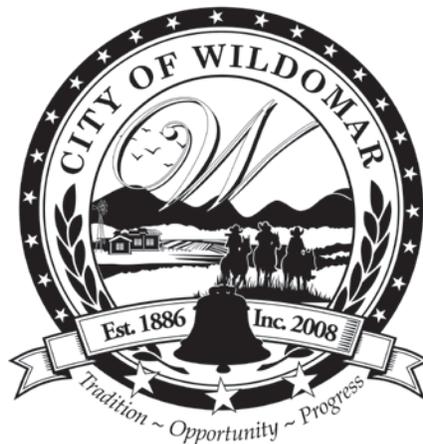


CITY OF WILDOMAR CITY COUNCIL AND  
WILDOMAR CEMETERY DISTRICT AGENDA

5:30 P.M. – CLOSED SESSION SPECIAL MEETING  
6:30 P.M. – REGULAR MEETING

JANUARY 11, 2012  
Council Chambers  
23873 Clinton Keith Road



Ben Benoit, Mayor/Chairman  
Timothy Walker, Mayor Pro Tem/Vice-Chairman  
Bob Cashman, Council Member/Trustee  
Bridgette Moore, Council Member/Trustee  
Marsha Swanson, Council Member/Trustee

City Manager/General Manager  
Frank Oviedo

City Attorney/District Attorney  
Julie Hayward Biggs

## **WILDOMAR CITY COUNCIL AND WILDOMAR CEMETERY DISTRICT REGULAR MEETING AGENDA JANUARY 11, 2012**

**ORDER OF BUSINESS:** Public sessions of all regular meetings of the City Council begin at 6:30 P.M. Closed Sessions begin at 5:30 p.m. or such other time as noted.

**REPORTS:** All agenda items and reports are available for review at: Wildomar City Hall, 23873 Clinton Keith Road; Mission Trail Library, 34303 Mission Trail Blvd.; and on the City's website, [www.cityofwildomar.org](http://www.cityofwildomar.org). Any writings or documents provided to a majority of the City Council regarding any item on this agenda (other than writings legally exempt from public disclosure) will be made available for public inspection at City Hall during regular business hours.

**PUBLIC COMMENTS:** Prior to the business portion of the agenda, the City Council will receive public comments regarding any items or matters within the jurisdiction of the governing body. The Mayor will separately call for testimony at the time of each public hearing. If you wish to speak, please complete a "Public Comment Card" available at the Chamber door. The completed form is to be submitted to the City Clerk prior to an individual being heard. Lengthy testimony should be presented to the Council in writing (15 copies) and only pertinent points presented orally. The time limit established for public comments is three minutes per speaker.

**ADDITIONS/DELETIONS:** Items of business may be added to the agenda upon a motion adopted by a minimum 2/3 vote finding that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the agenda being posted. Items may be deleted from the agenda upon request of staff or upon action of the Council.

**CONSENT CALENDAR:** Consent Calendar items will be acted on by one roll call vote unless Council members, staff, or the public request the item be discussed and/or removed from the Consent Calendar for separate action.

**PLEASE TURN ALL PHONES & OTHER DEVICES TO VIBRATE/MUTE/OFF  
FOR THE DURATION OF THE MEETING. YOUR COOPERATION IS  
APPRECIATED.**

**CALL TO ORDER – CLOSED SESSION 5:30 P.M.**

**ROLL CALL**

**PUBLIC COMMENTS**

**CLOSED SESSION**

The City Council will meet in closed session to confer with legal counsel with regard to one matter of potential initiation of litigation pursuant to the provisions of Government Code Section 54956.9(c). The underlying facts known to all parties relate to the processing of park assessment district refunds by the County of Riverside from general City of Wildomar revenues held by the County not collected by or from the park assessment district.

The City Council will meet in closed session to confer with legal counsel pursuant to the provisions of Government Code Section 54958.9(a) regarding potential initiation of one matter of litigation regarding breach of contract and enforcement of conditions of approval imposed by issuance of a Conditional Use Permit for the Waite Street Mobile Home Park.

The City Council will meet in closed session to confer with legal counsel pursuant to the provisions of Government Code Section 54958.9(b) with regard to one matter of pending litigation: *City of Wildomar v. WPCG*

**RECONVENE INTO OPEN SESSION**

**ANNOUNCEMENTS**

**ADJOURN CLOSED SESSION**

## **PASSING OF THE GAVEL**

Immediate Past Mayor passes the gavel to the new Mayor.

## **CALL TO ORDER – REGULAR SESSION - 6:30 P.M.**

## **ROLL CALL**

## **FLAG SALUTE**

## **PRESENTATIONS**

Recognition of 2011 Mayor - Marsha Swanson

Chamber of Commerce Update

Fire Department Monthly Update

Police Department Quarterly Update

Code Enforcement Quarterly Update

## **PUBLIC COMMENTS**

This is the time when the City Council receives general public comments regarding any items or matters within the jurisdiction of the City Council that do not appear on the agenda. Each speaker is asked to fill out a "Public Comments Card" available at the Chamber door and submit the card to the City Clerk. Lengthy testimony should be presented to the Council in writing (15 copies) and only pertinent points presented orally. The time limit established for public comments is three minutes per speaker. Prior to taking action on any open session agenda item, the public will be permitted to comment at the time it is considered by the City Council.

## **APPROVAL OF THE AGENDA AS PRESENTED**

The City Council to approve the agenda as it is herein presented, or, if it the desire of the City Council, the agenda can be reordered at this time.

### **1.0 CONSENT CALENDAR**

All matters listed under the Consent Calendar are considered routine and will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the Council, the Public, or Staff request that specific items are removed from the Consent Calendar for separate discussion and/or action.

#### **1.1 Reading of Ordinances**

**RECOMMENDATION:** Approve the reading by title only of all ordinances.

#### **1.2 Minutes – December 7, 2011 Special Meeting**

**RECOMMENDATION:** Staff recommends that the City Council approve the Minutes as presented.

#### **1.3 Minutes – December 14, 2011 Regular Meeting**

**RECOMMENDATION:** Staff recommends that the City Council approve the Minutes as presented.

#### **1.4 Warrant and Payroll Registers**

**RECOMMENDATION:** Staff recommends that the City Council approve the following:

1. Warrant Register dated December 8, 2011 in the amount of \$83,952.98;
2. Warrant Register dated December 15, 2011 in the amount of \$72,216.23;
3. Warrant Register dated December 22, 2011 in the amount of \$80,339.94;
4. Warrant Register dated December 29, 2011 in the amount of \$27,610.75;
5. Warrant Register dated January 5, 2012 in the amount of \$131,422.93; and
6. Payroll Register dated January 6, 2012 in the amount of \$74,705.23.

**1.5 Treasurer's Report**

**RECOMMENDATION:** Staff recommends that the City Council approve the Treasurer's Report for the month of November, 2011.

**1.6 Statement of Understanding (SOU) With Riverside County Office of Emergency Services and Consideration of the Disaster Corps Uniform Code of Conduct**

**RECOMMENDATION:** Staff recommends that the City Council:

1. Approve the SOU with Riverside County Office of Emergency Services to establish guidelines for collaboration and coordination between California Volunteers and the Disaster Corps Program and
2. Adopt the Disaster Corps Uniform Code of Conduct which will hold City of Wildomar volunteers to the highest standards of personal conduct, with the emphasis on professionalizing, coordinating, and connecting volunteers in the Disaster Corps program.

**1.7 Award of Homeland Security Grant Program FY11**

**RECOMMENDATION:** Staff recommends that the City Council accept \$5,153 in funding for Homeland Security Grant Program (HSGP) FY11 from the California Emergency Management Agency (CalEMA).

**1.8 Additional Emergency Management Performance Grant Funds**

**RECOMMENDATION:** Staff recommends that the City Council accept an additional \$3,641 in funding for FY09 Homeland Security Grant Program (HSGP) from the Riverside County Fire/OES.

**1.9 Disadvantaged Business Enterprise (DBE) Goal**

**RECOMMENDATION:** Staff recommends that the City Council:

1. Adopt a Resolution entitled:

RESOLUTION NO. 2012 - \_\_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, APPROVING THE ANNUAL  
ANTICIPATED DISADVANTAGED BUSINESS ENTERPRISE  
LEVEL

2. Adopt a Resolution entitled:

RESOLUTION NO. 2012 - \_\_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, AUTHORIZING THE CITY ENGINEER  
OR HIS DESIGNEE TO SIGN ALL RELATED DBE  
FORMS/AGREEMENTS, AND FUNDING AGREEMENTS TO  
RECEIVE FEDERAL GRANT FUNDS

**1.10 City Manager Contract Amendment**

**RECOMMENDATION:** Staff recommends that the City Council approve the Second Amendment to the Agreement for Employment for City Manager.

**1.11 Second Reading and Adoption of Ordinance No. 66 – Sex Offenders**

**RECOMMENDATION:** Staff recommends that the City Council adopt an Ordinance entitled:

ORDINANCE NO. 66  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, ADDING A NEW CHAPTER 9.55 TO THE  
WILDOMAR MUNICIPAL CODE RELATING TO SEX OFFENDER  
RESIDENCY AND LOITERING PROHIBITIONS

**2.0 PUBLIC HEARINGS**

**2.1 Zoning Ordinance Amendment No. 11-03 – Manufacturing Brewers**

**RECOMMENDATION:** The Planning Commission recommends that the City Council introduce and approve first reading of an Ordinance entitled:

ORDINANCE NO. \_\_\_\_\_  
A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, ADOPTING AN EXEMPTION FROM THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTION 15061(B)(3)  
OF CEQA AND APPROVING ZONING ORDINANCE AMENDMENT NO.  
11-03 AMENDING CHAPTER 17.100 (M-SC MANUFACTURING-  
SERVICE COMMERCIAL ZONE) AND 17.104 (M-M MANUFACTURING  
MEDIUM ZONE) OF THE CITY OF WILDOMAR ZONING ORDINANCE  
TO ALLOW MANUFACTURING BREWERS WITHIN AN EXISTING  
ENCLOSED BUILDING AS A PERMITTED USE

**2.2 Zoning Ordinance Amendment No. 11-02 - Receive and File Process and Appeal Procedures Clarification**

**RECOMMENDATION:** The Planning Commission recommends that the City Council introduce and approve first reading of an Ordinance entitled:

ORDINANCE NO. \_\_\_\_\_  
A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ADOPTING AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTION 15061(B)(3) OF CEQA AND APPROVING ZONING ORDINANCE AMENDMENT NO. 11-02 AMENDING CHAPTER 17.192 (PERMIT APPLICATIONS) OF THE CITY OF WILDOMAR ZONING ORDINANCE

**3.0 GENERAL BUSINESS**

**3.1 Proposed Cable Ski Park Presentation**

**RECOMMENDATION:** Staff recommends that the City Council receive and file the presentation.

**3.2 Update on RV/Mini-Storage Moratorium**

**RECOMMENDATION:** Staff recommends that the City Council discuss the current moratorium related to boat storage, recreational vehicle storage, self-storage facilities and mini-warehouse uses in commercial and residential zones, and provide Staff with direction on whether to proceed with a Zoning Ordinance Amendment.

**3.3 Stop Sign on Perla Place at Brillante Drive**

**RECOMMENDATION:** Staff recommends that the City Council adopt a Resolution entitled:

RESOLUTION NO. 2012 - \_\_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, AUTHORIZING THE INSTALLATION OF A STOP SIGN ON NORTHBOUND PERLA PLACE AT BRILLANTE DRIVE

**3.4 Resolution Requesting Extension of Repayment Time Period for Transition Year Services**

**RECOMMENDATION:** Staff recommends that the City Council adopt a Resolution entitled:

RESOLUTION NO. 2012 - \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, REQUESTING EXTENSION OF TIME FOR REPAYMENT OF TRANSITION YEAR SERVICES COSTS TO COUNTY OF RIVERSIDE

**3.5 Update Regarding Medical Marijuana Following Appellate Ruling in City of Riverside v. Inland Empire Patient's Health and Wellness Center**

**RECOMMENDATION:** Staff recommends that the City Council consider implications of the ruling in *City of Riverside v. Inland Empire Patient's Health and Wellness Center* with regard to enforcement options in the City of Wildomar and give direction to staff.

**CITY MANAGER REPORT**

**CITY ATTORNEY REPORT**

**COUNCIL COMMUNICATIONS**

**FUTURE AGENDA ITEMS**

**ADJOURN THE CITY COUNCIL**

In accordance with Government Code Section 54952.3, I, Debbie A. Lee, City Clerk of the City of Wildomar, do hereby announce the following:

In accordance with Resolution No. WCD2011 - 04 of the Wildomar Cemetery District, the Board of Trustees will receive no compensation or stipend for the convening of the following regular meeting of the Wildomar Cemetery District.

## **CONVENE WILDOMAR CEMETERY DISTRICT**

### **CALL TO ORDER**

### **ROLL CALL**

### **PUBLIC COMMENTS**

This is the time when the Board of Trustees receives general public comments regarding any items or matters within the jurisdiction of the Wildomar Cemetery District that do not appear on the agenda. Each speaker is asked to fill out a "Public Comments Card" available at the Chamber door and submit the card to the Clerk of the Board. Lengthy testimony should be presented to the Board in writing (15 copies) and only pertinent points presented orally. The time limit established for public comments is three minutes per speaker. Prior to taking action on any open session agenda item, the public will be permitted to comment at the time it is considered by the Board.

### **APPROVAL OF THE AGENDA AS PRESENTED**

The Board of Trustees to approve the agenda as it is herein presented, or if it the desire of the Board, the agenda can be reordered at this time.

## **4.0 CONSENT CALENDAR**

All matters listed under the Consent Calendar are considered routine and will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the Board, the Public, or Staff request that specific items are removed from the Consent Calendar for separate discussion and/or action.

### **4.1 Minutes – December 14, 2011 Regular Meeting**

**RECOMMENDATION:** Staff recommends that the Board of Trustees approve the Minutes as presented.

### **4.2 Warrant Register**

**RECOMMENDATION:** Staff recommends that the Board of Trustees approve Warrant Register dated January 5, 2012, in the amount of \$8,171.08.

### **4.3 Treasurer’s Report – September, 2011**

**RECOMMENDATION:** Staff recommends that the Board of Trustees approve the Treasurer’s Report for September, 2011.

### **4.4 Treasurer’s Report – October, 2011**

**RECOMMENDATION:** Staff recommends that the Board of Trustees approve the Treasurer’s Report for October, 2011.

### **4.5 Treasurer’s Report – November, 2011**

**RECOMMENDATION:** Staff recommends that the Board of Trustees approve the Treasurer’s Report for November, 2011.

## **5.0 PUBLIC HEARINGS**

There are no items scheduled.

## **6.0 GENERAL BUSINESS**

There are no items scheduled.

## **GENERAL MANAGER REPORT**

**CEMETERY DISTRICT ATTORNEY REPORT**

**BOARD COMMUNICATIONS**

**FUTURE AGENDA ITEMS**

**ADJOURN WILDOMAR CEMETERY DISTRICT**

**2012 City Council/Wildomar Cemetery District Regular Meeting Schedule**

February 8	August 8
March 7	September 12
April 11	October 10
May 9	November 14
June 13	December 12
July 11	

If requested, the agenda and backup materials will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans With Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

Any person that requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting, may request such modification, accommodation, aid or service by contacting the City Clerk either in person or by phone at 951/677-7751, no later than 10:00 a.m. on the day preceding the scheduled meeting.

I, Debbie A. Lee, Wildomar City Clerk, do certify that on January 6, 2012, by 5:00 p.m., a true and correct copy of this agenda was posted at the three designated posting locations:

Wildomar City Hall, 23873 Clinton Keith Road,  
U.S. Post Office, 21392 Palomar Street,  
Mission Trail Library, 34303 Mission Trail Blvd.

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Debbie A. Lee, CMC  
City Clerk

**CITY OF WILDOMAR  
CITY COUNCIL AND PLANNING COMMISSION  
SPECIAL MEETING MINUTES  
DECEMBER 7, 2011**

**CALL TO ORDER – CLOSED SESSION - 5:30 P.M.**

The special meeting of December 7, 2011, of the Wildomar City Council and Planning Commission was called to order by Mayor Swanson at 5:30 p.m.

City Council Roll Call showed the following Members in attendance: Mayor Swanson, Mayor Pro Tem Benoit, Council Members Cashman, Moore, Walker. Members absent: None.

Planning Commission Roll Call showed the following Members in attendance: Chairman Dykstra, Vice Chairman Smith, Commissioners Devine, Kazmier, Langworthy.

Staff in attendance: City Manager Oviedo, Assistant City Manager Nordquist, City Attorney Biggs, Planning Director Bassi, and City Clerk Lee.

The flag salute was led by Councilwoman Moore.

**PUBLIC COMMENTS**

There were none.

**1.0 SPECIAL MEETING**

**1.1 City of Wildomar Housing Element Update (2006–2013)**

City Clerk Lee read the title.

Planning Director Bassi presented the staff report.

Jennifer Gastelum, Housing Manager, PMC, presented the housing element that they updated since the last workshop.

Discussion ensued regarding affordable housing numbers and allocation for future housing; Emergency shelters; and IP Zones.

Rick Estes, resident, stated he is questioning the process that went into the picking of the parcels for high density housing. This will set off an

important process. He is urging that the process be slowed down and look at other areas.

Ms. Gastelum stated these are the sites that we are proposing to the State that this is the City's plan at this point. The City does have the ability to re-designate and re-identify after the submittal.

Discussion ensued regarding circumstances that may trigger the need to have a different site; and Zoning changes.

**A MOTION** was made by Commissioner Devine, seconded by Commissioner Kazmier, to authorize staff to submit the Draft City of Wildomar Housing Element to the California Department of Housing and Community Development (HCD) for a 60-day review.

**MOTION** carried, 5-0.

**A MOTION** was made by Mayor Pro Tem Benoit, seconded by Councilman Walker, to authorize staff to submit the Draft City of Wildomar Housing Element to the California Department of Housing and Community Development (HCD) for a 60-day review.

**MOTION** carried, 5-0.

## **ADJOURNMENT**

There being no further business, Mayor Swanson declared the meeting adjourned at 6:16 p.m.

Submitted by:

Approved by:

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Debbie A. Lee, CMC  
City Clerk

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Ben J. Benoit  
Mayor

**CITY OF WILDOMAR  
CITY COUNCIL REGULAR MEETING MINUTES  
DECEMBER 14, 2011**

**CALL TO ORDER – CLOSED SESSION - 5:30 P.M.**

The closed session of December 14, 2011, of the Wildomar City Council was called to order by Mayor Swanson at 5:35 p.m.

City Council Roll Call showed the following Members in attendance: Mayor Swanson, Mayor Pro Tem Benoit, Council Members Cashman, Moore, Walker. Members absent: None.

Staff in attendance: City Manager Oviedo, Assistant City Manager Nordquist, City Attorney Biggs and City Clerk Lee.

**PUBLIC COMMENTS**

There were no speakers.

**CLOSED SESSION**

City Clerk Lee announced the following:

1. The City Council will meet in closed session pursuant to the provisions of Government Code Section 54957 with regard to the following personnel matter: Performance Evaluation: City Manager.
2. The City Council will meet in closed session to confer with legal counsel with regard to one matter of potential initiation of litigation pursuant to the provisions of Government Code Section 54956.9(c). The underlying facts known to all parties relate to the processing of park assessment district refunds by the County of Riverside from general City of Wildomar revenues held by the County not collected by or from the park assessment district.

At 5:35 p.m. the City Council convened into closed session, with all Council Members present.

**RECONVENE INTO OPEN SESSION**

At 6:38 p.m. the City Council reconvened into open session, with all Council

Members present, making the following announcement:

City Attorney Biggs stated the City Council met in closed session regarding two matters. The first matter was the City Manager's review. Mr. Oviedo is not seeking an increase in compensation, however the City Council acknowledges under normal circumstances his performance would merit a salary increase. The Council agreed that under present economic times a salary increase is not realistic. While it was a very positive evaluation, there will be no change in the City Manager's salary compensation. There were some agreed upon changes to the City Manager's contract. The first is the termination without cause and severance provision will reset to a nine months severance package starting in January 2012. It will reduce by one month for the next three years. Also, the Council agreed to take whatever action is necessary to permit the City Manager to attend the League of California Cities City Manager's Department annual conference in February, 2012. The City Manager has been selected to give a presentation at that conference with Assistant City Attorney Jex. In order for him to give the presentation he must be registered for the conference. This was approved, 5-0, by the Council on a motion by Mayor Pro Tem Benoit, seconded by Mayor Swanson. On the other matter relating to the park assessment fees, there was no reportable action.

