control plan and/or other study, use of police and/or fire personnel, and/or providing a surety as required by the review authority. Major events shall be filed with the city at least 60 days prior to the event unless a shorter time frame is authorized by the Director of Development Services. Special events with fewer attendees may also be considered a major event if the event requires that police and/or fire personnel be onsite or if the site or facilities may not accommodate the number of expected participants.

(Ord. 2002-11 Exh. A (part), 2002)

(Ord. No. 2012-14, § 3(Exh. A), 8-7-12)

16.12.390 - New application following denial.

Following the denial of a permit application for a temporary use, no application for the same or substantially the same use on the same or substantially the same site shall be filed within one year of the date of denial.

(Ord. 2002-11 Exh. A (part), 2002)

(Ord. No. 2012-14, § 3(Exh. A), 8-7-12)

City of Hesperia STAFF REPORT



DATE: March 7, 2017
TO: Mayor and City Council Members
FROM: Nils Bentsen, City Manager
BY: Melinda Sayre, City Clerk
SUBJECT: By-District Election System Transition AB350 Public Hearings

RECOMMENDED ACTION

It is recommended that the City Council receive and file the presentation provided by National Demographics Corporation Election Districting Consultant Douglas Johnson, hold a public hearing and accept public testimony regarding a series of public hearings at which the public is invited to provide input regarding the composition of districts to transition the City from an at-large election system to a by-district election system and provide direction to staff regarding the process of the transition.

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City of Hesperia STAFF REPORT



DATE: March 7, 2017

TO: Chair and Board Members, Hesperia Water District

FROM: Nils Bentsen, City Manager

BY: Michael Blay, Director of Development Services
Tina Souza, Management Analyst

SUBJECT: Permanent Water Rights Purchase from Lounsbury/JPMorgan Chase

RECOMMENDED ACTION

It is recommended that the Board of Directors of the Hesperia Water District 1) authorize the purchase of 181 acre-feet of permanent Base Annual Production water rights in the Alto Subarea from Carolyn Lounsbury and JPMorgan Chase BK, National Association Co on behalf of Bank of America for \$4,200 per acre-foot; 2) authorize the lease of 145 acre-feet carryover rights for \$276 per acre-foot, for a combined total amount of \$800,220; and 3) authorize the City Manager to execute all documents related to the purchase and lease transactions.

BACKGROUND

The Adjudication (City of Barstow et al, v. City of Adelanto et al) is intended to remediate overdraft in the Mojave Basin Area by limiting the amount of water produced in specific subareas. The Free Production Allowance (FPA) is the maximum amount of water a producer may pump in one year without incurring a replacement or make-up obligation. As a result of the judgment, Hesperia Water District (District) incurs replacement water obligations in the Alto Subarea when verified production amounts exceed the FPA for the water year.

The District may meet these replacement water obligations by three mechanisms: 1) assignment of carryover right or temporary transfer of unused FPA (i.e. lease) from interested water rights owners in the respective subarea at negotiated rates (this is a cost effective short-term option to meeting the production demands); 2) purchase water from the Mojave Basin Area Watermaster (Watermaster) at the current per acre-foot (AF) water rate which is derived from the State Water Project water rates, and/or; 3) purchase permanent water rights from interested parties in the Alto Subarea at negotiated rates (purchase provides a long-term solution, but is costly and difficult to acquire).

Historically, the District has been able to meet a large portion of its replacement utilizing the assignment of carryover right, or temporary assignment mechanism and will continue to do so when agreements with water rights owners can be secured. However, permanent water rights are purchased from private parties when there is a feasible opportunity. With the growing demands of the District's service area, water availability, and the competitive nature of assignment water, the balance of the replacement obligation has been met by purchasing water from the Watermaster each water year, or more recently utilizing Inventory Claim/Pre-purchased water from the Watermaster.

A representative from the law firm of Caufield & James, representing Carolyn Lounsbury, as well as a local realtor, expressed that Carolyn Lounsbury and JPMorgan Chase BK, National Association Co on behalf of Bank of America (Chase), had interest in selling 181 AF of permanent Base Annual Production (BAP) water rights, as a result of litigation between Lounsbury and Chase. Due to the ramp down of 60 percent required by the Adjudication, the BAP equates to 109 AF of FPA that can be used to offset annual replacement obligations. The parties also expressed interest in leasing 145 AF of Carryover rights to the District, which equates to 109 AF that may be applied to Water Year 2016-17 replacement obligations.

ISSUES/ANALYSIS

During the 2015-16 Water Year (October 2015 to September 2016), the District produced 13,207 AF of water. The District's FPA is 8,232 AF leaving a replacement obligation of 4,975 AF. The City owns 6,736 AF which equates to 4,042 AF of FPA that can be used to offset annual replacement obligations by leasing to the District; subsequently leaving a replacement obligation balance of 933 AF (based on 2015-16 Water Year's production). The purchase of permanent water rights, while costly, provides a long-term solution to the inevitable water production overrun the District faces annually.

The table below represents the City's and District's historical purchases of permanent water rights. More recently, permanent water transactions among other parties approved by the Watermaster within the past two years were at \$5,000 per AF.

MM/YY	Purchased From	Acre Feet Purchased	Cost Per Acre Foot
Feb-2012	Summit Valley Ranch	40	\$ 4,010.00
Jul-2012	Summit Valley Ranch	25	\$ 4,035.00
Dec-2012	Rancho Las Flores (R.E. Loans)	5,971	\$ 5,024.28
Mar-2014	Summit Valley Ranch	200	\$ 5,000.00
Apr-2015	Aqua Capital	500	\$ 5,000.00
Oct-2015	Jerry Cunningham	9	\$ 5,000.00
*Feb-2016	Jerry Cunningham	10	\$ 4,700.00
*Oct-2016	Carron Abbott	12	\$ 4,300.00

*Purchased by the Water District.

Opportunities to purchase permanent water are scarce. Pursuant to Carolyn Lounsbury and Chase's interest in selling 181 AF of BAP right, staff began negotiations to purchase the water rights. Staff was able to negotiate a lower rate than that of the October 2016 transaction and historic transactions dating back to the acquisition of Rancho Las Flores water rights in 2012.

In an effort to obtain future water supply, staff recommends the purchase of 181 AF of permanent BAP water rights in the Alto Subarea from Carolyn Lounsbury and Chase at \$4,200 per AF for a total of \$760,200, as well as lease 145 AF of Carryover rights at \$276 per AF for a total of \$40,020, which combined totals \$800,220.

Attached to this staff report is a draft Water Rights Purchase and Sale Agreement and Escrow Instructions, which is under review by the selling parties' legal counsel. The draft agreement is subject to minor revisions; however, if modifications are warranted that substantially deviate

from the terms or intent of the agreement, staff will bring the agreement back to the Board of Directors.

FISCAL IMPACT

Should this purchase of 181 AF of permanent BAP water right be approved, a budget amendment of \$800,220 will be included in the Year End budget review.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Draft Water Rights Purchase and Sale Agreement.

WATER RIGHTS PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

THIS WATER RIGHTS PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (the “**Agreement**”) is made and entered into as of this ____ day of _____, 2017 (the “**Effective Date**”), by and between CAROLYN LOUNSBURY, an individual (“**Lounsbury**”) and JPMORGAN CHASE BK, NATIONAL ASSOCIATION CO, a New Jersey Corporation (“**Chase**”) (Lounsbury and Chase are hereinafter collectively referred to from time to time as “**Sellers**”) and the HESPERIA WATER DISTRICT, a California public agency (“**Purchaser**”). Lounsbury, Chase and Purchaser are hereinafter individually referred to as “**Party**” and collectively referred to as the “**Parties**”.

RECITALS

A. Permanent Water Rights. This Agreement concerns certain water rights described as One Hundred Eighty-One (181) acre-feet of Base Annual Production Right and One Hundred Forty Five (145) acre-feet of Carryover Right, held jointly by Lounsbury as an individual and by Chase as acquirer of certain assets and liabilities of Washington Mutual Bank from the FDIC as Receiver, and subject to the court judgment dated January 10, 1996 and entered in Riverside County Superior Court Case No. 208568 entitled “*City of Barstow et al, v. City of Adelanto et al.*” and hereinafter referred to as the “**Mojave Basin Area Judgment**” (the “**Permanent Water Rights**”).

B. Purchase and Sale. Purchaser desires to purchase the Permanent Water Rights, and Sellers desire to sell the Permanent Water Rights in accordance with, and subject to the terms of this Agreement as provided herein.

AGREEMENT

NOW THEREFORE, on the basis of the foregoing recitals, which are incorporated herein by this reference, and in consideration of the covenants, conditions and representations set forth herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Sale of Permanent Water Rights. In exchange for the Purchase Price described in Section 2 of this Agreement, Sellers agree to sell their right, title and interest in and to the Permanent Water Rights to Purchaser, and Purchaser hereby further agrees to purchase the Permanent Water Rights from Sellers pursuant to the terms and conditions set forth herein.

2. Purchase Price.

(a) **Purchase Price.** The purchase price for the Permanent Water Rights shall be for the total amount of Eight Hundred Thousand Two Hundred and Twenty Dollars (\$800,220.00) (the “**Purchase Price**”), which represents a rate of Four Thousand Two Hundred

Dollars (\$4,200) per acre-foot of Base Annual Production Right and Two Hundred Seventy Six Dollars (\$276) per acre-foot of Carryover Right.

(b) **Delivery of Cash.** Provided Escrow has been opened, Purchaser shall deposit in the Escrow an amount equal to the Purchase Price of Eight Hundred Thousand Two Hundred and Twenty Dollars (\$800,220.00) pursuant to Section 3 of this Agreement.

(c) **Handling of Cash.** All funds deposited in the Escrow pursuant to this Section 2 shall be deposited by the Escrow Holder in an account in a federally insured commercial bank.

3. Escrow; Closing Date; Conditions Precedent.

(a) **Escrow Holder.** Escrow shall be established with _____ at _____, California _____ (the “**Escrow**”), attn.: _____; phone: _____; fax: _____; e-mail: _____ (“**Escrow Holder**”).

(b) **Closing Date.** Unless otherwise agreed in writing by both Sellers and Purchaser, the Closing Date (herein so called) for the sale of the Permanent Water Rights and the closing of the Escrow (the “**Closing**”) shall be _____. The Closing shall occur, if at all, at the office of the Escrow Holder, or at such other location agreed to the Parties.

(c) **Conditions Precedent to Sellers' Closing Obligation.** As a condition to Sellers' obligation to sell the Permanent Water Rights to Purchaser pursuant to this Agreement, the following conditions precedent (each, a “Condition Precedent to Sellers' Closing Obligation”) shall have occurred (or shall have been waived in writing by Sellers):

(1) The Due Diligence Period shall have expired without Purchaser electing to terminate this Agreement on a timely basis by delivery of a “Notice of Termination” in accordance with Section 7(c) below, and Purchaser shall have delivered the funds pursuant to Section 2 of this Agreement.

(2) Sellers shall have received evidence reasonably satisfactory to Sellers that the City Council for Purchaser has approved this Agreement.

(3) Provided Escrow has been opened, on or before 11:00 a.m. Pacific Time on _____, 2017, Purchaser shall have delivered into the Escrow all documents and funds required to be delivered by Purchaser pursuant to the terms of this Agreement, and Purchaser shall not be in material default in the performance of any of its obligations hereunder.

(4) Purchaser shall execute the form required by the Watermaster for the permanent transfer of Base Annual Production Right and Carryover Right attached to this Agreement as Exhibit B.

(5) Purchaser shall execute and deliver to the Escrow Holder the Permanent Water Rights Deed in the form attached to this Agreement as Exhibit A (the “**Permanent Water Rights Deed**”).

(6) Purchaser shall have taken all steps within Purchaser's reasonable

control that are reasonably necessary or appropriate in order to obtain the acknowledgement of the Watermaster of the transfer of the Permanent Water Rights pursuant to this Agreement.

(d) **Conditions Precedent to Purchaser's Closing Obligation.** As a condition to Purchaser's obligation to purchase the Permanent Water Rights from Sellers pursuant to this Agreement, the following conditions precedent (each, a "Condition Precedent to Purchaser's Closing Obligation") shall have occurred (or shall have been waived in writing by Purchaser):

(1) The Due Diligence Period shall have expired without Purchaser electing to terminate this Agreement on a timely basis by delivery of a "Notice of Termination" in accordance with Section 7(c) below.

(2) Sellers shall have stipulated to the Mojave Basin Area Judgment in the form attached to this Agreement as Exhibit C, pursuant to the Mojave Basin Area Watermaster (the "**Watermaster**") Rules and Regulations adopted June 30, 1994 and most recently revised October 29, 2008 (the "**Watermaster Rules and Regulations**").

(3) Sellers shall execute the form required by the Watermaster for the permanent transfer of Base Annual Production Right and Carryover Right attached to this Agreement as Exhibit B and shall have complied with all other filing and notice requirements pursuant to Section 12 of the Watermaster Rules and Regulations entitled "Transfers of Production Rights" incorporated herein by reference.

(4) Sellers shall have obtained the Watermaster's approval to the transfer of the Permanent Water Rights pursuant to the terms of this Agreement.

(5) Provided Escrow has been opened, on or before 11:00 a.m. Pacific Time on _____, 2017 Sellers shall execute and deliver to the Escrow Holder, without representation, warranty, or recourse against or from Sellers, the Permanent Water Rights Deed conveying to Purchaser all of Sellers right, title and interest in and to the Permanent Water Rights in the form attached to this Agreement as Exhibit A.

4. Representations and Warranties of Purchaser. Purchaser represents and warrants to Sellers as of the Effective Date hereof as follows:

(a) **Organization, Good Standing and Qualification.** Purchaser is a California public agency duly organized, validly existing and in good standing under the laws of the State of California. Purchaser has all requisite right, power and authority to engage in and consummate the transactions contemplated hereby.

(b) **Authorization.** All action on the part of Purchaser, its officers and employees necessary for the authorization, execution and delivery of this Agreement and the authorization, purchase of the Permanent Water Rights, execution and delivery of related transfer documents, and the performance of all obligations of Purchaser hereunder and thereunder have been taken. The Agreement, when executed and delivered by Purchaser, shall constitute valid and legally binding obligations of Purchaser, enforceable against Purchaser in accordance with the terms herein.

5. Representations and Warranties of Sellers. Sellers hereby represent and warrant to Purchaser that as of the Effective Date hereof as follows:

(a) **Organization, Good Standing and Qualification.** Chase is a national association company duly organized, validly existing and in good standing under the laws of the State of California. Chase has all requisite right, power and authority to engage in and consummate the transactions contemplated hereby.

(b) **Authorization.**

(1) All action on the part of Chase, its officers, managers and members necessary for the authorization, execution and delivery of this Agreement and the authorization, sale of the Permanent Water Rights, execution and delivery of related transfer documents, and the performance of all obligations of Chase hereunder and thereunder have been taken. The Agreement, when executed and delivered by Chase, shall constitute valid and legally binding obligations of Chase, enforceable against Chase in accordance with their terms.

(2) All action on the part of Lounsbury, her assigns and representatives necessary for the authorization, execution and delivery of this Agreement and the authorization, sale of the Permanent Water Rights, execution and delivery of related transfer documents, and the performance of all obligations of Lounsbury hereunder and thereunder have been taken. The Agreement, when executed and delivered by Lounsbury, shall constitute valid and legally binding obligations of Lounsbury, enforceable against Lounsbury in accordance with their terms.

(c) **Warranties.**

(1) Chase warrants that it has not leased, sold, or transferred its interest in the Permanent Water Rights to any other party who can claim a right thereto as of the Effective Date of this Agreement.

(2) Lounsbury warrants that Lounsbury has not leased, sold, or transferred her interest in the Permanent Water Rights to any other party who can claim a right thereto as of the Effective Date of this Agreement.

6. Sellers Remedies. If Purchaser fails to pay or perform when due, any act or obligation required by this Agreement, which failure continues uncured after ten (10) days' written notice from Sellers to Purchaser, Purchaser is deemed to be in default, then Sellers shall have the right to terminate this Agreement as a consequence thereof. Upon such termination, Purchaser shall retain the portion of the Permanent Water rights purchased to date, and Sellers shall retain term payments received for the portion of the Permanent Water Rights purchased to date. Purchaser shall return to Sellers (in accordance with Watermaster forms, documents and procedures) any portion of the Permanent Water Rights for which payment is not received.

7. Due Diligence Period.

(a) **Diligence.** There will be a period continuing until 5:00 p.m. Pacific Time on _____, 2017 (the "**Due Diligence Period**") to allow Purchaser to conduct such due diligence with respect to its purchase of the Permanent Water Rights pursuant to this

Agreement, as and to the extent Purchaser reasonably deems the same to be necessary. During the Due Diligence Period, Sellers shall cooperate reasonably with Purchaser's due diligence investigations and shall provide to Purchaser copies of documents and information as requested by Purchaser related to Sellers' ownership and title to the Permanent Water Rights. In this regard, upon request from Purchaser, Sellers shall take all steps necessary to provide Purchaser with reasonable access to requested documents and information. Any requests for information or documents shall be reasonably specific in nature and reasonably tailored in scope. Sellers shall have no obligation to incur any material expense in connection with such cooperative efforts, or to deliver information that is not in Sellers' possession or control. Notwithstanding any provision of this Agreement to the contrary, Purchaser agrees that in providing information with respect to the Permanent Water Rights, Sellers shall be acting solely in an accommodating role, but Sellers shall have no responsibility for the accuracy or inaccuracy of any information provided by Sellers so long as Sellers have acted in good faith and have disclosed any limitations on Sellers' knowledge. Purchaser shall be responsible for assessing the accuracy of any information provided by Sellers (subject to Sellers' obligations set forth above or elsewhere in this Agreement), and for conducting Purchaser's own due diligence with respect to the Permanent Water Rights. Purchaser further shall indemnify, protect, defend and hold harmless Sellers from any fines, liens, claims, suits, losses or obligations, including attorneys' fees, of any nature whatsoever arising out of or caused by Purchaser or its agents or representatives in connection with Purchaser's due diligence investigations, and Purchaser's obligations under this sentence shall survive any termination of the Escrow or this Agreement, or any release of Purchaser from liabilities or obligations hereunder (notwithstanding any provision of this Agreement to the contrary).

