

MEETING AGENDA

The City Council/Successor Agency of the City of Firebaugh

Vol. No.16/11-21

Location of Meeting: Andrew Firebaugh Community Center
1655 13th Street, Firebaugh, CA 93622
Date/Time: November 21, 2016/6:00 p.m.

CALL TO ORDER

ROLL CALL

Mayor Freddy Valdez
Mayor Pro Tem Brady Jenkins
Council Member Craig Knight
Council Member Marcia Sablan
Council Member Felipe Perez

In compliance with the Americans with Disabilities Act, if you need special assistance to access the Andrew Firebaugh Community Center to participate at this meeting, please contact the Deputy City Clerk at (559) 659-2043. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the Andrew Firebaugh Community Center.

Any writing or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at City Hall, in the Deputy City Clerk's office, during normal business hours.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

CONSENT CALENDAR

Items listed on the calendar are considered routine and are acted upon by one motion unless any Council member requests separate action. Typical items include minutes, claims, adoption of ordinances previously introduced and discussed, execution of agreements and other similar items.

1. **APPROVAL OF MINUTES – The City Council regular meeting on November 7, 2016.**
2. **WARRANT REGISTER – Period starting October 1, and ending on October 31, 2016.**

October 2016	General Warrants	#34187 - #34303	\$ 338,278.67
	Payroll Warrants	#67501 - #67561	\$ 168,967.67
TOTAL			\$ 507,246.34

PUBLIC HEARING

3. **ORDINANCE NO. 16-06 - AN INTERIM URGENCY ORDINANCE OF THE CITY OF FIREBAUGH, ENACTING A TEMPORARY MORATORIUM ON THE ISSUANCE OF ANY PERMITS FOR NEW AND RELOCATED WIRELESS TELECOMMUNICATIONS FACILITIES WITHIN PUBLIC RIGHT-OF-WAYS, PURSUANT TO GOVERNMENT CODE SECTION 65858.**

Recommended Action: Council receives public comment & waives first reading of Ord. No. 16-06.

4. **ORDINANCE NO. 16-07 - AN ORDINANCE OF THE CITY OF FIREBAUGH ADDING A NEW SUBSECTION ENTITLED "WIRELESS TELECOMMUNICATIONS FACILITIES" TO CHAPTER 13 OF THE FIREBAUGH MUNICIPAL CODE, TO PROVIDE UNIFORM AND COMPREHENSIVE REGULATIONS AND STANDARDS, ALONG WITH PERMIT REQUIREMENTS FOR THE INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY.**

Recommended Action: Council receives public comment & waives first reading of Ord. No. 16-07.

STAFF REPORTS

ADJOURNMENT

Certification of posting the Agenda

I declare under penalty of perjury that I am employed by the City of Firebaugh and that I posted this agenda on the bulletin boards at City Hall, November 17, 2016 at 5:00 p.m. by Rita Lozano Deputy City Clerk.

MEETING MINUTES

The City Council/Successor Agency of the City of Firebaugh Vol. No. 16/11-07

Location of Meeting: Andrew Firebaugh Community Center
1655 13th Street, Firebaugh, CA 93622

Date/Time: November 7, 2016/6:00 p.m.

CALL TO ORDER Meeting called to order by Mayor Pro Tem Jenkins at 6:00 p.m.

ROLL CALL

PRESENT: Mayor Freddy Valdez
Mayor Pro Tem Brady Jenkins
Council Member Craig Knight
Council Member Marcia Sablan

ABSENT: Council Member Felipe Perez

OTHERS: City Attorney Meggin Boranian; Acting City Manager/Public Works Director, Ben Gallegos; Finance Director, Pio Martin; Deputy City Clerk, Rita Lozano; Police Chief, Sal Raygoza; Fire Chief, John Borboa; City Engineer, Mario Gouveia & others.

PLEDGE OF ALLEGIANCE Council Member Sablan led pledge of Allegiance.

PUBLIC COMMENT/PRESENTATION:

- *Swearing in of new Officer Tucker Carrillo-Zazueta, and Reserve Officers Ricardo Moya and Ricky Tabares. Introduced Reserve Officer Ramiro Rodriguez.*

CONSENT CALENDAR

1. APPROVAL OF MINUTES – The City Council regular meeting on October 17, 2016.

Motion to approve consent calendar with amendment change of Valdez to Jenkins for Call to Order of the Meeting by Council Member Jenkins, second by Council Member Sablan, motion pass by 4-0 vote.

NEW BUSINESS

2. ORDINANCE NO. 16-06 - AN INTERIM URGENCY ORDINANCE OF THE CITY OF FIREBAUGH, ENACTING A TEMPORARY MORATORIUM ON THE ISSUANCE OF ANY PERMITS FOR NEW AND RELOCATED WIRELESS TELECOMMUNICATIONS FACILITIES WITHIN PUBLIC RIGHT-OF-WAYS, PURSUANT TO GOVERNMENT CODE SECTION 65858 – FIRST READING.

Eric Johnson of AT&T, request to have this agenda item pulled, until a meeting is set with city representatives to discuss legal concerns based on the Federal Communications Act and the proposed ordinance.

Motion to table item until November 21, 2016 by Council Member Sablan, second by Council Member Knight, motion pass by 4-0 vote.

STAFF REPORTS

- **Police Chief Raygoza** – Reported there has been a couple of burglaries in town, the crimes were an act of the same person, he was arrested twice.
- **Fire Chief Borboa** – Fire Department has been receiving double the call volume.
- **Finance Director Pio Martin** – The refinancing of the Bond closed November 3, 2016, estimated saving is over 1 million. Albert Peche will provided a presentation to Council December 5, 2016. The Auditor should be coming to City Hall this week. Tablets were purchased but the emails need to be setup before we can issue them. There is an issue with the certificates, new software update in needed. Internet installation will take a while, VNS workload is backed up, and estimated cost is \$12,000 for equipment and installation.
- **City Engineer, Mario Gouveia** – Grant application was submitted to DWR (Department of Water Resources), City is seeking about \$550,000 in funding for a feasibility study. The proposed project is over a million dollars for flood control and river restoration, which could be to constructed and funded in sections. Firebaugh's main concern is flooding issues at three location along the river.
- **City Attorney, Meggin Boranian**– Training will be provided to Council and Staff after the elections on prevention of sexual harassment and bullying in the work place. Working on the Personnel Policy Handbook, the goal is to have it in place before labor negotiations but with the holidays coming, it will take a few months.
- **Public Works Director, Ben Gallegos** – Streets are being paved but contractor is over the construction deadline, there are fines that maybe issued. It looks like we will most likely remove the second story of the Senior Center Building and expand the building at ground level, because currently the building is not earthquake safe. PG&E will be retro fitting all streetlights to save over \$5,000 a month.