### **ADJOURN CLOSED SESSION**

There being no further business, Mayor Swanson declared the closed session meeting adjourned at 6:40 p.m.

### **CALL TO ORDER – REGULAR SESSION - 6:30 P.M.**

The regular meeting of December 14, 2011, of the Wildomar City Council was called to order by Mayor Swanson 6:40 p.m.

City Council Roll Call showed the following Members in attendance: Mayor Swanson, Mayor Pro Tem Benoit, Council Members Cashman, Moore, Walker. Members absent: None.

Staff in attendance: City Manager Oviedo, Assistant City Manager Nordquist, City Attorney Biggs, Public Works Director D'Zmura, Planning Director Bassi, Community Services Director Willette, Assistant Police Chief Adams, and City Clerk Lee.

The Flag Salute was led by Councilman Walker.

## **PRESENTATIONS**

Mayor Swanson presented certificates to the Wildomar Pop Warner Football Team who won the Pacific Region West Coast Champions title.

Mayor Swanson presented certificates to the Wildomar Pop Warner Cheer and Dance Nationals, who won Second Place in the National Champs Sideline Competition title.

Fire Chief Beach was not available but did send the Fire Department monthly update.

## **PUBLIC COMMENTS**

Glenn Copple, Original Christmas Tree Lane, thanked everyone for their help with a very successful event.

Dionna Fitch, Sycamore Academy, thanked the Council for their continued support of the Academy.

James Johnson, resident, stated he is a veteran and a purple heart recipient and he is greatly disappointed with the Council. He cannot understand why the light bulb has not been changed out on the light which illuminates the American flag in front of City Hall. He came to the November meeting to report that the light was out and was assured the light would be fixed. He came by later in the week and found that not only was the light not on but the flag has been taken down. He asked for an explanation.

Councilwoman Moore answered that the bulb was changed, but it was found that it is not the bulb but the wiring to the unit. The City does not own the building and had to ask to put the flag pole in and a light to shine on it. This was done by the building owner and not the City. The City has reported the problem to the owners for them to repair the light. The flag was taken down because the flag would not be properly illuminated at night until the light is fixed.

City Manager Oviedo stated that the property management company is currently looking into the problem with the electrical.

Michelle Watters, Sycamore Academy, thanked the Council for their support of Sycamore Academy.

## **APPROVAL OF THE AGENDA AS PRESENTED**

**A MOTION** was made by Mayor Pro Tem Benoit, seconded by Councilman Walker, to approve the agenda as presented.

**MOTION** carried, 5-0.

### **1.0 CONSENT CALENDAR**

City Clerk Lee advised that an amendment was done to item #1.3 and a copy of the amendment has been given to each Council Member. She then asked Mr. Rasmussen if he still wished to speak to the item.

Mr. Rasmussen stated if the Council is approving the amendment he does not wish to speak.

**A MOTION** was made by Mayor Pro Tem Benoit, seconded by Councilman Walker, to approve the consent calendar as amended.

**MOTION** carried, 5-0.

#### **1.1 Reading of Ordinances**

Approved the reading by title only of all ordinances.

#### **1.2 Minutes – October 12, 2011 Regular Meeting**

Approved the Minutes as presented.

#### **1.3 Minutes – November 9, 2011 Regular Meeting**

Approved the Minutes as amended.

#### **1.4 Minutes – November 29, 2011 Special Meeting**

Approved the Minutes as presented.

#### **1.5 Warrant and Payroll Registers**

Approved the following:

1. Warrant Register dated November 3, 2011 in the amount of \$27,163.36;
2. Warrant Register dated November 11, 2011 in the amount of \$145,738.46;
3. Warrant Register dated November 23, 2011 in the amount of \$25,673.94;
4. Warrant Register dated December 1, 2011 in the amount of

- \$90,054.99; and  
5. Payroll Register dated December 1, 2011 in the amount of \$40,735.94.

**1.6 Treasurer's Report**

Approved the Treasurer's Report for the month of August, 2011.

**1.7 Treasurer's Report**

Approved the Treasurer's Report for the month of September, 2011.

**1.8 Treasurer's Report**

Approved the Treasurer's Report for the month of October, 2011.

**1.9 Proclamation Rescinding the Open Burn Ban**

Adopted a Proclamation rescinding the Open Burn Ban Proclamation implemented on July 13, 2011.

**1.10 Extension of Time for Plot Plan 23333 (Project 08-0166) - Located at Clinton Keith Road and Stable Lanes Road**

Adopted a Resolution entitled:

RESOLUTION NO. 2011 - 54

A RESOLUTION OF CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, APPROVING A ONE-YEAR EXTENSION OF TIME TO OCTOBER 28, 2012 FOR PLOT PLAN NO. 23333 (PROJECT 08-0166) FOR THE DEVELOPMENT OF TWO COMMERCIAL RETAIL BUILDINGS TOTALING 20,894 SQUARE FEET AND A 9,305 SQUARE-FOOT DAYCARE FACILITY ON A 4.16 ACRE SITE LOCATED AT THE INTERSECTION OF CLINTON KEITH ROAD AND STABLE LANES ROAD (APN: 380-120-012 & 380-120-013)

**1.11 Authorization to Participate in the Riverside County EDA Mortgage Credit Certification (MCC) Program**

Adopted a Resolution entitled:

RESOLUTION NO. 2011 - 55

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, PARTICIPATING WITH THE COUNTY OF RIVERSIDE MORTGAGE CREDIT CERTIFICATE (MCC) PROGRAM

**1.12 Accept Drainage Easements Related to Tract 30155 and Quitclaim Them to Riverside County Flood Control District**

Adopted Resolutions entitled:

RESOLUTION NO. 2011- 56  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE  
CERTIFICATES OF ACCEPTANCE FOR SEVEN DRAINAGE  
EASEMENTS RELATED TO TRACT 30155

And

RESOLUTION NO. 2011- 57  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE  
QUITCLAIM DEEDS FOR EIGHT DRAINAGE EASEMENTS TO THE  
RIVERSIDE COUNTY FLOOD CONTROL AND WATER  
CONSERVATION DISTRICT

**1.13 Second Reading and Adoption of Ordinance No. 65 – Repealing the E-Verify Program**

Adopted an Ordinance entitled:

ORDINANCE NO. 65  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, REPEALING CHAPTER 3.09 OF THE  
WILDOMAR MUNICIPAL CODE PERTAINING TO THE E-VERIFY  
PROGRAM

**2.0 PUBLIC HEARINGS**

**2.1 FY 2011 – 12 First Quarter Budget Report**

City Clerk Lee read the title.

Mayor Swanson opened the public hearing.

Assistant City Manager Nordquist presented the staff report.

There being no speakers, Mayor Swanson closed the public hearing.

**A MOTION** was made by Councilwoman Moore, seconded by Mayor Pro Tem Benoit, to adopt a Resolution entitled:

RESOLUTION NO. 2011 - 58  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,

CALIFORNIA, AUTHORIZING AMENDMENTS TO THE FY 2011-12  
BUDGETED REVENUES AND EXPENSES

**MOTION** carried, 5-0.

**2.2 Allocation of Community Development Block Grant Funds**

City Clerk Lee read the title.

Mayor Swanson opened the public hearing.

Assistant City Manager Nordquist presented the staff report.

**SPEAKERS:**

Gary Andre, Chairman of the Wildomar Community Council (WCC) Multi-Use Trails Committee, speaking with time donated by Gil Rasmussen, stated he would like to receive money for trails but where it really belongs is with HOPE. He sees kids walking home from school and they have to walk in the street because there is no sidewalk and people are parked at the side of the road blocking people from walking along the side of the road. They would like to see some money for trails, but HOPE is very important right now.

Ron Hewison, HOPE, stated the "E" in HOPE covers the Lake Elsinore School District, so they don't just serve Lake Elsinore. They currently have over 400 families in Wildomar that they serve. They serve seniors, the disabled, and single parent households. They sincerely appreciate the support of Wildomar and the residents.

There being no further speakers Mayor Swanson closed the public hearing.

Mayor Swanson stated we have \$15,000 to disperse between the applicants, with a minimum of \$5,000.

Councilwoman Moore stated it sounds like the WCC is taking themselves out of the running, is that correct?

Mr. Andre answered no. If there was a majority to go to an entity, he would put the majority to HOPE, and then the WCC would take some.

Kristan Lloyd, WCC, stated the Board voted to participate in the grant and

she appreciates what Mr. Andre is saying. However, the WCC is concerned with the safety of the kids in the area they are targeting. They would like to clean up the sides of the roadways where kids are walking to make it safer for them. That is what the committee voted on.

Mayor Pro Tem Benoit inquired are you talking about fencing.

Ms. Lloyd answered no. We will be talking with the City regarding the project. These are easements that have already been set aside.

Mayor Pro Tem Benoit inquired if any easements are already set aside.

Ms. Lloyd answered she doesn't know.

Discussion ensued regarding trails and easements.

Mayor Swanson stated she read that this also includes graffiti clean-up, would this be part of the project.

Ms. Lloyd answered yes.

Community Services Director stated the trails and the graffiti clean-up are two different projects.

Councilman Cashman stated there is no other organization out there that is getting volunteers for graffiti abatement, so if it takes \$5,000 then let's give them that.

Mayor Swanson stated how to allocate the other \$10,000.

It was the consensus of the City Council to allocate the \$10,000 to HOPE.

**A MOTION** was made by Councilman Cashman, seconded by Mayor Pro Tem Benoit, to allocate \$10,000 to HOPE, and \$5,000 to the WCC for graffiti abatement, and to adopt a Resolution entitled:

RESOLUTION NO. 2011 - 59  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, AUTHORIZING THE ALLOCATION  
OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR  
FISCAL YEAR 2012/2013

and authorize the City Manager to execute all related application and

agreements.

**MOTION** carried, 5-0.

### **2.3 User Fees Review**

City Clerk Lee read the title.

Mayor Swanson opened the public hearing.

Assistant City Manager Nordquist presented the staff report.

City Clerk Lee advised that the recommendation should be to continue the item to the February 8, 2012 meeting instead of February 15, 2012.

**A MOTION** was made by Councilwoman Moore, seconded by Councilman Walker, to continue the item to the February 8, 2012 meeting.

**MOTION** carried, 5-0.

## **3.0 GENERAL BUSINESS**

### **3.1 Bundy Canyon Road Project Update**

City Clerk Lee read the title.

Public Works Director D’Zmura presented the staff report.

Patty Romo, Riverside County’s Deputy Director of Transportation and Land Management Agency, gave an update of the Bundy Canyon Road project and other projects in the area.

### **3.2 Clinton Keith Interchange Construction Project Update and Project Communication Coordination**

City Clerk Lee read the title.

Public Works Director D’Zmura presented the staff report.

Dennis Green, President, Green Com, Inc., stated he will be heading up the public communications regarding the project. He will be keeping the public and the Council and City informed at every step of project. He

reviewed the various ways he will get the word out to everyone. He will also handle complaints and concerns.

City Manager Oviedo suggested that Mr. Green be invited to the next Economic Development Roundtable meeting in January to meet with the retailers and Developers that will be attending. This would be good so they can hear what is being planned, how this will affect their businesses and development, and meet with Mr. Green so they have a contact during the 18 month process.

**3.3 Acquire Right of Way and Temporary Construction Easement for the Sidewalks to Schools Improvement Project (CIP 09-0014)**

City Clerk Lee read the title.

Public Works Director D'Zmura presented the staff report.

**A MOTION** was made by Councilwoman Moore, seconded by Mayor Pro Tem Benoit, to adopt a Resolution entitled:

RESOLUTION NO. 2011 - 60  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN  
ACQUISITION AGREEMENT, AND CERTIFICATES OF ACCEPTANCE  
FOR A GRANT OF PUBLIC RIGHT OF WAY AND A TEMPORARY  
CONSTRUCTION EASEMENT FOR THE SIDEWALKS TO SCHOOLS  
IMPROVEMENTS PROJECT (CIP 09-0014)

**MOTION** carried, 5-0.

**3.4 Collier Elementary Sidewalk and Accessibility Improvement Project**

City Clerk Lee read the title.

Public Works Director D'Zmura presented the staff report.

Councilwoman Moore stated on Union there is a big dip there and gets flooded during the rains.

Public Works Director D'Zmura stated that Staff will incorporate that into the project during the design phase to address that issue.

**A MOTION** was made by Mayor Pro Tem Benoit, seconded by

Councilwoman Moore, to adopt a Resolution entitled:

RESOLUTION NO. 2011 - 61  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, AMENDING THE FISCAL YEAR 2011/12 BUDGET AND  
RELATED CAPITAL IMPROVEMENT PROGRAM TO REFLECT A  
FEDERAL SAFE ROUTES TO SCHOOL GRANT TOTALING \$503,900  
FOR THE COLLIER ELEMENTARY SIDEWALK AND ACCESSIBILITY  
IMPROVEMENT PROJECT

**MOTION** carried, 5-0.

**3.5 Sex Offender Residency and Loitering Prohibition Ordinance**

City Clerk Lee read the title.

City Attorney Biggs presented the staff report.

**A MOTION** was made by Councilwoman Moore, seconded by Mayor Pro Tem Benoit, to introduce and approve first reading of an Ordinance entitled:

ORDINANCE NO. 66  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
WILDOMAR, CALIFORNIA, ADDING A NEW CHAPTER 9.55 TO THE  
WILDOMAR MUNICIPAL CODE RELATING TO SEX OFFENDER  
RESIDENCY AND LOITERING PROHIBITIONS

**MOTION** carried, 5-0.

**3.6 Mayor and Mayor Pro Tem Appointment for 2012**

City Clerk Lee read the title and then presented the staff report.

Mayor Swanson turned over the meeting to the City Clerk for nominations and election of the Mayor and Mayor Pro Tem for 2012.

City Clerk Lee opened the floor for nominations for Mayor for 2012.

Mayor Swanson nominated Mayor Pro Tem Benoit.

Hearing no further nominations City Clerk Lee closed the nominations and called for the vote.

On a 5-0 vote, Mayor Pro Tem Benoit was elected Mayor for 2012.

City Clerk Lee opened the floor for nominations for Mayor Pro Tem for 2012.

Mayor Pro Tem Benoit nominated Councilman Walker.

Hearing no further nominations City Clerk Lee closed the nominations and called for the vote.

On a 5-0 vote, Councilman Walker was elected Mayor Pro Tem for 2012.

### **3.7 Committees, Commissions, and Boards Appointments**

City Clerk Lee read the title and then presented the staff report.

It was the consensus of the City Council to keep the appointments as they are presently.

## **RECESS THE CITY COUNCIL**

At 7:59 p.m. Mayor Swanson recessed the City Council meeting until after the Wildomar Cemetery District meeting.

## **RECONVENE THE CITY COUNCIL**

At 8:05 p.m. Mayor Swanson reconvened the City Council meeting with all Council Members present.

## **CITY MANAGER REPORT**

City Manager Oviedo reported that the City of Jurupa Valley has a meeting scheduled with the Governor's Office next week. That meeting was being confused with the meeting our Lobbyists were trying to set up with the Governor. Also the Subcommittee will be meeting with Supervisor Buster next week at his office in Riverside. At the January 11 regular meeting Staff will bring forward a Resolution requesting deferral of the City's first year costs. This is being requested by the County to formalize the agreement. Finally, we did receive the sales tax numbers for the last quarter and they are up from the last report.

## **CITY ATTORNEY REPORT**

There was no report.

## **COUNCIL COMMUNICATIONS**

Councilman Cashman wished everyone a Merry Christmas.

Mayor Pro Tem wished everyone a Merry Christmas. He then reported that SCAG is working on a draft 2012/2035 Regional Transportation Plan. This is a workshop for elected officials to be held on January 20, 2012 at 10:00 a.m. at the County Administration Offices in Riverside. There has been a great deal of back and forth regarding the last piece of property needed to build the Clinton Keith Road project. More monies were needed and RCTC approved an additional \$24 million to purchase the property for the RCHCA to secure the Federal permit regarding endangered species.

Councilwoman Moore stated this Saturday is the annual breakfast with Santa at the Fire Station. She is also selling Bingo tickets for the Friends of Wildomar Parks fundraiser at the Elks Lodge on January 15. She attended: Highway 395 Corridor project meeting; Riverside County Sheriff's Blue Light ceremony; Elks Christmas Tree Lane; Community Outreach Ministry; and the SCEIU breakfast.

Councilman Walker stated the Subcommittee met with the EVMWD and got an update on projects. He wished everyone a Merry Christmas and a Happy Hanukah.

Mayor Swanson stated she judged at the Christmas Tree Lane event. She thanked Mayor Pro Tem Benoit for the iPad training session earlier. She then thanked the Council for a great year as Mayor. She also thanked the Staff for all of the support given to her. She then wished everyone a Merry Christmas.

## **FUTURE AGENDA ITEMS**

\*Zoning on County owned lands in Wildomar

## **ADJOURNMENT**

There being no further business, at 8:18 p.m. Mayor Swanson declared the City Council meeting adjourned.

Submitted by:

Approved by:

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Debbie A. Lee, CMC  
City Clerk

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Ben J. Benoit  
Mayor

**CITY OF WILDOMAR CITY COUNCIL**  
**Agenda Item#1.4**  
**CONSENT CALENDAR**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members  
**FROM:** Gary Nordquist, Assistant City Manager  
**SUBJECT:** Warrant and Payroll Registers

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council approve the following:

1. Warrant Register dated December 8, 2011 in the amount of \$83,952.98;
2. Warrant Register dated December 15, 2011 in the amount of \$72,216.23;
3. Warrant Register dated December 22, 2011 in the amount of \$80,339.94;
4. Warrant Register dated December 29, 2011 in the amount of \$27,610.75;
5. Warrant Register dated January 5, 2012 in the amount of \$131,422.93; and
6. Payroll Register dated January 6, 2012 in the amount of \$74,705.23.

**DISCUSSION:**

The City of Wildomar requires that the City Council audit payments of demands and direct the City Manager to issue checks. The Warrant and Payroll Registers are submitted for approval.

**FISCAL IMPACT:**

These Warrant and Payroll Registers will have a budgetary impact in the amount noted in the recommendation section of this report. These costs are included in the Fiscal Year 2011-12 Budget.