(b) **Purchaser's Assessment of Title.** Purchaser shall have the right to assess the condition of title to the Permanent Water Rights that may be conveyed to Purchaser pursuant to the Closing, and to procure a title insurance policy (the "**Purchaser's Title Policy**") with respect to such title, provided that Purchaser hereby acknowledges and agrees that: (i) Sellers shall have no liability or responsibility with respect to the condition of title to the Permanent Water Rights, or any exceptions to such title; and (ii) the issuance of Purchaser's Title Policy shall not be a Condition Precedent to Purchaser's Closing Obligation (and shall not otherwise be a condition to Purchaser's obligations hereunder), and accordingly Purchaser may want to take other steps (e.g., procurement of a title insurance commitment prior to the end of the Due Diligence Period) in its judgment to protect itself with respect to title matters.

(c) **Purchaser's Termination Right.**

(1) Purchaser shall have the right, for any reason, to elect to terminate this Agreement by written notice to Sellers (the "**Notice of Termination**") so long as the same is delivered no later than 5:00 p.m. Pacific Time on the last day of the Due Diligence Period as defined in this Agreement.

(2) Purchaser shall have the right to elect to terminate this Agreement by written Notice of Termination to Sellers if the Watermaster, for any reason whatsoever, denies approval of the transfer of the Permanent Water Rights.

(3) If Purchaser timely delivers a Notice of Termination, then (i) this Agreement shall terminate, (ii) Purchaser shall be entitled to a refund of the Purchase Price from

the Escrow Holder, (iii) all documents theretofore delivered by either party to the other (or to the Escrow Holder for delivery through Escrow) shall be returned, and (iv) neither party shall have any obligation to the other, except as otherwise set forth in this Agreement.

(d) **Purchaser's Election to Proceed to Purchase.** In the event that Purchaser does not deliver a Notice of Termination pursuant to this Section 7, this Agreement shall become binding and irrevocable in every sense, Purchaser shall be deemed to have elected to proceed to purchase the Permanent Water Rights pursuant to this Agreement and to have waived its right to terminate the Agreement subject to satisfaction or waiver of Conditions Precedent to Purchaser's Closing Obligation.

8. Pursuit of Watermaster Acknowledgements. To the extent that it would not delay the Closing, and if Purchaser does not timely deliver a Notice of Termination in accordance with Section 7 of this Agreement, the Parties shall take all steps within the Parties reasonable control that are reasonably necessary or appropriate in order to obtain the acknowledgement of the Watermaster of the transfer of the Permanent Water Rights from Sellers to Purchaser pursuant to this Agreement.

9. Closing by Escrow Holder. On the Closing Date, and when and only when (i) all of the Conditions Precedent to Sellers' Closing Obligation shall have been satisfied (or waived by Sellers) and (ii) all of the Conditions Precedent to Purchaser's Closing Obligation shall have been satisfied (or waived by Purchaser), the Escrow Holder shall effectuate the Closing by taking the following actions:

(a) Escrow Holder shall record in the Official Records the Permanent Water Rights Deed;

(b) Escrow Holder shall disburse the cash in the Escrow as follows:

(1) Escrow Holder shall pay all fees and closing costs, if any, that are required to effectuate the Closing, including broker's fees described in Section 10 of this Agreement;

(2) Escrow Holder shall disburse any net amount of the funds in the Escrow due to Sellers, after paying all fees and costs as contemplated by the Parties, in accordance with instructions received by the Escrow Holder from the Sellers.

The Closing shall be deemed to have occurred when Escrow Holder has taken all of the actions described in this Section 9.

10. Closing Costs and Prorations.

(a) Purchaser shall pay the following: its own due diligence expenses, including, without limitation, the cost of any title examination, the costs and/or premiums incurred in connection with any title reports or title insurance commitments, policies or other products that Purchaser obtains; any recording charges or filing fees attributable to recordation or filing, as appropriate, of the Permanent Water Rights Deed; any taxes or fees arising as a consequence of the sale of the Permanent Water Rights; and one-half of any fees owed to Escrow Holder on account of its handling of the Escrow.

(b) Sellers shall pay one-half of any fees owed to Escrow Holder on account of its handling of the Escrow.

(c) Each Party shall pay that Party's own legal fees and other incidental expenses incurred in connection with this transaction. Subject to the provisions of Section 7 of this Agreement, all other closing costs shall be prorated between Purchaser and Sellers as is customary in the State of California.

11. Brokerage Commissions.

Purchaser and Sellers each represent and warrant to the other that no third party is entitled to a broker's commission and/or finder's fee with respect to the transaction contemplated by this Agreement. Sellers are solely responsible for the payment of any commission pursuant to the sale of the Permanent Water Rights. Purchaser and Seller each agree to indemnify and hold the other party harmless from and against all liabilities, costs, damages and expenses, including, without limitation, attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay a broker's commission and/or finder's fee other than the commission referred to in the prior sentence.

12. Miscellaneous.

(a) **Entire Agreement; No Third-Party Beneficiaries; Binding Effect.** This Agreement constitutes the entire and final agreement among the Parties and there are no agreements, understandings, warranties or representations among the Parties, either oral or written, except as set forth herein. This Agreement will inure to the benefit and bind the respective heirs, administrators, executors, representatives, successors and permitted assigns of the Parties hereto. Nothing in this Agreement, expressed or implied, is intended to confer upon any party other than the Parties hereto any rights, remedies, obligations or liabilities under or by reason of this Agreement.

(b) **Governing Law and Venue.** This Agreement is executed and delivered in the State of California (the "State") and it is the desire and intention of the Parties that it be in all respects interpreted according to the laws of the State, without reference to its conflicts of law principles. The parties specifically and irrevocably consent to the jurisdiction and venue of the federal and state courts of the State and of the County of San Bernardino with respect to all matters concerning this Agreement or the enforcement of any of the foregoing. The Parties agree that the execution and performance of this Agreement shall have a State situs and accordingly, consent to personal jurisdiction in the State.

(c) **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original document, but all of which will constitute a single document. This document will not be binding on or constitute evidence of a contract between the Parties until such time as a counterpart of this document has been executed by each of the Parties and a copy thereof delivered to each Party under this Agreement.

(d) **Titles and Subtitles.** The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

Attention: _____
email: _____

(f) **Amendments and Waivers.** Any term of this Agreement may be amended or waived only with the written consent of all Parties.

(g) **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the Parties agree to renegotiate such provisions in good faith, in order to maintain the economic position enjoyed by each party as close as possible to that under the provision rendered unenforceable. In the event that the Parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

(h) **Attorneys' Fees.** If any Party shall commence any action or proceeding against another Party in order to enforce the provisions hereof, or to recover damages as the result of the alleged breach of any of the provisions hereof, the prevailing party will be entitled to recovery of its actual attorney's fees, including the fair market value of any in-house attorneys and staff, court costs, expert witness fees and/or trustee costs and fees, including all related expenses, all as costs in accordance with this Agreement, through to final non-appealable conclusion, in addition to any other relief to which that party may be entitled.

(i) **Further Assurances.** The Parties hereto agree to take all further actions and execute all further documents either may from time to time reasonably request to carry out the transactions contemplated by this Agreement.

(j) **Incorporation of Exhibits.** Any Exhibits attached hereto shall be incorporated herein by reference.

13. IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

Sellers: CAROLYN LOUNSBURY

Date: _____

By: _____
Carolyn Lounsbury

**JPMORGAN CHASE BK, NATIONAL
ASSOCIATION CO**

Date: _____

By: _____

[FIRST SIGNATORY FOR CHASE]

**JPMORGAN CHASE BK, NATIONAL
ASSOCIATION CO**

Date: _____

By: _____
[SECOND SIGNATORY FOR CHASE]

Two corporate officer signatures required when a party is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CHASE'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CHASE'S BUSINESS ENTITY.

Purchaser: HESPERIA WATER DISTRICT

Date: _____

By: _____
Nils Bentsen, City Manager

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Eric Dunn, City Attorney

Attest: HESPERIA WATER DISTRICT

Dated_____

By: _____
Melinda Sayre, City Clerk

EXHIBIT A

GRANT DEED

FREE RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

Hesperia Water District
c/o City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345
Attention: Nils Bentsen, City Manager

(Space Above This Line for Recorder's Office Use Only)
(Exempt from Recording Fee per Gov. Code § 6103)

**GRANT DEED
PERMANENT WATER RIGHTS**

For a valuable consideration, the receipt of which is hereby acknowledged, CAROLYN LOUNSBURY ("LOUNSBURY") and JPMORGAN CHASE BK, NATIONAL ASSOCIATION CO ("CHASE") (collectively "GRANTORS") hereby sell and transfer to the HESPERIA WATER DISTRICT ("HESPERIA" or "GRANTEE"):

The Right to extract One Hundred Eighty-One (181) acre-feet of Base Annual Production and the Right to One Hundred Forty Five (145) acre-feet of Carryover allocated to GRANTORS (or predecessors in interest) under and pursuant to that certain court judgment dated January 10, 1996 and entered in Riverside County Superior Court Case No. 208568 entitled "*City of Barstow et al, v. City of Adelanto et al.*" ("Mojave Basin Area Judgment").

IN WITNESS WHEREOF, Grantors and Grantee have caused this instrument to be executed hereunto as of the date first above written.

"GRANTORS"

CAROLYN LOUNSBURY

Date: _____

By: _____

JPMORGAN CHASE BK, NATIONAL
ASSOCIATION CO

Date: _____

By: _____

CERTIFICATE OF ACCEPTANCE

Pursuant to Government Code Section 27281 this is to certify that the rights conveyed by CAROLYN LOUNSBURY ("LOUNSBURY") and JPMORGAN CHASE BK, NATIONAL ASSOCIATION CO ("CHASE") (collectively "GRANTORS"), by Grant Deed to the HESPERIA WATER DISTRICT is hereby accepted by the undersigned officer and agent of the HESPERIA WATER DISTRICT pursuant to the authority conferred by a Purchase and Sale Agreement approved by of the CITY OF HESPERIA dated _____, 2017, and that the HESPERIA WATER DISTRICT consents to the recording of the Grant Deed.

Signed and dated in _____, California on _____, 2017.

"GRANTEE"

HESPERIA WATER DISTRICT

By: _____

ATTEST:

By: _____
City Clerk

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2017 before me, _____, a notary public,
personally appeared _____ who proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

SEAL:

EXHIBIT B

WATERMASTER PERMANENT TRANSFER OF BASE ANNUAL PRODUCTION RIGHT FORM

(Referenced in the Mojave Basin Area Judgment as "Exhibit C")

PERMANENT TRANSFER OF BASE ANNUAL PRODUCTION RIGHT

To be executed by both Transferee and Transferor, be accompanied by a map of the service area where the water was used by Transferor, and a map of the service area where the water is intended to be used by the Transferee, together with a listing identifying and showing the location(s) of production facilities involved in or affected by Transfer. Have the attached acknowledgments completed by both Transferee and Transferor.

A TRUE COPY HEREOF MUST BE FILED WITH WATERMASTER WITHIN 15 DAYS OF EXECUTION.
(To be accompanied by completed Exhibit "F" if Transferee is not a party to the Judgment
and by a Preliminary Title Report on Transferor's property)

For a valuable consideration, in the amount of \$ _____ per acre-foot, for a total amount of \$ _____, receipt of which is hereby acknowledged, _____ ("Transferor") does hereby assign and transfer in perpetuity to _____ ("Transferee") the Base Annual Production Right of Transferor in the amount of _____ acre-feet and any Carryover Right, if applicable in the amount of _____ acre-feet, in the _____ Subarea as adjudicated to Seller or his predecessor in the Judgment in the case of "City of Barstow, et al" vs. "City of Adelanto, et al" Riverside Superior Court No. 208568, together with the attendant rights, powers and privileges pertaining thereto, effective _____.

(Date)

TRANSFEE

(Signature) _____ (Date)

Name and Address of Designee of Transferee to receive service of Processes & Notices:

Telephone No.: _____

The following are holders of Deed of Trust or Lien on the affected lands and/or the Base Annual Production Right affected by this transfer.

DEED OF TRUST or LIEN HOLDER

TRANSFEROR

(Signature) _____ (Date)

Name and Address of Designee of Transfer to receive service of Processes & Notices:

Telephone No.: _____

ADDRESS

Exhibit "C"

OCTOBER 29, 2008

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____

On _____ before me, _____
Date Here insert name and title of the officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed By The Signer(s)

Signer's Name _____

☐ Corporate Officer – Title(s) _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other _____

Signer is Representing: _____

Signer's Name _____

☐ Corporate Officer – Title(s) _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other _____

Signer is Representing: _____

EXHIBIT C

STIPULATION FOR INTERVENTION AFTER ENTRY OF JUDGMENT
(Referenced in the Mojave Basin Area Judgment as "Exhibit F")

Attorney for Watermaster

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

CITY OF BARSTOW, ET AL

Plaintiff,

v.

CITY OF ADELANTO, ET AL

Defendants.

NO. 208568
STIPULATION FOR INTERVENTION
AFTER ENTRY OF JUDGMENT
OF _____
as Defendant(s)

IT IS HEREBY STIPULATED by and between the Mojave Basin Area Watermaster for
and on behalf of all parties to the instant action and _____

_____ the proposed Intervenor(s) herein, that said proposed
Intervenor(s) may intervene in the instant action and become entitled to all of the benefits and bound by
all of the burdens of the Stipulated Judgment herein.

The Court will consider the attached proposed Order confirming said Intervention at _____
o'clock _____ M on _____ 20____, in Department _____ located at _____

To be set by Watermaster

Watermaster shall give at least 30 days notice to the parties herein of said hearing.

Exhibit "F"
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DATED: _____

Watermaster

By _____
Chairman

Attest:

Secretary

DATED: _____

Intervenor(s)

By **Sign Here**
By _____

Name of Intervenor's Designee:

Address of Designee:

Telephone Number of Designee:

City of Hesperia STAFF REPORT



DATE: March 7, 2017
TO: Mayor and City Council Members
FROM: Nils Bentsen, City Manager
BY: Melinda Sayre, City Clerk
SUBJECT: Consideration of Annual Update of the City Council Procedures Manual and Adoption of Resolution No. 2017-007 amending the Public Safety Committee Schedule

RECOMMENDED ACTION

It is recommended that the City Council review the information provided herein and adopt the annual update of the City Council Procedures Manual, and adopt Resolution No. 2017-007 amending the Public Safety Committee (PSAC) meeting schedule.

BACKGROUND

The City Council took action at the February 21, 2017 meeting to amend the Public Safety Advisory Committee's established quarterly meeting schedule to annually or as needed. Resolution No. 2017-007 reflects that amendment which will schedule one meeting per year on the second Tuesday in January annually and allow for special meetings to be scheduled as needed.

The City Council Procedures Manual, first adopted in 2010 includes basic information on the City's structure, statutory requirements, City Council Policies, and information regarding the City's commissions and committees and public appointments. The Procedures Manual is updated annually in January. The attached draft update reflects the action the City Council took at the February 21, 2017 meeting to amend the Public Safety Advisory Committee schedule.

At the February 21, 2017 City Council Meeting, Mayor Russ and Council Member Bird requested that the Procedures Manual be revisited due to testimony and correspondence received (attached) from resident Bob Nelson regarding the deletion and addition of certain language within the Procedures Manual and agenda template.

ISSUES/ANALYSIS

The attached draft 2017 Procedures Manual Update is provided in "Track Changes" format which includes original language in black font type, suggested edits in red underlined font and suggested language to be removed in red strike-out font.

Suggested updates for the 2017 Manual include an update to language regarding the Public Safety Advisory Committee Program to reflect the City Council's action taken at the February 7, 2017 amending the meeting schedule to an annual meeting and allowing for special meetings to be called as needed.

Resident Bob Nelson submitted correspondence (attached) to the City Council regarding deletion and addition of language within Chapter Six – Conduct of the City Council, Staff and Public in the Procedures Manual citing concerns of First Amendment Rights. After careful review of Mr. Nelson's correspondence and suggested revisions which list suggested deletions in red strikeout font and suggested added language in black comic sands text font, staff does not recommend adopting Mr. Nelson's revisions as each pertain to meeting decorum and process which assists to structure and organize meeting proceedings without detracting from the public's ability to participate or provide input on meeting items or proceedings.

In one example, Mr. Nelson suggests deleting language stating that City Council Members should refrain from inappropriate behavior and derogatory comments. In another example, Mr. Nelson suggests deleting language stating that members of the public must approach the podium when addressing the Council and further, deleting language that prohibits stamping feet, whistling, yelling and shouting during meeting proceedings.