Motion to enter closed session @ 6:31 pm, by Council Member Jenkins, second by Council Member Sablan, motion pass by 4-0 vote.

CLOSED SESSION**1. Government Code Section 54957.6**

CONFERENCE WITH LABOR NEGOTIATORS: ALL REPRESENTED AND UNREPRESENTED EMPLOYEES

City Negotiator: Ben Gallegos

Employee Organizations: Fire, Police & Public Works bargaining units and all unrepresented positions

2. Pending Litigation Government Code Section 54956.9.

CONFERENCE WITH LEGAL COUNSEL - Two (2) Case

3. Government Code Section 54957

PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT: City Manager.

Motion to enter open session @ 8:22 pm, by Council Member Knight, second by Council Member Jenkins, motion pass by 4-0 vote.

ANNOUNCEMENT AFTER CLOSED SESSION: *No Action Taken*

ADJOURNMENT - Motion to adjourn by Councilmember Knight, second by Councilmember Jenkins; motion passes by 4-0 vote at 8:25 p.m.



REPORT TO CITY COUNCIL
— MEMORANDUM —

AGENDA ITEM NO: _____

COUNCIL MEETING DATE: November 21, 2016

SUBJECT: Warrant Register Dated: October 1, 2016 - October 31, 2016

RECOMMENDATION:

In accordance with Section 37202 of the Government Code of the State of California there is presented here with a summary of the demands against the City of Firebaugh covering obligations to be paid during the period of:

OCTOBER 01, 2016 – OCTOBER 31, 2016

Each demand has been audited and I hereby certify to their accuracy and that there are sufficient funds for their payment as of this date.

IT IS HEREBY RECOMMENDED THE CITY COUNCIL
APPROVE THE REGISTER OF DEMANDS AS FOLLOWS:

GENERAL WARRANTS	# 34187 – #34303	<u>\$ 338,278.67</u>
PAYROLL WARRANTS.....	# 67501 – #67561	<u>\$ 168,967.67</u>
TOTAL WARRANTS.....		\$ 507,246.34

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS OCTOBER 1, 2016 - OCTOBER 31, 2016

<u>Check Number</u>	<u>Check Date</u>	<u>Name</u>	<u>Net Amount</u>	<u>Description</u>
34187	10/5/2016	AG & INDUSTRIAL SUPPLY	\$ 1.26	REPAIR EQUIPMENT-CAP SCREW
			\$ 44.57	FD FIRE TRUCK-GAL ELBOW
			\$ 397.19	FD-REMCO PUMP/ANTI SEIZE
		Check Total:	\$ 443.02	
34188	10/5/2016	AT&T MOBILITY	\$ 370.05	#287249191200 POLICE DEPT
34189	10/5/2016	JOHN BORBOA	\$ 1,666.66	FIRE OTHER SERVICES OCT 2016
34190	10/5/2016	CVR & ASSOCIATES, INC.	\$ 2,728.18	BLDG & INSPEC INSPECTION
34191	10/5/2016	DEPT. OF CONSERVATION	\$ 86.88	QUARTER 7/1/16 THROUGH 9/1/16
34192	10/5/2016	FIREBAUGH ROTARY CLUB	\$ 150.00	RODEO GROUNDS CLEANING DEPOSIT
34193	10/5/2016	FRESNO COUNTY AUDITOR'S O	\$ 100.00	PARKING CITATION OCT 2016
34194	10/5/2016	GOODALL TRUCKING, INC.	\$ 568.18	B/R MATERIALS
34195	10/5/2016	JUDICIAL DATA SYS. CORP.	\$ 100.00	POLICE PARKING VIOLATIONS
34196	10/5/2016	MID-VALLEY DISPOSAL	\$ 63.98	1800 HELM CANAL RD
			\$ 27,618.10	SERVICES FOR SEPTEMBER 2016
		Check Total:	\$ 27,682.08	
34197	10/5/2016	CALIF PUBLIC EMPLOYEES RE	\$ 6,460.98	ANNUAL UNFUNDED ACCRUED
			\$ 10,932.15	ANNUAL UNFUNDE ACCRUED
			\$ 0.37	ANNUAL UNFUNDED ACCRUED
		Check Total:	\$ 17,393.50	
34198	10/5/2016	PETTY CASH	\$ 162.54	REPLINISH PETTY CASH ACCT
			\$ (162.54)	Ck# 034198 Reversed
		Check Total:	\$ -	
34199	10/5/2016	U.S. BANK EQUIPMENT FINAN	\$ 492.34	RNT/LEASE EQUIP 9/20/16-10/20/16
34200	10/5/2016	U.S. POSTMASTER	\$ 791.43	OCTOBER 2016 UTILITY BILL
34201	10/5/2016	VALLEY NETWORK SOLUTIONS	\$ 992.50	MONTHLY MONITORING NOV
34202	10/5/2016	JULIA RODRIGUEZ	\$ 5.49	MQ CUSTOMER REFUND
34203	10/5/2016	DAVID SILVA	\$ 33.01	MQ CUSTOMER REFUND
34204	10/6/2016	ACME ROTARY BROOM SERVICE	\$ 1,582.46	STREET SWEEPER-BROOMS

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS OCTOBER 1, 2016 - OCTOBER 31, 2016

