

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # \*B-6

Urgent  Routine

AGENDA DATE September 30, 2008

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of the Reduction of Fire Protection Facilities Fees for Greenhouses for the Hughson Fire Protection District

STAFF RECOMMENDATIONS:

1. Approve the reduction of Fire Protection Facilities Fees only as it pertains to greenhouses for the Hughson Fire Protection District based upon the fee study completed by Willdan Financial Services and upon the recommendation of the Board of Directors of the Hughson Fire Protection District.
2. Authorize imposing the revised Fire Protection Facilities Fees on all Building Permits for greenhouses that are issued in the Hughson Fire Protection District after September 30, 2008.
3. Authorize the imposition of the revised Fire Protection Facilities Fees for Building Permits for greenhouses in the Hughson Fire Protection District issued to California Winelands, LLC retroactively to October 24, 2005.

FISCAL IMPACT:

There is no financial impact to the County associated with this item. The Hughson Fire Protection District will administer this program consistent with the provisions contained in Title 24 of the Stanislaus County Ordinance Code.

BOARD ACTION AS FOLLOWS:

No. 2008-689

On motion of Supervisor Grover, Seconded by Supervisor O'Brien

and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, and Vice-Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: Mayfield

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

DF-4-A-2  
File No. M-64-H-13

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Hughson Fire Protection District

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**DISCUSSION:**

Per the Mitigation Fee Act contained in Government Code Section 66000 et. seq., the County, rather than the affected fire district, has legal authority to impose impact fees on the District's unincorporated areas. The current Fire Protection Facilities Fees for the Hughson Fire Protection District (the District) to be imposed upon new development within the district were approved by the Board of Supervisors on February 27, 2001 and became effective after April 28, 2001.

The current fee levels are as follows:

Residential Development	-	\$0.41 per square foot
Non-residential Development	-	\$0.20 per square foot
Unoccupied Agricultural Structures	-	\$0.10 per square foot

California Winelands, LLC sued the District and, in 2007, the Stanislaus County Superior Court determined that the Hughson Fire Protection District's rate, as applied to greenhouses, was excessive and as a result of that litigation, the District agreed to employ a consultant to ascertain and recommend an appropriate rate for greenhouses. The District employed Willdan Financial Services for that purpose. Willdan Financial is the parent company of Muni Financial, the agency utilized by Stanislaus County in determining its Public Facilities Fees. The result of that study was that an appropriate fee would be \$0.071 per square foot, a reduction of approximately 13 cents from \$0.20 per square foot under the current rate structure which essentially lumped greenhouses into the non-residential rate. This also represents a reduction from \$0.11 per square foot which was allowed by the Court in the litigation and which also allowed that the fee could be reduced through further litigation. It is the intent of the Fire District to create a subcategory entitled "greenhouses" within the non-residential development fees category at a reduced rate of \$0.071.

Accordingly, at its Board meeting on August 13, 2008, the Fire District adopted a Resolution approving a reduction of fees for greenhouses to \$0.071 per square foot. A copy of that Resolution is attached. Under Title 24 of the Stanislaus County Code, Board of Supervisors' approval is required in order to make this reduction effective. The attached documentation provides the necessary information for the Stanislaus County Board of Supervisors to adopt a revised fire facilities impact fee for imposition within the Hughson Fire Protection District boundaries as follows:

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Residential Development	-	\$0.41 per square foot
Non-residential Development	-	\$0.20 per square foot
Greenhouses	-	\$0.071 per square foot
Unoccupied Agricultural Structures	-	\$0.10 per square foot

**POLICY ISSUES:**

The Board should consider whether adopting the revised Fire Protection Facilities Fees for the Hughson Fire Protection District will appropriately aid in mitigating the impacts new development has on the District's ability to maintain an appropriate level of service and is consistent with the Board's stated priority of striving for the efficient delivery of public services.

**STAFFING IMPACT:**

There is no staffing impact associated with this item.