The correspondence submitted by Mr. Nelson also suggested the addition of language in Chapter six, pages 17 and 18, which would revise the process for submittal of speaker slips to address the City Council so that speakers would not indicate which item they wished to speak on, and instead would be called to the podium one by one presumably (although not specified) at the beginning of the meeting. Staff recommends against adopting this suggestion as calling for public comments during the specific items that members of the public wish to provide input on and participate in aides to the efficient flow of the meeting, enables the City Council to consider relevant public comments when making decisions on separate items and ensures public comment participants are present when action is taken.

Mr. Nelson's correspondence to the City Council also addresses suggested revised language for the City Council agenda template. Staff does not recommend adopting these language revisions as the suggested changes would decrease meeting efficiency while not enhancing the public's opportunity to participate in the meeting.

FISCAL IMPACT

There is no fiscal impact associated with this item at this time.

ALTERNATIVE(S)

1. Provide direction to staff.

ATTACHMENTS

1. Resolution No. 2017-007 Amending the Public Safety Advisory Committee Meeting Schedule
2. Draft update of the 2017 City Council Procedures Manual
3. Correspondence from Bob Nelson February 2, 2017

RESOLUTION NO. 2017-07

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA,
CALIFORNIA, MODIFYING THE PUBLIC SAFETY ADVISORY COMMITTEE
MEETING SCHEDULE**

WHEREAS, the City Council has the authority to establish advisory committees; and

WHEREAS, the City Council established the Public Safety Advisory Committee in September 1996 to address Public safety concerns by serving as an advisory resource to review and provide recommendations on public safety issues as assigned by the City Council and presented by staff.

WHEREAS, the City Council desires to modify the Public Safety Advisory Committee meeting schedule due to a reduction in the committee's work program resulting in lack of items for consideration and frequent meeting cancelations.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HESERIA CITY COUNCIL AS FOLLOWS:

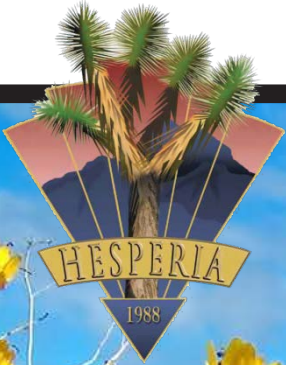
- Section 1. Regular meetings of the Public Safety Advisory Committee of the City of Hesperia shall be held annually on the second Tuesday of January. Additional meetings may be called as needed. Regular meetings shall take place at 6:00 p.m in the Council Chambers of Hesperia City Hall located at 9700 Seventh Avenue.
- Section 2. Resolution 2007-06 is hereby repealed.
- Section 3. That City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

ADOPTED AND APPROVED this 7th day of March 2017.

Paul Russ, Mayor

ATTEST:

Melinda Sayre, City Clerk



City of Hesperia

City Council

Procedures

Manual 2017



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CHAPTER 1 – AUTHORITY / ADMINISTRATION

A. GENERAL ADMINISTRATION

The City Council will review and revise the City Council, Commission, & Committee Rules of Procedure ("Policy") annually in January.

During City Council discussions, deliberations, and proceedings, the Mayor has been designated with the primary responsibility to ensure that the City Council, staff and members of the public adhere to the Council's norms and procedures.

Until such time as they are amended or new rules adopted by Resolution, these rules shall prevail to govern the order and conduct of business of the City Council and other legislative bodies that meet concurrently with the City Council, as well as various City Committees, and City Council-established Boards and Commissions. Those City Council established Boards and Commissions that are required by law to adopt rules of procedure shall adopt rules that are consistent with these Rules to the extent possible.

B. AMENDMENT

Any Rules may be adopted, altered, amended or repealed by Resolution at any time by a majority vote of the Council.

C. SUSPENSION

Any Rules may be temporarily suspended by an affirmative vote of at least three (3) Council Members present.

CHAPTER 2 - GOVERNMENTAL STRUCTURE

A. CITY OF HESPERIA

The **City of Hesperia** is a General Law city organized under the statutes of the State of California and incorporated July 1, 1988. The City is governed by a five-member City Council elected at-large to four-year overlapping terms.

Hesperia has the Council-Manager form of government and authority and responsibility for local legislative acts are vested in the Council. The City Council establishes policy; with the City Manager enacting those policies and also having responsibility for managing the day-to-day operations. The Mayor and Council Members are not full-time officials, but devote a great amount of time preparing for and attending Council, subcommittee, regional and intergovernmental meetings as well as community events. Responsibilities require attendance during regular business hours, evenings and weekends and Council Members must also be accessible to constituents.

B. HESPERIA WATER DISTRICT

The **Hesperia Water District** was originally formed on March 28, 1975 as a County Water District and was purchased from the Victor Valley County Water District. In 1988, the City of Hesperia was incorporated, and subsequently, the Hesperia Water District was reorganized as a subsidiary district of the City in 1992. The City Council serves as the Hesperia Water District Board of Directors. The District encompasses approximately 74.77 square miles and, as of January 2010, the District was providing water service to 26,998 active connections.

C. HESPERIA FIRE PROTECTION DISTRICT

The **Hesperia Fire Protection District** was originally formed on September 30, 1957 as a County Fire Protection District. Realizing the need for more local control, the Hesperia Fire Protection District reorganized on February 27, 1961 at which time a Board of Directors was elected. In 1975, the Emergency Medical Service program/Paramedic Ambulance service was developed. In 1988, the City of Hesperia was incorporated, and the Fire District became a subsidiary district of the City. In 2004 the City contracted with the County of San Bernardino for fire protection services. The City Council serves as the Hesperia Fire Protection District Board of Directors.

D. SUCCESSOR AGENCY TO THE HESPERIA COMMUNITY REDEVELOPMENT AGENCY

The City serves as the **Successor Agency to the Hesperia Community Redevelopment Agency** which was dissolved by the State of California on February 1, 2012.

The Hesperia Community Redevelopment Agency was activated by Council action on November 17, 1988. The City Redevelopment program began with the adoption of the first Redevelopment Plan for Project Area No. 1 in 1993. The Redevelopment Plan for Project Area No. 2 was adopted shortly after, also in 1993. Both of the Redevelopment

Plans were amended in 1999 making Project Area No. 1 a total of 22,649 acres and Project Area No. 2 a total of 2,920 acres. Members of the City Council also served as the Hesperia Community Redevelopment Agency Board of Directors.

CHAPTER 3 - STATUTORY REQUIREMENTS/REGULATORY GUIDELINES

Certain state laws and other established regulations exist which govern various responsibilities of the City Council. This manual is not intended to duplicate or repeat any existing statutes or regulations. City Council Members are responsible for becoming familiar with these statutes and regulations.

A. THE BROWN ACT

The Ralph M. Brown Act is a law which provides that all meetings of a legislative body, whether meetings of the City Council, subsidiary districts, or its appointed commissions and committees, shall be open and public, and all persons shall be permitted to attend. Notices of such meetings must include a brief general description of each item of business and be posted in a location freely accessible to the members of the public 72 hours prior to the meeting. A "meeting" takes place whenever a quorum is present and subject matter related to city business is heard, discussed, or deliberated upon.

The Act makes punishable as a misdemeanor the attendance by a member of the legislative body at a meeting at which action is taken in violation of the Act. Action taken has been defined as a collective decision, commitment or promise by a majority of the members of a legislative body to make a positive or negative decision, or an actual vote by a majority of the members when sitting as a body upon a motion, proposal, resolution, order, or ordinance.

Serial meetings that are conducted through direct communications, intermediaries, or technological devices for the purpose of developing a concurrence as to action to be taken are prohibited by the Act.

B. POLITICAL REFORM ACT

The Political Reform Act states that public officials shall perform their duties in an impartial manner, free from bias caused by their own financial interest or the financial interests of persons who have supported them. The Political Reform Act establishes regulations regarding Conflicts of Interests and Campaign Receipts and Expenditures. (See Gov. Code Sections 81000 - 91014)

Specifically, the Act requires City Council Members and other public officials to annually disclose all financial interests that may be affected by decisions made in their official capacity; this includes interests such as investments, real property, and income. Disclosure is made on a form called a "statement of economic interests" (Form 700). The form must be filed each year. Filed forms are public documents that must be made available to anyone who requests them. (See Gov. Code section 81002(c))

Council Members must also disqualify themselves from making or participating in making or influencing any governmental decision that will have a foreseeable material financial effect on any economic interest of the Council Member or certain family members.

Additionally the Political Reform Act requires that cities adopt and implement a separate Conflict of Interest Code that specifies additional 700 form filers consisting of positions within the agency that involves the making or participation in the making of decisions that may foreseeably have a material financial effect on any financial interest and updates the disclosure categories to allow accurate disclosure of economic interests and sources of income and gifts, without violation of privacy rights.

C. CITY OF HESPERIA MUNICIPAL CODE

The Municipal Code consists of those codified ordinances of general municipal regulations and laws, as well as the City of Hesperia Development Code and is available on the City's website. The Office of the City Clerk maintains the Municipal Code.

Any legislation enacted by federal or state law which would delete and / or amend any statutory regulatory requirement included within this manual shall automatically be incorporated into the Procedures Manual without prior City Council action.

CHAPTER 4 - COUNCIL ORGANIZATION AND DUTIES

A. NEWLY ELECTED MEMBERS

Newly elected Council Members are sworn into office at the first regular Council meeting in December following a regular municipal election. Immediately upon election (even before being sworn into office), newly elected Council Members are subject to the provisions of the Brown Act.

B. DUTIES OF THE CITY COUNCIL

City Council members and City staff shall conduct the business of the City of Hesperia:

- Recognizing that the stewardship of the public interest must be of primary concern;
- Working for the common good of the people of Hesperia; and
- Assuring fair and equal treatment of all persons, claims and transactions coming before the City Council, City Council Committees, and City Council established Boards and Commissions (legislative bodies).

C. DUTIES OF THE MAYOR AND MAYOR PRO TEM

The Mayor shall be:

- Appointed from members of the City Council by a majority vote at its first meeting in December annually;
- The presiding officer at all meetings of the Council;
- Responsible for the control, debate and order of speakers;
- Referred to as “Chair” when acting as presiding officer of any legislative body meetings other than Council;
- The representative of the City Council at ceremonial functions and may, at his/her own discretion, ask another Council Member to represent the Council at the function; and
- Entitled to make and second motions on matters before the City Council and vote on actions, but shall possess no veto power over actions of the City Council.

The Mayor Pro Tem shall:

- Be appointed from members of the City Council by a majority vote at its first meeting in December annually; and
- In the absence of the Mayor from the City or a City Council meeting, assume the duties of the Mayor.

In the event the Mayor and Mayor Pro Tem are absent, the City Council may appoint one of its Members to serve as Mayor Pro Tem.

D. MEETING ATTENDANCE BY PUBLIC OFFICIALS

It is important that all City Council Members commit to attending meetings to ensure that the business of the City can be conducted effectively and to ensure fairness to the public, other Council Members, and staff that attend the meetings.

CA Government Code § 36513 states that if a City Council Member is absent without permission from all regular City Council meetings for 60 days consecutively from the last regular meeting s/he attended, his/her office becomes vacant and shall be filled as any other vacancy.

E. USE OF PUBLIC PROPERTY

City stationery, technology and/or staff support shall not be used for personal or campaign purposes. Council Member use of the City telephone and computer systems is subject to all City guidelines concerning use of such systems.

F. USE OF COUNCIL CHAMBERS

The City Clerk's office is responsible for maintaining a calendar on the use of the Council Chambers, as well as the Hesperia Library's community room. Use of the Council Chambers by a City commission, board, and/or other advisory bodies shall take precedence over any other group or agency.

CHAPTER 5 – COMMITTEES / COMMISSIONS / ADVISORY COMMITTEES

A. APPOINTMENT TO OUTSIDE COMMITTEES

Council Members are requested to serve on various boards and committees for outside agencies. Any Council Member desiring to serve on a certain committee (or who desires not to be considered) should inform the Mayor. These appointments are subject to approval by the majority of the Council. Appointments are generally made at the second meeting in December.

Council Members will provide to the City Council periodic updates and reports on meetings and actions of the agencies on which they serve, in order to provide information to the City Council, and/or seek City Council guidance where City Council has representation on various committees and commissions, joint powers authorities and other organizations (“agencies”). Whenever practicable, Council Members appointed to an outside agency as the City’s representative shall advise the Council at a regularly scheduled Council meeting of any major issues under consideration by an outside agency prior to the time that agency votes on the item. “Major issues” include, but are not limited to a proposal that would have a significant adverse fiscal or economic impact on the City of Hesperia or its citizens. Council may at that time provide direction as to the position of the City on the issue at hand.

While serving as the governing board members of outside agencies, City Council Members shall not vote in favor of establishing or increasing salary and benefit agreements for the staff of those respective outside agencies which would result in compensation that is greater than the salary and benefit agreements approved by the City Council for the employees of the City of Hesperia and subsidiary districts.

B. CITY COMMISSION / ADVISORY COMMITTEE APPOINTMENTS

1. General

All commissions and committees are governed by the Ralph M. Brown Act and all meetings shall be noticed and conducted accordingly.

The City Clerk shall maintain a list of all committee appointments/terms and solicit applications for vacancies in accordance with state law or City procedures.

The Council may disband any commission, board or advisory body provided state law does not prohibit such action.

Members of the City Council should not attempt to influence or publicly criticize commission or board recommendations, or to influence or lobby individual commission or board members on any item under their consideration. It is important for commissions and boards to be able to make objective recommendations to the City Council on items before them.

Planning Commission and Advisory Committee Appointees may not serve concurrent terms on any Commission or Committee.

2. Planning Commission

The Planning Commission serves as not only an advisory body, but as a regulatory body, having authority to make final determination in applicable circumstances. The Planning Commission was established by ordinance (Ord. 146 § 1, 1992) and outlined in the Municipal Code (HMC Chapter 2.16 and Ord. 2005-01).

The Planning Commission consists of five members who are appointed at-will, reside within the City and/or its designated spheres, and be a United States Citizen as evidenced by proof of current voter registration status for the City of Hesperia or within its sphere of influence. Each Council Member shall appoint a member to the Planning Commission. Each individually appointed member shall be introduced by the appointing Council Member at a regularly scheduled City Council meeting prior to such member taking office.

The term of each individually appointed Planning Commission Member shall commence upon appointment and shall terminate thirty (30) days after the expiration of each respective appointing Council Member's term subject to reappointment.

The appointing Council Member may remove a Commission Member from service at any time with subsequent notification to the City Council.

3. Advisory Committees

Committees serve as advisory bodies to facilitate public input and citizen participation in the determination of public policies. This is accomplished by formulating recommended courses of action and policy and forwarding to the City Council with whom final determination rests. Advisory Boards are established by Council Resolution and members shall serve terms that are at-large, at-will and at the pleasure of the City Council until removed from the Committee as provided by resolution. Members must reside within the City and be United States Citizens as evidenced by proof of current voter registration status for the City of Hesperia. There are currently two Advisory Boards; the City Council Advisory Committee and the Public Safety Advisory Committee

The term of each individually appointed Committee Member shall commence upon appointment and shall terminate thirty (30) days after the expiration of each respective appointing Council Member's term subject to reappointment.

The appointing Council Member may remove a Committee Member from service at any time with subsequent notification to the City Council.

CHAPTER 6 – CONDUCT OF CITY COUNCIL, STAFF AND PUBLIC

A. CITY COUNCIL CONDUCT

1. General Conduct

City Council Members shall:

- Treat each other and everyone with courtesy and refrain from inappropriate behavior and derogatory comments;
- Be fair, impartial and unbiased when voting on quasi-judicial actions;
- Use the electronic speaker sequencing system to inform the Mayor of their wish to speak and shall be acknowledged by the Mayor before speaking;
- Move to require the Mayor to enforce the rules and the Mayor shall do so upon an affirmative vote of a majority of the Members present;
- Preserve order and decorum during the meeting;
- Not delay or interrupt the proceedings or the peace of the City Council meetings, nor disturb any Member while speaking, by conversation or otherwise, nor disobey the orders of the City Council or the presiding officer, except as otherwise herein provided;
- Support the laws established by the City Council;
- Abide by the Rule of Procedure in conducting the business of the City of Hesperia; and
- Refrain from the use of personal cellular telephones, personal computers, and other personal electronic devices during public hearings unless used solely to view agenda packet contents or content or materials related to an agenda item.

2. Conduct with Members

City Council Members shall:

- Value each other's time;
- Govern themselves as to the length of their comments;
- Limit their comments to the subject matter, item, or motion being currently considered;
- Attempt to build consensus on an item though an opportunity for dialogue; but when this is not possible, the majority vote shall prevail and the majority shall show respect for the opinion of the minority;
- Have the right to dissent from, protest, or comment upon any action of the City Council;
- Respect each other's opportunity to speak and, if necessary, agree to disagree;
- Avoid offensive negative comments and practice civility and decorum during discussions and debate; and
- Assist the Mayor's exercise of duty to maintain order.

3. Conduct with City Manager and Staff

City Council shall:

- Speak to the City Manager directly on issues and concerns;
- Not direct staff to initiate any action, change a course of action, or prepare any report that is significant in nature or initiate any project or study without the approval of a majority of the City Council;
- Direct the City Manager to implement City Council's policy decisions through the administrative functions of the City;
- Treat staff professionally and refrain from publicly criticizing individual employees;
- Avoid involvement in personnel issues except during City Council Closed sessions regarding City Council appointed staff such as City Manager and City Attorney, including hiring, firing, promoting, disciplining and other personnel matters;
- Discuss directly with the City Manager privately, as appropriate, any displeasure over work or behavior with a department or staff;
- Request information or research on a given topic from the City Manager for response (responses will be copied to all Council Members);
- Request answers to questions on City Council agenda items from the City Manager, City Attorney, City Clerk, or department directors / division managers prior to the meeting whenever possible; and
- Present citizen complaints to the City Manager so the complaint and request for information can be disseminated to staff for appropriate action.