<u>Check</u> <u>Number</u>	<u>Check</u> <u>Date</u>	<u>Name</u>	<u>Net</u> <u>Amount</u>	<u>Description</u>
34205	10/6/2016	AGRI-VALLEY IRRIGATION	\$ 4.98	RODEOGROUNDS-NIPPLE POLY
			\$ 20.60	PARKERS PARK-VALVE BOX
			\$ 24.98	TRI CIRCLE SEWER LINE
			\$ 3.23	111 LEYVA-PARTS
			\$ 1.69	CAP SCHEDULE
			\$ 0.67	PARKS-NIPPLE SCH 80 PVC
			\$ 30.38	MALDONADO PARK-REPAIR
			\$ 31.07	DUNKLE PARK-COUPPLING
			\$ 262.48	DUNKLE PARK-PIPE PVC/CAP
			\$ 76.33	MALDONADO PARK-ELBOW
			\$ 49.33	DUNKLE PARK-PIPE PVC/COUPLE
			\$ 9.54	DUNKLE PARK PAL BUILDING
			\$ 56.73	DUNKLE PARK-COIPLING/PVC
			\$ 31.70	DUNKLE PARK-ELBOW/NIPPLE
			\$ (96.71)	DUNKLE PARK-PIPE PVC
			\$ 23.12	DUNKLE PARK-PIPE PVC
			\$ 38.14	DUNKLE PARK-PIPE PVC/COUPLE
			\$ 26.27	DUNKLE PARK-COUPPLING/PIPE
			\$ 3.07	DUNKLE PARK-BUSHING
		Check Total:	\$ 597.60	
34206	10/6/2016	CALIFORNIA BUILDING STAND	\$ 43.20	BUILDING STANDARDS 7/1/16
34207	10/6/2016	COLLINS & SCHOETTLER	\$ 2,720.00	PLANNING CONSULTING SEPT
34208	10/6/2016	FERGUSON ENTERPRISES, INC	\$ 661.71	PW-MATERIAL/PARTS
34209	10/6/2016	GUTHRIE PETROLEUM, INC.	\$ 919.38	BULK UNLEADED GASOLINE
			\$ 905.16	BULK DIESEL FUEL
			\$ 791.16	BULK UNLEADED GASOLINE
			\$ 772.31	BULK UNLEADED GASOLINE
			\$ 955.41	BULK UNLEADED GASOLINE
		Check Total:	\$ 4,343.42	
34210	10/6/2016	HOME DEPOT CREDIT SERVICE	\$ 492.95	PARK/PAL BUILDING-PAINT
34211	10/6/2016	MEGGIN BORANIAN	\$ 6,500.00	MONTHLY RETAINER OCTOBER
34212	10/6/2016	WESTAMERICA BANK	\$ 300.00	FRESNO FAIR FIELD TRIP SENIORS
34213	10/11/2016	RODDY A. LAKE	\$ 294.19	POLICE HEALTH INS
34214	10/11/2016	CITY OF FIREBAUGH	\$ 83,616.33	UNITED SEC BANK-PAYROLL
34215	10/11/2016	CITY OF FIREBAUGH	\$ 3,179.90	UNITED SEC BANK-PAYROLL

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS OCTOBER 1, 2016 - OCTOBER 31, 2016

<u>Check</u> <u>Number</u>	<u>Check</u> <u>Date</u>	<u>Name</u>	<u>Net</u> <u>Amount</u>	<u>Description</u>
34216	10/14/2016	AT&T	\$ 109.82	CITY HALL #9391012022
			\$ 592.69	ALL DEPTS #9391012024
			\$ 55.70	COMM. CTR #9391012021
			\$ 503.01	#9391012020
		Check Total:	\$ 1,261.22	
34217	10/14/2016	AUTOZONE COMMERCIAL (1379	\$ 27.05	PW#10-DICKIES REAR BLK
			\$ 2.49	FD-NEEDA
			\$ 19.90	FD-BLACK MAGIC
			\$ 127.69	PW#34-DURALAST
			\$ 53.29	PW#34-GRAY LUXURY SC SEAT
			\$ (27.05)	PW#10-SEAT COVER
			\$ 35.69	TOYOTA CAMRY WIPER BLADE
			\$ 15.99	SHOP TOOL-TRANSFER PUMP
			\$ 14.06	TRUCK#12-PEAK LONG LIF
			\$ 6.54	PW#4-DISC BRAKE
		Check Total:	\$ 275.65	
34218	10/14/2016	BSK & ASSOCIATES, INC.	\$ 37.50	LAB ANALYSIS
			\$ 68.76	LAB ANALYSIS
			\$ 218.78	LAB ANALYSIS
			\$ 45.00	LAB ANALYSIS
			\$ 325.00	LAB ANALYSIS
			\$ 215.00	LAB ANALYSIS
			\$ 45.00	LAB ANALYSIS
			\$ 70.00	LAB ANALYSIS
			\$ 25.00	LAB ANALYSIS
			\$ 55.00	LAB ANALYSIS
			\$ 175.00	LAB ANALYSIS
			\$ 31.26	LAB ANALYSIS
			\$ 45.00	LAB ANALYSIS
			\$ 56.28	LAB ANALYSIS
			\$ 68.76	LAB ANALYSIS
			\$ 218.78	LAB ANALYSIS
			\$ 395.00	LAB ANALYSIS
			\$ 31.26	LAB ANALYSIS
			\$ 68.76	LAB ANALYSIS
			\$ 56.28	LAB ANALYSIS
			\$ 192.50	LAB ANALYSIS
			\$ 368.50	LAB ANALYSIS
		Check Total:	\$ 2,812.42	
34219	10/14/2016	ABELINO CISNEROS	\$ 180.00	SECURITY SERVICE QUINCEANERA

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS OCTOBER 1, 2016 - OCTOBER 31, 2016