Submitted by:

Approved by:

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Gary Nordquist  
Assistant City Manager

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Frank Oviedo  
City Manager

**ATTACHMENTS:**

Voucher List 12/8/2011

Voucher List 12/15/2011

Voucher List 12/22/2011

Voucher List 12/29/2011

Voucher List 1/5/2012

Payroll Warrant Register January 6, 2012

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Voucher List  
City of Wildomar

Page: 1

Bank code : wf

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
200880	12/8/2011	000033 AMERICAN FORENSIC NURSES	60701		BLOOD DRAW	41.08
			60720		BLOOD DRAW	82.16
			60764		BLOOD DRAW	82.16
			60782		BLOOD DRAW	410.80
					Total :	616.20
200881	12/8/2011	000008 AT&T MOBILITY	11282011		COUNCIL MOBILE PHONES 10/21-1	112.69
					Total :	112.69
200882	12/8/2011	000034 BIO-TOX LABORATORIES	24222		RC SHERIFF - LAB SERVICES	68.46
			24223		RC SHERIFF - LAB SERVICES	390.00
					Total :	458.46
200883	12/8/2011	000047 COUNTY OF RIVERSIDE, SHERIFF'S DEI	SH0000017978		BOOKING FEES FY10/11	1,543.83
					Total :	1,543.83
200884	12/8/2011	000002 CRYSTAL CLEAN MAINTENANCE	1203		JANITORIAL SRVCS - CITY HALL DE	698.00
					Total :	698.00
200885	12/8/2011	000058 DEPARTMENT OF JUSTICE	880899		BLOOD ALCOHOL ANALYSES OCT/	35.00
					Total :	35.00
200886	12/8/2011	000022 EDISON	12211		CSA 103 PALOMAR ELECTRICAL 11	33.69
			12211A		ZONE 73 - LMD 89 ELECTRICAL 11/	83.43
					Total :	117.12
200887	12/8/2011	000012 ELSINORE VALLEY MUNICIPAL, WATER	5242940		WATER SRVCS CSA 103 10/27-11/2/	62.52
			5242941		WATER SRVCS CSA 103 10/27-11/2/	152.04
					Total :	214.56
200888	12/8/2011	000079 LAN WAN ENTERPRISE	42085		MAINTENANCE CONTRACT DEC 20	450.00
					Total :	450.00
200889	12/8/2011	000346 MERITAGE HOMES CO.	12711		REFUND FOR TUMF FEES PAID IN I	70,884.00
					Total :	70,884.00
200890	12/8/2011	000040 MPS	40202		CODE ENFORCEMENT CITATIONS	1,034.40

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Voucher List  
City of Wildomar

Page: 2

Bank code : wf

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
200890	12/8/2011	000040 000040 MPS	(Continued)		Total :	1,034.40
200891	12/8/2011	000084 MUNISERVICES, LLC	0000026441		SUTA SRVCS QRTR ENDING JUNE	4,858.75
					Total :	4,858.75
200892	12/8/2011	000020 VERIZON	11211	0000032	FIOS SERVICES 11/22-12/21/11	109.99
					Total :	109.99
200893	12/8/2011	000006 WELLS FARGO PAYMENT REMITTANCE,	102211		MAYOR'S BALL SUPPLIES	8.01
			102211		MAYOR'S BALL SUPPLIES	6.04
			102211		CITY COUNCIL MEETING SUPPLIES	41.97
			102511		NON-DEPARTMENTAL OFFICE SUP	66.96
			102511		IAEM CONFERENCE (TRAVEL GRAI	300.00
			102511		POSTAGE FOR CDBG TO EDA	9.20
			102511		MAYOR'S BALL CATERING	924.63
			102611		FIRE STATION EXPENSES	46.81
			102711		ECONOMIC DEVELOPMENT SUPPL	18.37
			102711		ECONOMIC DEVELOPMENT SUPPL	12.95
			102711		ECONOMIC DEVELOPMENT SUPPL	4.20
			11111		FY 09 GRANT - HANDHELD RADIOS	276.77
			111211		REFUND FOR IAEM CLASS REGIS'	-150.00
			111211		IAEM CONFERENCE TRAVEL EXPE	7.03
			111311		QUICKBOOKS MONTHLY SUBSCRIB	20.97
			111311		IAEM CONFERENCE TRAVEL EXPE	12.95
			111511		FIRST AID SPEAKERS	24.00
			111811		IAEM CONFERENCE TRAVEL EXPE	625.45
			11211		OFFICE SUPPLIES	148.23
			11211		CITY COUNCIL MEETING SUPPLIES	41.35
			11311		NON-DEPARTMENTAL OFFICE SUP	36.69
			11511		COMMUNITY CLEAN UP SUPPLIES	23.00
			11511		COMMUNITY CLEAN UP SUPPLIES	38.85
			11911		NON-DEPARTMENTAL OFFICE SUP	78.01
			11911		CITY COUNCIL MEETING SUPPLIES	109.74
					Total :	2,719.98
14 Vouchers for bank code : wf						Bank total : 83,952.98

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Voucher List  
City of Wildomar

Page: 1

Bank code : wf

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
200894	12/15/2011	000031 AFLAC, REMITTANCE PROCESSING, CE	238977		MEDICAL INSURANCE BENEFITS J	475.45
					Total :	475.45
200895	12/15/2011	000007 ANIMAL FRIENDS OF THE VALLEY,, INC. OCT11			ANIMAL CONTROL SERVICES OCT	5,600.00
					Total :	5,600.00
200896	12/15/2011	000188 CALIFORNIA MUNICIPAL, STATISTICS, IN	11120202		DIRECT & OVERLAPPING DEBT ST/	450.00
					Total :	450.00
200897	12/15/2011	000036 DATAQUICK	B1-1989139		CODE ENF. SOFTWARE 11/1/11-11/	150.00
					Total :	150.00
200898	12/15/2011	000334 DUSK, LLC C/O KENNEDY WILSON, PRC	121411		CITY HALL MONTHLY LEASE NOV 8	18,074.78
			121411		CREDIT FOR OCT 2011 CITY HALL I	-1,077.17
					Total :	16,997.61
200899	12/15/2011	000022 EDISON	12811		CITY LAMPS ELECTRICAL 11/1-12/1	376.30
			12811A		CSA 22 ELECTRICAL 11/1/11-12/1/11	3,016.40
			12811B		CSA 103 ELECTRICAL 11/1/11-12/1/	13,397.81
			12911		CSA 142 ELECTRICAL 11/1/11-12/1/	2,014.21
					Total :	18,804.72
200900	12/15/2011	000197 GOVERNMENT FINANCE OFFICERS, AS	121411		APP FEE FOR CERT OF ACHIEVEM	435.00
					Total :	435.00
200901	12/15/2011	000194 HDL COREN AND CONE	0017720-IN		CAFR SERVICES - FY 10/11 STAT R	595.00
					Total :	595.00
200902	12/15/2011	000016 INNOVATIVE DOCUMENT SOLUTIONS	110445		CONTRACT COPIER SRVCS 11/1/11	394.90
					Total :	394.90
200903	12/15/2011	000049 NORTH COUNTY TIMES	2304248		PUBLIC HEARING NTCE ZOA 11-02	121.76
			2304596		PUBLIC HEARING NTCE ZOA 11-03	128.84
					Total :	250.60
200904	12/15/2011	000018 ONTRAC	7289688		OVERNIGHT DELIVERY SERVICES	19.10

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Voucher List  
City of Wildomar

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Bank code : wf

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
200904	12/15/2011	000018	000018 ONTRAC		(Continued)	Total : 19.10
200905	12/15/2011	000047	RIVERSIDE COUNTY, SHERIFF'S DEPAR	SH0000017674	RIVERSIDE CAL-ID FY 11/12	27,440.00
						Total : 27,440.00
200906	12/15/2011	000020	VERIZON	12111	TELEPHONE CHARGES 12/1-12/31/	35.67
				12111A	OFFICE TELEPHONE CHRGS 12/1-	568.18
						Total : 603.85
13 Vouchers for bank code : wf						Bank total : 72,216.23
13 Vouchers in this report						Total vouchers : 72,216.23

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Voucher List  
City of Wildomar

Page: 1

Bank code : wf

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
200907	12/22/2011	000312 ADAME LANDSCAPE, INC.	44280	0000035	MONTHLY LANSCAPE MAINT DEC 2	125.00
					Total :	125.00
200908	12/22/2011	000212 ASPA, C/O SUN TRUST BANK	121911		ASPA MEMBERSHIP-ASST CITY MN	125.00
					Total :	125.00
200909	12/22/2011	000046 COUNTY OF RIVERSIDE, DEPT ENVIRO	12/14/11		ENV HEALTH SRVCS JUL-SEPT 201	72.50
					Total :	72.50
200910	12/22/2011	000035 COUNTY OF RIVERSIDE, TLMA	TL0000008439		OCTOBER 2011 SLF COSTS	126.02
					Total :	126.02
200911	12/22/2011	000027 DIRECT TV	16675880151		CABLE SRVCS -CITY HALL 12/12/11	86.99
					Total :	86.99
200912	12/22/2011	000022 EDISON	121711 121711		ELECTRICAL SERVICES 7/18/11-12/ CITY HALL ELECTRICAL BILLING C	3,168.16 -1,023.53
					Total :	2,144.63
200913	12/22/2011	000304 JOE A. GONSALVES & SON	22552 2626	0000024 0000024	CONTRACTUAL SERVICES JAN 201 CONTRACTUAL SERVICES AUG 20	3,000.00 3,000.00
					Total :	6,000.00
200914	12/22/2011	000316 JTB SUPPLY COMPANY	93813	0000030	LED STREET LIGHT REPLACEMEN	27,549.31
					Total :	27,549.31
200915	12/22/2011	000049 NORTH COUNTY TIMES	2304734		PUBLIC HEARING NTCE CCFY 11/1:	114.68
					Total :	114.68
200916	12/22/2011	000042 PV MAINTENANCE, INC.	005-128	0000025	GAS TAX/ PW CONTRACT SRVCS M	19,406.05
					Total :	19,406.05
200917	12/22/2011	000053 REPUBLIC ITS, INC.	RR-122336 RR-122337		TRAFFIC SIGNAL MAINT. OCT 2011 TRAFFIC SIGNAL RESPONSE - OCT	750.00 1,028.86
					Total :	1,778.86
200918	12/22/2011	000149 RIVERSIDE COUNTY EXECUTIVE, OFFIC	201105WIL		ANIMAL SHELTER SERVICES DEC 1	22,281.44

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Voucher List  
City of Wildomar

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Bank code : wf

<u>Voucher</u>	<u>Date</u>	<u>Vendor</u>	<u>invoice</u>	<u>PO #</u>	<u>Description/Account</u>	<u>Amount</u>
200918	12/22/2011	000149	000149 RIVERSIDE COUNTY EXECUTIVE, O (Continued)			Total : 22,281.44
200919	12/22/2011	000355	STICKS & BRICKS, INC.	12811	11-0148 DEVELOPER DEPOSIT REF	529.46
						Total : 529.46
13 Vouchers for bank code : wf						Bank total : 80,339.94
13 Vouchers in this report						Total vouchers : 80,339.94

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Voucher List  
City of Wildomar

Page: 1

Bank code : wf

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
200920	12/29/2011	000008 AT&T MOBILITY	12202011		COUNCIL DATA PACKAGES 11/22/11	129.81
					Total :	129.81
200921	12/29/2011	000028 CALPERS	484		MEDICAL PREMIUM JAN 2012	7,511.59
					Total :	7,511.59
200922	12/29/2011	000319 CORTUM COMMUNICATIONS, INC.	4505		LABOR: TROUBLESHOOT INTERNE	95.00
					Total :	95.00
200923	12/29/2011	000059 DIAMOND W. EVENTS, INC.	12/27/2011	0000038	CONTRACTUAL SERVICES DEC 20	5,000.00
					Total :	5,000.00
200924	12/29/2011	000334 DUSK, LLC C/O KENNEDY WILSON, PRC	1112		CITY HALL MONTHLY LEASE JAN 20	10,291.42
			122211		CITY HALL LEASE ADJ FOR ERROF	3,231.51
					Total :	13,522.93
200925	12/29/2011	000024 GUARDIAN	121511		DENTAL/ VISION BENEFITS JAN 20	1,217.86
					Total :	1,217.86
200926	12/29/2011	000049 NORTH COUNTY TIMES	2306241		PUBLIC HEARING NOTICE - ORD N	133.56
					Total :	133.56
7 Vouchers for bank code : wf						Bank total : 27,610.75
7 Vouchers in this report						Total vouchers : 27,610.75

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Bank code : wf

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
200927	1/5/2012	000033 AMERICAN FORENSIC NURSES	60839 60857		BLOOD DRAW BLOOD DRAW	123.24 82.16 <b>Total : 205.40</b>
200928	1/5/2012	000008 AT&T MOBILITY	12282011		COUNCIL MOBILE PHONES 11/21/11	112.69 <b>Total : 112.69</b>
200929	1/5/2012	000034 BIO-TOX LABORATORIES	24361 24362		RC SHERIFF - LAB SERVICES RC SHERIFF - LAB SERVICES	497.37 175.00 <b>Total : 672.37</b>
200930	1/5/2012	000356 BULLEX DIGITAL SAFETY	28405	0000039	FIRE SAFETY TRAINING EQUIPMENT	1,681.00 <b>Total : 1,681.00</b>
200931	1/5/2012	000028 CALPERS	102311 103111 10911 1112 112011 113011 11611 121811 122311 122911 123111 12411 71711 81411 82811 83111 91111 92511 93011		CALPERS 10/10/11-10/23/11 CITY COUNCIL CALPERS 10/1/11-10/31/11 CALPERS 9/28/11-10/9/11 CALPERS 12/19/11-1/1/12 CALPERS 11/7/11-11/20/11 CITY COUNCIL CALPERS 11/1/11-11/30/11 CALPERS 10/24/11-11/8/11 CALPERS 12/5/11-12/18/11 BUILDING & SAFETY CALPERS ADJ. PERS SURVIVOR ADJ 12/29/11 CITY COUNCIL CALPERS 12/1/11-12/31/11 CALPERS 11/21/11-12/4/11 CALPERS 7/4/11-7/17/11 CALPERS 8/1/11-8/14/11 CALPERS 8/15/11-8/28/11 CITY COUNCIL CALPERS 8/1-8/31/11 CALPERS 8/29/11-9/11/11 CALPERS 9/12/11-9/25/11 CITY COUNCIL CALPERS 9/1/11-9/30/11	4,610.48 376.90 4,610.48 5,217.39 4,610.48 376.90 4,610.48 5,340.26 1,157.01 0.93 376.90 4,610.48 3,897.20 4,019.81 4,032.44 376.90 3,997.89 4,610.48 376.90 <b>Total : 57,210.31</b>
200932	1/5/2012	000043 CHENG, MISTY	12/31/2011	0000037	ACCOUNTING SERVICES DEC 2011	3,960.00

Bank code : wf

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
200932	1/5/2012	000043 000043 CHENG, MISTY	(Continued)		Total :	3,960.00
200933	1/5/2012	000058 DEPARTMENT OF JUSTICE	880931		BLOOD ALCOHOL ANALYSES APR ;	70.00
					Total :	70.00
200934	1/5/2012	000012 ELSINORE VALLEY MUNICIPAL, WATER	5283606 5283607		CSA 103 WATER SRVCS 11/22/11-11	37.58
					CSA 103 WATER SRVCS 11/22/11-11	128.99
					Total :	166.57
200935	1/5/2012	000077 EXEC-U-CARE	122111		MED INSURANCE JAN 2011	375.00
					Total :	375.00
200936	1/5/2012	000357 GREENFIELD FENCE, INC.	276	0000040	WINDSONG PARK FENCE INSTALL	5,030.00
					Total :	5,030.00
200937	1/5/2012	000079 LAN WAN ENTERPRISE	42337		MAINTENANCE CONTRACT JAN 20	450.00
					Total :	450.00
200938	1/5/2012	000040 MPS	40359		BUSINESS CARDS/ LETTERHEAD	876.01
					Total :	876.01
200939	1/5/2012	000228 REGISTRAR OF VOTERS	1127		ELECTION SERVICES 8/7/11	30,829.00
					Total :	30,829.00
200940	1/5/2012	000249 STI, INC. TRUCKING & MATERIALS, C/O I 11-302-retention		0000029	SIDEWALKS TO SCHOOLS RETEN	22,622.55
					Total :	22,622.55
200941	1/5/2012	000064 TYLER TECHNOLOGIES	045-59448		EDEN GL/AP/PG SUPPORT/MAINT ;	3,652.99
					Total :	3,652.99
200942	1/5/2012	000020 VERIZON	122211	0000032	FIOS INTERNET 12/22/11-1/21/12	109.99
					Total :	109.99
200943	1/5/2012	000006 WELLS FARGO PAYMENT REMITTANCE,	102711 111411 112211 112811 112811A		CITY COUNCIL MEETING SUPPLIES	20.02
					FLAG POLE LIGHT BULB	40.37
					CITY COUNCIL SUPPLIES	80.62
					NON-DEPARTMENTAL OFFICE SUP	123.05
					NON-DEPARTMENTAL OFFICE SUP	66.57

Bank code : wf

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
200943	1/5/2012	000006 WELLS FARGO PAYMENT REMITTANCE,	(Continued)			
			112911		CITY COUNCIL SUPPLIES	98.94
			11811		NON-DEPARTMENTAL CONF CALL	20.55
			11811		NON-DEPARTMENTAL SUPPLIES	43.77
			11811		REFUND- CITY CLERKS NEW LAW	-365.00
			11911		CEMETERY BOARD PLAQUES	80.65
			121211		FIRE STATION EXPENSES	24.50
			121311		OFFICE SUPPLIES	108.76
			121411		FIRE STATION EXPENSES	19.37
			121411		QUICKBOOKS MONTHLY SUBSCRI	20.97
			121411		CITY COUNCIL MEETING SUPPLIES	10.38
			121411		MOULAGE FOR CERT TRAINING - F	323.70
			121811		LEAGUE OF CA CITIES CITY MNGR	595.00
			121811		BREAKFAST WITH SANTA SUPPLIE	41.82
			121911		NON-DEPARTMENTAL SUPPLIES	58.94
			121911		COMPUTER SECURITY SOFTWARE	58.98
			121911		CITY CLERK OFFICE SUPPLIES	42.09
			121911A		COMPUTER SECURITY SOFTWARE	58.98
			121911B		COMPUTER SECURITY SOFTWARE	58.98
			121911C		COMPUTER SECURITY SOFTWARE	58.98
			121911D		COMPUTER SECURITY SOFTWARE	58.98
			121911E		COMPUTER SECURITY SOFTWARE	58.98
			121911F		COMPUTER SECURITY SOFTWARE	58.98
			121911G		COMPUTER SECURITY SOFTWARE	58.98
			121911H		COMPUTER SECURITY SOFTWARE	58.98
			121911i		COMPUTER SECURITY SOFTWARE	58.98
			12211		CITY COUNCIL SUPPLIES	20.02
			12511		OFFICE SUPPLIES	59.87
			12511		EGG HUNT SUPPLIES	1,084.44
			12611		NON-DEPARTMENTAL OFFICE SUP	68.29
			12611		NON-DEPARTMENTAL CONF CALL	20.55
			12711		CITY COUNCIL MEETING SUPPLIES	68.04
					<b>Total :</b>	<b>3,384.08</b>
200944	1/5/2012	000006 WELLS FARGO PAYMENT REMITTANCE,	113011		CITY COUNCIL IPAD SOFTWARE	4.99
			113011A		CITY COUNCIL IPAD SOFTWARE	4.99
			12311		CITY COUNCIL IPAD SOFTWARE	4.99

vchlist  
01/05/2012 2:58:18PM

Voucher List  
City of Wildomar

Page: 4

Bank code : wf

<u>Voucher</u>	<u>Date</u>	<u>Vendor</u>	<u>Invoice</u>	<u>PO #</u>	<u>Description/Account</u>	<u>Amount</u>
200944	1/5/2012	000006	000006		WELLS FARGO PAYMENT REMITTAN (Continued)	Total : 14.97
18 Vouchers for bank code : wf						Bank total : 131,422.93
18 Vouchers in this report						Total vouchers : 131,422.93

Page: 4

City of Wildomar  
Payroll Warrant Register  
January 6, 2012

<u>ACH Date</u>	<u>Payee</u>	<u>Description</u>	<u>Amount</u>
12/9/2011	Payroll People	11/19-12/2/11	20,180.87
12/16/2011	Payroll People	12/3-12/11/11	6,934.76
12/23/2011	Payroll People	12/3-12/16/11	22,377.81
1/6/2012	Payroll People	12/1-12/31/11	1,639.12
1/6/2012	Payroll People	12/17-12/30/11	23,648.77
12/28/2011	Payroll People	Adjustment	(76.10)
		TOTAL	74,705.23

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #1.5**  
**CONSENT CALENDAR**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members  
**FROM:** Gary Nordquist, Assistant City Manager  
**SUBJECT:** Treasurer's Report, November 2011

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council approve the Treasurer's Report for November, 2011.

**DISCUSSION:**

Attached is the Treasurer's Report for Cash and Investments for the month of November 2011.

**FISCAL IMPACT:**

None.