4. Conduct with the Public

City Council Members shall:

- Make the public feel welcome;
- Be impartial, respectful and without prejudice toward the public;
- Listen courteously and attentively to public comment;
- Refrain from arguing back and forth with members of the public;
- Represent official policies or positions of the City Council first;
- Explicitly state when their opinions and positions do not represent the City Council when representing their individual opinions and positions; and
- Make no promises to the public on behalf of the Council/Commission/Committee.

5. Conduct with Other Agencies

City Council Members shall:

- Project a positive image of the City when dealing with other agencies;
- Show tolerance and respect for other agencies' opinions and issues and, if necessary, agree to disagree;

- Represent official policies or positions of the City Council first when designated as delegates of a legislative body;
- Explicitly state when their opinions and positions do not represent the City Council when representing their individual opinions and positions, and shall not allow the interference that they do; and
- Have the ability to advocate or discuss issues that have been adopted by the legislative bodies or are standing policies of the legislative body with other legislators, government officials or developers.

6. Conduct with Commissions and Committees

City Council Members shall:

- Treat all members of committees and commissions with appreciation and respect; and
- Refrain from participation in committee and commission meetings for the purpose of influencing the outcome of said meetings.

7. Conduct with the Media

City Council Members shall:

- Not discuss or go “off the record” with the media to discuss confidential or privileged information pertaining to closed sessions, attorney-client privileged or attorney work product communications including without limitation personnel, litigation or real property negotiations; and
- Provide non-confidential, non-privileged background information when acceptable.

Press releases will be prepared by the Public Information Officer and routed to the City Manager for approval before release to the media.

Police and Fire responses and/or press releases regarding emergencies may be reported directly to the media by the designated department spokesperson.

8. Litigation and Confidential Information

City Council Members shall:

- Keep all written materials and verbal information provided to them on matters that are confidential under state law in complete confidence to ensure that the City’s position is not compromised; and
- Not disclose or mention any information in these materials to anyone other than City Council Members, the City Attorney or City Manager.

9. Ethical Conduct

City Council Members shall:

- Receive at least two hours of training in ethics, conflicts of interest, open meetings laws, competitive bidding requirements, bias prohibitions, etc., in accordance with Government Code section 53234 (AB1234) every two years; and
- Conduct themselves in accordance with such training.

B. CITY STAFF

City Staff shall:

- Prepare well-written staff reports and provide accompanying documents on all agenda items in accordance with the agenda format and preparation schedule;
- Be available for general questions from City Council Members in accordance with the Brown Act prior to and during meetings;
- Respond to questions from the public during meetings when requested to do so by City Council Members or City Manager;
- Refrain from arguing with the public or City Council Members;
- Switch any electronic equipment such as pagers and cellular telephones to silent or off mode during Council meetings; and
- Copy or otherwise communicate responses regarding citizen complaints to the City Council.

Staff will remain objective on issues and should not be advocates for issues unless so directed by the legislative body.

As soon as possible, to the extent permitted by the Brown Act, the City Manager and staff will inform the City Council of controversial issues having significant impacts to the City that are coming before the legislative body on short notice.

The City Manager will advise management staff of potentially political or controversial issues coming before the legislative body and direct staff to be present and appropriately prepared.

Staff will not participate in political activities while on duty or on City property.

C. PUBLIC

Members of the public:

- Attending City Council meetings shall observe the same rules and decorum applicable to the Members and staff as noted in this Chapter;
- May attend meetings at any teleconference locations in accordance with the Brown Act;

- Must approach the podium when recognized by the Mayor and speak only from the podium. Stamping of feet, whistles, yells or shouting, and / or similar demonstrations are unacceptable public behavior and will be prohibited by the City Council;
- Wishing to provide documents to the Council shall comply with Chapter 8 Section B of these Rules;
- Speakers wishing to submit electronic media as part of their public comment, must submit it to the City Clerk's Office via thumb drive or compact disk (CD) at least 24 hours prior to the City Council Meeting in order to be screened for computer virus' and offensive, or inappropriate content. The City Clerk will have it available at the next City Council Meeting during the public comment portion of the meeting. The City is not responsible for inaccurate information displayed as part of a public comment presentation;
- Must switch any electronic equipment such as pagers and cellular telephones to a silent or off mode during Council meetings;
- Wishing to speak to the Council should complete, and turn into the City Clerk prior to the item being called, a speaker's slip indicating the agenda item or off-agenda (public comment) item which they wish to address; and
- May contact the staff person with questions concerning Consent Calendar items prior to the meeting to reduce the need for discussion of Consent Calendar items.

Lobbyists must identify themselves and their client(s), business or organization they represent before speaking to the Council.

CHAPTER 7 – CITY COUNCIL MEETINGS AND SCHEDULES

A. REGULAR MEETINGS

- Regular meetings of the Joint City Council, Successor Agency, Housing Authority, and Community Development Commission shall be held on the first and third Tuesdays of each month;
- Staff reports shall be limited to five minutes unless unusual circumstances exist;
- Voting will be conducted utilizing the electronic voting system and the Mayor shall announce the voting results;
- Public comments shall be limited to three minutes with the exception of public hearings, which shall be five minutes, the Mayor shall notify the speaker when 30 seconds remain and has the discretion of extending the time for public hearings if a formal presentation is being made;
- No new agenda items shall be considered after 9:30 p.m. unless agreed to do so by the majority of the Council, all remaining items shall be continued to the next regular meeting;
- Closed sessions should be held prior to the regular City Council meeting;
- Meals will be served to the City Council only when meetings are commenced prior to or at 5:00 p.m.
- Regular meetings of the Hesperia Fire Protection District and Hesperia Water District shall immediately follow the regular meeting of the City Council; and
- All meeting notices are to be posted on the City's website, public notice case outside City Hall and at the Hesperia Branch Library 72-hours prior to the meeting in compliance with the Brown Act.

B. SPECIAL MEETINGS

- The Mayor or Majority of the Members may call a special meeting by providing notice twenty-four (24) hours in advance of the meeting to all Council Members, media outlets and persons having requested in writing notification of such meetings pursuant to state law;
- All special meeting notices are to be posted on the City's website, public notice case outside City Hall and at the Hesperia Branch Library; and
- Workshops are scheduled on an as needed basis and can be scheduled at anytime during the day or evening.

C. EMERGENCY MEETINGS

- In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, the legislative body may hold an emergency meeting without complying with either the 72-hour or 24-hour notice and posting requirements, for regular and special meetings, but shall otherwise comply with the Brown Act procedures generally stated below;

- Each local newspaper of general circulation and radio or television station that has requested notice of special meetings, pursuant to the Brown Act, shall be notified by the presiding officer of the legislative body, or designee thereof, at least one hour prior to the emergency meeting, or in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the Members of the City Council of the emergency meeting;
- This notice shall be given by telephone, or email, and all telephone numbers and email addresses provided in the most recent request for notification of special meetings shall be used;
- In the event that telephone or internet services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible; during an emergency meeting, the legislative body may meet in closed session pursuant to the Brown Act if agreed to by a two-thirds (2/3) vote of the Members present, or, if less than two-thirds (2/3) of the Members are present, by a unanimous vote of the Members present;
- All special meeting requirements, as prescribed in the Brown Act shall be applicable to an emergency meeting, with the exception of the 24-hour notices and posting requirement; and
- The minutes of an emergency meeting, a list of persons who the presiding officer of the legislative body, or designee of the City Council, notified or attempted to notify, a copy of the roll call vote, and any actions taken at the meeting shall be posted for a minimum of ten days in a public place as soon after the meeting as possible.

D. AGENDA PACKET PREPARATION

- The City Manager reviews and approves all items for the Council agenda;
- The agenda and agenda packets are compiled and distributed through the City Clerk's Office. Agenda packets are generally ready for distribution by 5:30 p.m. on the Thursday before the Council meeting; agenda packets are also available to the public on the City's website, at the public library, ~~and public kiosks located at City Hall and the Hesperia Chamber of Commerce;~~ and
- Council Members are encouraged to meet with the City Manager before City Council meetings if they need clarification on agenda items.

E. CLOSED SESSIONS

- Closed sessions shall generally be conducted as needed and may begin as early as 5:00 p.m.;
- In accordance with the Brown Act, the public may speak regarding any closed session item prior to the closed session;

- All closed session information, verbal or written, is privileged and confidential and shall not be shared with any person not at such closed sessions; and
- The City Attorney will report out in public session any reportable actions that were taken by the City Council and the vote on such actions in accordance with the Brown Act.

F. PUBLIC HEARINGS

- The City Clerk will set City Council hearing dates and notify the City Council via the agenda on all matters that require a notice and public hearing before the City Council;
- Scheduled public hearings may be withdrawn or continued at the request of the City Council, staff and / or applicant; and
- The City Council may refuse to grant a continuance of any hearing if there is no valid legal reason why the hearing must be continued.

1. Continuances

- A. Any person (applicant, appellant or designated representative) scheduled for a public hearing before the City Council:
 - i. may obtain one continuance as a matter of right, without personally appearing before the Council on the scheduled hearing date, provided a written request for the continuance must be delivered to the City Clerk by noon on the day prior to the scheduled public hearing. Any person, who has once obtained a continuance by any procedure, may not obtain any subsequent continuance without appearing before the City Council, pursuant to subsection ii below; and
 - ii. who has once obtained a continuance of a hearing either by notice to the City Clerk as provided in Section A(i) may obtain a further continuance only by appearing before the City Council at the scheduled hearing and satisfying the City Council that circumstances exist which would justify an additional continuance.
- B. City staff may obtain a continuance based on the need of the originating department or on behalf of a Council Member. Department staff may request, via the City Clerk, as many continuances as needed to complete and ready the project or appeal for the hearing process; however, staff may not serve as a requestor on behalf of an applicant or appellant.
- C. Disputes regarding the length of a continuance will be decided by the City Council at the scheduled hearing if City staff or the City Clerk cannot obtain mutual agreement between the parties beforehand.

CHAPTER 8 - MEETING GUIDELINES & PROCEDURES

A. GENERAL

The Council acts as a body and policy is established by majority vote. A decision of the majority binds the Council to a course of action. No Council Member has any extraordinary powers beyond those of other members and all members have equal votes.

Action by the City Council shall be taken by means of ordinance, resolution, or oral motion duly made and passed by the majority (unless otherwise provided in state law).

Public actions of the City Council shall be recorded in the minutes of any meeting of the Council. Resolutions shall also be recorded separately, serially numbered, and filed sequentially in the office of the City Clerk. Ordinances shall also be separately recorded, codified in the Municipal Code, and so remain until amended or voided.

The City Council cannot take action on items not included on the posted agenda except as provided for emergency or urgent items as provided in the Brown Act.

A tie vote is considered as “no action” by the City Council and the item will automatically be brought back before the City Council at the next meeting at which the full membership of the Council is present.

B. REQUIREMENTS FOR AGENDA ITEM SUBMISSION

Members may submit items for inclusion on a future agenda by orally making the request under Council Comments.

Department directors, subject to the discretion of the City Manager, may submit staff reports or descriptions of oral reports to the City Clerk for placement on the agenda.

Outside agencies may submit agenda items in accordance with the following:

1. Items from outside agencies must be sponsored for agenda placement by a Council Member or department directors; and
2. All agenda items must be submitted in accordance with the agenda packet submission and preparation requirements.

C. DECLARATION OF POLICY

No ordinance, resolution, motion or item of business shall be introduced or acted upon at a meeting of the City Council without it appearing on a duly noticed and posted agenda in accordance with the Brown Act, exceptions to this rule are limited to those provided by state law.

No ordinance, resolution, motion or item of business will be considered which does not affect the conduct of the business of the City of Hesperia, its subsidiary districts, or its corporate powers or duties as a municipal corporation.

D. AGENDA FORMAT

1. Presentations

Special presentations may be scheduled as necessary in recognition of persons or groups, or for the promotion of an event or service. Requests for special presentations must be submitted to the City Clerk in writing in advance of the agenda deadline.

2. Public Comment

Pursuant to the Brown Act, public comment will be allowed on items on the Council agenda at the time each item is considered. At the beginning of the agenda under Oral Communications, public comments will also be allowed on items not on the agenda but within the jurisdiction of the City Council. Public comments are limited to no more than three (3) minutes each. Individuals desiring to speak are encouraged to submit a request to speak form to the City Clerk prior to the meeting. Speakers shall not concede any part of their allotted time to another speaker.

The City Council may not deliberate or take action on any request/item brought before them during Public Comment/Oral Communications. The Council may ask clarifying questions and refer the request/item to staff for follow-up or to be agendaized for a future meeting.

Members of the City Council are discouraged from engaging in debate with a member of the public at Council meetings since these debates seldom resolve concerns and many times inflame feelings at a public meeting.

The Brown Act permits the clearing of the Council Chamber in the event any meeting is willfully disturbed.

3. Consent Items

Those items on the Council agenda, which are considered to be of a routine and non-controversial nature by the City Manager including draft minutes, warrant runs, and routine contracts shall be listed on the "Consent Calendar." These items shall be approved, adopted, accepted, etc. by one motion and vote of the City Council. A member of the City Council or public may remove any item from the "Consent Calendar" for discussion. Any item removed from the Consent Calendar will be heard immediately following action on the remaining Consent Calendar items.

4. Public Hearings

Public hearings may be required on certain items as prescribed by the Municipal Code or by state or federal law. Council resolution establishes the regular time for public hearings. The general procedure for public hearings is as follows:

- a. staff presents its report, Council Members may ask questions of staff;
- b. the Mayor opens the public hearing;
- c. the applicant/appellant has the opportunity to present his/her comments, testimony, or arguments, adequate time must be allotted for the applicant or appellant to present his/her case (the Mayor may ask the applicant/appellant in advance the amount of time needed in order to better control the time);
- d. members of the public may present their comments subject to established time limits (five [5] minutes);
- e. the Mayor closes the public hearing after everyone wishing to speak has had the opportunity to do so; and
- f. Council proceeds with discussion and makes a final decision.

5. Ordinances

Ordinances are the laws of a municipality and city councils are given the power to pass ordinances as long as they are not in conflict with the laws and the Constitution of the State of California or the United States. An ordinance is the most binding form of action taken by the City Council.

Approval of an ordinance requires a first and second reading, with at least five days between same, except in the case of an urgency ordinance. With few exceptions, ordinances take effect 30 days after final passage. Once adopted, the City Clerk's Office is responsible for publishing a summary of the ordinance and posting at established public places, which include City Hall, the City Library, and the City Website.

The City Council may approve the reading of the title of all ordinances and waive the text when placing an ordinance on first reading. Second readings of ordinances may be placed on the Consent Calendar for adoption.

6. New Business

New business contains items which have not been previously discussed, require City Council direction or are considered controversial.

7. City Council Reports/Committee Reports

The City Council Reports portion of the meeting provides Council Members the opportunity to briefly comment on Council business, City operations, City projects and other items of community interest. Council Members are also given the opportunity to update the full Council on activities of outside committees/agencies that they serve as representatives of the Council during Committee Reports portion of the meeting. Council Members should govern themselves as to the length of their comments.

8. City Manager/City Attorney Reports

The City Manager/City Attorney Reports portion of the meeting provides the City Manager the opportunity to briefly comment on City business, operations, projects and other items of Council interest. The City Attorney is provided the opportunity to report actions taken in Closed Session or other items of Council interest/concern.

9. Closed Sessions

Closed Sessions are regulated pursuant to the Brown Act. All written materials and verbal information regarding closed session items shall remain confidential. No member of the Council, employee of the City or anyone else present shall disclose to any person the content or substance of any discussion which takes place in a closed session unless authorized by a majority of the Council.

Closed Sessions specifically authorized by the Brown Act include, but are not limited to, the following:

- a. Grand Jury – Council Members may give testimony in private before a grand jury, either as individuals or as a group;
- b. Security of Public Buildings – to discuss with law enforcement personnel threats to the security of a public building or threats to the public's right of access to public services or public facilities;
- c. Personnel – to consider the appointment, or dismissal of a public employee or to hear complaints or charges brought against an employee by another person or employee unless the employee requests that the matter be conducted publicly;

The term "employee" in the situation described above does not include any person elected to office, or appointed to an office of the legislative body except for certain non-elective positions set forth in the section;

- d. Meet & Confer – to discuss with designated representatives meet and confer issues with employee organizations;

- e. Property Negotiations – to discuss specific real property transactions with negotiator(s) concerning the purchases, sale, exchange, or lease of real property; and
- f. Pending/Existing Litigation – for purposes of discussing matters of litigation or pending litigation.

Either at a public meeting at which the closed session is held, or at its next public meeting, the Council must report any final action taken and any roll call vote taken thereon during the closed session.

Closed sessions may be scheduled before or after regular meetings, and/or at a special or adjourned meeting.

CHAPTER 9 – PLANNING COMMISSION

A. RULES OF PROCEDURE HANDBOOK

The City Council will review and revise the City Council, Commission, & Committee Rules of Procedure (“Policy”) annually in January.

Until such time as they are amended or new rules adopted by Resolution, these rules shall prevail to govern the order and conduct of business of the City Council and other legislative bodies that meet concurrently with the City Council, as well as various City Committees, and City Council-established Boards and Commissions. Those City Council established Boards and Commissions that are required by law to adopt rules of procedure shall adopt rules that are consistent with these Rules to the extent possible.