<u>Check</u> <u>Number</u>	<u>Check</u> <u>Date</u>	<u>Name</u>	<u>Net</u> <u>Amount</u>	<u>Description</u>
34220	10/14/2016	COOK'S COMMUNICATIONS	\$ 676.58	PD-INSTALL NEW RADIO
			\$ 187.68	PD-UNIT 8 REPAIR RADIO
		Check Total:	\$ 864.26	
34221	10/14/2016	CORELOGIC SOLUTIONS, LLC.	\$ 160.00	REALQUEST SEPTEMBER 2016
34222	10/14/2016	DELL BUSINESS CREDIT	\$ 182.90	PD-DELL FUSER MAINTENANCE
			\$ 168.72	PD-DELL FUSER KIT
		Check Total:	\$ 351.62	
34223	10/14/2016	DEPARTMENT OF JUSTICE	\$ 304.00	FINERPRINTS SEPTEMBER 2016
34224	10/14/2016	EVIDENT	\$ 39.00	PD-EVIDENCE SEALING TAPE
34225	10/14/2016	FERGUSON ENTERPRISES, INC	\$ 389.25	PW-BALL CORP/MTR ANG KEY
34226	10/14/2016	FIREBAUGH AUTO REPAIR	\$ 1,249.96	FD-2011 CHEVROLET SILVERA
34227	10/14/2016	FIRST BANKCARD	\$ 686.64	PD-THE CLIFFS RESORT CHIEF MTG
			\$ 40.00	PW-RESIDENCE INN PARKING
			\$ 119.88	PW- DNH FEE
			\$ 77.75	FD-HEWLETT PACKAR OFFICE
			\$ 13.75	PD-COSTCO EXEC UPGRADE
			\$ 69.99	PD-WASH & WAX NEW PATROL
			\$ 43.23	PD-SETTLEMENTONE SCREENING
			\$ 179.49	PD-COSTCO SENATOR CANNELLA
			\$ 44.76	PD-AMAZON HAMMER BREAK
			\$ 57.00	EXXONMOBIL-ICSC MEETING
			\$ 488.42	PW-LOWES EQUIPMENT PURCHASE
			\$ 11.89	PW-HOME DEPOT PAINTER
			\$ 35.00	PD-AMAZON PLASTC EVIDENCE
			\$ 43.01	PD-OFFICER MORENO FUELED
			\$ 23.93	PD-AMAZON HOLSTER FOR GUN
			\$ 53.98	PD-AMAZON BATTERY FOR GUN
			\$ 80.84	PD-AMAZON POLICE LINE/CROSS
			\$ 309.01	PD-AMAZON DRUG KIT/FIRST
			\$ 34.36	PD-AMAZOB POCKET RESCUE
			\$ 54.24	PD-AMAZON AKER LEATHER
		Check Total:	\$ 2,467.17	
34228	10/14/2016	FIREBAUGH HARDWARE COMP/	\$ 5.40	PD-WOOD FILLER
			\$ 16.21	TRUCK#12-PAINT MIX
			\$ 4.32	PAL BUILDING-NAIL FINISH
			\$ 32.34	COMMUNITY CTR-FLOOR CLEANER
			\$ 7.54	PAL BUILDING-PAINT BRUSH
		Check Total:	\$ 65.81	
34229	10/14/2016	FIREBAUGH GLASS	\$ 160.00	PD-UNIT 8 WINDSHIELD

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS OCTOBER 1, 2016 - OCTOBER 31, 2016

<u>Check</u> <u>Number</u>	<u>Check</u> <u>Date</u>	<u>Name</u>	<u>Net</u> <u>Amount</u>	<u>Description</u>
34230	10/14/2016	FRESNO COUNTY TREASURER	\$ 163.08	ACCESS FEES SEPTEMBER 2016
34231	10/14/2016	FRESNO CO ECONOMIC OPPORT	\$ 65.00	BUS FARE TO FRESNO FAIR SENIORS
34232	10/14/2016	CARLOS GAUNA	\$ 150.00	ENCLOSED AREA CLEANING DEP
34233	10/14/2016	JOSE FRED GOMEZ	\$ 245.00	FIRE DEPT VEHICLE REPAIR
34234	10/14/2016	IAPE	\$ 50.00	2016 IAPE ANNUAL MEMBERSHIP
34235	10/14/2016	JOSE R. MARTINEZ	\$ 9,400.00	CANOPY/FIREBAUGH MAINTENANCE
34236	10/14/2016	KER WEST, INC. DBA	\$ 90.00	LEGAL NOTICES-LOCAL PUBLIC
34237	10/14/2016	ELSA LOPEZ	\$ 936.60	POLICE HEALTH INS
34238	10/14/2016	LUQUIN BOUTIQUE	\$ 40.00	PD-TABLECLOTH
34239	10/14/2016	MANUELS TIRE SERVICE, INC	\$ 349.66	PD#9-GOOD YEAR TIRES/VALVE
			\$ 440.41	PW-F150 HIGH PRESSURE VALVE
			\$ 40.00	FD-CHEVY SILVERADO
			\$ 133.18	JD 310G TUBE
			\$ 886.55	BACK HOE-TUBE/TIRE
			\$ 16.27	PW F-150 RADIAL PATCH
			\$ 110.41	PW#11-TUBE
		Check Total:	\$ 1,976.48	
34240	10/14/2016	PACIFIC GAS & ELECTRIC	\$ 8.11	#3228327255-0 FIRE DEPT
34241	10/14/2016	PECK'S PRINTERY	\$ 96.32	BUILDING DEPT-DO NOT ENTER
34242	10/14/2016	CALIF PUBLIC EMPLOYEES RE	\$ 1,950.00	FEES FOR GASB-68 REPORTS
			\$ 2,600.00	FEES FOR GASB-68 REPORTS
		Check Total:	\$ 4,550.00	
34243	10/14/2016	PRIME CAR CARE PRODUCTS	\$ 248.43	PD-VEHCILE MAINTANCE EQUIP
34244	10/14/2016	REBECA RODARTE	\$ 150.00	ENCLOSED AREA CLEANING DEP
34245	10/14/2016	RSG, INC.	\$ 1,430.00	SB341 REPORT
			\$ 655.00	FY2016-17 SUCCESOR AGENCY
		Check Total:	\$ 2,085.00	
34246	10/14/2016	SAN JOAQUIN VALLEY	\$ 170.00	DEMO PERMIT APPLICATION
34247	10/14/2016	SPARKLETTS	\$ 12.35	PUBLIC WORKS/SHOP

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS OCTOBER 1, 2016 - OCTOBER 31, 2016