Submitted by:

Approved by:

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Gary Nordquist  
Assistant City Manager

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Frank Oviedo  
City Manager

**ATTACHMENTS:**

Treasurer's Report

CITY OF WILDOMAR  
 TREASURER'S REPORT FOR  
 CASH AND INVESTMENT PORTFOLIO  
November 2011

CITY CASH

FUND	ACCOUNT	INSTITUTION	BALANCE	RATE
All	All	WELLS FARGO	\$ <u>2,003,651.68</u>	0.00%
		TOTAL	\$ <u>2,003,651.68</u>	

FUND	ACCOUNT	INSTITUTION	BEGINNING BALANCE	+ DEPOSITS	(-) WITHDRAWALS	ENDING BALANCE	RATE
All	All	WELLS FARGO	\$ <u>1,980,825.47</u>	\$ <u>622,666.55</u>	\$ <u>(599,840.34)</u>	\$ <u>2,003,651.68</u>	0.000%
		TOTAL	\$ <u>1,980,825.47</u>	\$ <u>622,666.55</u>	\$ <u>(599,840.34)</u>	\$ <u>2,003,651.68</u>	

CITY INVESTMENT

FUND	ISSUER	BOOK VALUE	FACE VALUE	MARKET VALUE	PERCENT OF PORTFOLIO	DAYS TO MAT.	STATED RATE
All	LOCAL AGENCY INVESTMENT FUND	\$ <u>1,533,256.16</u>	\$ <u>1,533,256.16</u>	\$ <u>1,533,256.16</u>	<u>100.00%</u>	0	0.401%
	TOTAL	\$ <u>1,533,256.16</u>	\$ <u>1,533,256.16</u>	\$ <u>1,533,256.16</u>	<u>100.00%</u>		

**CITY - TOTAL CASH AND INVESTMENT**      \$ 3,536,907.84

CITY INVESTMENT

FUND	ISSUER	BEGINNING BALANCE	+ DEPOSITS/ PURCHASES	(-) WITHDRAWALS/ SALES/ MATURITIES	ENDING BALANCE	STATED RATE
All	LOCAL AGENCY INVESTMENT FUNDS	\$ <u>1,533,256.16</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>1,533,256.16</u>	0.401%
	TOTAL	\$ <u>1,533,256.16</u>	\$ <u>0.00</u>	\$ <u>0.00</u>	\$ <u>1,533,256.16</u>	

In compliance with the California Code Section 53646, as the Director of Finance/ City Treasurer of the City of Wildomar, I hereby certify that sufficient investment liquidity and anticipated revenues are available to meet the City's expenditure requirements for the next six months and that all investments are in compliance to the City's Statement of Investment Policy.  
 I also certify that this report reflects all Government Agency pooled investments and all City's bank balances.

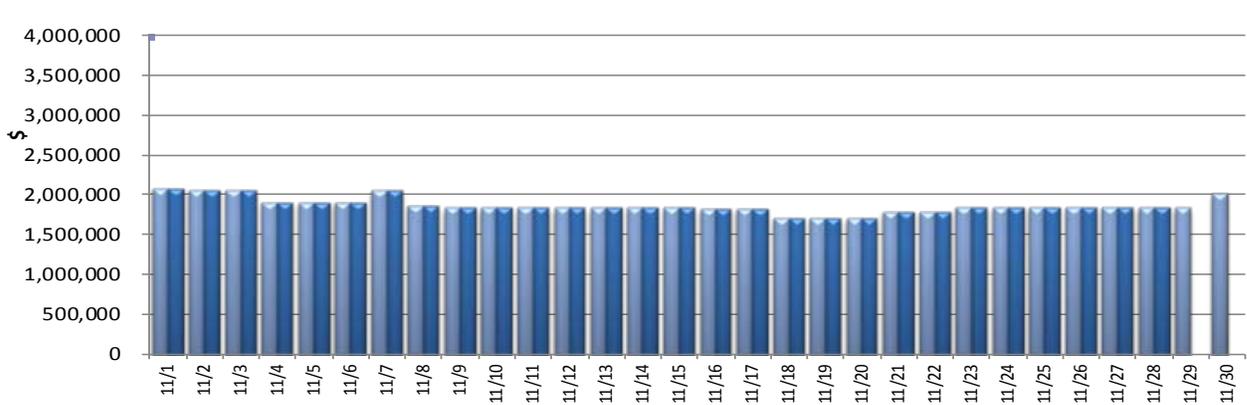
\_\_\_\_\_  
 Gary Nordquist  
 ACM Finance & Administration /  
 City Treasurer

\_\_\_\_\_  
 Date



# November 2011

## Daily Cash Balance All Funds Checking Only Pool Report Balance



Fiscal Year	Ending Balance	Monthly Net Activity
July 2009	2,027,072	-
Aug 2009	4,745,827	2,718,755
Sept 2009	4,201,825	(544,002)
Oct 2009	3,674,234	(527,592)
Nov 2009	3,098,110	(576,124)
Dec 2009	2,963,884	(134,226)
Jan 2010	2,801,810	(162,074)
Feb 2010	2,919,794	117,984
Mar 2010	2,397,718	(522,076)
April 2010	3,239,669	841,951
May 2010	3,200,801	(38,868)
June 2010	3,159,501	(41,300)
July 2010	3,008,802	(150,699)
Aug 2010	3,860,503	851,700
Sept 2010	3,069,412	(791,091)
Oct 2010	2,992,344	(77,068)
Nov 2010	2,365,924	(626,420)
Dec 2010	3,199,019	833,094
Jan 2011	2,661,091	(537,927)
Feb 2011	2,799,932	138,841
Mar 2011	2,469,738	(330,194)
Apr 2011	2,949,832	480,094
May 2011	3,527,489	577,658
June 2011	3,140,774	(386,715)
July 2011	3,276,828	136,054
August 2011	2,322,372	(954,456)
Sept 2011	2,354,797	32,425
October 2011	1,980,825	(373,972)
Nov 2011	2,003,652	22,826

November 2011			
Date	Ending Balance In Whole \$	Net Change from Prior Day	
11/1	2,065,319	-	
11/2	2,046,744	(18,575)	
11/3	2,034,467	(12,277)	
11/4	1,895,199	(139,269)	
11/5	1,895,199	-	
11/6	1,895,199	-	
11/7	2,038,561	143,362	
11/8	1,855,495	(183,065)	
11/9	1,824,948	(30,548)	
11/10	1,825,717	769	
11/11	1,825,717	-	
11/12	1,825,717	-	
11/13	1,825,717	-	
11/14	1,825,971	254	
11/15	1,825,098	(873)	
11/16	1,812,778	(12,320)	
11/17	1,813,250	472	
11/18	1,696,864	(116,386)	
11/19	1,696,864	-	
11/20	1,696,864	-	
11/21	1,779,783	82,919	
11/22	1,774,183	(5,600)	
11/23	1,831,672	57,489	
11/24	1,831,672	-	
11/25	1,839,626	7,954	
11/26	1,839,626	-	
11/27	1,839,626	-	
11/28	1,838,280	(1,346)	
11/29	1,823,028	(15,251)	
11/30	2,003,652	180,623	

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #1.6**  
**CONSENT CALENDAR**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members

**FROM:** Paula Willette, Community Services Director

**SUBJECT:** Statement of Understanding (SOU) With Riverside County Office of Emergency Services

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council:

1. Approve the SOU between the City of Wildomar and Riverside County Office of Emergency Services to establish guidelines for collaboration and coordination between California Volunteers and the Disaster Corps Program; and
2. Adopt the Disaster Corps Uniform Code of Conduct which will hold City of Wildomar volunteers to the highest standards of personal conduct, with the emphasis on professionalizing, coordinating, and connecting volunteers in the Disaster Corps program.

**DISCUSSION:**

The City of Wildomar will join with the County of Riverside Fire Department in participating in the Disaster Corps Program of California. This program will cultivate 200 volunteers in Riverside County comprised from local government affiliated Community Emergency Response Team (CERT) Programs and Radio Amateur Civil Emergency Service (RACES) members. Volunteers will be utilized as an enhanced resource for our local programs, mutual aid for Riverside County, and have the opportunity to cross train and gain additional knowledge and experience while allowing the member to potentially deploy throughout the State of California in the event mutual aid is requested to support another jurisdiction.

The program is composed of four parts:

1. Department of Justice (DOJ) and Federal Bureau of Investigations (FBI) background screening.
2. Training/Certification in Cardio Pulmonary Resuscitation (CPR) and shelter operations

3. Typing and credentialing in classifications that include but are not limited to: CERT Specialists I/II/III, Law Enforcement, Traffic Management, Mass Care Sheltering and Feeding, Communications/Radio Operator, Animal Rescue Care and Sheltering, Laborers, Logistics, Administration and any other classification we identify necessary for deployment.
4. Additional relevant training for deployment conducted by Riverside County Fire Department and subject matter experts.

All candidates are required to be nominated by the City CERT Program Manager and will be a representative of the City. Due to the program costs involved, it is **requested** that **all** candidates commit to the program for a minimum of three (3) years.

**FISCAL IMPACT:**

There is no additional cost to the City CERT program. The County of Riverside OES will reimburse the cost of fingerprint background checks. All training associated with the Disaster Corps program will be provided by County OES.

Submitted by:

Approved by:

---

Paula Willette  
Community Services Director

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Frank Oviedo  
City Manager

**ATTACHMENTS:**

Statement of Understanding (SOU)  
Disaster Corps Uniform Code of Conduct

# STATEMENT OF UNDERSTANDING

## RIVERSIDE COUNTY FIRE DEPARTMENT, OFFICE OF EMERGENCY SERVICES AND (Volunteer Program Name): City of Wildomar IN REGARDS TO THE CALIFORNIA DISASTER CORPS PROGRAM

This is a statement of understanding on the part of Riverside County Fire Department, Office of Emergency Services (OES) and on behalf of **(volunteer program name)** City of Wildomar CERT Program (hereinafter referred to as the “volunteer program.”

The volunteer program certifies that the signatory agent to this document possesses the required authority to execute said document on behalf of the organization.

### PURPOSE

This Statement of Understanding articulates the desire of the volunteer program to join the California Disaster Corps and establishes guidelines for collaboration and coordination between Riverside County Fire Department, OES and the volunteer program regarding the California Disaster Corps Program on Riverside County, CA.

### AGREEMENT

**County of Riverside Fire Department, OES and the government-affiliated volunteer program hereby mutually agree to work together to:**

1. Recruit volunteers and promote volunteer opportunities in support of the Disaster Corps Program.
2. Support volunteers as partners in implementing and operating the Disaster Corps Program.
3. Provide and participate in the use and application of the Disaster Volunteer Network, including reporting requirements, volunteer registration, and data maintenance.
4. Provide leadership and support to the California Disaster Corps Program in Riverside County, CA.
5. At the discretion of the organization, appropriately use and deploy Disaster Corps volunteers upon request and in accordance with the Standardized Emergency Management System, the National Incident Management System, and California's Master Mutual Aid Agreement to support preparedness, recovery, and mitigation efforts in addition to fulfilling response requests for disasters and emergencies.
6. Provide and participate in opportunities to recognize volunteers for their contributions to the Disaster Corps program.

**The Riverside County Fire Department, OES agrees to:**

1. Adopt and implement all Disaster Corps Program training, typing, credentialing and security screening guidelines. This includes ensuring that Disaster Corps volunteers pass a fingerprint background check.

2. Only register volunteers as Disaster Corps volunteers who have successfully passed a California DOJ and FBI fingerprint background check for the sponsoring organization.
3. Register all Disaster Corps volunteers under the Disaster Service Worker Volunteer Program.
4. Address and resolve member volunteer issues regarding membership and participation in the Disaster Corps Program.
5. Develop after action reports (AARs) on volunteer response events.
  - Evaluate volunteer performance as Disaster Corps volunteers after all activations of the volunteer program as a Disaster Corps program.
6. Designate and maintain current primary contact(s) for partnering programs, Disaster Corps membership, and the Disaster Volunteer Network to ensure consistent communication.
7. Input or provide for the uploading of the volunteer program's volunteer information into the Disaster Volunteer Network.
8. Update Disaster Volunteer Network data at regular intervals and meet reporting requirements.
9. Use the Disaster Corps Program name and emblem in accordance with the California *Disaster Corps Graphic Standards and Brand Identity Guide*.
10. Support and follow the Disaster Corps Program Uniform Code of Conduct and Program Guide.
11. Fully execute the California Disaster Corps Program Uniform Code of Conduct prior to deployment or acting in any Disaster Corps Program capacity.

**The Volunteer Program agrees to:**

1. Implement and maintain SOU with Riverside County Fire Department, OES.
2. Nominate candidates from their Community Emergency Response Team (CERT) program who can be classified and typed in one of the following classifications: CERT, Radio Operations, Law Enforcement, Traffic Control, Mass Care: Shelter Operations, or Mass Care: Feeding.
3. Submit candidates that are willing to commit for a minimum period of 3 years.
4. Forward all nominations to Riverside County Fire Department, OES.
5. Utilize Disaster Corps volunteers as a resource for local jurisdictions.
6. Participate in the Riverside County Operational Area Disaster Corps collaborative committee.

**DURATION**

This SOU shall continue for period of up to three calendar years commencing on 1/11/2012 and continuing until January 1, 2015.

In order to maintain consistency, all Disaster Corps partnering volunteer programs will be required to renew their SOU at the end of the initial three year period regardless of its commencement date. Prior to the end of each three year period thereafter, the SOU may be resubmitted or renewed through an updated signatory page.

This SOU may be amended from time to time if such amendment is agreed to and evidenced in writing and signed by both parties.

**SEPARATION AND TERMINATION**

This SOU may be terminated by either party, giving the other party 30 days written notice. Upon submission of a request to terminate, the volunteer program agrees to immediately cease using all Disaster Corps Program branded materials and representing its program as Disaster Corps.

The volunteer program will provide e-mail notice of updated program information to Riverside County Fire Department, OES within 30 days, upon changes to the Program Coordinator, contact information, or sponsoring organization.

**FINANCIAL CONSIDERATIONS**

Nothing in this Statement of understanding shall be deemed to be a commitment or obligation of funds from Riverside County Fire Department, OES or the volunteer program.

**LEGAL CONSIDERATIONS**

Becoming a member of the California Disaster Corps Program does not provide any level of state or county liability protection to the volunteer program or its volunteers. The volunteer program is not considered a state or county agency and volunteers are not considered to be state or county employees.

The volunteer program agrees that Riverside County Fire Department, OES bears no liability in relation to volunteer program’s operations, their use of volunteers, or the activities of the volunteer program under day-to-day or disaster response circumstances.

This Statement of understanding will commence upon signature of Riverside County Fire Department, OES and the volunteer program’s authorized individuals, and remains in effect for up to three calendar years from the date of signature unless terminated before the end date.

Signed,

\_\_\_\_\_  
Riverside County Fire Department  
Office of Emergency Services

\_\_\_\_\_  
DATE (MM/DD/YYYY)

\_\_\_\_\_  
Volunteer Program Representative

\_\_\_\_\_  
(DATE (MM/DD/YYYY))

# Disaster Corps Uniform Code of Conduct

Volunteer programs joining the Disaster Corps must certify that their volunteers will abide by the elements of the Disaster Corps Uniform Code of Conduct. This Uniform Code of Conduct is intentionally broad so as to allow flexibility when policy conflicts exist between it and a local code of conduct with different provisions or emphases.

As a matter of policy, the term "Disaster Corps activities" is defined as any training, call-out, exercise, deployment, special event, or disaster response. Any nexus to Disaster Corps operations, however slight, is for the purposes of this Uniform Code of Conduct, a Disaster Corps activity.

Where the Disaster Corps Uniform Code of Conduct is in direct conflict with that of the volunteer program, the Disaster Corps Uniform Code of Conduct takes precedence.

The Disaster Corps program agrees to hold volunteers to the highest standards of personal conduct, with emphasis on professionalizing, coordinating, and connecting volunteers.

## **PROFESSIONALIZE**

1. Disaster Corps Program items identified as belonging to or associated with Disaster Corps by emblem, logo, identification credential or any other mechanism will be maintained in good working condition, and must be stored in a place that will prevent items from being used by unauthorized persons.
2. Disaster Corps volunteers do not receive compensation for any services rendered during their time of training, preparedness, response, or activation.
3. Disaster Corps volunteers will not use their membership in this program or their identification items to gain favors, preferential treatment, or to influence others for any purpose other than emergency preparedness.
4. Disaster Corps programs may not authorize the use of the name, emblem, endorsement, services, or property of the Disaster Corps Program for the benefit or advantage of any person or organization, except in conformance with Disaster Corps policy.
5. Disaster Corps programs will not knowingly take any action or make any statement intended to influence the conduct of the Disaster Corps Program in such a way as to confer any financial benefit on any person, corporation, or entity in which the individual has a significant interest or affiliation.
6. Disaster Corps programs agree not to use Disaster Corps affiliation in connection with partisan political or proselytizing activity.

## **COORDINATE**

7. Disaster Corps volunteer programs will routinely reinforce with volunteers that self deployment is unacceptable.

8. Disaster Corps volunteers, when responding under mutual aid, must be officially requested with an official resource request prior to responding to an emergency or disaster outside of their jurisdiction.

### **CONNECT**

9. Disaster Corps programs will ensure that emergency and disaster response and deployment information is provided in a timely manner to both their Operational Area and the California Disaster Corps Program Administrator for the purposes of after action reporting.
10. Disaster Corps programs will ensure that data submitted into the Disaster Volunteer Network is true, current, and valid to the best of their knowledge.
11. Disaster Corps programs will follow the Standardized Emergency Management System policies and procedures throughout emergency operations.

### **SAFETY**

12. Disaster Corps volunteers will only undertake activities that are within their physical capabilities, within the scope of their training, and will not take risks that are likely to cause injury to themselves or others.
13. Disaster Corps programs shall only register volunteers in Disaster Corps that have successfully passed a California DOJ and FBI fingerprint background check for the sponsoring organization.
14. The sponsoring governmental entity will register all Disaster Corps volunteers under the Disaster Service Worker Volunteer Program.
15. Disaster Corps volunteers will follow their Chain of Command at all times.
16. Disaster Corps programs will ensure that Disaster Corps volunteers do not use any alcoholic beverages, illegal drugs, or any over the counter medications that may impair judgment while involved in Disaster Corps Program activities. This includes prior to and during trainings, exercises, meetings, special events, and disaster response.
17. Disaster Corps volunteers agree to adhere to their sponsoring local government standards of workplace demeanor and conduct so as to promote a cordial, effective work environment that allows full participation by all members.

### **VIOLATIONS**

Violations of this Uniform Code of Conduct must be reported by anyone observing them to the Disaster Corps Program Manager at CaliforniaVolunteers at (916) 323-7646.

Penalties or actions include:

- Discussion of the inappropriate actions with the Disaster Corps volunteer program contact and clarification of the policy.

At the discretion of the Program Coordinator:

- Temporary suspension as a Disaster Corps volunteer during infraction investigation.
- Institution of a probationary period while infraction(s) are corrected.
- Suspension or termination as a Disaster Corps volunteer.

I, \_\_\_\_\_ (Print Name),  
on behalf of \_\_\_\_\_ (volunteer program) do hereby  
certify that the volunteer program and volunteers will abide by the above Uniform Code of  
Conduct. I understand that failure on the volunteer program's part to comply with any of the  
rules could result in the termination of the volunteer program's membership in the Disaster  
Corps Program. It is understood that if the volunteer program is removed as a member, it is the  
volunteer program's responsibility to cease use of, and where possible return within 30 days of  
separation, all issued equipment and materials to the Disaster Corps program that were  
received from the Disaster Corps Program during the membership period.

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

Received by California Disaster Corps Administrator Office: \_\_\_\_\_

**CITY OF WILDOMAR – COUNCIL**  
**Agenda Item #1.7**  
**CONSENT CALENDAR**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members  
**FROM:** Paula Willette, Community Services Director  
**SUBJECT:** Award of Homeland Security Grant Program FY11

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council accept \$5,153 in funding for Homeland Security Grant Program (HSGP) FY11 from the California Emergency Management Agency (CalEMA).

**BACKGROUND:**

December 8, 2011 the City of Wildomar was awarded \$5,153 from CalEMA for funding emergency management projects. The overall performance period of this grant is November 18, 2100 – January 30, 2014.

**FISCAL IMPACT:**

The budget will be increased \$5,153 at the mid-year report.