B. AMENDMENT

Any Rules may be adopted, altered, amended or repealed by Resolution at any time by a majority vote of the City Council.

C. SUSPENSION

Any Rules may be temporarily suspended by an affirmative vote of at least three (3) Council Members present.

Certain state laws and other established regulations exist which govern various responsibilities of the Planning Commission. This manual is not intended to duplicate or repeat any existing statutes or regulations. Planning Commission Members are responsible for becoming familiar with these statutes and regulations.

D. THE BROWN ACT

The Ralph M. Brown Act is a law which provides that all meetings of a legislative body, whether meetings of the City Council, subsidiary districts, or its appointed commissions and committees, shall be open and public, and all persons shall be permitted to attend. Notices of such meetings must include a brief general description of each item of business and be posted in a location freely accessible to the members of the public 72 hours prior to the meeting. A “meeting” takes place whenever a quorum is present and subject matter related to city business is heard, discussed, or deliberated upon.

The Act makes punishable as a misdemeanor the attendance by a member of the legislative body at a meeting at which action is taken in violation of the Act. Action taken has been defined as a collective decision, commitment or promise by a majority of the members of a legislative body to make a positive or negative decision, or an actual vote by a majority of the members when sitting as a body upon a motion, proposal, resolution, order, or ordinance.

Serial meetings that are conducted through direct communications, intermediaries, or technological devices for the purpose of developing a concurrence as to action to be taken are prohibited by the Act.

E. POLITICAL REFORM ACT

The Political Reform Act states that public officials shall perform their duties in an impartial manner, free from bias caused by their own financial interest or the financial interests of persons who have supported them. The Political Reform Act establishes regulations regarding Conflicts of Interests. (See Gov. Code Sections 81000 - 91014)

Specifically, the Act requires Planning Commissioners to annually disclose all financial interests that may be affected by decisions made in their official capacity; this includes interests such as investments, real property, and income. Disclosure is made on a form called a "statement of economic interests" (Form 700). The form must be filed each year. Filed forms are public documents that must be made available to anyone who requests them. (See Gov. Code section 81002(c))

Planning Commissioners must also disqualify themselves from making or participating in making or influencing any governmental decision that will have a foreseeable material financial affect on any economic interest of the Commission Member or certain family members.

F. CITY OF HESPERIA MUNICIPAL CODE

The Municipal Code consists of those codified ordinances of general municipal regulations and laws, as well as the City of Hesperia Development Code and is available on the City's website. The Office of the City Clerk maintains the Municipal Code.

G. GENERAL ADMINISTRATION

The Planning Commission serves as not only an advisory body, but as a regulatory body, having authority to make final determination in applicable circumstances. The Planning Commission was established by ordinance (Ord. 146 § 1, 1992) and outlined in the Municipal Code (HMC Chapter 2.16 and Ord. 2005-01).

The Planning Commission consists of five members who are appointed at-will, reside within the City and/or its designated spheres, and are United States Citizens as evidenced by proof of current voter registration status for the City of Hesperia or within its sphere of influence. Each Council Member shall appoint a member to the Planning Commission. Each individually appointed member shall be introduced by the appointing Council Member at a regularly scheduled City Council meeting prior to such member taking office.

The term of each individually appointed Planning Commission Member shall commence upon appointment and shall terminate thirty (30) days after the expiration of each respective appointing Council Member's term subject to reappointment. The appointing Council Member may remove a Commission Member from service at any time with subsequent notification to the City Council.

The City Clerk shall maintain a list of all committee appointments/terms and solicit applications for vacancies in accordance with state law or City procedures.

The Council may disband any commission, board or advisory body provided state law does not prohibit such action.

Planning Commission and Advisory Committee Appointees may not serve concurrent terms on any Commission or Committee.

H. NEWLY APPOINTED MEMBERS

Newly appointed Commission Members are sworn into office at the first regular Commission meeting attended. Immediately upon appointment (even before being sworn into office), newly appointed Commission Members are subject to the provisions of the Brown Act.

I. DUTIES OF THE PLANNING COMMISSION

Planning Commission members shall conduct the business of the City of Hesperia:

- Recognizing that the stewardship of the public interest must be of primary concern;
- Working for the common good of the people of Hesperia; and
- Assuring fair and equal treatment of all persons, claims and transactions coming before the Planning Commission.

J. DUTIES OF THE CHAIR AND VICE CHAIR

The Chair shall be:

- Appointed from members of the Planning Commission by a majority vote at its first regular meeting after Council Members have appointed new members following an election;
- The presiding officer at all meetings of the Commission;
- Responsible for the control, debate and order of speakers;
- Referred to as “Chair” when acting as presiding officer;
- Entitled to make and second motions on matters before the Planning Commission and vote on actions, but shall possess no veto power over actions of the Planning Commission.

The Vice Chair shall:

- Be appointed from members of the Planning Commission by a majority vote at its regular meeting after Council Members have appointed new members following an election;
- In the absence of the Chair from a Planning Commission meeting, assume the duties of the Chair.

In the event the Chair and Vice Chair are absent, the Planning Commission may appoint one of its Members to serve as Vice Chair.

K. MEETING ATTENDANCE BY PUBLIC OFFICIALS

It is important that all Planning Commission Members commit to attending meetings to ensure that the business of the City can be conducted effectively and to ensure fairness to the public, other Commission Members, and staff that attend the meetings.

Commission Members will be held to the same meeting attendance requirements as City Council Members (Government Code Section 36513). Accordingly, if a Planning Commissioner is absent without permission from all regular Planning Commission meetings for 60 days consecutively from the last regular meeting s/he attended, his/her office becomes vacant and shall be filled as any other vacancy.

Planning Commission meeting attendance records will be forwarded to the City Council on a quarterly basis.

L. USE OF PUBLIC PROPERTY

City stationery, technology and/or staff support shall not be used for personal or campaign purposes.

M. PLANNING COMMISSION CONDUCT

1. General Conduct

Planning Commission Members shall:

- Treat each other and everyone with courtesy and refrain from inappropriate behavior and derogatory comments;
- Be fair, impartial and unbiased when voting on quasi-judicial actions;
- Use the electronic speaker sequencing system to inform the Chair of their wish to speak and shall be acknowledged by the Chair before speaking;
- Move to require the Chair to enforce the rules and the Chair shall do so upon an affirmative vote of a majority of the Members present;
- Preserve order and decorum during the meeting;
- Not delay or interrupt the proceedings or the peace of the Planning Commission meetings, nor disturb any Member while speaking, by conversation or otherwise, nor disobey the orders of the Commission or the presiding officer, except as otherwise herein provided;
- Support the laws established by the City Council;
- Abide by the Rule of Procedure in conducting the business of the City of Hesperia; and
- Refrain from the use of personal cellular telephones, personal computers, and other personal electronic devices during public hearings unless used solely to view agenda packet contents.

2. Conduct with Members

Planning Commission Members shall:

- Value each other's time;
- Govern themselves as to the length of their comments;
- Limit their comments to the subject matter, item, or motion being currently considered;
- Attempt to build consensus on an item though an opportunity for dialogue; but when this is not possible, the majority vote shall prevail and the majority shall show respect for the opinion of the minority;
- Have the right to dissent from, protest, or comment upon any action of the Planning Commission;
- Respect each other's opportunity to speak and, if necessary, agree to disagree;
- Avoid offensive negative comments and shall practice civility and decorum during discussions and debate; and
- Assist the Chair's exercise of duty to maintain order.

3. Conduct with Designated Staff:

Planning Commissioners shall:

- Speak to designated staff directly on issues and concerns;
- Not direct staff to initiate any action, change a course of action, or prepare any report that is significant in nature or initiate any project or study;
- Treat staff professionally and refrain from publicly criticizing individual employees;
- Avoid involvement in personnel issues;
- Discuss directly with designated staff privately, as appropriate, any displeasure over work or behavior with a department or staff;
- Request information or research on a given topic from designated staff for response (responses will be copied to all Commissioners);
- Request answers to questions on Planning Commission agenda items from designated staff prior to the meeting whenever possible; and
- Present citizen complaints to designated staff so the complaint and request for information can be disseminated to staff for appropriate action.

4. Conduct with the Public

Planning Commission Members shall:

- Make the public feel welcome;
- Be impartial, respectful and without prejudice toward the public;
- Listen courteously and attentively to public comment;
- Not argue back and forth with members of the public;
- Represent official policies or positions of the Planning Commission first;

- Explicitly state when their opinions and positions do not represent the Planning Commission when representing their individual opinions and positions; and
- Make no promises to the public on behalf of the Planning Commission.

5. Conduct with Other Agencies

Planning Commission Members shall:

- Project a positive image of the City when dealing with other agencies;
- Show tolerance and respect for other agencies' opinions and issues and, if necessary, agree to disagree;
- Represent official policies or positions of the Planning Commission first when designated as delegates of a legislative body; and
- Explicitly state when their opinions and positions do not represent the Planning Commission when representing their individual opinions and positions, and shall not allow the interference that they do.

6. Conduct with the Media

Planning Commission Members may refer all media requests to the City's Public Information officer. If not, they shall:

- Not discuss or go "off the record" with the media to discuss confidential or privileged information; or
- Provide non-confidential, non-privileged background information when acceptable.

Press releases will be prepared by the Public Information Officer and routed to the City Manager for approval before release to the media.

7. Ethical Conduct

Planning Commission Members shall:

- Receive at least two hours of training in ethics, conflicts of interest, open meetings laws, competitive bidding requirements, bias prohibitions, etc., in accordance with Government Code section 53234 (AB1234) every two years; and
- Conduct themselves in accordance with such training.

N. CITY STAFF

City Staff shall:

- Prepare well-written staff reports and provide accompanying documents on all agenda items in accordance with the agenda format and preparation schedule;
- Be available for general questions from Commission Members in accordance with the Brown Act prior to and during meetings;
- Respond to questions from the public during meetings when requested to do so by Commission Members or designated staff;
- Refrain from arguing with the public or Commission Members; and
- Switch any electronic equipment such as pagers and cellular telephones to silent or off mode during Commission meetings.

Staff will remain objective on issues and should not be advocates for issues unless so directed by the legislative body. Staff recommendations are based on the Municipal Code and City Council adopted legislative policy.

Staff will not participate in political activities while on duty or on City property.

O. PUBLIC

Members of the public:

- Attending Commission meetings shall observe the same rules and decorum applicable to the Members and staff as noted in this Chapter;
- May attend meetings at any teleconference locations in accordance with the Brown Act;
- Must approach the podium when recognized by the Chair and speak only from the podium. Stamping of feet, whistles, yells or shouting, and / or similar demonstrations are unacceptable public behavior and will be prohibited by the Planning Commission;
- Wishing to provide documents to the Council shall comply with Chapter 8 Section B of these Rules;
- Speakers wishing to submit electronic media as part of their public comment must submit it to the City Clerk's Office via thumb drive or compact disk (CD) at least 24 hours prior to the Planning Commission meeting in order to be screened for computer viruses and offensive or inappropriate content. The City Clerk will have it available at the next Planning Commission meeting during the public comment portion of the meeting. The City is not responsible for inaccurate information displayed as part of a public comment presentation;
- Must switch any electronic equipment such as pagers and cellular telephones to a silent or off mode during Commission meetings;
- Wishing to speak to the Commission should complete, and turn into the Commission Secretary prior to the item being called, a speaker's slip indicating the agenda item or off-agenda (public comment) item which they wish to address; and
- May contact the staff person with questions concerning Consent Calendar items prior to the meeting to reduce the need for discussion of Consent Calendar items.

P. REGULAR MEETINGS

- Regular meetings of the Planning Commission shall be held on the second Thursday of each month and the fourth Thursday as needed;
- Staff reports shall be limited to five minutes unless unusual circumstances exist;
- Voting will be conducted utilizing the electronic voting system and the Chair shall announce the voting results;
- Public comments shall be limited to three minutes, the Chair shall notify the speaker when 30 seconds remain and has the discretion of extending the time for public hearings if a formal presentation is being made;
- No new agenda items shall be considered after 9:30 p.m. unless agreed to do so by the majority of the Commission, all remaining items shall be continued to the next regular meeting; and
- All meeting notices are to be posted on the City's website, public notice case outside City Hall and at the Hesperia Branch Library 72-hours prior to the meeting in compliance with the Brown Act.

Q. SPECIAL MEETINGS

- The Chair or Majority of the Members may call a special meeting for items or projects within its purview by providing notice twenty-four (24) hours in advance of the meeting to all Commission Members, media outlets and persons having requested in writing notification of such meetings pursuant to state law; and
- All special meeting notices are to be posted on the City's website, public notice case outside City Hall and at the Hesperia Branch Library.

R. AGENDA PACKET PREPARATION

- The City Manager reviews and approves all items for the Planning Commission agenda;
- The agenda and agenda packets are compiled and distributed through the Planning Department. Agenda packets are generally ready for distribution by 5:30 p.m. on the Thursday before the Planning Commission meeting; - agenda packets are also available to the public on the City's website, at the public library, ~~and public kiosks located at City Hall and the Hesperia Chamber of Commerce;~~ and
- Commission Members are encouraged to meet with the Principal Planner before Planning Commission meetings if they need clarification on agenda items.

S. PUBLIC HEARINGS

- The Planning Commission Secretary will set Planning Commission hearing dates and notify the Planning Commission via the agenda on all matters that require a notice and public hearing before the Planning Commission;

- Scheduled public hearings may be withdrawn or continued at the request of the Planning Commission, staff and / or applicant; and
- The Planning Commission may refuse to grant a continuance of any hearing if there is no valid legal reason why the hearing must be continued.

1. Continuances

- A. Any person (applicant, appellant or designated representative) scheduled for a public hearing before the Planning Commission:
 - i. may obtain one continuance as a matter of right, without personally appearing before the Commission on the scheduled hearing date, provided a written request for the continuance must be delivered to the Planning Commission Secretary by noon on the day prior to the scheduled public hearing. Any person, who has once obtained a continuance by any procedure, may not obtain any subsequent continuance without appearing before the Planning Commission, pursuant to subsection ii below; and
 - ii. who has once obtained a continuance of a hearing either by notice to the Planning Commission Secretary as provided in Section A(i) may obtain a further continuance only by appearing before the Planning Commission at the scheduled hearing and satisfying the Planning Commission that circumstances exist which would justify an additional continuance.
- B. City staff may obtain a continuance based on the need of the originating department or on behalf of a Commission Member. Department staff may request, via the Planning Commission Secretary, as many continuances as needed to complete and ready the project or appeal for the hearing process; however, staff may not serve as a requestor on behalf of an applicant or appellant.
- C. Disputes regarding the length of a continuance will be decided by the Planning Commission at the scheduled hearing if City staff or the Planning Commission Secretary cannot obtain mutual agreement between the parties beforehand.

T. VOTING

General

The Planning Commission acts as a body and decisions are rendered by a majority of the voting members and bind the Commission to a course of action. No Commission Member has any extraordinary powers beyond those of other members and all members have equal votes.

Action by the Planning Commission shall be taken by means of resolution, or oral motion duly made and passed by the majority (unless otherwise provided in state law).

Conflict of Interest

When a Commissioner has a conflict of interest and must recuse himself/herself from voting on the item, the following procedure shall be used:

Regular Non-Consent Calendar agenda items:

Step 1: Immediately prior to any discussion of the matter by the Commission at the meeting, the Commissioner must state on the record that he or she is recusing himself/herself due to a conflict of interest explaining with specificity the nature of the conflict, such as property related or due to a financial relationship.

Step 2: After the recusal is made, the Commissioner should leave the room. The Commissioner may listen from outside of the room and speak on the item as a member of the public by filling out a speaker slip and approaching the podium when called by the Chair or Vice Chair.

Consent Calendar agenda items:

Step 1: Immediately prior to any discussion or adoption of the consent calendar, the Commissioner must state on the record that he or she is recusing himself/herself due to a conflict of interest explaining with specificity the nature of the conflict, such as property related or due to a financial relationship.

Step 2: After the recusal is made, the item will be removed from the consent calendar and the Commissioner should leave the room. The Commissioner may listen from outside of the room and speak on the item as a member of the public by filling out a speaker slip and approaching the podium when called by the Chair or Vice Chair.

Public actions of the Planning Commission shall be recorded in the minutes of any meeting of the Commission. Resolutions shall also be recorded separately, serially numbered, and filed sequentially in the office of the Planning Commission Secretary.

The Planning Commission cannot take action on items not included on the posted agenda except as provided for emergency or urgent items as provided in the Brown Act.

Tie Votes

- a. A tie vote on any matter where the Planning Commission is acting as an advisory body on legislative action (i.e., General Plan or Development District Amendment), the item shall be forwarded to the City Council with no recommendation.

- b. On any matter where the mandatory time for a decision on an application (California Government Code Sections 65950 and 66452.1) will expire prior to the next regular meeting, the application shall be deemed denied, without prejudice.
- c. On any matter not in jeopardy of such mandatory decision time periods, the action shall be forwarded to the City Council with no recommendation.

U. REQUIREMENTS FOR AGENDA ITEM SUBMISSION

Members may submit items for inclusion on a future agenda by orally making the request under Committee Comments.

Department directors, subject to the discretion of the City Manager, may submit staff reports or descriptions of oral reports to the Planning Commission for placement on the agenda.