<u>Check</u> Number	<u>Check</u> Date	<u>Name</u>	<u>Net</u> Amount	<u>Description</u>
34248	10/14/2016	THOMASON TRACTOR COMPAN	\$ 9.73	PARKS- TRIMMER LINE
			\$ 88.25	FD-CLEAN SHIEL PVC
			\$ 74.03	PW#25-BLADE FOR MOWER
			\$ 44.90	PARKS- CHAIN LOOP
			<u>\$ 68.81</u>	PARKS-CHAIN LOOP
		Check Total:	\$ 285.72	
34249	10/14/2016	VERIZON WIRELESS	\$ 680.65	SEPTEMBER 2016 ALL DEPTS
34250	10/14/2016	JONATAN WALTER	\$ 100.00	ENCLOSED AREA CLEANING DEP
34251	10/21/2016	ADAMS ASHBY GROUP, LLC	\$ 2,270.00	GENERAL ADMIN SENIOR CENTER
34252	10/21/2016	AG & INDUSTRIAL SUPPLY	\$ 143.90	PW#40-SUPPLIES
			\$ 115.44	PW#15-MOWER BLADE
			\$ 15.50	HOSE
			<u>\$ 368.38</u>	PW#40-REMCO PUMP
		Check Total:	\$ 643.22	
34253	10/21/2016	ALERT-O-LITE, INC.	\$ 181.28	CONCRETE GROOVER
			<u>\$ 796.47</u>	POWER TRIM EDGER
		Check Total:	\$ 977.75	
34254	10/21/2016	RICHARD A. BLAK	\$ 750.00	PD-PSYCH RAMIRO RODRIGUEZ
34255	10/21/2016	CALIFORNIA SOCIETY OF	\$ 25.00	PIO MARTIN LUNCHEON FEE MTG
34256	10/21/2016	CALIFORNIA RURAL WATER	\$ 684.00	MEMBERSHIP DUES, DECEMBER
34257	10/21/2016	CASCADE FIRE EQUIPMENT CO	\$ 126.19	FD-HOSE
34258	10/21/2016	ANA CERVANTES	\$ 115.00	ANIMAL CONTROL FEES REIM
34259	10/21/2016	CORBIN WILLITS SYSTEMS	\$ 1,020.18	ADMINISTRATION C/W SERVICE
34260	10/21/2016	MADERA COUNTY TAX COLLEC	\$ 1,955.08	WATER OPER TAX ON WELLS
34261	10/21/2016	DEPT. OF TRANSPORTATION	\$ 448.79	SIGNALS & LIGHTING JULY2016
34262	10/21/2016	DISH	\$ 38.34	SENIOR CENTER CABLE
34263	10/21/2016	ESAFETY SUPPLIES, INC.	\$ 285.77	PD-NITRILE POWDER GLOVES
			<u>\$ 297.50</u>	PW-NITRILE POWDER GLOVES
		Check Total:	\$ 583.27	

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS OCTOBER 1, 2016 - OCTOBER 31, 2016

<u>Check</u> <u>Number</u>	<u>Check</u> <u>Date</u>	<u>Name</u>	<u>Net</u> <u>Amount</u>	<u>Description</u>
34264	10/21/2016	EVIDENT	\$ 32.00	PD-EVIDENCE TAPE
34265	10/21/2016	FENCE FACTORY ATASCADERO	\$ 1,615.52	HARVEST FESTIVAL-FENCE RENTAL
34266	10/21/2016	FERGUSON ENTERPRISES, INC	\$ 1,665.17	PW-MATERIALS
			<u>\$ 532.37</u>	PW-MATERIAL
		Check Total:	\$ 2,197.54	
34267	10/21/2016	FRESNO OXYGEN	\$ 46.80	SHOP-SUPPLY
34268	10/21/2016	G&K SERVICES, INC.	\$ 15.59	CITY HALL
			\$ 91.61	CITY SHOP
			\$ 18.39	COMMUNITY CTR
			\$ 11.79	WASTEWATER FACILITY
			\$ 23.26	SENIOR CTR
			\$ 15.59	CITY HALL
			\$ 91.61	CITY HALL
			\$ 18.39	COMMUNITY CTR
			\$ 11.79	WASTE WATER FACILITY
			\$ 23.26	SENIOR CTR
			\$ 15.59	CITY HALL
			\$ 91.61	CITY SHOP
			\$ 18.39	COMMUNITY CTR
			\$ 11.79	WASTE WATER FACILITY
			\$ 23.26	SENIOR CENTER
			\$ 15.59	CITY HALL
			\$ 91.61	CITY HALL
			\$ 18.39	COMMUNITY CTR
			\$ 11.79	WASTE WATER FACILITY
			<u>\$ 23.26</u>	SENIOR CTR
		Check Total:	\$ 642.56	
34269	10/21/2016	GOUVEIA ENGINEERING, INC.	\$ 259.88	725.01 PUBLIC WORKS GENERAL
			\$ 11,360.00	730.07 SRF WWTP IMPROVEMENT
			\$ 4,913.75	740.05-4 TASK 4 PS&E LAS DELTAS
			\$ 2,359.88	745.02 HWY 33 BEAUTIFICATION
			\$ 5,177.50	745.10C CML-5224(015) POSO CANAL
			\$ 11,333.52	745.19C CML-5224(019)PEDESTRIAN
			\$ 8,015.22	745.21C RIVERLANE/CARDELLA
			\$ 881.00	775.02 LLA "1534 12TH STR
			\$ 57.75	785.07 GATEWAY PROJECT
			<u>\$ 58,890.00</u>	740.09 II CDBG WATER MAIN
		Check Total:	\$ 103,248.50	
34270	10/21/2016	GRAINGER, INC.	\$ 102.61	CITY HALL PARKING LIGHTS

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS OCTOBER 1, 2016 - OCTOBER 31, 2016

<u>Check Number</u>	<u>Check Date</u>	<u>Name</u>	<u>Net Amount</u>	<u>Description</u>
34271	10/21/2016	MOORE TWINING ASSOCIATES,	\$ 2,725.00	PROFESSIONAL SERVICES 9/16
34272	10/21/2016	NORTHSTAR CHEMICAL	\$ 2,550.54	SODIUM HYPOCHLORITE
			<u>\$ 1,944.26</u>	SODIUM HYPOCHLORITE
		Check Total:	\$ 4,494.80	
34273	10/21/2016	PECK'S PRINTERY	\$ 59.30	ENGRAVED NAME PLATES
34274	10/21/2016	QUILL CORPORATION	\$ 272.64	JANITORIAL SUPPLIES
			\$ 29.26	BUILDING DEPT DESK PAD
			\$ 12.94	ADMIN-FILE POCKET
			\$ 161.44	OFFICE SUPPLIES
			\$ 31.28	XEROX BUSINESS COPY
			\$ 42.18	POSTER FRAME BROWN
			\$ 25.96	LEGAL SIZE FOLDERS
			\$ 3.24	MARGARET-PENS UNI BALL
			<u>\$ 21.60</u>	ADMIN-SHEET PROTECTORS
		Check Total:	\$ 600.54	
34275	10/21/2016	SIGNMAX	\$ 149.35	DECALS-CITY OF FIREBAUGH
34276	10/21/2016	SPARKLETTS	\$ 65.18	CITY HALL/SENIOR CENTER
34277	10/21/2016	TIFCO INDUSTRIES	\$ 477.00	PW-PARTS
34278	10/21/2016	USA BLUEBOOK	\$ 273.62	DIAPHRAGM KIT DME60
34279	10/21/2016	ZEE MEDICAL SERVICE CO.	\$ 98.63	PUBLIC WORKS SHOP MEDICAL
			\$ 60.91	CITY HALL MEDICAL SUPPLIES
			<u>\$ 266.22</u>	POLICE DEPT MEDICAL SUPPLY
		Check Total:	\$ 425.76	
34280	10/25/2016	CITY OF FIREBAUGH	\$ 82,171.44	UNITED SEC BANK-PAYROLL
34281	10/27/2016	AT&T	\$ 359.56	WATER OPER TELEPHONE
34282	10/27/2016	BEST UNIFORMS	\$ 715.20	PD-EQUIPMENT NEW OFFICERS
34283	10/27/2016	CEMEX	\$ 557.50	SIDEWALK REPAIR-CONCRETE
34284	10/27/2016	CHILDREN'S CORNER	\$ 150.00	A/F HALL CLEANING DEPOSIT
34285	10/27/2016	DEPT. OF TRANSPORTATION	\$ 173.85	STATE ROUTE 33-TRAFFIC SIGN
			<u>\$ 1,197.86</u>	STATE ROUTE 033-TRAFFIC SIGN
		Check Total:	\$ 1,371.71	
34286	10/27/2016	DEPARTMENT OF JUSTICE	\$ 105.00	BLOOD ALCOHOL ANALYSIS SEPT16
34287	10/27/2016	EMERGENCY VEHICLE INSTALL	\$ 8,420.35	NEW PATROL CAR EQUIPMENT