Submitted by:

Approved by:

---

Paula Willette  
Community Services Director

---

Frank Oviedo  
City Manager

**ATTACHMENTS:**

Award letter from Riverside County Fire/OES



RIVERSIDE COUNTY FIRE DEPARTMENT
IN COOPERATION WITH
THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION

John R. Hawkins ~ Fire Chief
210 West San Jacinto Avenue ~ Perris, CA 92570
(951) 940-6900 ~ www.rvcfire.org

PROUDLY SERVING THE
UNINCORPORATED AREAS
OF RIVERSIDE COUNTY
AND THE CITIES OF:

- BANNING
BEAUMONT
CALIMESA
CANYON LAKE
COACHELLA
DESERT HOT SPRINGS
EASTVALE
INDIAN WELLS
INDIO
JURUPA VALLEY
LAKE ELSINORE
LA QUINTA
MENIFEE
MORENO VALLEY
PALM DESERT
PERRIS
RANCHO MIRAGE
RUBIDOUX CSD
SAN JACINTO
TEMECULA
WILDOMAR

BOARD OF
SUPERVISORS:

- BOB BUSTER
DISTRICT 1
JOHN TAVAGLIONE
DISTRICT 2
JEFF STONE
DISTRICT 3
JOHN BENOIT
DISTRICT 4
MARION ASHLEY
DISTRICT 5

December 8, 2011

Paula Willette
mailto:pwillette@cityofwildomar.org
City of Wildomar
Wildomar, CA

RE: FY11 Homeland Security Grant Program (HSGP) Award - \$5,153
Grant #2011-SS-0077 CFDA#: 97.067

The California Emergency Management Agency (CalEMA) has approved Riverside County's FY11 Homeland Security Grant Program (HSGP) application and has authorized the commencement of expenditures and reimbursement requests. The overall performance period of this grant is November 18, 2011 - January 30, 2014. The following milestones have been set by the state for all projects:

Table with 3 columns: Project, Amount, Completion Date. Row 1: Project C - CERT, \$1,855, 10/30/2012

This letter serves as authorization to begin spending and requesting reimbursement of your Anti-Terrorism Approval Authority (ATAA) approved projects. Please remember that changes to your grant will require the approval of the OA prior to incurring any costs. All modifications, EHP's, sole source procurement, EOC and construction requests require additional approvals from CalEMA through the OA prior to incurring any costs. Your Agency's Financial Workbook outlining your approved spending is included on the CD provided to you at the Post Award Workshop.

By accepting this award it will be understood that you are agreeing to conform to the requirements of the grant as put forth in the FY11 Grant Assurances, the Federal Single Audit Act of 1984 and amendment of 1996.

As always, please feel free to contact me with any questions you may have. I look forward to working with you and appreciate your cooperation and support.

Regards,

Handwritten signature of Kim Dana and Laronte Groom

Kim Dana and Laronte Groom
Administrative Services Analyst II
Riverside County Fire/OES

**CITY OF WILDOMAR – COUNCIL**  
**Agenda Item #1.8**  
**CONSENT CALENDAR**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members  
**FROM:** Paula Willette, Community Services Director  
**SUBJECT:** Additional Emergency Management Performance Grant Funds

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council accept an additional \$3,641 in funding for FY09 Homeland Security Grant Program (HSGP) from the Riverside County Fire/OES.

**BACKGROUND:**

December 22, 2011 the City of Wildomar was awarded additional funds from the FY09 HSGP. The additional funds will purchase eight interoperable radios, one first aid kit for the Emergency Operations Center (EOC), three cots for the EOC, fire safety training equipment for the Community Emergency Response Team (CERT), and additional mannequins and supplies for community CPR training program.

**FISCAL IMPACT:**

The budget will be increased \$3,641 at the mid-year report. These funds will be used for emergency service materials.

Submitted by:

Approved by:

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Paula Willette  
Community Services Director

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Frank Oviedo  
City Manager

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #1.9**  
**CONSENT CALENDAR**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members  
**FROM:** Tim D'Zmura, Public Works Director  
**SUBJECT:** Disadvantaged Business Enterprise (DBE) Goal

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council:

1. Adopt a Resolution entitled:

RESOLUTION NO. 2012 - \_\_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, APPROVING THE ANNUAL ANTICIPATED DISADVANTAGED  
BUSINESS ENTERPRISE LEVEL

2. Adopt a Resolution entitled:

RESOLUTION NO. 2012 - \_\_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, AUTHORIZING THE CITY ENGINEER OR HIS DESIGNEE TO  
SIGN ALL RELATED DBE FORMS/AGREEMENTS, AND FUNDING  
AGREEMENTS TO RECEIVE FEDERAL GRANT FUNDS

**BACKGROUND:**

Caltrans is required under the Code of Federal Regulations (49 CFR, Part 26) to administer a Disadvantaged Business Enterprise (DBE) Program. The DBE Program is intended to ensure a level playing field and foster equal opportunity in federal-aid contracts. All agencies receiving federal funds administered by Caltrans must comply with Caltrans DBE requirements and procedures.

A DBE is a for-profit small business concern that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged. Caltrans has required a local agency to have a DBE Program in place to ensure nondiscrimination in the award and administration of federally-funded contracts in Caltrans highway and transit programs for the following reasons:

- To create a level playing field on which DBEs can compete fairly for federally funded contracts

- To ensure that Caltrans DBE program is narrowly tailored in accordance with applicable law
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs
- To help remove barriers to the participation of DBEs in federally funded contracts
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program
- To provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

The City must establish a participation level of DBE firms for each federally funded project which goes out to bidding and award. This percentage is identified as part of the bid process and is determined by calculating the percent of DBE firms in the designated market area (i.e. Los Angeles, Riverside, Orange, and San Bernardino Counties) which are possibly available.

In order to encumber federal funds, the City is required to establish a DBE goal and to sign various agreements, including but not limited to DBE forms/implementation agreements, funding master agreements, and program supplements.

#### **DISCUSSION:**

The City of Wildomar has received two federal grants for capital improvement projects. Most recently, the City secured a grant (in the amount of \$99,000) from the Federal Highway Safety Improvement Program (HSIP) to make signal improvements at the Clinton Keith/Hidden Springs signal. The City also secured a Federal Safe Routes to School Grant (in the amount of \$503,900) for improvements in the vicinity of the William Collier Elementary School.

Both projects have been amended in the City's budget and Capital Improvement Program. Both require the City to have an established Disadvantaged Business Program and to execute necessary DBE forms and funding agreements in order to utilize the federal funds. Specifically City's immediate responsibilities for full compliance with Caltrans requirements include:

- Submitting the "California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement for Local Agencies" to the District Local Assistance Engineer.
- Developing an Annual DBE Goal (known as the Annual Anticipated DBE Participation Level –AADPL).

- Designating a DBE Liaison Officer, accountable to the Chief Executive Officer of the local agency, to administer the California Department of Transportation DBE Program as it pertains to local agencies.
- Ensuring prompt and full payment to the prime contractor and subcontractor in compliance with the prompt payment clauses of the contract.

Federal funding comes with many technical forms and funding agreements to articulate the responsibilities of the agency to encumber and deliver the federally funded projects. These agreements are initiated for every federally funded project. Due to strict “timely use of funds” deadlines, and the added need to encumber funds expeditiously to begin work, it is common practice among many local agencies to delegate the authority to the City Engineer to sign the related DBE forms/agreements and funding agreements.

Because the City of Wildomar has never awarded a federally funded project and therefore has no bid history, the City staff contacted Riverside County on the establishment of the AADPL. City staff is recommending the utilization of the County’s existing AADPL. This is because Wildomar’s “market area” (potential bidders) is anticipated from the same area as those bidding for the County’s projects, and the County has a track record of delivering federal projects.

The Annual Anticipated DBE Level the County uses is 10.8% made up of 1.15% Race Conscious Methods and 9.65% Race Neutral Methods. This means that contractors submitting bids must comply with these percentage levels or document good faith efforts to meet that level in the bid. Caltrans requires this percentage to be broken out in Race Conscious Methods (Measures) and Race Neutral Methods (Measures). Race neutral measures are activities or programs undertaken by Caltrans and other entities that benefit and assist all small businesses equally, including DBEs. Race conscious measures, such as the use of establishing an individual contract goal, are those measures and programs focused on specifically assisting DBEs which are African American, Asian Pacific American, Native American, and Women owned firms.

Staff has proposed a resolution with a delegation of authority to the City Engineer related to DBE and federal funding agreements. Staff has also prepared a resolution adopting the Annual Anticipated DBE Participation Level of 10.80% (which is comprised of 1.15% for Race Conscious Methods and 9.65% for Race Neutral Methods).

**FISCAL IMPACTS:**

There is no fiscal impact to the City’s General Fund. The funds identified in all funding agreements signed by the City Engineer would be only those funds previously approved by the Wildomar City Council in the Capital Improvement Program and budget.

Submitted by:

Approved by:

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Tim D'Zmura  
Public Works Director

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Frank Oviedo  
City Manager

**ATTACHMENTS:**

1. Resolution Authorizing City Engineer to Sign Agreements
2. Resolution Adoption AADPL

- To ensure that Caltrans DBE program is narrowly tailored in accordance with applicable law
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs
- To help remove barriers to the participation of DBEs in federally funded contracts
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program
- To provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

The City must establish a participation level of DBE firms for each federally funded project which goes out to bidding and award. This percentage is identified as part of the bid process and is determined by calculating the percent of DBE firms in the designated market area (i.e. Los Angeles, Riverside, Orange, and San Bernardino Counties) which are possibly available.

In order to encumber federal funds, the City is required to establish a DBE goal and to sign various agreements, including but not limited to DBE forms/implementation agreements, funding master agreements, and program supplements.

#### **DISCUSSION:**

The City of Wildomar has received two federal grants for capital improvement projects. Most recently, the City secured a grant (in the amount of \$99,000) from the Federal Highway Safety Improvement Program (HSIP) to make signal improvements at the Clinton Keith/Hidden Springs signal. The City also secured a Federal Safe Routes to School Grant (in the amount of \$503,900) for improvements in the vicinity of the William Collier Elementary School.

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- Developing an Annual DBE Goal (known as the Annual Anticipated DBE Participation Level –AADPL).

- Designating a DBE Liaison Officer, accountable to the Chief Executive Officer of the local agency, to administer the California Department of Transportation DBE Program as it pertains to local agencies.
- Ensuring prompt and full payment to the prime contractor and subcontractor in compliance with the prompt payment clauses of the contract.

Federal funding comes with many technical forms and funding agreements to articulate the responsibilities of the agency to encumber and deliver the federally funded projects. These agreements are initiated for every federally funded project. Due to strict “timely use of funds” deadlines, and the added need to encumber funds expeditiously to begin work, it is common practice among many local agencies to delegate the authority to the City Engineer to sign the related DBE forms/agreements and funding agreements.

Because the City of Wildomar has never awarded a federally funded project and therefore has no bid history, the City staff contacted Riverside County on the establishment of the AADPL. City staff is recommending the utilization of the County’s existing AADPL. This is because Wildomar’s “market area” (potential bidders) is anticipated from the same area as those bidding for the County’s projects, and the County has a track record of delivering federal projects.

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Staff has proposed a resolution with a delegation of authority to the City Engineer related to DBE and federal funding agreements. Staff has also prepared a resolution adopting the Annual Anticipated DBE Participation Level of 10.80% (which is comprised of 1.15% for Race Conscious Methods and 9.65% for Race Neutral Methods).

**FISCAL IMPACTS:**

There is no fiscal impact to the City’s General Fund. The funds identified in all funding agreements signed by the City Engineer would be only those funds previously approved by the Wildomar City Council in the Capital Improvement Program and budget.

Submitted by:

Approved by:

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Tim D'Zmura  
Public Works Director

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Frank Oviedo  
City Manager

**ATTACHMENTS:**

1. Resolution Authorizing City Engineer to Sign Agreements
2. Resolution Adoption AADPL

**RESOLUTION NO. 2012 - \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, AUTHORIZING THE CITY ENGINEER OR HIS DESIGNEE TO SIGN  
ALL RELATED DBE FORMS/AGREEMENTS, AND FUNDING AGREEMENTS TO  
RECEIVE FEDERAL GRANT FUNDS**

WHEREAS, Caltrans is required under the Code of Federal Regulations (49 CFR, Part 26) to administer a Disadvantaged Business Enterprise (DBE) Program; and

WHEREAS, All local agencies receiving federal funds administered by Caltrans must comply with Caltrans DBE requirements and procedures; and

WHEREAS, Caltrans requires the submittal of the "California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement for Local Agencies" to the District Local Assistance Engineer; and

WHEREAS, Federal funding requires designating a DBE Liaison Officer, accountable to the Chief Executive Officer of the City of Wildomar, to administer the California Department of Transportation DBE Program; and

WHEREAS, Federal funding requires an authorized City representative to sign master agreements, cooperative agreements, funding agreements, program supplements, and any other related agreements to secure authorization to proceed on federal funds.

NOW, THEREFORE, the City Council of Wildomar does resolve as follows:

1. Designates the City Engineer as the DBE Liaison Officer.
2. Authorizes the City Engineer or his designee to Sign All Related DBE Forms/Agreements and Funding Agreements to receive federal funds.

PASSED, APPROVED, AND ADOPTED this 11th day of January, 2012.

\_\_\_\_\_  
Ben Benoit  
Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Julie Hayward Biggs  
City Attorney

\_\_\_\_\_  
Debbie A. Lee, CMC  
City Clerk

**RESOLUTION NO. 2012 - \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, APPROVING THE ANNUAL ANTICIPATED DISADVANTAGED  
BUSINESS ENTERPRISE LEVEL**

WHEREAS, Caltrans is required under the Code of Federal Regulations (49 CFR, Part 26) to administer a Disadvantaged Business Enterprise (DBE) Program; and

WHEREAS, All local agencies receiving federal funds administered by Caltrans must comply with Caltrans DBE requirements and procedures; and

WHEREAS; Caltrans requires the development and approval of an Annual Anticipated DBE Participation Level (AADPL); and

WHEREAS, the City of Wildomar has determined that the AADPL is 10.80% which is comprised of 1.15% for Race/Gender Conscious Methods (Underutilized DBE) and Race/Gender-Neutral Methods is 9.65%; and

WHEREAS, this above mentioned DBE AADPL will be used for all federally funded projects in City for FY 11/12 and until the next update of the AADPL; and

NOW, THEREFORE, the City Council of Wildomar hereby approves the AADPL of 10.80%.

PASSED, APPROVED, AND ADOPTED this 11th day of January, 2012.

\_\_\_\_\_  
Ben Benoit  
Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Julie Hayward Biggs  
City Attorney

\_\_\_\_\_  
Debbie A. Lee, CMC  
City Clerk

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #1.10**  
**CONSENT CALENDAR**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members  
**FROM:** Julie Hayward Biggs, City Attorney  
**SUBJECT:** City Manager Contract Amendment

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council approve the Second Amendment to the Agreement for Employment of City Manager.

**DISCUSSION:**

At the council meeting held on December 14, 2011, the City Council conducted a performance evaluation of the City Manager. As a result of that review, the City Council directed that the Agreement for Employment of City Manager, as amended by the First Amendment to Agreement for Employment of City Manager, be further amended. The Council directed that the agreement be changed to restart the severance terms in the event of termination without cause. That change essentially establishes the severance payment at eight months salary for calendar year 2012, seven months for calendar year 2013 and six months for calendar year 2014.

The attached Second Amendment to Agreement for Employment of City Manager sets forth that change.

**FISCAL IMPACTS:**

There is no fiscal impact associated with this change at this time. In the event that the City Manager is terminated without cause in the next three years, however, the City will be obligated to pay the severance specified at that time.

Submitted By:

Approved By:

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Julie Hayward Biggs  
City Attorney

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Frank Oviedo  
City Manager

## **AGREEMENT FOR EMPLOYMENT OF CITY MANAGER**

The Agreement is made and entered into the 22<sup>nd</sup> day of July, 2009, by and between the CITY OF WILDOMAR (the "CITY"), a general law City, and Frank Oviedo ("CITY MANAGER"). The agreement (the "Agreement") shall have an effective date of September 1, 2009. In consideration for the mutual covenants contained herein, the parties agree as follows:

### **SECTION I. EMPLOYMENT:**

#### **A. Appointment of City Manager.**

##### **1. Appointment.**

The City Council of the CITY OF WILDOMAR hereby appoints Frank Oviedo to the position of CITY MANAGER to perform the functions and duties specified under the laws of the State of California, the Municipal Code of the CITY, and the Ordinances and Resolutions of the CITY, and to perform such other duties and functions as the City Council shall from time to time assign. CITY MANAGER shall serve at the pleasure of the City Council.

##### **2. Commencement of Duties**

CITY MANAGER shall commence his duties as City Manager at 7:30 a.m. September 1, 2009. It is anticipated, however, that CITY MANAGER will use his best efforts to be available prior to his appointment date at the request of the City Council for transition purposes.

#### **B. Term of Agreement.**

##### **1. Term.**

The term of the Agreement shall be set as an annually renewing (3) year term, renewing automatically immediately following the CITY MANAGER's annual performance review whenever that review is conducted unless at that time, written notice is given that the three year term will not be renewed, but will be let to expire. Upon such notice that the three year term will be permitted to expire, the term shall continue for the remaining two years of the term, unless further action is taken by the City Council to further extend the term.

Nothing in this provision shall be construed as limiting or modifying the right of the City Council to terminate this contract under the provisions Section V of the original Agreement.

**2. Right to Terminate.**

Nothing in the Agreement shall prevent, limit or otherwise interfere with the right of the CITY to terminate the Agreement at any time, or the right of CITY MANAGER to resign at any time from his position, as set forth below.

**SECTION II. POWERS, DUTIES, AND RESPONSIBILITIES:**

**A. Employment Duties.**

CITY MANAGER shall function as the CITY MANAGER of the CITY and shall be vested with the powers, duties, and responsibilities set forth in the Wildomar Municipal Code, the terms of which are incorporated by reference herein. In addition, CITY MANAGER shall perform such other duties as may be assigned by the City Council, and which are consistent with the position of CITY MANAGER, without additional compensation.

**B. Hours of Work.**

CITY MANAGER is expected to devote necessary time outside normal office hours to business of the CITY. To that end, CITY MANAGER shall be allowed flexibility in setting his own office hours.

**C. Outside Professional Activities.**

The CITY MANAGER agrees to devote his productive time, ability, and attention to the CITY's business during the term of the Agreement. CITY MANAGER may, however, undertake limited outside activities, including (a) coaching youth sports, (b) serving as an officer of the California League of Cities, (c) serving as a board member of the California City Managers' Foundation, (d) teaching, subject to City Council approval, up to fifteen (15) hours per month devoted to said activity, and/or (e) other related activities, provided that such activities do not in any way interfere with or adversely affect his employment as CITY MANAGER or the performance of his duties as provided herein.

**SECTION III. COMPENSATION OF CITY MANAGER****A. Base Salary.**

CITY MANAGER shall be receive compensation for work performed at a beginning annual base salary of \$179,000 which will be paid in increments as established from time to time for all CITY employees who are now currently paid semi-weekly.

**B. Merit Salary Increase.**

At the end of the CITY MANAGER's first twelve months of employment with the CITY, the City Council shall conduct a performance evaluation predicated on goals and objectives to be established by the City Council and CITY MANAGER within the first three (3) months of employment. Merit salary adjustment at the time of the annual performance evaluation shall be determined by the City Council in its discretion.

**C. Performance Incentive Payment.**

At the CITY MANAGER's annual performance evaluation, CITY may approve a Performance Incentive Payment of up to a maximum 10% of the previous year's salary upon the accomplishment of the specific goals and objectives established pursuant to Section VI below in order to encourage future continued high quality service to the CITY for the next twelve months. This payment shall be made in a lump sum. CITY MANAGER shall be entirely responsibility for any tax consequences resulting from the Performance Incentive Payment.

**D. Other Salary Adjustments.****1. CPI Increase:**

Effective July 1, 2011, City agrees to increase Manager's annual base salary by any increase in the CPI-U for the Riverside-San Bernardino area to the same extent such an index is provided to all City employees.

**2. Potential for No Increase**

The parties understand that CITY may determine that there will be no increase to base salary in the event the CPI-U is negative and no other increase to base salary is given in any specific year.

### **3. Reductions.**

In the event that the CITY, at any time during the term of the Agreement, reduces the salary or other financial benefits of CITY MANAGER in a greater percentage than an applicable across-the-board reduction for all employees of the CITY, or in the event the CITY refuses, following thirty (30) days' written notice, to comply with any provision of the Agreement benefitting City Manager, then, the City Manager may, at his option, be deemed to be "terminated" by the City Council within the meaning of Section V of the Agreement as of the date of such reduction or refusal to comply.