**STEWART W. JAMES**  
ATTORNEY AT LAW

RECEIVED  
COUNTY COUNSEL

7108 HUGHSON AVENUE  
P.O. BOX 147  
HUGHSON, CALIFORNIA 95326

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Fax: (209) 883-4588

2008 AUG 15 P 2:49

August 14, 2008

Board of Supervisors  
Stanislaus County  
1010 Tenth Street, 6th Floor  
Modesto, CA 95354

Re: Hughson Fire Protection District  
My File No. 7282

I am writing this letter as attorney for the Hughson Fire Protection District, and on behalf of its Board of Directors.

As a result of some litigation last year the Board of the Hughson Fire Protection District employed a consultant to review the District's fire facilities impact fee as applied to greenhouses. The result of that study was that an appropriate fee would be \$0.071 per square foot, a reduction from \$0.22 per square foot under the current rate structure which essentially lumped greenhouses into the nonresidential rate, and also a reduction from \$0.11 per square foot which was allowed by the Court in the litigation mentioned above but could be reduced through further litigation.

Accordingly, at its Board meeting on August 13, 2008 the Fire District's Board adopted a Resolution approving reduction of fees for greenhouses to \$0.071 per square foot. A copy of that Resolution is enclosed. It is the District's understanding that to make sure this reduction is effective it requires your approval under Title 24 of the Stanislaus County Code. The District requests that you take such action to approve this reduction.

Thank you for your consideration of this matter.

Yours sincerely,

STEWART W. JAMES

SWJ/gj  
Enclosure  
cc/enc: Stanislaus County Counsel  
Attn: Dean Wright  
cc: Hughson Fire Protection District

**HUGHSON FIRE PROTECTION DISTRICT**

**RESOLUTION NO. 2008-2**

**RESOLUTION APPROVING REDUCTION OF FIRE FACILITIES  
IMPACT FEE FOR GREENHOUSES TO \$0.071 PER SQUARE FOOT**

Whereas, pursuant to a study made in 2000 for the Hughson Fire Protection District ("District") the District Board in January, 2001 adopted fire facilities impact fees for new construction in the District, and the following month the Board of Supervisors of Stanislaus County adopted a Resolution authorizing the District to collect said fees as a condition to issuance of building permits within the District; the rate established for non-residential, including commercial, structures was set at \$0.20 per square foot (subsequently increased to \$0.22 per square foot); and

WHEREAS, in 2007 the Stanislaus County Superior Court, in the case of California Winelands, LLC vs. Hughson Fire Protection District (case no. 377927) determined that the District's rate, as applied to greenhouses, was excessive, and as a result of that litigation the District agreed to employ a consultant to ascertain and recommend an appropriate rate for greenhouses; and

WHEREAS, the District employed Wildan Financial Services for that purpose, and said consultant has recommended to the District a rate of \$0.071 per square foot for greenhouses only; and

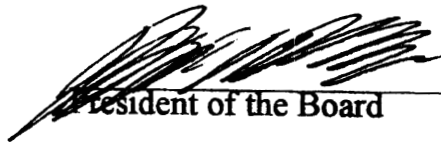
WHEREAS, the Board finds that it is in the District's interest that such rate be adopted, and be effective and applicable to a greenhouse for which a permit has recently been issued and with respect to which the impact fee at a higher rate has been paid under protest;

NOW, THEREFORE, BE IT RESOLVED by the Board of the Hughson Fire Protection District that the District's schedule of fire facilities impact fees be amended to show greenhouses as a separate category of structures and that the rate to be

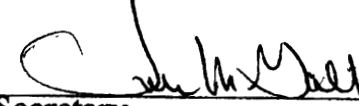
1 charged therefor be set at \$0.071 per square foot, to be applicable also to said recent  
2 greenhouse application for which a rate of \$0.11 has been paid under protest. This  
3 change shall be effective upon approval of the Stanislaus County Board of Supervisors.  
4

5 PASSED AND ADOPTED by the Board of the Hughson Fire Protection  
6 District at a regular meeting thereof duly held on August 13, 2008 by the following vote:

7 AYES: Directors RAK CAMALINA, RICH CAMAGNA, GOS VILLARREAL  
8 NOES: NONE KENN VOSS, DOUG HUMPHREYS  
9 ABSENT: NONE

10  
11   
12 President of the Board

13 ATTEST:

14   
15 Secretary