CITY OF FIREBAUGH ACCOUNTS PAYABLE
WARRANTS OCTOBER 1, 2016 - OCTOBER 31, 2016

<u>Check Number</u>	<u>Check Date</u>	<u>Name</u>	<u>Net Amount</u>	<u>Description</u>
34288	10/27/2016	FERGUSON ENTERPRISES, INC	\$ 173.26	PUBLIC WORKS SUPPLIES
34289	10/27/2016	HUB INTERNATIONAL	\$ 125.98	SPECIAL EVENT INSURANCE
			\$ 125.98	SPECIAL EVENT INSURANCE
			\$ 125.98	SPECIAL EVENT INSURANCE
			\$ 125.98	SPECIAL EVENT INSURANCE
			<u>\$ 125.98</u>	SPECIAL EVENT INSURANCE
		Check Total:	\$ 629.90	
34290	10/27/2016	LAW ENFORCEMENT SYSTEMS	\$ 190.78	CODE ENFORCEMENT-LABELS
34291	10/27/2016	FERNANDO MORENO	\$ 200.00	PD-UNIFORM REIMBURSEMENT
34292	10/27/2016	NORTHSTAR CHEMICAL	\$ 1,663.45	FERRIC CHLORIDE
34293	10/27/2016	OCCUPATIONAL HEALTH CNTEI	\$ 229.00	PD-RAMIRO RODRIGUEZ
34294	10/27/2016	PACIFIC GAS & ELECTRIC	\$ 73,879.74	#7355932148-1 ALL DEPTS
34295	10/27/2016	MANUEL PACHECO	\$ 100.00	A/F HALL CLEANING DEPOSIT
34296	10/27/2016	PHOENIX COATINGS, INC.	\$ 14,103.00	CITY HALL-COATING/ROOF
34297	10/27/2016	PITNEY BOWES #8000-9090-	\$ 520.99	POSTAGE REFILL 10/16/16
34298	10/27/2016	QUILL CORPORATION	\$ 364.89	POLICE DEPT/CITY HALL SUPPLIES
34299	10/27/2016	SPARKLETTS	\$ 93.06	POLICE DEPARTMENT
34300	10/27/2016	SWRCB ACCOUNTING OFFICE	\$ 3,424.65	LARGE WATER SYSTEM FEES
34301	10/27/2016	UNITY IT	\$ 250.00	PD-TECHNICIAN REMOTE ACCESS
34302	10/27/2016	USA BLUEBOOK	\$ 31.45	WATER PLANT-FEMALE CONNECTION
			<u>\$ 515.58</u>	WATER PLANT
		Check Total:	\$ 547.03	
34303	10/27/2016	WESTERN EXTERMINATOR CO.	\$ 38.00	8000 HELM CANAL RD
			\$ 70.00	1133 P ST CITY HALL
			\$ 47.25	401 THOMAS CONBOY SENIOR
			<u>\$ 59.50</u>	1655 13TH ST COMMUNITY CT
		Check Total:	\$ 214.75	

FIREBAUGH CITY COUNCIL
STAFF REPORT

Date: November 7, 2016
To: Firebaugh City Council
From: Karl Schoettler, Planning Consultant
Subject: Urgency ordinance to establish a temporary moratorium on new cell towers within the street right-of-way

Summary/Overview

The attached ordinance would establish a 45-day moratorium on wireless telecommunications facilities within the public right-of-way. The ordinance requires action by the City Council.

Discussion

As was noted at the Council meeting on October 17, the City is aware of a company that is filing permits to establish tall cell towers within street rights-of-way throughout the State. No applications have been filed in Firebaugh so far; however, it is possible that one or more could be submitted in the near future. Staff is working on a permanent ordinance to regulate such towers but it will not be ready for adoption until the October 21 Council meeting (and if approved would not go into effect for about a month and a half).

In the meantime, the attached ordinance (if passed) would establish a 45-day moratorium on any such facilities. The ordinance requires a 4/5 vote of the City Council and if approved can be extended up to ten months and 15 days. No public hearing is required for action on the urgency ordinance. The point of the ordinance is to give the City time to research the issue and prepare permanent regulations that will serve the concerns of the community as a whole.

Analysis and Background

In 1996, Congress enacted the Telecommunications Act of 1996 (the "Act"). Among other provisions, the Act established the framework within which local government may regulate wireless telecommunications facilities (i.e., cellular telephone towers).

In 1996 and subsequent years, many cities across the country enacted local ordinances to regulate the development, siting, installation, and operation of wireless facilities consistent with the Telecommunications Act of 1996. Firebaugh has not enacted an ordinance to address wireless facilities located within a public right-of-way.

Since the turn of the century, state and federal law addressing the scope and manner of local regulation of wireless facilities has continued to evolve as a result of various court cases and

Federal Communications Commission rules. Requirements for local ordinances have also evolved over time in response to regulatory changes at the state and federal level. Not only has Firebaugh not enacted a wireless facilities ordinance for right-of-ways, the municipal code has not been studied or updated to reflect recent changes that may now be legally necessary.