### **C. Vacation, Holiday, Sick Leave, and Compensatory Time and other benefits.**

#### **1. Vacation.**

The CITY MANAGER shall accrue vacation time at the rate applicable to all City employees plus an additional 60 hours annually. Vacation may not be accrued for more than two calendar years and no more than 40 hours of accrued vacation may be cashed in any calendar year. CITY MANAGER shall begin accruing vacation time upon commencement of employment.

#### **2. Sick Leave.**

The CITY MANAGER shall be credited with nine (9) days sick leave at the date of hire and shall **accrue** additional sick leave at the rate of one day per month up to a maximum of **42** sick days. Sick leave may be cashed out at 50% of value upon termination of employment.

#### **3. Holidays.**

The CITY MANAGER may celebrate the same eleven (11) holidays as celebrated by CITY, as specified by City policy.

#### **4. City Manager Management Leave.**

The equivalent of ten (10) working days of CITY MANAGER management leave shall be credited to CITY MANAGER effective upon employment which must be used or lost prior to June 30<sup>th</sup> of each year. Thereafter, on the commencement of the City's fiscal year on July 1<sup>st</sup>, ten (10) days of management leave shall be credited to CITY MANAGER. Management

Leave may not be accrued or carried over into the next fiscal year, but must be used in the fiscal year in which it is granted.

**5. Automobile Allowance.**

The CITY MANAGER shall have the use of a City automobile or an allowance of \$500.00 per month as compensation for all automobile and mileage costs. This allowance shall increase \$50.00 per year up to a maximum of \$800.00 per month.

**6. Health, Dental and Vision.**

The CITY MANAGER shall be provided the same health, dental, and vision coverage that is presently provided other management employees covering the CITY MANAGER and family dependents at the rate of \$1200 per month. The CITY shall provide supplemental insurance through Execucare at no cost to CITY MANAGER in the same manner provided to other executive level employees and officials.

**7. Disability insurance.**

In accord with CITY policy, CITY shall provide at CITY's expense short term and long-term disability insurance for the CITY MANAGER on the same terms and conditions provided to other CITY executive level employees and officials.

**8. Retirement.**

The CITY shall pay the CITY MANAGER's contribution to the Public Employees Retirement System ("PERS") with the 2.7% at 55 Retirement Plan.

**9. City 401A Plan**

The City shall match contributions made by the CITY MANAGER to a **retirement plan** up to 3% of the base salary amount for that year.

**10. Life Insurance.**

The CITY shall provide life insurance in an amount equal to CITY MANAGER's base salary in accord with City policy.

**11. Associations and Subscriptions.**

The CITY shall budget and pay for the professional dues and subscriptions of the CITY MANAGER necessary for his continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional growth and advancement, including, without limitation, the annual League of California Cities Conference, the annual League of California Cities City Managers' Conference and the annual ICMA Conference.

**12. Professional Development.**

The CITY shall budget for and pay the travel and subsistence expenses of the CITY MANAGER for professional official travel, meetings, and occasions adequate to continue the professional development of the CITY MANAGER and to adequately pursue necessary official and other functions for the CITY and such other national, regional, state, and local governmental groups and committees thereof of which the CITY MANAGER may serve as a member.

**13. Reimbursement Expenses.**

The CITY MANAGER will receive reimbursement for all sums necessarily incurred and paid by him in the performance of his duties. The CITY MANAGER shall submit a claim form to the CITY in the form and manner required by the Wildomar Municipal Code.

**14. Jury Duty.**

The CITY MANAGER will receive full pay and benefits while serving on a trial jury. Any compensation for such jury duty (except travel pay) shall be returned to the CITY.

**15. Other Benefits.**

The CITY MANAGER shall be entitled to all other benefits afforded all other employees of the City except to the extent that they are inconsistent with this Agreement.

**16. Technical Equipment**

The City shall provide CITY MANAGER with a laptop computer and software, a cell phone at \$60 per month for voice use and \$60 per month for data. This equipment may be used for incidental personal purposes as well as for work directly related to the City as necessary.

**D. Moving and Relocation Expenses.**

CITY shall pay the CITY MANAGER's moving expenses for ordinary household items, interim living expenses and home purchase within the City of Wildomar upon presentation of receipts for reimbursement up to a maximum of \$25,000.

**E. Indemnification.**

The CITY shall defend, hold harmless, and indemnify the CITY MANAGER against any tort, professional liability claim, or demand or other legal action, whether groundless or otherwise, arising out of any alleged act or omission occurring during CITY MANAGER'S tenure and in the course and scope of his duty as CITY MANAGER, including, without limitation, claims arising out of personnel actions taken by CITY MANAGER. The CITY shall defend, compromise and settle any such claim or suit, and shall pay the amount of any settlement or judgment rendered thereon.

**F. Bonding.**

The CITY shall bear the full cost of any fidelity or other bonds required of the CITY MANAGER under any law or ordinance.

**SECTION IV. PERFORMANCE EVALUATION.**

**A. Setting of Goals and Objectives.**

In order to identify performance evaluation criteria and expectations for the CITY MANAGER Manager, within ninety (90) working days of the employment date, the City Council and the CITY MANAGER shall participate in a performance evaluation facilitated by an outside professional neutral third party and will define in writing such goals and performance evaluation objectives and expectations as the City Council determines necessary for the proper operation of the CITY. Thereafter, prior to October 15th of each calendar year, the City Council will conduct a new goal setting with the CITY MANAGER to revisit its earlier goals and to establish a relative priority among those various goals and objectives for the coming year. The goals and objectives established shall form part of the basis of the City Council's performance evaluation of the CITY MANAGER. This does not preclude the City Council or CITY MANAGER from requesting an earlier evaluation.

**B. Written Summary.**

The City Council shall provide the CITY MANAGER with a summary written statement of the findings of the City Council, within fifteen (15) working days of the City Council's evaluation of the CITY MANAGER. The City Council shall provide adequate opportunity for the CITY MANAGER to discuss his evaluation with the City Council in closed session. That closed session shall take place within fifteen (15) working days of the receipt of the written summary of the CITY MANAGER's evaluation.

**C. Closed Session Review.**

The CITY MANAGER will timely cause to be placed on the City Council agenda for each year a "closed session" for the purpose of the performance evaluation.

**SECTION V. TERMINATION OF EMPLOYMENT.****A. Termination By Council.**

Except as provided in Section B below, the City Council may terminate this Agreement with or without cause at the option of the City Council upon ten (10) working days' written notice in accord with the terms of this section.

**B. No Termination After Election.** Notwithstanding section A above, the City Council shall not terminate the CITY MANAGER within 90 days of the certification of an election that changes the membership of the City Council.

**C. Termination Without Cause/ Severance.**

If the CITY terminates CITY MANAGER without cause within the first twelve (12) months of employment, then CITY MANAGER shall be entitled to a lump sum severance payment equal to nine (9) months' base salary, together with all accumulated management leave and vacation time.

The following severance schedule, together with all accumulated management leave and vacation time applies:

after 1 year	Severance due - eight (8) month's salary
after 2 years	Severance due - seven (7) month's salary
after 3 years	Severance due - six (6) month's salary

CITY will cash out the accumulated management and vacation time upon termination. The lump sum severance payment will be reduced by applicable federal and state taxes, employment taxes. The severance pay will be

excluded from retirement deductions and from any calculations of retirement benefits.

Severance pay as set forth in this section is intended to provide an appropriate time for CITY MANAGER to secure other comparable employment upon termination. In the event that CITY MANAGER secures other comparable employment during the period of time covered by the lump sum severance payment, CITY MANAGER agrees to repay the City the proportional share of the severance payment. i.e., if the CITY MANAGER is terminated in the first twelve (12) months of employment and secures comparable re-employment two (2) months thereafter, he shall repay the City seven (7) months salary at the rate used to determine the lump sum payment.

**C. Request for Resignation.**

If a majority of the City Council requests the resignation of CITY MANAGER, then CITY MANAGER may, at his option, deem himself terminated within the meaning of Section V (A).

**D. Termination for Cause**

City may terminate CITY MANAGER for cause. Cause shall include, but not be limited to the following:

1. Failure to perform the duties of the CITY MANAGER as set forth in the Wildomar Municipal Code as determined by a four-fifths (4/5ths) vote of the entire City Council
2. Violation of state or federal law exposing the City to liability
3. Conviction on a misdemeanor or felony charge

In order to determine whether cause for termination exists, the City shall investigate any charges brought forward by a member of the City Council and provide CITY MANAGER with an opportunity to be heard prior to taking any action. In the event that the CITY MANAGER is terminated for cause, no severance pay will be due to the CITY MANAGER.

**E. Voluntary Resignation.**

CITY MANAGER may terminate the Agreement by giving the CITY sixty (60) days' written notice in advance of termination, at the end of which period the Agreement will terminate, unless the CITY and CITY MANAGER otherwise agree. Upon termination, whether voluntary or otherwise, CITY MANAGER shall be paid for all accrued, but unused, vacation and holiday time at his highest hourly rate earned during his tenure with City.

**F. Full Hourly Rate.**

As used in the Agreement the term "full hourly rate" or hourly rate" will mean Manager's management range and step multiplied by 12 and divided by 2080, i.e., the starting salary in the Agreement is the amount of \$179,000 per annum would be divided by 2080 to equal a base hourly salary of \$86.00.

**G. Waiver of Rights.**

CITY MANAGER hereby waives any and all rights provided under the Wildomar Municipal Code relevant to notice and a redress of grievances during a public hearing prior to termination from the CITY.

**SECTION VI. MISCELLANEOUS PROVISIONS:**

**A. Entire Agreement.**

The text herein shall constitute the entire Agreement between the parties.

**B. Notices.**

Notices pursuant to the Agreement shall be in writing given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

(1) CITY OF WILDOMAR  
23873 Clinton Keith Rd., Suite 201  
Wildomar, CA 92595  
Attention: Mayor

(2) CITY MANAGER  
1060 Swanston Drive  
Sacramento CA 95814

Alternatively, notices required pursuant to his Agreement may be personally served in the same manner as is applicable to civil judicial process. Notice shall be deemed given as of the date of personal service or as of the third day following the date of deposit of such written notice in the course of transmission in the United States Postal Service, with postage fully prepaid.

**C. Heirs and Executors.**

The Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of CITY MANAGER.

**D. Severability.**

If any provision, or portion thereof, contained in the Agreement is held unconstitutional, invalid or unenforceable, the remainder of the Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

**E. Legal Fees.**

In the event that either party to the Agreement brings a lawsuit to enforce or interpret any provisions of the Agreement, the prevailing party shall be entitled to recover their reasonable attorneys' fees and related expenses and costs.

**F. Governing Law.**

The Agreement shall be governed by the laws of the State of California.

**G. Interpretation of Agreement.**

The parties agree that any ambiguity in the Agreement shall not be construed or interpreted against, or in favor of either party.

**H. Amendment.**

The Agreement contains the full agreement of the parties. Any modification or change in the Agreement shall not be binding on either party unless such change or modification is in writing and signed by both parties.

**IN WITNESS WHEREOF**, the CITY has caused the Agreement to be signed and executed in its behalf by its Mayor and duly attested to by its City Clerk, and the CITY MANAGER has signed and executed the Agreement, both in duplicate, the day and year first above written.

**FRANK OVIEDO**

  
\_\_\_\_\_

**CITY OF WILDOMAR**

By: \_\_\_\_\_

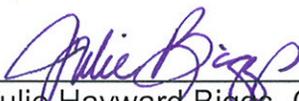
Scott Farnam, Mayor

**ATTEST:**



Debbie Lee, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Julie Hayward Biggs, City Attorney

**FIRST AMENDMENT TO  
AGREEMENT FOR EMPLOYMENT OF CITY MANAGER**

This First Amendment to Agreement for Employment of City Manager (the "Amendment") is made and entered into the 14th day of September 2011, and amends that certain Agreement for Employment of City Manager first made on July 22, 2009, (the "Agreement") by and between the City of Wildomar (the "CITY"), a general law City, and Frank Oviedo ("CITY MANAGER"). The Amendment shall have an effective date of August 1, 2011. In consideration for the mutual covenants contained herein, the parties agree as follows:

**SECTION I. AMENDMENT OF SECTION III OF THE AGREEMENT**

**A. Amendment of Section III D**

A new subsection 4 is hereby added to Section III D of the Agreement to read in its entirety as follows:

**"4. Adjustments to Work Schedule - Furloughs**

Nothing in this provision shall be construed as limiting or modifying the right of the City Council to impose unpaid furlough time-off as the City Council finds necessary because of limited financial resources. Such furlough time may be negotiated with the CITY MANAGER prior to imposition."

**B. Amendment of Section III E**

A new subsection 17 is hereby added to Section III E of the Agreement to read in its entirety as follows:

**"17. Waiver of Benefits**

CITY MANAGER may waive any benefit provided for in this Agreement for any reason. In the event of such waiver, CITY shall have no obligation to off-set such waiver with other compensation or benefits."

**SECTION II. FUTURE AMENDMENTS TO AGREEMENT**

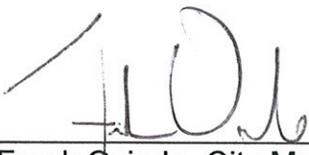
This Amendment to the Agreement contains the full agreement of the parties. Any further modification or change in the Agreement shall not be

binding on either party unless such change or modification is in writing and signed by both parties.

**IN WITNESS WHEREOF**, the CITY has caused the Amendment to be signed and executed in its behalf by its Mayor and duly attested to by its City Clerk, and the CITY MANAGER has signed and executed the Agreement, both in duplicate, the day and year first above written.

**CITY MANAGER**

**CITY OF WILDOMAR**

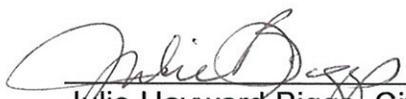
By:   
\_\_\_\_\_  
Frank Oviedo, City Manager

By:   
\_\_\_\_\_  
Marsha Swanson, Mayor

ATTEST:

  
\_\_\_\_\_  
Debbie A. Lee, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Julie Hayward Biggs, City Attorney

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #1.11**  
**CONSENT CALENDAR**  
**Meeting Date: December 14, 2011**

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**TO:** Mayor and City Council

**FROM:** Julie Hayward Biggs, City Attorney

**SUBJECT:** Second Reading and Adoption of Ordinance No. 66 – Sex Offender Residency and Loitering Prohibitions

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council adopt an Ordinance entitled:

ORDINANCE NO. 66  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, ADDING A NEW CHAPTER 9.55 TO THE WILDOMAR MUNICIPAL  
CODE RELATING TO SEX OFFENDER RESIDENCY AND LOITERING  
PROHIBITIONS

**DISCUSSION:**

On December 14, 2011, the City Council approved the first reading of Ordinance No. 66 relating to sex offender residency and loitering prohibitions. At this time it would be appropriate for the City Council to adopt the Ordinance.

**FISCAL IMPACTS:**

Potentially increased costs may be incurred for enforcement of the proposed ordinance. A reduction in costs may also be realized by enforcement efforts that deter sex offenders from residing in Wildomar.

Submitted By:

Approved By:

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Julie Hayward Biggs  
City Attorney

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Frank Oviedo  
City Manager

**ORDINANCE NO. 66**  
**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,**  
**CALIFORNIA, ADDING A NEW CHAPTER 9.55 TO THE WILDOMAR MUNICIPAL**  
**CODE RELATING TO SEX OFFENDER RESIDENCY AND LOITERING**  
**PROHIBITIONS**

THE CITY COUNCIL OF THE CITY OF WILDOMAR ORDAINS AS FOLLOWS:

**SECTION 1. Addition of Chapter 9.55.** A new Chapter 9.55 “Sex Offender Residency and Loitering Prohibitions” is hereby added to Title 9 “Public Peace, Morals and Welfare” of the Wildomar Municipal Code, and shall read as follows:

“Chapter 9.55 – SEX OFFENDER RESIDENCY  
AND LOITERING PROHIBITIONS

9.55.010 - Purpose.

9.55.020 - Authority.

9.55.030 - Application.

9.55.040 - Definitions.

9.55.050 - Sex offender residency prohibitions.

9.55.060 - Property owner prohibitions.

9.55.070 - Sex offender loitering prohibitions.

9.55.080 - Violations and penalties.

9.55.090 - Civil actions.

9.55.100 - Enforcement.

9.55.110 - Copy of ordinance to California Department of Corrections.

9.55.120 - Copy of ordinance to registered sex offenders.

9.55.010 - Purpose. The purpose of this ordinance is to restrict the residency of sex offenders to a further extent than that specified in subdivisions (a) and (b) of Penal Code section 3003.5 and to prohibit sex offenders from loitering in certain areas.

9.55.020 - Authority. This ordinance is adopted pursuant to subdivision (c) of Penal Code section 3003.5 which authorizes local jurisdictions to enact ordinances that further restrict the residency of sex offenders.

9.55.030 - Application. This ordinance shall apply to sex offenders released from custody for any criminal offense on or after the effective date of this ordinance.

9.55.040 - Definitions. As used in this ordinance, the following terms shall have the following meanings:

- a. Building. A structure supported by columns or walls that is more or less permanently located on the ground or affixed to something permanently located on the ground, including a mobile home or manufactured home.
- b. Child day care facility. A facility licensed by the State of California that meets the definition set forth in Health and Safety Code section 1596.750.
- c. Child safety zone. The area located within 300 feet of any of the following: a child day care facility, a public or private school, a public or private school bus stop, a park, a public library, a public swimming or wading pool, a commercial establishment that has an on-site or adjacent children's playground, or a place where classes or group activities for children are held.
- d. Dwelling. A building, or portion thereof, designed or occupied for residential purposes, including a building used to house a single family or two or more families, but not including a transient occupancy facility or a state-licensed residential care facility serving six or fewer persons in the limited circumstance described in the subsection a. of this ordinance.
- e. Knowingly. With knowledge of the existence of the facts in question. Knowledge of the unlawfulness of any act or omission is not required.
- f. Loiter. To delay, to linger or to idle without lawful business for being present.
- g. Park. Any area owned, leased, controlled, managed or maintained by the city on which the public may engage in recreational, cultural or community service activities, including, but are not limited to, playgrounds, playfields, athletic courts and dog parks.
- h. Property owner. The person designated on the latest equalized county assessment roll as the owner of the parcel in question, or the holder of a subsequently recorded deed to the parcel in question, including, but not limited to, a part owner, joint owner, joint tenant or tenant in common of the whole or any part of the parcel in question. Property owner shall include any person or entity authorized by the property owner to act on his or her behalf.
- i. Released from custody. Released on parole, probation or otherwise following conviction.
- j. Related by blood, marriage or adoption. Consanguinity, affinity or adoption within the fourth (4th) degree.

k. Reside. Occupy for any period of time pursuant to a legal right obtained as of a certain date.

l. Sex offender. A person required to register pursuant to Penal Code section 290.

m. State-licensed residential care facility. A facility licensed by the State of California to provide residential care services, including those facilities described in Health and Safety Code sections 1250 et seq., 1500 et seq., 1568.01 et seq., 1569 et seq., 1760 et seq., and 11834.20 et seq. and those facilities described in Welfare and Institutions Code section 5116.

n. Transient occupancy facility. A building, or portion thereof, designed or occupied for temporary residential purposes, typically for a period of not more than 30 days, including, but not limited to, a hotel, motel or inn.

9.55.050 - Sex offender residency prohibitions. A sex offender shall not do any of the following:

a. Reside in a dwelling if a sex offender already resides there, unless the sex offenders are legally related by blood, marriage or adoption. Notwithstanding this prohibition, a sex offender on parole, may, during the period of parole, reside in a state-licensed residential care facility serving six or fewer persons even if the facility is already occupied by a sex offender. As provided in subdivision (a) of Penal Code section 3003.5, a state-licensed residential care facility shall not be considered a dwelling in this limited circumstance. In determining whether a state-licensed residential care facility serves six or fewer persons, the licensee, members of the licensee's family and persons employed as facility staff shall not be counted.

b. Reside in a room in a transient occupancy facility if a sex offender already resides there, unless the sex offenders are legally related by blood, marriage or adoption.

c. Reside in a transient occupancy facility if sex offenders already reside in ten percent of the facility, or they already reside in more than six rooms, whichever is less.