V. DECLARATION OF POLICY

No resolution, motion or item of business shall be introduced or acted upon at a meeting of the Planning Commission without it appearing on a duly noticed and posted agenda in accordance with the Brown Act, exceptions to this rule are limited to those provided by state law.

No resolution, motion or item of business will be considered which does not affect the conduct of the business of the City of Hesperia, its subsidiary districts, or its corporate powers or duties as a municipal corporation.

W. AGENDA FORMAT

1. Public Comment

Pursuant to the Brown Act, public comment will be allowed on items on the Planning Commission agenda at the time each item is considered. At the beginning of the agenda under Public Comments, public comments will also be allowed on items not on the agenda but within the jurisdiction of the City Council. Public comments are limited to no more than three (3) minutes each. Individuals desiring to speak are encouraged to submit a request to speak form to the Planning Commission Secretary prior to the meeting. Speakers shall not concede any part of their allotted time to another speaker.

The Planning Commission may not deliberate or take action on any request/item brought before them during Public Comment/Oral Communications. The Commission may ask clarifying questions and refer the request/item to staff.

Members of the Planning Commission are discouraged from engaging in debate with a member of the public at Commission meetings since these debates seldom resolve concerns and many times inflame feelings at a public meeting.

The Brown Act permits the clearing of the Council Chamber in the event any meeting is willfully disturbed.

2. Consent Items

Those items on the Commission agenda, which are considered to be of a routine and non-controversial nature by the City Manager, Manager including draft minutes, warrant runs, and routine contracts shall be listed on the "Consent Calendar." These items shall be approved, adopted, accepted, etc. by one motion and vote of the Planning Commission. A member of the Planning Commission or public may remove any item from the "Consent Calendar" for discussion. Any item removed from the Consent Calendar will be heard immediately following action on the remaining Consent Calendar items.

3. Public Hearings

Public hearings may be required on certain items as prescribed by the Municipal Code or by state or federal law. Council resolution establishes the regular time for public hearings. The general procedure for public hearings is as follows:

- a. staff presents its report, Commission Members may ask questions of staff;
- b. the Chair opens the public hearing;
- c. the applicant/appellant has the opportunity to present his/her comments, testimony, or arguments, adequate time must be allotted for the applicant or appellant to present his/her case (the Chair may ask the applicant/appellant in advance the amount of time needed in order to better control the time);
- d. members of the public may present their comments subject to established time limits (three [3] minutes);
- e. the Chair closes the public hearing after everyone wishing to speak has had the opportunity to do so; and
- f. Commission proceeds with discussion and makes a final decision.

4. Planning Commission Business or Reports

The Planning Commission Business Reports portion of the meeting provides Commission Members the opportunity to briefly comment on Commission business or on activities as representatives of the Planning Commission. Commission Members should govern themselves as to the length of their comments.

5. Principal Planner Reports

The Principal Planner or staff may briefly comment on City business, operations, projects and other items of Planning Commission interest.

CHAPTER 10- ADVISORY COMMITTEES

A. RULES OF PROCEDURE HANDBOOK

The City Council will review and revise the City Council, Commission, & Committee Rules of Procedure ("Policy") annually in January.

Until such time as they are amended or new rules adopted by Resolution, these rules shall prevail to govern the order and conduct of business of the City Council and other legislative bodies that meet concurrently with the City Council, as well as various City Committees, and City Council-established Boards and Commissions. Those City Council established Boards and Commissions that are required by law to adopt rules of procedure shall adopt rules that are consistent with these Rules to the extent possible.

B. AMENDMENT

Any Rules may be adopted, altered, amended or repealed by Resolution at any time by a majority vote of the City Council.

C. SUSPENSION

Any Rules may be temporarily suspended by an affirmative vote of at least three (3) Council Members present.

Certain state laws and other established regulations exist which govern various responsibilities of the Advisory Committees. This manual is not intended to duplicate or repeat any existing statutes or regulations. Advisory Committee Members are responsible for becoming familiar with these statutes and regulations.

D. THE BROWN ACT

The Ralph M. Brown Act is a law which provides that all meetings of a legislative body, whether meetings of the City Council, subsidiary districts, or its appointed commissions and committees, shall be open and public, and all persons shall be permitted to attend. Notices of such meetings must include a brief general description of each item of business and be posted in a location freely accessible to the members of the public 72 hours prior to the meeting. A "meeting" takes place whenever a quorum is present and subject matter related to city business is heard, discussed, or deliberated upon.

The Act makes punishable as a misdemeanor the attendance by a member of the legislative body at a meeting at which action is taken in violation of the Act. Action taken has been defined as a collective decision, commitment or promise by a majority of the members of a legislative body to make a positive or negative decision, or an actual vote by a majority of the members when sitting as a body upon a motion, proposal, resolution, order, or ordinance.

Serial meetings that are conducted through direct communications, intermediaries, or technological devices for the purpose of developing a concurrence as to action to be taken are prohibited by the Act.

E. POLITICAL REFORM ACT

The Political Reform Act states that public officials shall perform their duties in an impartial manner, free from bias caused by their own financial interest or the financial interests of persons who have supported them. The Political Reform Act establishes regulations regarding Conflicts of Interests. (See Gov. Code Sections 81000 - 91014)

Advisory Committees members must also disqualify themselves from making or participating in making or influencing any governmental decision that will have a foreseeable material financial affect on any economic interest of the Committee Member or certain family members.

F. CITY OF HESPERIA MUNICIPAL CODE

The Municipal Code consists of those codified ordinances of general municipal regulations and laws, as well as the City of Hesperia Development Code and is available on the City's website. The Office of the City Clerk maintains the Municipal Code.

G. GENERAL ADMINISTRATION

Committees serve as advisory bodies to facilitate public input and citizen participation in the determination of public policies. This is accomplished by formulating recommended courses of action and policy and forwarding to the City Council with whom final determination rests. Advisory Boards are established by Council Resolution and members shall serve terms that are at-large, at-will and at the pleasure of the City Council until removed from the Committee as provided by resolution. Members must reside within the City and be United States Citizens as evidenced by proof of current voter registration status for the City of Hesperia. There are currently two Advisory Boards; the City Council Advisory Committee and the Public Safety Advisory Committee.

The term of each individually appointed Committee Member shall commence upon appointment and shall terminate thirty (30) days after the expiration of each respective appointing Council Member's term subject to reappointment.

The appointing Council Member may remove a Committee Member from service at any time with subsequent notification to the City Council.

The City Clerk shall maintain a list of all committee appointments/terms and solicit applications for vacancies in accordance with state law or City procedures.

The Council may disband any commission, board or advisory body provided state law does not prohibit such action.

Planning Commission and Advisory Committee Appointees may not serve concurrent terms on any Commission or Committee.

H. NEWLY APPOINTED MEMBERS

Newly appointed Committee Members are sworn into office at the first regular Commission meeting attended. Immediately upon appointment (even before being sworn into office), newly appointed Committee Members are subject to the provisions of the Brown Act.

I. DUTIES OF THE ADVISORY COMMITTEES

Advisory Committee members shall conduct the business of the City of Hesperia:

- Recognizing that the stewardship of the public interest must be of primary concern;
- Working for the common good of the people of Hesperia; and
- Assuring fair and equal treatment of all persons, claims and transactions coming before the Advisory Committee.

J. DUTIES OF THE CHAIR AND VICE CHAIR

The Chair shall be:

- Appointed from members of the Advisory Committees by a majority vote at its first meeting in January annually;
- The presiding officer at all meetings of the Committee;
- Responsible for the control, debate and order of speakers;
- Referred to as “Chair” when acting as presiding officer;
- Entitled to make and second motions on matters before the Advisory Committees and vote on actions, but shall possess no veto power over actions of the Advisory Committees.

The Vice Chair shall:

- Be appointed from members of the Advisory Committees by a majority vote at its first meeting in January annually; and
- In the absence of the Chair from a Advisory Committees meeting, assume the duties of the Chair.

In the event the Chair and Vice Chair are absent, the Advisory Committee may appoint one of its Members to serve as Vice Chair.

K. MEETING ATTENDANCE BY PUBLIC OFFICIALS

It is important that all Advisory Committee Members commit to attending meetings to ensure that the business of the City can be conducted effectively and to ensure fairness to the public, other Commission Members, and staff that attend the meetings.

Attendance records will be provided to the City Council on a quarterly basis. Committee members may be subject to dismissal based on attendance records.

L. USE OF PUBLIC PROPERTY

City stationery, technology and/or staff support shall not be used for personal or campaign purposes.

M. ADVISORY COMMITTEE MEMBER CONDUCT

1. General Conduct

Advisory Committee Members shall:

- Treat each other and everyone with courtesy and refrain from inappropriate behavior and derogatory comments;
- Be fair, impartial and unbiased when voting on quasi-judicial actions;
- Use the electronic speaker sequencing system to inform the Chair of their wish to speak and shall be acknowledged by the Chair before speaking;
- Move to require the Chair to enforce the rules and the Chair shall do so upon an affirmative vote of a majority of the Members present;
- Preserve order and decorum during the meeting;
- Not delay or interrupt the proceedings or the peace of the Committee meetings, nor disturb any Member while speaking, by conversation or otherwise, nor disobey the orders of the presiding officer, except as otherwise herein provided;
- Support the laws established by the City Council;
- Abide by the Rule of Procedure in conducting the business of the City of Hesperia; and
- Refrain from the use of personal cellular telephones, personal computers, and other personal electronic devices during public hearings unless used solely to view agenda packet contents.

2. Conduct with Members

Advisory Committee Members shall:

- Value each other's time;
- Govern themselves as to the length of their comments;
- Limit their comments to the subject matter, item, or motion being currently considered;
- Attempt to build consensus on an item though an opportunity for dialogue; but when this is not possible, the majority vote shall prevail and the majority shall show respect for the opinion of the minority;
- Have the right to dissent from, protest, or comment upon any action of the Committee;
- Respect each other's opportunity to speak and, if necessary, agree to disagree;
- Avoid offensive negative comments and practice civility and decorum during discussions and debate; and

- Assist the Chair's exercise of duty to maintain order.

3. Conduct with Staff

Advisory Committees Members shall:

- Speak to the designated staff liaison directly on issues and concerns;
- Not direct staff to initiate any action, change a course of action, or prepare any report that is significant in nature or initiate any project or study;
- Treat staff professionally and refrain from publicly criticizing individual employees;
- Avoid involvement in personnel issues;
- Discuss directly with the designated staff liaison privately, as appropriate, any displeasure over work or behavior with a department or staff;
- Request information or research on a given topic from the designated staff liaison for response (responses will be copied to all Committee Members);
- Request answers to questions on Advisory Committee agenda items from the designated staff liaison prior to the meeting whenever possible; and
- Present citizen complaints to designated staff liaison so the complaint and request for information can be disseminated to staff for appropriate action.

4. Conduct with the Public

Advisory Committees Members shall:

- Make the public feel welcome;
- Be impartial, respectful and without prejudice toward the public;
- Listen courteously and attentively to public comment;
- Not argue back and forth with members of the public;
- Represent official policies or positions of the Advisory Committees first;
- Explicitly state when their opinions and positions do not represent the Advisory Committees when representing their individual opinions and Positions; and
- Make no promises to the public on behalf of the Advisory Committee.

5. Conduct with Other Agencies

Advisory Committee Members shall:

- Project a positive image of the City when dealing with other agencies;
- Show tolerance and respect for other agencies' opinions and issues and, if necessary, agree to disagree;
- Represent official policies or positions of the Advisory Committees first when designated as delegates of a legislative body;
- Explicitly state when their opinions and positions do not represent the Advisory Committees when representing their individual opinions and positions, and shall not allow the interference that they do; and

6. Conduct with the Media

Advisory Committees Members should refer all media requests to the City Public Information Officer. If not, they shall:

- Not discuss or go “off the record” with the media to discuss confidential or privileged information;
- Provide non-confidential, non-privileged background information when acceptable.

Press releases will be prepared by the Public Information Officer and routed to the City Manager for approval before release to the media.

N. CITY STAFF

City Staff shall:

- Prepare well-written staff reports and provide accompanying documents on all agenda items in accordance with the agenda format and preparation schedule;
- Be available for general questions from Committee Members in accordance with the Brown Act prior to and during meetings;
- Respond to questions from the public during meetings when requested to do so by Committee Members, the City Manager, or designated staff person;
- Refrain from arguing with the public or Committee Members; and
- Switch any electronic equipment such as pagers and cellular telephones to silent or off mode during Commission meetings.

Staff will remain objective on issues and should not be advocates for issues unless so directed by the legislative body.

Staff will not participate in political activities while on duty or on City property.

O. PUBLIC

Members of the public:

- Attending Committee meetings shall observe the same rules and decorum applicable to the Members and staff as noted in this Chapter;
- May attend meetings at any teleconference locations in accordance with the Brown Act;
- Must approach the podium when recognized by the Chair and speak only from the podium. Stamping of feet, whistles, yells or shouting, and / or similar demonstrations are unacceptable public behavior and will be prohibited by the City Council;
- Wishing to provide documents to the Council shall comply with Chapter 8 Section B of these Rules;

- Speakers wishing to submit electronic media as part of their public comment must submit it to the City Clerk's Office via thumb drive or compact disk (cd) at least 24 hours prior to the Advisory Committee meeting in order to be screened for computer viruses and offensive or inappropriate content. The City Clerk will have it available at the next Advisory Committee meeting during the public comment portion of the meeting. The City is not responsible for inaccurate information displayed as part of a public comment presentation;
- Must switch any electronic equipment such as pagers and cellular telephones to a silent or off mode during Committee meetings;
- Wishing to speak to the Committee should complete, and turn into the Committee Secretary prior to the item being called, a speaker's slip indicating the agenda item or off-agenda (public comment) item which they wish to address; and
- May contact the staff person with questions concerning Consent Calendar items prior to the meeting to reduce the need for discussion of Consent Calendar items.

P. REGULAR MEETINGS

- Regular meetings of Advisory Committees are established by resolution;
- Staff reports shall be limited to five minutes unless unusual circumstances exist;
- Voting will be conducted utilizing the electronic voting system and the Chair shall announce the voting results;
- Public comments shall be limited to three minutes, the Chair shall notify the speaker when 30 seconds remain and has the discretion of extending the time for public hearings if a formal presentation is being made;
- No new agenda items shall be considered after 9:30 p.m. unless agreed to do so by the majority of the Committee, all remaining items shall be continued to the next regular meeting; and
- All meeting notices are to be posted on the City's website, public notice case outside City Hall and at the Hesperia Branch Library 72-hours prior to the meeting in compliance with the Brown Act.

Q. SPECIAL MEETINGS

- The Chair or Majority of the Members may call a special meeting for items within the Committee's purview by providing notice twenty-four (24) hours in advance of the meeting to all Commission Members, media outlets and persons having requested in writing notification of such meetings pursuant to state law; and
- All special meeting notices are to be posted on the City's website, public notice case outside City Hall and at the Hesperia Branch Library.

R. AGENDA PACKET PREPARATION

- The City Manager reviews and approves all items for the Advisory Committee agenda;
- The agenda and agenda packets are compiled and distributed through designated departments. Agenda packets are generally ready for distribution by 5:30 p.m. on the Thursday before the Advisory Committee meeting; - agenda packets are also available to the public on the City's website, at the public library, ~~and public kiosks located at City Hall and the Hesperia Chamber of Commerce;~~ and
- Committee Members are encouraged to meet with the Committee staff liaison before Advisory Committees meetings if they need clarification on agenda items.

S. GENERAL

The Advisory Committees acts as a body and policy is established by majority vote. A decision of the majority binds the Commission to a course of action. No Commission Member has any extraordinary powers beyond those of other members and all members have equal votes.

Action by the Advisory Committees shall be taken by means of resolution, or oral motion duly made and passed by the majority (unless otherwise provided in state law).

Public actions of the Advisory Committees shall be recorded in the minutes of any meeting of the Commission. Resolutions shall also be recorded separately, serially numbered, and filed sequentially in the office of the Advisory Committee Secretary.

The Advisory Committees cannot take action on items not included on the posted agenda except as provided for emergency or urgent items as provided in the Brown Act.

A tie vote is considered as "no action" by the Advisory Committees and the item will automatically be brought back before the City Council at the next meeting at which the full membership of the Council is present.

T. REQUIREMENTS FOR AGENDA ITEM SUBMISSION

Department directors, subject to the discretion of the City Manager, may submit staff reports or descriptions of oral reports to the Advisory Committee for placement on the agenda.

U. DECLARATION OF POLICY

No resolution, motion or item of business shall be introduced or acted upon at a meeting of the Advisory Committee without it appearing on a duly noticed and

posted agenda in accordance with the Brown Act, exceptions to this rule are limited to those provided by state law.

No resolution, motion or item of business will be considered which does not affect the conduct of the business of the City of Hesperia, its subsidiary districts, or its corporate powers or duties as a municipal corporation.

V. AGENDA FORMAT

1. Public Comment

Pursuant to the Brown Act, public comment will be allowed on items on the Committee agenda at the time each item is considered. Public comments are limited to no more than three (3) minutes each. Individuals desiring to speak are encouraged to submit a request to speak form to the Advisory Committee Secretary prior to the meeting. Speakers shall not concede any part of their allotted time to another speaker.

The Advisory Committee may not deliberate or take action on any request/item brought before them during Public Comment/Oral Communications. The Committee may ask clarifying questions and refer the request/item to staff.

Members of the Advisory Committee are discouraged from engaging in debate with a member of the public at meetings since these debates seldom resolve concerns and many times inflame feelings at a public meeting.