In addition to detracting from public views and neighborhood character, unsightly wireless facilities and their related visual clutter can lead to or exacerbate public safety hazards such as distracted driving. This poses a safety concern in Firebaugh where members of the public, including children, commonly walk along public right-of-ways. For these reasons, the City Council is urged to consider regulating the appearance and location of wireless facilities within the public right-of-ways in order to promote the public health, safety and welfare.

Telecommunication Facilities Within a Public Right-of-Way:

While the zoning code provides for regulations for wireless communication facilities not in the public right-of-way, staff is proposing to study the latest changes in state and federal law in order to develop new, and update existing, local regulations for all types of telecommunication facilities, but particularly wireless communication facilities within a public right-of-way and on public property. The California Public Utilities Code (“Code”) includes regulations governing the relationship between municipalities and utility companies. The Code states that “...telephone corporations may construct...telephone lines along and upon any public road or highway,...and may erect poles, posts, piers or abutments for supporting insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway...” This includes wireless service providers.

Historically, municipalities could regulate the time, place and manner in which right-of-ways were accessed. At the same time, state law provided that a utility could not unreasonably interfere with the public's use of the right-of-way and that a municipality can require a discretionary permit, insurance and bonding, indemnification, compliance with the building code and aesthetic objectives be met. In light of recent state and federal legislation and case law, additional time is needed to prepare, evaluate and adopt reasonable regulations regarding wireless facilities.

Government Code § 65858 allows a city to adopt an urgency ordinance to establish a temporary moratorium on any specified land use, either to allow the city to study how to appropriately regulate it or when that land use may be inconsistent with zoning regulations being considered by the City Council, Planning Commission or City Planning staff:

“(a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health and welfare, may adopt as an urgency measure 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.

That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.”

To ensure that no new or relocated wireless facilities are approved which increase distractions for drivers, unsafely encroach upon busy right-of-ways, degrade existing aesthetics or which are inconsistent with the latest developments in the law, staff recommends that the City Council adopt an urgency ordinance pursuant to this provision so that staff can study and consider updated requirements for wireless facilities within public right-of-ways.

As noted above, such an ordinance would be effective for forty-five (45) days, after which time the City Council could hold a public hearing to further extend the moratorium for up to an additional ten (10) months and 15 days. The statute above also provides that ten (10) days prior to the expiration of the interim urgency ordinance (or any extension thereof), the City Council must issue a written report describing the measures taken to alleviate the condition, which led to the adoption of the ordinance. Staff will provide to the Council a proposed report on or before said deadline if the urgency ordinance is enacted.

The City Council would have the option to further extend the ordinance, though staff believes that one year may be adequate to study and develop wireless facility regulations for Planning Commission and City Council consideration. The proposed moratorium would not prohibit collocation of new antennas and equipment on existing wireless facilities or the maintenance, updating, repair or improvement of an existing wireless facility provided that the physical dimensions thereof are not substantially changed or increased.

ORDINANCE NO. 16-06

AN INTERIM URGENCY ORDINANCE OF THE CITY OF FIREBAUGH, ENACTING A TEMPORARY MORATORIUM ON THE ISSUANCE OF ANY PERMITS FOR NEW AND RELOCATED WIRELESS TELECOMMUNICATIONS FACILITIES WITHIN PUBLIC RIGHT-OF-WAYS, PURSUANT TO GOVERNMENT CODE SECTION 65858.

THE CITY COUNCIL OF THE CITY OF FIREBAUGH DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings.

The City Council finds and declares as follows:

- A. Under Public Utilities Code § 7901.1, a municipality can adopt reasonable time, place and manner regulations with respect to the manner in which public rights-of-way may be accessed by telephone companies, including wireless communication companies which have been granted state authorization permitting the construction of facilities in public rights-of-way.
- B. Title 47, United States Code § 332 appears to authorize municipalities to regulate the placement, construction and modification of wireless telecommunication facilities, subject to specified limitations.
- C. As used in this ordinance, “Wireless Facilities” means all equipment installed for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications services and paging services, consisting of equipment and network components such as towers, utility poles, transmitters, base stations and emergency power systems. “Wireless Facilities” shall not be deemed to include facilities constructed by and operated by suppliers of electric, gas or water utilities.
- D. The Firebaugh Municipal Code (FMC) is silent with respect to the development, siting, installation, and operation of Wireless Facilities within City rights-of-way.
- E. State and federal law addressing the scope and manner of local regulation of Wireless Facilities continues to develop and evolve as evidenced by the following cases and rule changes:
 1. In *Sprint Telephone PCS, L.P. v. County of San Diego* (2008) 543 F.3d 571 (“**Sprint Telephone**”), the Ninth Circuit Court of Appeals overruled seven years of Ninth Circuit jurisprudence relating to 47 U.S.C. § 253, a provision of Federal Telecommunications Act that, until this case was decided, had been interpreted to severely limit local authority to regulate Wireless Facilities.
 2. In *Sprint PCS Assets, LLC v. City of Palos Verdes Estates* (2009) 583 F.3d 716 (“**Sprint PCS**”), the Ninth Circuit Court of Appeals set out significant new standards establishing how municipalities may consider and decide applications for Wireless Facilities to be located within the public right-of-way.
 3. On February 22, 2012, section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (“**Act**”) was enacted and changed how co-located Wireless Facilities must be evaluated, and in some cases must be approved, changing more than a decade of national

jurisprudence relating to 47 U.S.C. § 332 that, until the passage of the Act allowed local governments wide latitude and discretion in considering co-location of Wireless Facilities in the public right-of-way, and on public and private property.

4. On October 17, 2014, the Federal Communications Commission (“FCC”) issued a Report and Order updating its rules and procedures governing new and modified Wireless Facilities, which includes clarifications on local zoning powers with respect to Wireless Facilities and the procedures for the review of siting applications.

5. Presently, the case of *T-Mobile West, LLC et al. vs. City and County of San Francisco et al.* is pending in the California First District Court of Appeals (Case No. A144252) and involves a legal challenge to longstanding legal authority of municipalities to regulate timing, location and manner of construction of Wireless Facilities.

F. The City anticipates receiving requests by telecommunications providers to establish new or expanded Wireless Facilities within the City. However, as noted above, the existing provisions of the FMC are inadequate and time is needed to review, study and revise the FMC to fully take into account the impacts related to the timing, location and manner of construction of Wireless Facilities by multiple telecommunication providers within the public rights-of-way as well as other public and private property, including the public health, safety and welfare concerns of pedestrian and vehicular traffic.