9.55.060 - Property owner prohibitions. A property owner shall not do any of the following:

a. Knowingly rent or lease a dwelling to more than one sex offender, unless the sex offenders are legally related by blood, marriage or adoption. Notwithstanding this prohibition, a property owner may, for the reasons set forth in subsection 9.55.040a of this ordinance, rent or lease

space to a sex offender on parole, during the period of parole, in a state-licensed residential care facility serving six or fewer persons, even if the facility is already occupied by a sex offender.

b. Knowingly rent or lease a room in a transient occupancy facility to more than one sex offender, unless the sex offenders are legally related by blood, marriage or adoption.

c. Knowingly rent or lease a room in a transient occupancy facility to a sex offender if sex offenders already reside in ten percent of the facility, or they already reside in more than six rooms, whichever is less.

9.55.070 - Sex offender loitering prohibitions. A sex offender shall not loiter in a child safety zone. It shall not be considered loitering for a sex offender to do any of the following:

a. Remain in a child safety zone if the sex offender is a minor and accompanied by a parent or legal guardian.

b. Escort a minor to a place within a child safety zone if the sex offender is the parent or legal guardian of the minor and if the sex offender remains in the child safety zone only for so long as is necessary to provide care or supervision to the minor.

c. Exercise First Amendment rights protected by the United States Constitution, such as the free exercise of religion at a place of worship, or freedom of speech or the right of assembly at a traditional public forum.

9.55.080 - Violations and penalties. Any person violating any provision of this ordinance shall be deemed guilty of a misdemeanor offense and punished by a fine not exceeding \$1,000.00 or six months in jail, or both. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued, or permitted. The penalties herein are in addition to any other remedies provided by law and the imposition of any penalty herein shall not relieve a person of the obligation to correct the violation or prevent the city from commencing any proceeding to ensure that the violation is corrected.

9.55.090 - Civil actions. Any person violating any provision of this ordinance shall be subject to a civil enforcement action filed by the city in any court of competent jurisdiction and shall be subject to reasonable abatement costs, costs of suit and attorney's fees incurred by the city.

9.55.100 - Enforcement. The police department, district attorney, city attorney and code enforcement officer shall enforce the provisions of this ordinance.

9.55.110 - Copy of ordinance to California Department of Corrections. On the effective date of this ordinance, the city attorney is directed to send a copy of this ordinance to the California Department of Corrections and Rehabilitation.

9.55.120 - Copy of ordinance to registered sex offenders. On the effective date of this ordinance, the police chief is directed to send copies of this ordinance to any sex offender who lives within the city. “

**SECTION 2. Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 3. Effective Date.** This ordinance shall take immediate effect upon its passage by the City Council.

**SECTION 4. Publication.** The City Clerk shall cause this ordinance to be published or posted in accordance with Government Code section 36933.

**PASSED, APPROVED, AND ADOPTED** this 11th day of January, 2012.

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Ben J. Benoit  
Mayor

**APPROVED AS TO FORM:**

**ATTEST:**

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Julie Hayward Biggs  
City Attorney

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Debbie Lee  
City Clerk

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item 2.1**  
**PUBLIC HEARING**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members  
**FROM:** Matthew C. Bassi, Planning Director  
**SUBJECT:** Zoning Ordinance Amendment No. 11-03 – Manufacturing Brewers

**STAFF REPORT**

**RECOMMENDATION:**

The Planning Commission recommends that the City Council introduce and approve first reading of an Ordinance entitled:

ORDINANCE NO. \_\_\_\_\_

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ADOPTING AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTION 15061(B)(3) OF CEQA AND APPROVING ZONING ORDINANCE AMENDMENT NO. 11-03 AMENDING CHAPTER 17.100 (M-SC MANUFACTURING-SERVICE COMMERCIAL ZONE) AND 17.104 (M-M MANUFACTURING MEDIUM ZONE) OF THE CITY OF WILDOMAR ZONING ORDINANCE TO ALLOW MANUFACTURING BREWERS WITHIN AN EXISTING ENCLOSED BUILDING AS A PERMITTED USE

**BACKGROUND:**

Significant growth has occurred in the craft brewing industry in the last five years, and thus, has necessitated the need for cities with potential to host businesses in this segment of the economy to examine any barriers to entrance into the market place. By way of background, “manufacturing brewing” is defined by an industry group (Brewers Associations) in Boulder Colorado in the following way:

“**Small:** Annual production of 6 million barrels (1 barrel=31 gallons) of beer or less. Beer production is attributed to a brewer according to the rules of alternating proprietorships. Flavored malt beverages are not considered beer for purposes of this definition.”

“**Independent:** Less than 25% of the craft brewery is owned or controlled (or equivalent economic interest) by an alcoholic beverage industry member who is not themselves a craft brewer.”

**“Traditional:** A brewer who has either an all malt flagship (the beer which represents the greatest volume among that brewers brands) or has at least 50% of its volume in either all malt beers or in beers which use adjuncts to enhance rather than lighten flavor.”

The following are some concepts related to manufacturing beer and manufacturing brewers:

- Manufacturing Brewers are small brewers.
- The hallmark of manufacturing brewers is innovation. Manufacturing brewers interpret historic styles with unique twists and develop new styles that have no precedent.
- Manufacturing brewer beer is generally made with traditional ingredients like malted barley; interesting and sometimes non-traditional ingredients are often added for distinctiveness.
- Manufacturing Brewers tend to be very involved in their communities through philanthropy, product donations, volunteerism, and sponsorship of events.
- Manufacturing Brewers have distinctive, individualistic approaches to connecting with their customers.
- Manufacturing Brewers maintain integrity by what they brew and their general independence, free from a substantial interest by a non-manufacturing brewer.

#### **DISCUSSION:**

As an industry, manufacturing brewers grew 11% by volume in 2010. However, even with the growth, manufacturing brewers/beer represent only approximately 5% of the overall beer market, which demonstrates that these type of brewers are still a small minority in the larger beer market and their operations are small in comparison to large scale commercial mass produced beers. In fact, the beer industry is still dominated by the major brands such as Budweiser, Coors, and Miller.

Economically speaking, manufacturing brewers still represents one of the few areas of the economy that continues to see growth during this recessionary downturn. As a result, many new breweries of this type are springing up around the country and specifically in California. In Wildomar alone, staff has had three inquires in just the last six months.

After the City spoke to brewers interested in doing business in the City of Wildomar and reviewing the Zoning Ordinance for ideas on how the City might assist in this growing business segment, it became clear that our Zoning Ordinance may be out of touch with the evolution of this growing industry.

For example, some of the early microbrew operations had restaurants attached as part of the overall experience and business model. Because of the use and the traditional planning process it was not uncommon, especially if it was being built from the ground up as a stand alone building, to go through the process of conditioning the project.

As the industry has evolved many brewers have left the restaurant style brewpub model and have evolved into commercial operations that keg or bottle beer for distribution to restaurants and retail outlets much like a small commercial winery. The outgrowth of this business model has been to offer tastings of the manufacturing beer on site, again much like a small commercial winery.

Further, many of these brewers are now finding homes in light industrial/manufacturing buildings. This evolution has come over time but has helped the industry to grow since building a restaurant and a brewery operation on its own is an expensive venture. Now brewers can go into a building that was made specifically for small manufacturing so they can conduct business in an established business center.

The one obstacle in this model is that under the City of Wildomar (formerly the County of Riverside) Zoning Ordinance, traditional brewers are required to process a Conditional Use Permit (CUP) in the M-SC (Manufacturing Service Commercial) zone, and a Plot Plan in the M-M (Manufacturing-Medium) zone. Yet, the operational model today is very different than a brewpub restaurant of the past.

It is different enough that this year Governor Brown signed AB 1014 which overwhelmingly passed out of the California State Assembly on a bi-partisan vote. This new law puts the above styled breweries on par with wineries with regards to tasting rooms. The law relieved small craft brewers from the onerous health standards for equipment required for food facilities. Under the law the only food that can be served is pre-packaged foods such as pretzels. It was generally recognized you didn't need restaurant grade equipment to pour a taste of a hand crafted beer.

Knowing the industry has evolved toward this new model, it is staff's recommendation that the City Council accept the Planning Commission recommendation to amend the M-SC and M-M zones to allow manufacturing brewers as a permitted use by right within an existing enclosed building. By doing this, it is anticipated the City would be assisting in the facilitation of this industry in the City of Wildomar. The old-style breweries/distilleries would still be required to process a CUP as currently required in the Zoning Ordinance.

## **CONCLUSION:**

The Planning Commission is supportive of recommending approval of this amendment to the City Council for a number of reasons.

1. Under the current M-SC zone and M-M zone, there are similar uses, or equally intensive, as brewing beer which do not require a CUP (i.e., grain and bakery products, textile products). If you consider new commercial brewing business models, there doesn't seem to be a specific reason why manufacturing brewers would require a CUP.

2. As stated above, commercial brewing operations that distribute to restaurants and retail outlets are not food serving facilities as defined, and now allowed, under Assembly Bill 1014. The requirements for a restaurant are very different than a commercial brewery. Therefore, there really isn't a need to condition the use as if you were building a new stand alone establishment.
3. The manufacturing of beer is a use that is consistent with a business park or manufacturing environment. In other words, uses such as beer production is already contemplated when a business park is approved. There is nothing a commercial craft beer producer would be doing that would necessitate additional conditions so long as activities were indoors.
4. Tasting rooms are not considered bars, but are more like wine tasting rooms. Tasting rooms are filled with individuals ranging from first time consumers curious about craft beers to seasoned beer aficionados and everyone in between. At times it has a tourist feel like you might find at a winery. Patrons taste newly created beers, seasonal beers, and the standard beers of the establishment.
5. Manufacturing brewers are regulated both at the State and Federal level. Consequently, their activities are prohibited in many ways with the threat of fines and loss of license. This existing regulatory framework guarantees that they will conduct business in a systemic and responsible manner.

#### **ENVIRONMENTAL ASSESSMENT:**

A review of the potential environmental impacts was conducted for the proposed Zoning Ordinance Amendment. This evaluation indicated no potential for impacts on the environment. As a result, the Planning Director recommends that the Planning Commission recommend that the Council make a determination that the proposed Zoning Ordinance Amendment related to Manufacturing Brewers has no potential to impact the environment. The proposed Zoning Ordinance Amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act (CEQA). Consequently, the proposed Zoning Ordinance Amendment is exempt from CEQA review pursuant to Section 15061(b)(3) which states that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

#### **REQUIRED FINDINGS:**

- A. The proposed Zoning Ordinance Amendment to the Zoning Ordinance is consistent with the City of Wildomar General Plan.

The proposed amendment to the Zoning Ordinance is consistent with the City of Wildomar General Plan, as the revision to allow manufacturing brewers M-SC Zone, M-M Zone as a permitted use within an enclosed building meets the intent of these two industrial zone classifications. The M-SC and M-M zones are intended to

promote and attract industrial and manufacturing activities that will provide jobs to local residents and strengthen the City's economic base. Further, the permitted use will be compatible with other industrial and service commercial existing and allowed in these two industrial zone classifications. Further, the proposed amendment to the Zoning Ordinance is consistent with and, will further the goals and policies of the General Plan, and will not impact the public health, safety and general welfare of the residents of Wildomar.

**FISCAL IMPACT:**

There is no fiscal impact resulting from this action.

Submitted by:

Approved by:

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Matthew C. Bassi  
Planning Director

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Frank Oviedo  
City Manager

**ATTACHMENTS:**

- A. City Council Ordinance
- B. Planning Commission Minutes (Excerpts from the December 7, 2011 meeting)

# **ATTACHMENT A**

**City Council Ordinance for ZOA No. 11-03**

**ORDINANCE NO. \_\_\_\_**

**A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ADOPTING AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTION 15061(B)(3) OF CEQA AND APPROVING ZONING ORDINANCE AMENDMENT NO. 11-03 AMENDING CHAPTER 17.100 (M-SC MANUFACTURING-SERVICE COMMERCIAL ZONE) AND 17.104 (M-M MANUFACTURING MEDIUM ZONE) OF THE CITY OF WILDOMAR ZONING ORDINANCE TO ALLOW MANUFACTURING BREWERS WITHIN AN EXISTING ENCLOSED BUILDING AS A PERMITTED USE**

**THE WILDOMAR CITY COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1: Environmental Findings.**

The City Council hereby finds and determines that the proposed Zoning Ordinance Amendment to allow Manufacturing Brewers in the M-SC (Manufacturing-Service Commercial) Zone, M-M (Manufacturing-Medium) Zone as a permitted use within an enclosed building procedures has no potential to impact the environment. The proposed Zoning Ordinance Amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Consequently, the proposed Zoning Ordinance Amendment is exempt from CEQA review pursuant to Section 15061(b)(3) which states that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**SECTION 2. General Plan Consistency Findings.**

The proposed amendment to the Zoning Ordinance is consistent with the City of Wildomar General Plan, as the revision to allow Manufacturing Brewers M-SC (Manufacturing-Service Commercial) Zone, M-M (Manufacturing-Medium) Zone as a permitted use within an enclosed building meets the intent of these two industrial zone classifications. The M-SC and M-M zones are intended to promote and attract industrial and manufacturing activities that will provide jobs to local residents and strengthen the City's economic base. Further, the permitted use will be compatible with other industrial and service commercial existing and allowed in these two industrial zone classifications. Further, the proposed amendment to the Zoning Ordinance is consistent with and, will further the goals and policies of the General Plan, and will not impact the public health, safety and general welfare of the residents of Wildomar.

### **SECTION 3. Severability.**

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

### **SECTION 4: Amendment to the Zoning Ordinance**

Section 17.100.020.A of the City of Wildomar Zoning Ordinance is hereby amended to add the following land use as a permitted use described as follows::

#### **“17.100.020.A.2**

“Manufacturing Brewers within an existing enclosed building. A manufacturing brewer is defined as a "small, independent and traditional" brewery that gives a production size of less than 6,000,000 U.S. beer barrels (or 700,000,000 Liters) per year. For purposes of this definition, brewing, tasting and selling of brew on the premises is permitted provided a license is obtained from the state of California Alcoholic Beverage Control (ABC).

### **SECTION 5: Amendment to the Zoning Ordinance**

Section 17.104.020.A of the City of Wildomar Zoning Ordinance is hereby amended to add the following land use as a permitted use described as follows::

#### **“17.104.020.A.2**

“Manufacturing Brewers within an existing enclosed building. A manufacturing brewer is defined as a "small, independent and traditional" brewery that gives a production size of less than 6,000,000 U.S. beer barrels (or 700,000,000 Liters) per year. For purposes of this definition, brewing, tasting and selling of brew on the premises is permitted provided a license is obtained from the state of California Alcoholic Beverage Control (ABC).

### **SECTION 6. Effective Date of the Ordinance.**

This Ordinance shall take effect and be in full force and operation thirty (30) days after its second reading and adoption.

**SECTION 7. City Clerk Action**

The City Clerk is authorized and directed to cause this Ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Section 36933(a) or, to cause this Ordinance to be published in the manner required by law using the alternative summary and pasting procedure authorized under Government Code Section 39633(c).

**PASSED, APPROVED, AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Ben J. Benoit  
Mayor

APPROVED AS TO FORM:

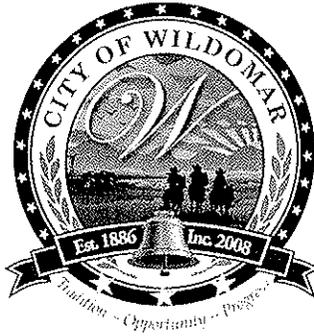
ATTEST:

\_\_\_\_\_  
Julie Hayward Biggs  
City Attorney

\_\_\_\_\_  
Debbie A. Lee, CMC  
City Clerk

# **ATTACHMENT B**

**Excerpts from the December 7, 2011 Planning Commission Meeting**



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**CITY OF WILDOMAR**  
**“DRAFT”**  
**PLANNING COMMISSION MEETING MINUTES**  
**FROM THE REGULAR PLANNING COMMISSION MEETING**  
**OF DECEMBER 7, 2011**

---

**CALL TO ORDER**

The regular meeting of the Wildomar Planning Commission was called to order by Planning Commission Chairman Dykstra at 7:00 P.M. at Wildomar City Hall, Council Chambers.

**ROLL CALL**

Present: Harv Dykstra, Chairman  
Stan Smith, Vice-Chairman  
Michael Kazmier, Commissioner  
Robert Devine, Commissioner  
Veronica Langworthy, Commissioner

Absent: None.

Staff Present Matthew Bassi, Planning Director  
Thomas Jex, Assistant City Attorney  
Debbie Lee, City Clerk  
Frank Oviedo, City Manager

**FLAG SALUTE**

Commissioner Langworthy led the flag salute.

**PUBLIC COMMENTS**

None.

## **2.2 Zoning Ordinance Amendment No. 11-03:**

Director Bassi made a brief presentation to the Planning Commission.

Commissioner Devine asked staff if there was any micro-brewery project presently being reviewed by the Planning Department.

City Manger Frank Oviedo commented that there is a potential applicant who wishes to propose a micro-brewery in the MSC zone, but due to the entitlement process it would be too costly for the business owner to move forward. In addition, Mr. Oviedo further elaborated on the evolution of the industry as well as its growing popularity.

Vice Chairman Smith commented the City is at a disadvantage that the surroundings cities already have something in place for this demand.

Commissioner Devine asked staff what type of revenue would this business bring to the City

City Manager Oviedo responded it will bring an amenity to the community and tourism.

Vice Chairman Smith asked if this business would bring on-site sales.

City Manager Oviedo responded in the affirmative.

Commissioner Langworthy asked City Manager Oviedo clarification if these uses would be permitted in existing buildings.

City Manager Oviedo responded in the affirmative.

Chairman Dykstra opened the public hearing.

Seeing no comments, Chairman Dykstra closed the public hearing.

Vice Chairman Smith commented he approves of anything the City can do to expedite future growth for the City is fine. Chairman Dykstra commented he agrees with Mr. Smith's previous comment.

Vice Chairman Smith motioned to adopt PC Resolution No. 11-15. Motion seconded by Commissioner Devine. Motion carried, the following vote resulted:

AYES: Devine, Dykstra, Kazmier, Langworthy, Smith

NOES:

ABSENT:

ABSTAIN:

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #2.2**  
**PUBLIC HEARING**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members  
**FROM:** Matthew C. Bassi, Planning Director  
**SUBJECT:** Zoning Ordinance Amendment No. 11-02 - Receive and File Process and Appeal Procedures Clarification

**STAFF REPORT**

**RECOMMENDATION:**

The Planning Commission recommends that the City Council introduce and approve first reading of an Ordinance entitled:

ORDINANCE NO. \_\_\_\_\_

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ADOPTING AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTION 15061(B)(3) OF CEQA AND APPROVING ZONING ORDINANCE AMENDMENT NO. 11-02 AMENDING CHAPTER 17.192 (PERMIT APPLICATIONS) OF THE CITY OF WILDOMAR ZONING ORDINANCE

**DISCUSSION:**

The City Council and Planning Commission at their joint meeting of November 2, 2011 gave direction to the Planning Department to prepare a zoning ordinance amendment to remove the Receive and File procedure from the City's Zoning Ordinance. This direction came as a result of discussion regarding the planning application approval authority matrix. The Receive and File process was adopted by Riverside County and inherited by Wildomar upon incorporation. A copy of the proposed Ordinance is provided for Council consideration (Attachment A). Staff has also included a strikeout version for comparison purposes (Attachment B).

Currently, there are four project types/applications that are reviewed and approved by the Planning Director and/or Planning Commission that are subject to the Receive and File process. Staff has provided the Commission with a copy of the existing matrix for reference purposes (Attachment C). The four development applications subject to the Receive and File process include the following:

- Conditional Use Permits

- Public Use Permits
- Tentative Tract Maps (Schedule A – D)
- Tentative Parcel Maps (Schedule E – I)

The Receive and File process involves preparing a staff report (with development plans) for City Council consideration once the Planning Director or Planning Commission has approved one of the four development applications listed above. The Council then has the option of accepting the decision of the Planning Director and/or Planning Commission, or they can decide to call-up the project for a more formal review at a future public hearing.