The Brown Act permits the clearing of the Council Chamber in the event any meeting is willfully disturbed.

2. Items for Consideration

Those items on the Committee agenda which have not been previously discussed or which require Committee direction.

3. Committee Member and Staff Comments

The Comments portion of the meeting provides Committee Members and Staff the opportunity to briefly comment on Committee business or on activities as representatives of the Advisory Committee. Committee Members and Staff should govern themselves as to the length of their comments.

Open Letter to the following addressees, delivered to the Hesperia City Hall and the Daily Press's Victorville Office and mailed to the Sun, Press-Enterprise, and LA Times this Monday morning, and intended for inclusion in my Ephemeral Press of February 7th, to be distributed at tomorrow evening's Hesperia City Council Meeting:

February 6, 2017

Paul Russ, Mayor, Hesperia City Council
 Russell Blewett, Mayor Pro Tem
 Larry Bird, Council Member
 Bill Holland, Council Member
 Rebekah Swanson, Council Member
 Nils Bentsen, City Manager
 Eric L. Dunn, City Attorney

Re Your honor oaths of office to "support and defend" our Constitution against all enemies, foreign *and domestic*.

With copies to:

Los Angeles Times, Los Angeles
 Press-Enterprise, Riverside
 San Bernardino County Sun, San Bernardino
 Victor Valley Daily Press, Victorville

Dear Council Members,

According to the agenda for Tuesday evening's City Council Meeting, Item 8, you five elected Council Members propose to adopt the new 2017 City Council Procedures Manual for conducting public meetings with only five minor housekeeping changes from last years Procedures Manual, on pages 13, 20, 41, 34 and 47.

In my lay opinion, any City Council Member who didn't have their fingers crossed when they pledged, on their honor, to "support and defend" our Constitution against all enemies, foreign and domestic, would insist on at least the following substantive additional changes to bring the Procedures Manual into compliance with the First Amendment, or decline to vote for the Manual's approval.

The text in red to be deleted, with this text added.

Page 14: Conduct of City Council: City Council Members shall:

- Treat each other and everyone with courtesy; ~~and refrain from inappropriate behavior and derogatory comments;~~
- Be fair, impartial and unbiased when voting; ~~on quasi-judicial actions;~~
- ~~Use the electronic speaker sequencing system to inform the Mayor of their wish to speak and shall be acknowledged by the Mayor before speaking;~~
- Move to require the Mayor to enforce the rules and the Mayor shall do so upon an affirmative vote of a majority of the Members present;
- ~~Preserve order and decorum during the meeting;~~
- ~~Not delay or interrupt the proceedings or the peace of the City Council meetings, nor disturb any Member while speaking, by conversation or otherwise, nor disobey the orders of the City Council or the presiding~~

~~officer, except as otherwise herein provided;~~

- Support the laws established by the City Council;
- Abide by the Rule of Procedure in conducting the business of the City of Hesperia; and
- Refrain from the use of personal cellular telephones, personal computers, and other personal electronic devices during public hearings unless used solely to view agenda packet contents or content or materials related to an agenda item.

Pages 17, 18: Members of the public:

~~• Attending City Council meetings shall observe the same rules and decorum applicable to the Members and staff as noted in this Chapter;~~

- May attend meetings at any teleconference locations in accordance with the Brown Act;
 - Wishing to speak to an agenda item may submit a Request to Speak slip to the City Clerk, with individuals called to the rostrum in the order received, or wait until the last Speaker Slip is called and the Mayor asks if anyone else wishes to speak, and raise their hand;
 - ~~Must~~ May approach the podium when recognized by the Mayor; ~~and speak only from the podium. Stamping of feet, whistles, yells or shouting, and / or similar demonstrations are unacceptable public behavior and will be prohibited by the City Council;~~
 - Wishing to submit an item for consideration at a future City Council meeting ~~provide documents to the Council~~ shall comply with Chapter 8 Section B of these Rules;
 - Speakers wishing to submit electronic media as part of their public comment, must submit it to the City Clerk's Office via thumb drive or compact disk (CD) at least 24 hours prior to the City Council Meeting in order to be screened for computer virus. ~~and offensive, or inappropriate content.~~ The City Clerk will have it available at the next City Council Meeting during the public comment portion of the meeting. The City is not responsible for inaccurate information displayed as part of a public comment presentation;
 - Must switch any electronic equipment such as pagers and cellular telephones to a silent or off mode during Council meetings; and
 - ~~Wishing to speak to the Council should complete, and turn into the City Clerk prior to the item being called, a speaker's slip indicating the agenda item or off-agenda (public comment) item which they wish to address; and~~
 - May contact the staff person with questions concerning Consent Calendar items prior to the meeting to reduce the need for discussion of Consent Calendar items.
- ~~Lobbyists must identify themselves and their client(s), business or organization they represent before speaking to the Council.~~

Further, an honorable City Council Member would insist on the following changes to the meeting rules printed on the meeting agendas:

Prior to action of the Council, any member of the audience Public Assembly will have the opportunity to address the City

Council and ~~members of the legislative body~~ Public Assembly on any item listed on the agenda, including items on the Consent Calendar moved at the speaker's request to the New Business portion of the meeting for a full hearing including a staff report. ~~including those on the Consent Calendar. Comments are limited to three (3) minutes for Public Comments, Consent Calendar, and New Business and five minutes (5) for Public Hearings. Please submit a Comment Card to the City Clerk with the Agenda item noted.~~

Individuals submitting Request to Speak Slips to the City Clerk will be called to the rostrum in the order received. However you may wait until the Speaker Slip requests are exhausted and raise your hand when the Mayor asks if anyone else wishes to be heard.

If necessary in order to accommodate all wishing to be heard in the three hours set aside for the meeting, a five minute limit may be imposed on rostrum speakers for that meeting.

Stating your name before making your presentation is helpful for follow-up, but not necessary.

~~Public Comments: Please complete a "Comment Card" and give it to the City Clerk. Comments are limited to three minutes per individual. State your name and address before making your presentation. Disclosure of your address is optional, but very helpful in the follow-up process.~~

concurrence of more than one member" a Brown Act violation may also be a felony conspiracy by two or more people, in violation of Penal Code 182, to prevent the due administration of the Brown Act.

Conclusion

With these additional changes to the Procedures Manual and the meeting rules printed on the Council's Meeting Agendas,... "the open exchange of diverse opinions" *allowed* at these City Council meetings... that "knowledge in the making" intended by the First Amendment's three meeting rules will produce the wisest community decisions, measured by the needs and goals of the community. Or either our Founding Fathers were fools.

And without these proposed additional changes,, the adoption of the 2017 City Council Procedures Manual at the City Council's February 7th meeting as proposed will make crystal clear that each of you five Council Members no longer have the honor you once pledged to "support and defend" our Constitution, but have become what each of you were were supposed to defend our Constitution against, it's domestic enemies.

For a better Hesperia,



Bob Nelson
15381 Wells Fargo St
Hesperia, CA 92345

PS: It is absolutely true, as the new Procedures Manual again points out three times, that according to the Brown Act, it's violation is only a misdemeanor.

Equally true, and presumably at least important for you five and the community and free press to know, as then California Attorney General John Van de Kamp warned in his "Open Meeting Laws" booklet published in 1984 by the AG's Office, on page 25, "because meetings usually require the

City of Hesperia
STAFF REPORT



Green Sheet item information received after the posting of the agenda.

DATE: March 7, 2017

TO: Mayor and Council Members

FROM: Nils Bentsen , City Manager

BY: Mike Blay, Director of Development Services
Dave Reno, Principal Planner
Daniel Alcayaga, Senior Planner

SUBJECT: Consideration of Ordinance No. 2017-05 adopting an Urgency Interim Ordinance Pursuant to California Government Code Section 65858 imposing a moratorium on certain problematic uses

RECOMMENDED ACTION

That the City Council adopt the interim urgency ordinance, as an urgency measure pursuant to California Government Code Section 65858, imposing a forty-five (45) day moratorium, to take effect immediately upon adoption, on the installation and establishment of the following problematic uses:

1. Gold exchange and pawnshop businesses;
2. Hydroponic stores;
3. Hookah lounges, smoking lounges, vape shops and smoke shops; and
4. Businesses that allow for the sale of drug paraphernalia.
5. Money service businesses.

BACKGROUND

In recent years, the City of Hesperia has experienced deteriorating commercial neighborhoods, as well as increased public safety costs, which negatively impact the quality of life within Hesperia and compromises Hesperia's ability to provide services and attract new businesses. The City finds the negative impacts are adversely affecting the commercial lease rates and therefore are attracting less desirable and more problematic businesses in the City. The City finds that these problematic businesses include: 1. gold exchange and pawnshop businesses; 2. hydroponic stores; 3. hookah lounges, vape shops and smoke shops; and 4. businesses that allow for the sale of drug paraphernalia; and 5. money service businesses (herein collectively referred to as "problematic uses"). Money service businesses include, but are not limited to, payday loan, check cashing and car title loan businesses. In addition, in 2015, the City of Victorville adopted an ordinance prohibiting new establishments of these types of businesses. As such, Hesperia has experienced additional requests to locate these businesses in the City.

Based on the reasons listed below, these problematic uses pose a current and immediate threat to the general health, safety and welfare of Hesperia and its residents and recommended that the City Council amend the Hesperia Municipal Code to regulate and/or prohibit these problematic uses.

ISSUES/ANALYSIS

Problematic Uses of Gold Exchange and Pawnshop Businesses

Gold exchange and pawnshop businesses are associated with a higher volume of police calls than other businesses in Hesperia and are indirectly linked to other crimes by being in the business of exchanging goods for money and/or their tendency to keep large amounts of cash on-site. Gold exchange and pawnshop businesses enhance and expedite the ability of criminals to receive cash in exchange for stolen goods because they provide a location and a means to dispose of stolen property.

Problematic Uses of Hydroponic Stores

Hydroponic stores are directly linked to crime and illegal activity by being in the business of supporting the use and cultivation of marijuana, a Schedule 1 narcotic as defined by the United States Controlled Substances Act. These stores typically provide all the necessary supplies and general information used to cultivate marijuana. Stand-alone hydroponic stores became prevalent in urbanized areas only after California medical marijuana laws were passed. As hydroponic stores are typically associated with marijuana cultivation, they contribute to an increased amount of illegal narcotics within Hesperia.

Problematic Uses of Hookah Lounges, Vape Shops and Smoke Shops

Hesperia has a larger population percentage of minors (36%) as compared to the state average (25%) and therefore has a higher number of minors at risk of exposure to tobacco products and services. The U.S. Food and Drug Administration (FDA) does not currently regulate electronic smoking devices and the potential health risks of vaping are not yet fully understood by the general population, especially youth.

Under California law, it is currently illegal to sell an electronic cigarette device to a minor; however, this law does not prohibit minors from purchasing e-liquids that are sold separately from the electronic smoking device, including both nicotine-based liquids and non-nicotine liquids. Since vape shops increasingly sell e-liquids (including candy and fruit varieties) separately from the electronic smoking devices, it is necessary for the City to regulate or prohibit these establishments. Hookah lounges, vape shops and smoke shops create a social environment where people can gather to vape and smoke; sometimes, these businesses will also have TVs, a DJ, or food and drink. The use of electronic smoking devices and other smoking devices indoors undermines existing clean indoor air laws and exposes customers and employees to potentially hazardous chemicals, such as formaldehyde, acetaldehyde, lead, nickel, and chromium. In addition, over 8 percent of all tobacco retailers statewide were witnessed unlawfully selling to minors in 2012, and tobacco stores (defined as businesses in which at least 80 percent of merchandise was tobacco products) sold to minors at a much higher rate than the statewide average, as high as 20.5 percent according to the 2012 report by the State Health Officer's Report on Tobacco Use and Promotion in California by the California Department of Public Health. Finally, many cigarette, tobacco, vape and smoke shops sell items that are commonly known to be drug paraphernalia, including bongs and pipes used to smoke methamphetamine and other illicit drugs, and claim that such items are intended for tobacco use.

Problematic Uses of the Sale of Drug Paraphernalia

California law prohibits the sale of "drug paraphernalia," nevertheless many retailers sell items that are commonly known to be "drug paraphernalia," including bongs and pipes used to smoke methamphetamine and other illicit drugs, claiming that such items are intended for tobacco use. The City has seen a proliferation and concentration of retailers who sell drug paraphernalia in recent years.

Negative Effects of Money Service Businesses

Allowing money service businesses in certain zoning areas may create or exacerbate undue concentrations of businesses in the City offering short-term, high interest loans near or adjacent to residential areas. This is a concern because these businesses generally make a profit by taking advantage of residents who are low income and in need of money quickly. A borrower will agree to a short-term loan with a high interest rate, using his/her car title, or other personal asset, as collateral. Oftentimes, because the interest rate on the loans is so high, the borrower is not able to make timely loan payments. Once the borrower defaults, he/she is then forced to surrender the car or other personal asset to repay the loan.

The number of check cashing businesses has increased sharply in the past years throughout the State of California and in the City of Hesperia. Such increases have had a negative impact on low-income minority communities which appear to be the targets of check cashing or cashier businesses. A study by the Urban Law and Public Policy Institute revealed that 57% of African-Americans and 49% of Hispanics live within one (1) mile of a check cashing business. In addition 42% of households with incomes of less than \$25,000 live within one (1) mile of check cashing business in California. A study by the Progressive Policy Institute revealed that a traditional bank account is the first step toward giving low-income Americans access to mainstream tools for wealth creation now taken for granted by the middle-class. A statewide survey in California indicated that 28% of consumers without a traditional checking account cash their checks primarily at a check cashing institutions. According to the Federal Trade Commission and Consumer Reports, because of the high fees paid for these short-term loans and check cashing services, borrowers can become locked in a cycle of borrowing in which they may pay the equivalent of more than 900% annual percentage rate interest on their loan. In California, the fee for a payday loan can be up to \$17.50 for every \$100 borrowed, up to the maximum of \$300. The annual percentage rate for such a transaction is: 911% for a one-week loan; 456% for a two-week loan and 212% for a one-month loan.

The City, like many other cities in California, has found that limiting the establishment of money service businesses has helped prevent residents from impulsively committing to these loans by decreasing accessibility to these businesses. The City has found that the money service businesses constitute a threat to public safety and increase the economic and financial vulnerability of Hesperia residents.

Adoption of the Interim Urgency Ordinance

Pursuant to Government Code Section 65858, a city may adopt an interim ordinance, prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time, for the immediate preservation of the general health, safety or welfare, provided the ordinance contains a declaration of the facts constituting the urgency, and is passed by not less than a four-fifths

(4/5) vote of the City Council. The following problematic uses pose a current and immediate threat to the general health, safety or welfare of Hesperia: 1. gold exchange and pawnshop businesses; 2. hydroponic stores; 3. hookah lounges, smoking lounges, vape shops and smoke shops; 4. businesses that allow for the sale of drug paraphernalia and 5. money service businesses. With adoption of this Ordinance, the City will impose a forty-five (45) day moratorium on these problematic uses to study the effects of these problematic uses and a review of the regulatory mechanisms available until such time as a permanent Code Amendment is in full force and effect. For the reasons set forth herein above, the City should consider adoption of the forty-five (45) day moratorium which is necessary for preserving the general health, safety and/or welfare and to avoid a current, immediate and direct threat to the health, safety and/or welfare of the community.