G. In addition to detracting from public views and neighborhood character, unsightly Wireless Facilities and their related visual clutter can lead to or exacerbate public safety hazards such as distracted driving. This poses a safety concern in Firebaugh where members of the public, including children, commonly walk along public right-of-ways. For these reasons, the City Council finds that it must consider regulating the appearance and location of Wireless Facilities within the public right-of-ways in order to promote the public health, safety and welfare.

H. The FMC must be updated in order to protect the public against the potential threats to the health, safety and welfare of the public arising from telecommunication providers constructing Wireless Facilities throughout the City. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the use of the public rights-of-way and other public and private property within the City for Wireless Facilities.

I. The absence of this ordinance would impair the orderly and effective implementation of contemplated amendments to the FMC, and any further authorization to construct Wireless Facilities in the City’s rights-of-way or other public or private property within the City during the period of this moratorium may be in conflict with or may frustrate the contemplated updates and revisions to the FMC.

J. Without the enactment of this ordinance, multiple telecommunication providers could quickly receive permits to install Wireless Facilities that pose a threat to the public health, safety and welfare. For example, without this ordinance, Wireless Facilities could:

1. Create land use conflicts and incompatibilities including excessive height of poles and towers;

2. Create visual and aesthetics blights and potential safety concerns arising from excessive size, heights, noise or lack of camouflaging of Wireless Facilities including the associated pedestals, meters, equipment boxes and power generators;

3. Create unnecessary visual and aesthetic blight by failing to utilize alternative technologies or capitalize on collocation opportunities;

4. Cause substantial disturbances to rights-of-way through the installation and maintenance of Wireless Facilities;

5. Create traffic and pedestrian safety hazards due to the unsafe location of Wireless Facilities; and

6. Negative impact the unique quality and character of the City.

K. The City Council further finds that this moratorium is a matter of local and citywide importance and is not directed towards any particular telecommunication provider that currently seeks to establish a Wireless Facility.

L. Government Code §§ 36937 and 65858 authorize the adoption of an urgency ordinance to protect the public health, safety and welfare, and to prohibit certain land uses that may conflict with land use regulations that the City's legislative bodies are considering or intend to study within a reasonable time.

M. The City Council finds that there is a current and immediate threat to the public health, safety and welfare based on the above findings, and upon that basis has determined that an urgency ordinance prohibiting the issuance of new permits or approvals for new Wireless Facilities in public rights-of-way within the City is warranted.

SECTION 2. Applicability. This ordinance applies to all applications for the installation of new, and the relocation of existing, Wireless Facilities within any public right-of-way in any zone within the City of Firebaugh.

SECTION 3. Moratorium on New Wireless Facilities.

A. Except as provided in Section 4 below, for a period of forty-five (45) days from the date of adoption of this ordinance, no permits or other approvals may be issued for any:

1. Installation of a new Wireless Facility in a public right-of-way; or
2. Relocation of an existing Wireless Facility in a public right-of-way.

B. For new applications for Wireless Facility installations and relocations received after the effective date of this ordinance, any time limits or mandatory approval time frames relative to the processing or action upon permit applications for any Wireless Facilities described in Section 3(A) are tolled during the term of this moratorium. The City Council intends to terminate this moratorium as soon as reasonably feasible within a timeframe to allow the adoption of new local regulations with respect to Wireless Facilities, to the extent reasonably advisable by staff following its study. Notwithstanding the foregoing, City staff may deny any application for a permit, which prohibited from being issued under this ordinance.

SECTION 4. Exceptions. The provisions of this ordinance shall not be construed to prohibit the issuance of permits or approvals for the following:

- A. The collocation of new antennas and other equipment on an existing Wireless Facility, provided that the exterior physical dimensions of the existing Wireless Facility are not

substantially changed or increased;

B. The maintenance, updating, repair or improvement of an existing Wireless Facility, provided that the physical dimensions of the Wireless Facility are not substantially changed. The determination of whether the physical dimensions will be substantially changed shall be in accordance with criteria stated in the FCC Report and Order dated October 17, 2014.

SECTION 5. Report.

The City Manager or the appointed designee is authorized and directed to prepare and issue, on behalf of the City Council, a written report describing the measures taken by the City to alleviate the conditions which have led to the adoption of this ordinance, at least ten (10) days prior to the expiration of this ordinance. A copy of the same shall be subsequently provided to the City Council for review.

SECTION 6. CEQA Review. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment], 15060(c)(3) [the activity is not a project as defined by CEQA], and 15061(b)(3) [there is no possibility the activity in question may have a significant effect on the environment]. These findings are premised on the fact that the adoption of this urgency interim ordinance will maintain existing environmental conditions arising from the City's current land use regulations without significant change or alteration. The City Manager is hereby directed to ensure that a Notice of Exemption is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

SECTION 7. No Liability. The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of Firebaugh, or any official, employee or agent thereof.

SECTION 8. Pending Actions. Nothing in this ordinance or in the codes hereby adopted shall be construed to affect any suit or proceeding pending or impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or code repealed by this ordinance, nor shall any just or legal right or remedy of the City of any character be lost, impaired or affected by this ordinance.

SECTION 9. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Firebaugh hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 10. Construction. The City Council intends this ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this ordinance shall be construed in light of that intent. To the extent, the provisions of the Firebaugh Municipal Code as amended by this ordinance are substantially the same as provisions in the Firebaugh Municipal Code existing prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION 11. Urgency; Effective Date; Duration and Publication.

This ordinance is adopted by the City Council pursuant to the California Constitution, article XI, section 7 and Government Code section 65858 by a four-fifths (4/5) or greater vote, as an urgency measure to protect the public health, safety and welfare, and shall take effect immediately. The reasons for such urgency are set forth in Section 1 above. This ordinance shall expire and be of no further force or effect forty-five (45) days after its adoption, unless it is extended pursuant to Government Code section 65858. Prior to the expiration of fifteen (15) days from the passage hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code section 36933(c)(1) and a summary shall be published once in the Firebaugh-Mendota Journal, a newspaper printed and published in the City of Firebaugh, State of California, together with the names of the Council members voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the City Council of the City of Firebaugh, State of California, on the 7th day of November, 2016, at a regular meeting of said Council duly and regularly convened on said day by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

ATTEST:

Freddy Valdez
Mayor

Rita Lozano
Deputy City Clerk
[Gov. Code § 36804]