FISCAL IMPACT

None.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

Ordinance No. 2017-05

ORDINANCE NO. 2017-05

AN URGENCY INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 IMPOSING A MORATORIUM ON CERTAIN PROBLEMATIC USES

WHEREAS, on January 5, 1998, the City Council of the City of Hesperia adopted Ordinance No. 250, thereby adopting the Hesperia Municipal Code; and

WHEREAS, On September 2, 2008, the City Council of the City of Hesperia adopted Ordinance No. 2008-12, thereby adopting the Main Street and Freeway Corridor Specific Plan; and

WHEREAS, in recent years the City of Hesperia has experienced deteriorating commercial neighborhoods and increased public safety costs, which negatively impact the quality of life within Hesperia and compromises Hesperia's ability to provide services and attract new businesses; and

WHEREAS, the negative impacts are adversely affecting the commercial lease rates and therefore are attracting less desirable and more problematic businesses in the City; and

WHEREAS, these problematic businesses include (i) gold exchange and pawnshop businesses; (ii) hydroponic stores; (iii) hookah lounges, smoking lounges, vape shops and smoke shops; (iv) businesses that allow for the sale of drug paraphernalia; and (v) money service businesses (collectively referred to as "problematic uses"). Money service businesses include, but are not limited to, payday loan, check cashing and car title loan businesses. These problematic businesses pose a current and immediate threat to the general health, safety and welfare of Hesperia and its residents based on the following findings set forth below; and

WHEREAS, gold exchange and pawnshop businesses are associated with a higher volume of police calls than other businesses in Hesperia and are indirectly linked to other crimes by being in the business of exchanging goods for money and/or their tendency to keep large amounts of cash on-site; and

WHEREAS, gold exchange and pawnshop businesses enhance and expedite the ability of criminals to receive cash in exchange for stolen goods because they provide a location and a means to dispose of stolen property; and

WHEREAS, for the aforementioned reasons, gold exchange and pawnshop businesses pose an immediate threat to the general health, safety and welfare of the residents of Hesperia; and

WHEREAS, imposing a forty-five (45) day moratorium on gold exchange and pawnshop businesses will allow the City to initiate a study of the effects of gold exchange and pawnshop businesses in Hesperia and a review of the regulatory mechanisms available to regulate gold exchange and pawnshop businesses, including changes to the Municipal Code and the Main Street and Freeway Corridor Specific Plan, to protect the general health, safety, and/or welfare from the negative effects of gold exchange and pawnshop businesses; and

WHEREAS, until such time that the City concludes its review and possibly adopts new regulatory controls, the installation of gold exchange and pawnshop businesses and their

resulting negative effects will continue to pose a current and immediate threat to the general health, safety and/or welfare; and

WHEREAS, hydroponic stores are directly linked to crime and illegal activity by being in the business of supporting the use and cultivation of a Schedule 1 narcotic as defined by the United States Controlled Substances Act; and

WHEREAS, hydroponic stores typically provide all mediums, supplies, and general information used to cultivate marijuana; and

WHEREAS, stand-alone hydroponic stores became prevalent in urbanized areas only after California medical marijuana laws were passed; and

WHEREAS, hydroponic stores are typically associated with marijuana cultivation and may contribute to an increased amount of illegal narcotics within Hesperia; and

WHEREAS, for the aforementioned reasons, hydroponic stores pose an immediate threat to the general health, safety and welfare of the residents of Hesperia; and

WHEREAS, imposing a forty-five (45) day moratorium on hydroponic stores will allow the City to initiate a study of the effects of hydroponic stores in Hesperia and a review of the regulatory mechanisms available to regulate hydroponic stores, including changes to the Municipal Code and the Main Street and Freeway Corridor Specific Plan, to protect the general health, safety, and/or welfare from the negative effects of hydroponic stores; and

WHEREAS, until such time that the City concludes its review and possibly adopts new regulatory controls, the installation of hydroponic stores and their resulting negative effects will continue to pose a current and immediate threat to the general health, safety and/or welfare; and

WHEREAS, Hesperia has a larger population percentage of minors (36%) as compared to the state average (25%) and therefore has a higher number at risk of exposure to tobacco products and services; and

WHEREAS, the U.S. Food and Drug Administration (FDA) does not currently regulate electronic smoking devices and the potential health risks of vaping are not yet fully understood by the general population, especially youth; and

WHEREAS, under California law, it is currently illegal to sell an electronic cigarette device to a minor, however, this law does not prohibit minors from purchasing e-liquids that are sold separately from the electronic smoking device, including both nicotine-based liquids and non-nicotine liquids; and since vape shops increasingly sell e-liquids (including candy and fruit varieties) separately from the electronic smoking devices, the City wishes to regulate or prohibit these establishments; and

WHEREAS, hookah lounges, smoking lounges, vape shops and smoke shops create a social environment where people can comfortably gather to vape and smoke; sometimes, these businesses will also have TVs, a DJ, or food and drink. The use of electronic smoking devices and other smoking devices indoors undermines existing clean indoor air laws and exposes customers and employees to potentially hazardous chemicals, such as formaldehyde, acetaldehyde, lead, nickel, and chromium; and

WHEREAS, over 8 percent of all tobacco retailers statewide were witnessed unlawfully selling to minors in 2012, and tobacco stores (defined as businesses in which at least 80 percent of merchandise was tobacco products) sold to minors at a much higher rate than the statewide average, as high as 20.5 percent according to the 2012 report by the State Health Officer's Report on Tobacco Use and Promotion in California by the California Department of Public Health; and

WHEREAS, many cigarette, tobacco, vape and smoke shops sell items that are commonly known to be drug paraphernalia, including bongs and pipes used to smoke methamphetamine and other illicit drugs, and claim that such items are intended for tobacco use; and

WHEREAS, for the aforementioned reasons, hookah lounges, smoking lounges, vape shops and smoke shops pose an immediate threat to the general health, safety and welfare of the residents of Hesperia; and

WHEREAS, imposing a forty-five (45) day moratorium on hookah lounges, vape shops and smoke shops will allow the City to initiate a study of the effects of these businesses in Hesperia and a review of the regulatory mechanisms available to regulate them, including changes to the Municipal Code and the Main Street and Freeway Corridor Specific Plan, to protect the general health, safety, and/or welfare from the negative effects of hookah lounges, vape shops and smoke shops; and

WHEREAS, until such time that the City concludes its review and possibly adopts new regulatory controls, the installation of hookah lounges, smoking lounges, vape shops and smoke shops and their resulting negative effects will continue to pose a current and immediate threat to the general health, safety and/or welfare; and

WHEREAS, state law prohibits sales of "drug paraphernalia" by anyone who knows or should know it will be used in connection with illegal drugs; and

WHEREAS, many retailers nevertheless sell items that are commonly known to be "drug paraphernalia," including bongs and pipes used to smoke methamphetamine and other illicit drugs, claiming that such items are intended for tobacco use; and

WHEREAS, in recent years, the City has seen a proliferation and concentration of retailers who sell drug paraphernalia in Hesperia; and

WHEREAS, for the aforementioned reasons, the sale of drug paraphernalia poses an immediate threat to the general health, safety and welfare of the residents of Hesperia; and

WHEREAS, imposing a forty-five (45) day moratorium on the sale of drug paraphernalia will allow the City to initiate a study of the effects of the sale of drug paraphernalia in Hesperia and a review of the regulatory mechanisms available to regulate it, including changes to the Municipal Code and the Main Street and Freeway Corridor Specific Plan, to protect the general health, safety, and/or welfare from the negative effects of the sale of drug paraphernalia; and

WHEREAS, until such time that the City concludes its review and possibly adopts new regulatory controls, the sale of drug paraphernalia and its resulting negative effects will continue to pose a current and immediate threat to the general health, safety and/or welfare; and

WHEREAS, in prior years, the City has not explicitly regulated nor differentiated money service businesses from financial institutions in the Development Code, thus allowing money services businesses to operate wherever financial institutions were permitted in the City; and

WHEREAS, the City finds that the rapid growth of money service businesses over the past years has resulted in the displacement and availability of full service banking institutions and resulted in greater economic and financial vulnerability of Hesperia residents; and

WHEREAS, the City finds that the proliferation of money service businesses has led to a current and an imminent threat to the public health, safety and welfare of the City of Hesperia, its businesses and residents; and

WHEREAS, Staff would like to initiate studies to determine: 1.) the impact money service businesses have on the City of Hesperia; 2.) whether limiting money service businesses to specific zones would protect the health, safety or welfare of residents; and 3.) whether to create a proposed zoning code update that would implement the results of the studies; and

WHEREAS, pursuant to Government Code Section 65858, a city may adopt an interim ordinance, prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time, for the immediate preservation of the general health, safety or welfare, provided the ordinance contains a declaration of the facts constituting the urgency, and is passed by not less than a four-fifths (4/5) vote of the City Council; and

WHEREAS, the City now desires to impose a forty-five (45) day moratorium on the following problematic uses: (i) gold exchange and pawnshop businesses; (ii) hydroponic stores; (iii) hookah lounges, smoking lounges, vape shops and smoke shops; (iv) the sale of drug paraphernalia; and (v) money service businesses to initiate a study of the effects of these problematic uses and a review of the regulatory mechanisms available to regulate them; and

WHEREAS, for the reasons set forth above, the forty-five (45) day moratorium ("Moratorium") is declared by the City Council to be necessary for preserving the general health, safety and/or welfare and to avoid a current, immediate and direct threat to the health, safety and/or welfare of the community; and

WHEREAS, on March 7, 2017, the City Council of the City of Hesperia conducted a hearing on the Application and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

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

SECTION 1. DEFINITIONS

For purposes of this interim urgency ordinance ("Interim Ordinance"), the following definitions shall apply:

(1) "Electronic smoking product and/or device" (also known as "electronic cigarette," "a-cigarette," "electronic nicotine delivery system," "e-cigar," "a- cigarillo," "e-pipe," "e-hookah," "hookah pen," "vape pen" etc.) shall mean a battery operated device used to inhale a vaporized liquid solution that frequently, though not always, contains nicotine.

(2) "Drug Paraphernalia" has the meaning set forth in California Health & Safety Code Section 11014.5, as that Section may be amended from time to time.

(3) "Hydroponic store" shall mean any business whose primary sales consist of product and apparatus used for growing plants without soil or in a non-soil medium such as water or other nutrient rich solutions; with or without an inert medium (i.e. gravel, perlite, etc.), and/or controlled conditions of light, temperature, and humidity. For the purpose of this Title, hydroponic stores also include businesses whose sales include grow lights (i.e. plant lights), artificial light sources, and other supplies typically used for hydroponics as the primary use. Hydroponics stores are also synonymous with aerponics, aquaculture, fogponics, etc.

(4) "Pawnshop" any business whose primary operations include lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. This definition shall also include businesses that purchase tangible personal property such as precious metals with the intent to resell items in bulk and/or deconstructed, establishments known variously as gold buying, gold exchange, etc., as determined by Planning Department.

(5) "Smoking lounge" a business establishment that is dedicated, in whole or in part, to the smoking of tobacco or other legal substances and vaporizing, including, but not limited to, establishments known variously as cigar lounges, hookah cafes, hookah lounges, tobacco clubs, tobacco bars, vape, vapor cafes, vapor lounges, etc. (collectively referred to as "smoking lounge(s)").

(6) "Smoke shop" shall mean an establishment that either devotes more than 10 percent of its total floor area to tobacco products, including paraphernalia, or devotes more than a 2 foot depth by 4 foot length section of a single shelf space for display for sale of tobacco paraphernalia.

(7) "Tobacco paraphernalia" shall mean any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, or other controlled substances as defined in California Health and Safety Code Section 11054 et seq. Items or devices classified as tobacco paraphernalia include but are not limited to the following: pipes, punctured metal bowls, bongs, water bongs, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for holding burning material. Lighters and matches shall be excluded from the definition of tobacco paraphernalia.

(8) "Tobacco product" product shall mean any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from the tobacco plant, or otherwise derived, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this chapter, the term "tobacco product" excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a

tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose.

(9) "Money service business" consists of a business whose primary function is to provide cash to patrons in exchange for personal and business checks and money orders and to perform similar financial transactions for a service fee or commission. This term also applies to a business that offers a short-term loan in which the borrower's car title, or other personal asset, is used as collateral. Money service businesses include, but are not limited to, payday loan, check cashing and car title loan businesses. "Money service business" does not include a state or federally chartered bank, savings association, credit union or industrial loan company. This term also does not apply to a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks or issues money orders for a minimum flat fee not exceeding two dollars (\$2.00) per transaction as a service to its customer that is incidental to its main purpose or business.

(10) "Financial Institution" consists of an establishment, facility or institution, such as a bank and credit union, involved in financial transactions, including the custody, deposit, investment, loan, exchange, or issuance of money. A financial institution is also registered with and regulated by the Securities and Exchange Commission or the Commodity Futures Trading Commission

SECTION 3. PURPOSE AND INTENT

The purpose of this Interim Ordinance is to provide for the health, safety and welfare of the City and its residents by exercising the police power provided for in the California Constitution that underlies the City's zoning powers, so that the problematic uses in the City are compatible with existing and future uses. To accomplish this, the City Council intends to impose the Moratorium on the installation and establishment of any and all problematic uses and/or the issuance of any permits or licenses for the installation and establishment of the problematic uses in order to provide City Staff, the City Council, and Hesperia residents sufficient time to consider a comprehensive ordinance regulating such problematic uses.

SECTION 4. EVIDENCE

The City Council has considered all of the evidence submitted into the administrative record, which includes, but is not limited to, the following:

- (a) The City's General Plan, including updates;
- (b) The current Hesperia Municipal Code and the Main Street and Freeway Corridor Specific Plan;
- (c) The Staff Report prepared and presented for consideration by the City Council at its meeting of March 7, 2017; and
- (d) The public comments, both written and oral, received and/or submitted at, or prior to the City Council's consideration of this Interim Ordinance.

SECTION 5. FINDINGS

The City Council hereby specifically finds that all of the facts set forth in this Ordinance are true and correct. The City Council hereby finds and determines that:

Pursuant to the Hesperia Municipal Code and the Main Street and Freeway Corridor Specific Plan, the problematic uses have been permitted in Hesperia; and

(a) In recent years, Hesperia has experienced the negative impacts of problematic businesses which are adversely affecting the commercial lease rates and therefore are attracting less desirable and more problematic businesses in the City; including: (i) gold exchange and pawnshop businesses; (ii) hydroponic stores; (iii) hookah lounges, smoking lounges, vape shops and smoke shops; (iv) businesses that allow for the sale of drug paraphernalia; and (v) money service businesses (hereinafter collectively referred to as "problematic uses"). Money service businesses include, but are not limited to, payday loan, check cashing and car title loan businesses; and

(b) The rapid growth of these problematic uses in Hesperia over the past years has resulted in an increase in police calls, crime, illegal activity and drug use; and has, thus, led to an imminent threat to the public peace, health safety and welfare of Hesperia, its businesses and residents; and

(c) The City now deems it desirable to collect data and study the effects that the problematic uses have in the community to ensure that they are compatible with existing and future uses in designated areas; and

(d) The City now desires to impose a forty-five (45) day moratorium on problematic uses to initiate a study of the effects of these problematic uses and a review of the regulatory mechanisms available to regulate them.

SECTION 6. CONCLUSIONS

Based on the evidence presented to the City Council at the March 7, 2017 meeting and the foregoing findings, the City Council concludes the following:

(a) That it is necessary to temporarily suspend of the approval of any permits for any problematic uses to allow time for the City to consider, study, and enact regulations for such permitted uses, as such uses may be in conflict with the development standards and implementation regulations that the City will ultimately impose after the City has considered and studied this issue, which will be accomplished within a reasonable time.

(b) That a temporary moratorium will provide the City with time to consider, study, draft, and adopt regulations pertaining to the problematic uses in a manner consistent with the Hesperia General Plan, the Main Street and Freeway Corridor Specific Plan, and the Hesperia Municipal Code, compatible with surrounding neighborhoods, and in the best interests of the residents of the City.

SECTION 7. TEMPORARY MORATORIUM

Within all areas situated in the City of Hesperia, State of California, including, but not limited to, all public rights of way and each and every zone and zoning district, the installation and establishment of any and all problematic uses, as defined herein, shall be prohibited. No license or permit shall be issued for the installation or establishment of such problematic uses, notwithstanding other existing zoning provisions and regulations of Hesperia.

The Moratorium is not intended to affect the processing and review of permit applications for problematic uses. The City will still process and review applications. However, the

Moratorium prohibits the issuance of any permits or licenses for or related to the problematic uses. The City shall continue to process and review such permit applications for the problematic uses.

SECTION 8. APPLICABILITY

The provisions of this Interim Ordinance will apply to all of the following problematic uses: (i) gold exchange and pawnshop businesses; (ii) hydroponic stores; (iii) internet cafes; (iv) hookah lounges, smoking lounges, vape shops and smoke shops; (v) the sale of drug paraphernalia; and (vi) money service businesses.

SECTION 9. AUTHORITY

This Interim Ordinance is adopted as an urgency measure pursuant to Government Code Section 65858 to protect the general safety, health and welfare by prohibiting land uses which may be in conflict with contemplated general plan and zoning proposal which City Staff intend to consider and study within a reasonable time.

The City Council hereby concludes, based on the findings listed in the Recitals herein above, that there is a current and immediate threat to the general health, safety and welfare resulting from the approval of business licenses, use permits, variances, building permits, or any other applicable land use or zoning entitlement or approval, for the problematic uses, and that such approvals and any further introduction of them into the City would result in a threat to the general health, safety and welfare.

For the aforementioned reasons, the City must further collect data and study the effects that the problematic uses have in the community to ensure that they are compatible with existing and future uses in designated areas.

SECTION 10. URGENT NEED

Based on the foregoing recitals, which are hereby incorporated, and findings which are all deemed true and correct, this Interim Ordinance is urgently needed for the immediate preservation of the public safety, health, and welfare. This Interim Ordinance shall take effect immediately upon adoption by a four-fifths (4/5) vote of the City Council.

SECTION 11. COUNCIL DIRECTION

The City Council hereby directs City Staff to consider and study possible means of regulating the problematic uses.

SECTION 12. WRITTEN REPORT REQUIRED

The written report required by Government Code Section 65858(d) shall be prepared by City Staff and issued prior to the expiration of the Interim Ordinance.

SECTION 13. CEQA EXEMPTION

The City Council finds that, regarding the California Environmental Quality Act (CEQA), there is no possibility that the adoption of this ordinance may have a significant adverse effect on the environment [14 CCR 15061(b)(3)] because the Interim Ordinance will reduce the possibility of

such effects by limiting the range and intensity of new uses possible in the areas it covers and restricting new uses to those of a type which are more compatible with the established character of those areas.

SECTION 14. SEVERABILITY

The City Council declares that, should any provision, section, paragraph, sentence or word of this Interim Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

SECTION 15. SUPERSEDING OF CONFLICTING PROVISIONS

The provisions of this Interim Ordinance hereby supersede the provisions of the Hesperia Municipal Code and the Main Street and Freeway Corridor Specific Plan that are in conflict with the Interim Ordinance.

SECTION 16. EFFECTIVE DATE AND EXPIRATION

This Interim Ordinance shall take effect immediately upon its passage. It shall be of no further force and effect forty-five (45) days from its date of adoption unless extended following a public hearing, as provided in Government Code Section 65858. This forty-five (45) day period may be extended by the City Council in accordance with the provisions of California Government Code Section 65858. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution No. 2007-101.

ADOPTED AND APPROVED on this 7th day of March 2017.

Paul Russ, Mayor

ATTEST:

Melinda Sayre-Castro
City Clerk