This process lengthens the time in which an applicant can submit construction drawings to the Building Department, and other city departments, for review. It also adds additional costs for the applicant to prepare a second set of development plans for the Council review. In general, there can be a delay of at least 30 to 60 days (depending on staff report and noticing deadlines) using the Receive and File process..

Staff believes that the direction from the City Council and Planning Commission to remove the Receive and File process will not negatively impact the development review process. The process was intended to address a specific need within the County of Riverside's development review process, and is not specific to the City of Wildomar.

In staff's experience, this process is not used by any other Southern California local agency. It is important to point out that the City's appeal process will still be in full force and effect for all projects and will not be affected by this zoning ordinance amendment. A copy of the updated planning application approval authority matrix is provided for Council reference (Attachment D).

The Planning Commission reviewed the proposed amendment at its December 7, 2011 meeting. Based on the staff report, and public testimony, the Planning Commission unanimously voted to recommend City Council approval of Zoning Ordinance Amendment No. 11-02. A copy of the draft meeting minutes are provided for Council consideration (Attachment E).

#### **ENVIRONMENTAL ASSESSMENT:**

A review of the potential environmental impacts was conducted for the proposed Zoning Ordinance Amendment. This evaluation indicated no potential for impacts on the environment. As a result, the Planning Director recommends that the Planning Commission recommend that the Council make a determination that the proposed Zoning Ordinance Amendment related to the City's Receive and File procedures has no potential to impact the environment. The proposed Zoning Ordinance Amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act (CEQA). Consequently, the proposed Zoning Ordinance Amendment is exempt from CEQA review pursuant to Section 15061(b)(3) which states that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the

activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**REQUIRED FINDINGS:**

- A. The proposed Zoning Ordinance Amendment to the Zoning Ordinance is consistent with the City of Wildomar General Plan.

The proposed revision to eliminate the City's Receive and File procedures will not affect the review and processing of specific development applications as the approval authority for such projects will remain unchanged. In accordance with the City of Wildomar Zoning Ordinance, a person, or applicant, will still have the right to file an appeal on any decision related to the review and processing of development applications made by the Planning Director and Planning Commission. Further, the proposed revision to the Zoning Ordinance is consistent with and, will further the provisions of General Plan, and will not impact the public health, safety and general welfare of the residents of Wildomar.

**FISCAL IMPACT:**

There is no fiscal impact resulting from this action.

Submitted by:

Approved by:

---

Matthew C. Bassi  
Planning Director

---

Frank Oviedo  
City Manager

**ATTACHMENTS:**

- A. City Council Ordinance No. \_\_\_\_ approving for ZOA No. 11-02.
- B. Strikeout Version of Section 17.192.060 & Section 17.192.070
- C. Existing Planning Approval Authority Matrix (11/2/11)
- D. Revised Planning Approval Authority Matrix (12/7/11)
- E. Planning Commission Minutes (Excerpts from the December 7, 2011 meeting)

# **ATTACHMENT A**

**City Council Ordinance for ZOA No. 11-02**

**ORDINANCE NO. \_\_\_\_\_**

**A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ADOPTING AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER SECTION 15061(B)(3) OF CEQA AND APPROVING ZONING ORDINANCE AMENDMENT NO. 11-02 AMENDING CHAPTER 17.192 (PERMIT APPLICATIONS) OF THE CITY OF WILDOMAR ZONING ORDINANCE**

**THE WILDOMAR CITY COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1: Environmental Findings.**

The City Council hereby finds and determines that the project consists of a Zoning Ordinance Amendment related to the City's "Receive and File" procedures has no potential to impact the environment. The proposed ordinance does not alter the existing requirements that specific development projects comply with the provisions of the California Environmental Quality Act. Consequently, the proposed ordinance is exempt from CEQA review pursuant to Section 15061(b)(3) which states that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**SECTION 2. General Plan Consistency Findings.**

The proposed amendment to the Zoning Ordinance is consistent with the City of Wildomar General Plan. The proposed revision to eliminate the City's "Receive and File" procedures will not affect the review and processing of specific development applications as the approval authority for such projects will remain unchanged. In accordance with the City of Wildomar Zoning Ordinance, a person, or applicant, will still have the right to file an appeal on any decision related to the review and processing of development applications made by the Planning Director and Planning Commission. Further, the proposed revision to the Zoning Ordinance is consistent with and, will further the provisions of General Plan, and will not impact the public health, safety and general welfare of the residents of Wildomar.

**SECTION 3. Severability.**

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

#### **SECTION 4: Amendment to the Zoning Ordinance - Chapter 17.192.060**

Section 17.192.060 of the City of Wildomar Zoning Ordinance is hereby deleted in its entirety and re- adopted to read as follows:

##### **“17.192.060 Hearing and Notice of Decision**

The hearing body shall hear relevant testimony from interested persons and make its decision within a reasonable time after the close of the public hearing.”

#### **SECTION 5: Amendment to the Zoning Ordinance - Chapter 17.192.070**

Section 17.192.070 of the City of Wildomar Zoning Ordinance is hereby deleted in its entirety and re- adopted to read as follows:

##### **“17.192.070 Appeals.**

- A. Except when an appeals procedure is otherwise specifically set forth in this code, any person objecting to the denial, conditional approval, suspension or revocation of a permit, license or other approval pursuant to any provision of this code, or to any discretionary decision made by any official, commission or board of the City, may appeal in writing by filing with the City Clerk a written notice of such appeal. No right of appeal from any administrative decision made by any official, board or commission of the City pursuant to any provision of this code shall exist when such decision is ministerial or involves a matter of protocol and thus does not involve the exercise of discretion or personal judgment, whether the administrative decision involves the denial, conditional approval, suspension or revocation of a permit, license, approval or any other administrative decision. There shall be no such right of appeal with regard to law enforcement activities involving state law.
- B. Appeal of a Planning Director Decision. Within ten (10) calendar days after a decision of the Planning Director, an appeal in writing to the City Clerk may be made on the form provided by the Planning Department and which shall be accompanied by a filing fee as set forth in Ordinance No. 671. Upon receipt of a completed appeal application and filing fee, the City Clerk shall schedule the appeal for consideration and mail notice thereof to the applicant and the appellant. If the project application required a public hearing with the Planning Director, notice of the appeal shall be given in the same manner that notice was given for the original hearing. All appeals of a decision made by the Planning Director shall be heard by the Planning Commission no later than thirty (30) days after filing of said appeal.
- C. Appeal of a Planning Commission Decision. Within ten (10) calendar days after a decision of the Planning Commission, an appeal in writing to the city Clerk may be made on the form provided by the Planning Department and which shall be accompanied by a filing fee as set forth in Ordinance No. 671.

Upon receipt of a completed appeal application and filing fee, the City Clerk shall schedule the appeal for consideration and mail notice thereof to the applicant and the appellant. If the project application required a public hearing with the Planning Commission, notice of the appeal shall be given in the same manner that notice was given for the original hearing. All appeals of a decision made by the Planning Commission shall be heard by the City Council no later than thirty (30) days after filing of said appeal.

**SECTION 6. Effective Date of the Ordinance.**

This Ordinance shall take effect and be in full force and operation thirty (30) days after its adoption.

**SECTION 7. City Clerk Action**

The City Clerk is authorized and directed to cause this Ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Section 36933(a) or, to cause this Ordinance to be published in the manner required by law using the alternative summary and pasting procedure authorized under Government Code Section 39633(c).

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Ben J. Benoit  
Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Julie Hayward Biggs  
City Attorney

\_\_\_\_\_  
Debbie A. Lee, CMC  
City Clerk

# **ATTACHMENT B**

**Strikeout Version of Section 17.192.060 and Section 17.192.070**

## **STRIKEOUT VERSION FOR COMPARISON**

### **Section 17.192.060 Hearing and notice of decision**

~~The hearing body shall hear relevant testimony from interested persons and make its decision within a reasonable time after the close of the public hearing (*this sentence remains*). Notice of the decision shall be filed by the Planning Director with the clerk of the board of supervisors, together with a report of the proceedings, not more than fifteen (15) days after the decision. A copy of the notice of decision shall be mailed to the applicant and to any person who has made a written request for a copy of the decision. If the hearing body is unable to make a decision, that fact shall be filed with the clerk of the board in the same manner for reporting decisions and shall be considered a s notice of denial of the application by the hearing body. The clerk of the board shall place the notice of the decision on the next agenda of the board of supervisors held five or more days after the clerk receives the notice form the planning director. (Ord. 348.3928 § 2 (part), 2000: Ord. 348 § 18.26(e))~~

### **Section 17.192.070 Appeal-Proceeding before the board of supervisors**

~~The decision of the hearing body is considered final and no action by the board of supervisors is required unless, within ten (10) days after the notice of decision appeals on the board's agenda, the applicant the applicant or interested person files an appeal, accompanied by the fee set forth in county Ordinance No. 671, with the clerk of the board or unless the board assumes jurisdiction by ordering the matter set for public hearing. If a timely appeal is filed or the board assumes jurisdiction, the clerk of the board shall set the matter for public hearing before the board not less than thirteen (13) nor more than sixty (60) days thereafter and shall give notice of the time and place of the hearing on the same manner as notice was given of the hearing before the hearing body. (Ord. 348.3928 § 2 (part), 2000: Ord. 348 § 18.26(f))~~

New Text for Same section (taken from draft ordinance):

#### **“17.192.070 Appeals.**

- A. Except when an appeals procedure is otherwise specifically set forth in this code, any person objecting to the denial, conditional approval, suspension or revocation of a permit, license or other approval pursuant to any provision of this code, or to any discretionary decision made by any official, commission or board of the City, may appeal in writing by filing with the City Clerk a written notice of such appeal. No right of appeal from any administrative decision made by any official, board or commission of the City pursuant to any provision of this code shall exist when such decision is ministerial or involves a matter of protocol and thus does not involve the exercise of discretion or personal judgment, whether the administrative decision involves the denial, conditional approval, suspension or revocation of a permit, license, approval or any other administrative decision. There shall be no such right of appeal with regard to law enforcement activities involving state law.

- B. Appeal of a Planning Director Decision. Within ten (10) calendar days after a decision of the Planning Director, an appeal in writing to the City Clerk may be made on the form provided by the Planning Department and which shall be accompanied by a filing fee as set forth in Ordinance No. 671. Upon receipt of a completed appeal application and filing fee, the City Clerk shall schedule the appeal for consideration and mail notice thereof to the applicant and the appellant. If the project application required a public hearing with the Planning Director, notice of the appeal shall be given in the same manner that notice was given for the original hearing. All appeals of a decision made by the Planning Director shall be heard by the Planning Commission no later than thirty (30) days after filing of said appeal.
- C. Appeal of a Planning Commission Decision. Within ten (10) calendar days after a decision of the Planning Commission, an appeal in writing to the city Clerk may be made on the form provided by the Planning Department and which shall be accompanied by a filing fee as set forth in Ordinance No. 671. Upon receipt of a completed appeal application and filing fee, the City Clerk shall schedule the appeal for consideration and mail notice thereof to the applicant and the appellant. If the project application required a public hearing with the Planning Commission, notice of the appeal shall be given in the same manner that notice was given for the original hearing. All appeals of a decision made by the Planning Commission shall be heard by the City Council no later than thirty (30) days after filing of said appeal.

# **ATTACHMENT C**

**Existing Planning Application Approval Authority Matrix (Dated 11/2/11)**

**CITY OF WILDOMAR  
PLANNING APPLICATION APPROVAL AUTHORITY MATRIX (11/2/11)**

Application Types	Zoning Ordinance Chapter	Planning Director Admin. Review	Planning Director Hearing <sup>1</sup>	Planning Commission Review <sup>1</sup>	City Council Review <sup>1</sup>
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**CITY COUNCIL HEARING AUTHORITY**

Change of Zone	17.280			Recommendation to City Council	✓
General Plan Amendment	17.08			Recommendation to City Council	✓
Specific Plan/Specific Plan Amendment	17.08			Recommendation to City Council	✓
Reversion to Acreage	16.64			Recommendation to City Council	✓
Development Agreement	Gov. Code Sec. 65864			Recommendation to City Council	✓

**PLANNING COMMISSION HEARING AUTHORITY (WITH CEQA ND / MND / EIR)**

Conditional Use Permit	17.200			✓	☞
Plot Plan (large comm. projects)	17.216			✓ (30+ acres.)	
Public Use Permit	17.208			✓	☞
Tentative Tract Map (Schedules "A", "B", "C", "D")	16.12			✓	☞
Tentative Parcel Map (Schedule "E")	16.12			✓	☞
Variance	17.196			✓ <sup>3</sup>	✓ <sup>3</sup>

**PLANNING DIRECTOR HEARING (APPLICABLE CEQA ND / MND / EIR)**

Plot Plan	17.216		✓		
Variance	17.196		✓ <sup>3</sup>		
Tentative Parcel Map (Schedules "F", "G", "H", "I")	16.12		✓		☞
Crowing Fowl Permit	17.206		✓ <sup>2</sup>		

**PLANNING DIRECTOR/ADMINISTRATIVE REVIEW (CEQA CATEGORICAL EXEMPTION)**

Plot Plan (Categorical Exempt)	17.216	✓			
Second Unit Permit	17.204	✓			
Large Family Day Care Permit	17.212	✓ <sup>2</sup>	✓ <sup>2</sup>		
Lot Line Adjustment	16.68	✓			
Parcel Merger	16.64	✓			
Substantial Conformance Review	17.228	✓			
Setback Adjustments	17.172.220	✓			

- Public Hearings require a Notice to be published in the Californian or Press Enterprise at least 10 days prior to a hearing.
  - A Notice of the City's intent to approve an application is sent to adjacent property owners. If a public hearing is requested by a resident, the application is scheduled for a Planning Director Hearing
  - Variations are reviewed by the Approval Authority reviewing the underlying Entitlement Application Permit.
- ☞ Receive and File requirement pursuant to Section 17.192.060 & 070. According to County policy, this process applies to conditional use permits, public use permits and subdivision maps.
- Note:** Plot Plans, Parcel Maps, or Tract Maps that include a GPA and/or CZ are grouped together for review and consideration by the City Council upon a recommendation from the Planning Commission..
- Note:** All decisions of the Planning Director and Planning Commission are subject to the City's Appeal procedures. as outlined in Section 17.192.070.

# **ATTACHMENT D**

**Revised Planning Application Approval Authority Matrix (Dated 12/7/11)**

**CITY OF WILDOMAR  
PLANNING APPLICATION APPROVAL AUTHORITY MATRIX (12/7/11)**

<b>Application Types</b>	<b>Zoning Ordinance Chapter</b>	<b>Planning Director Admin. Review</b>	<b>Planning Director Hearing<sup>1</sup></b>	<b>Planning Commission Review<sup>1</sup></b>	<b>City Council Review<sup>1</sup></b>
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**CITY COUNCIL HEARING AUTHORITY**

Change of Zone	17.280			Recommendation to City Council	✓
General Plan Amendment	17.08			Recommendation to City Council	✓
Specific Plan/Specific Plan Amendment	17.08			Recommendation to City Council	✓
Reversion to Acreage	16.64			Recommendation to City Council	✓
Development Agreement	Gov. Code Sec. 65864			Recommendation to City Council	✓

**PLANNING COMMISSION HEARING AUTHORITY (WITH CEQA ND / MND / EIR)**

Conditional Use Permit	17.200			✓	
Plot Plan (large commercial projects - 30+ acres)	17.216			✓	
Public Use Permit	17.208			✓	
Tentative Tract Map (Schedules "A", "B", "C", "D")	16.12			✓	
Tentative Parcel Map (Schedule "E")	16.12			✓	
Variance	17.196			✓ <sup>3</sup>	✓ <sup>3</sup>

**PLANNING DIRECTOR HEARING (APPLICABLE CEQA ND / MND / EIR)**

Plot Plan	17.216		✓		
Variance	17.196		✓ <sup>3</sup>		
Tentative Parcel Map (Schedules "F", "G", "H", "I")	16.12		✓		
Crowing Fowl Permit	17.206		✓ <sup>2</sup>		

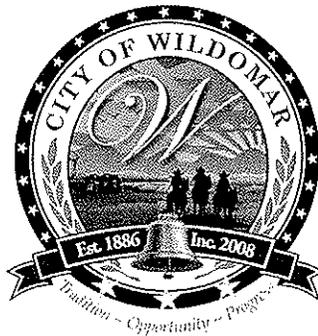
**PLANNING DIRECTOR/ADMINISTRATIVE REVIEW (CEQA CATEGORICAL EXEMPTION)**

Plot Plan (Categorical Exempt)	17.216	✓			
Second Unit Permit	17.204	✓			
Large Family Day Care Permit	17.212	✓ <sup>2</sup>	✓ <sup>2</sup>		
Lot Line Adjustment	16.68	✓			
Parcel Merger	16.64	✓			
Substantial Conformance Review	17.228	✓			
Setback Adjustments	17.172.220	✓			

- Public Hearings require a Notice to be published in the Californian or Press Enterprise at least 10 days prior to a hearing.
  - A Notice of the City's intent to approve an application is sent to adjacent property owners. If a public hearing is requested by a resident, the application is scheduled for a Planning Director Hearing
  - Variations are reviewed by the Approval Authority reviewing the underlying Entitlement Application Permit.
- Note:** Plot Plans, Parcel Maps, or Tract Maps that include a GPA and/or CZ are grouped together for review and consideration by the City Council upon a recommendation from the Planning Commission.
- Note:** All decisions of the Planning Director and Planning Commission are subject to the City's Appeal procedures as outlined in Section 17.192.070.

# **ATTACHMENT E**

**Excerpts from the December 7, 2011 Planning Commission Meeting**



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**CITY OF WILDOMAR**  
**“DRAFT”**  
**PLANNING COMMISSION MEETING MINUTES**  
**FROM THE REGULAR PLANNING COMMISSION MEETING**  
**OF DECEMBER 7, 2011**

---

**CALL TO ORDER**

The regular meeting of the Wildomar Planning Commission was called to order by Planning Commission Chairman Dykstra at 7:00 P.M. at Wildomar City Hall, Council Chambers.

**ROLL CALL**

Present: Harv Dykstra, Chairman  
Stan Smith, Vice-Chairman  
Michael Kazmier, Commissioner  
Robert Devine, Commissioner  
Veronica Langworthy, Commissioner

Absent: None.

Staff Present Matthew Bassi, Planning Director  
Thomas Jex, Assistant City Attorney  
Debbie Lee, City Clerk  
Frank Oviedo, City Manager

**FLAG SALUTE**

Commissioner Langworthy led the flag salute.

**PUBLIC COMMENTS**

None.

## **1.0 CONSENT CALENDAR**

All matters listed under the Consent Calendar are considered routine and will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the Commission, the public, or staff request specific items be removed from the Consent Calendar for discussion and/or separate action.

### **1.1. Approval of the November 2, 2011 Planning Commission Minutes**

Vice Chairman Smith motioned to approve the November 2, 2011 Planning Commission Minutes as submitted. Motioned seconded by Commissioner Langworthy. Motioned Carried, the following vote resulted:

AYES: Devine, Dykstra, Kazmier, Langworthy, Smith

NOES:

ABSENT:

ABSTAIN:

## **2.0 PUBLIC HEARINGS**

### **2.1 Zoning Ordinance Amendment No. 11-02:**

Director Bassi made a brief presentation to the Planning Commission.

Planning Commissioner Devine asked Planning Director Bassi for clarification that section "A" and "B" are now "B" and "C".

Director Bassi responded in the affirmative

Planning Commissioner Devine asked Director Bassi what had happened to the old "C" section.

Director Bassi that it was basically a repeat of section A so it was deleted from the draft Ordinance.

Chairman Dykstra opened the public hearing.

Ms. Anna Hoover, Cultural Analyst for the Pechanga Indians, expressed concerns that the ordinance would eliminate the requirements of SB 18 which requires local agencies to meet with the Local Indian tribe on certain projects. She also requested that the amendment be continued to later date so they could review the draft Ordinance in more detail.

Director Bassi responded that the ordinance does not affect the requirements of SB 18 since it is a State law that Wildomar has no authority to change or modify. Mr. Bassi further stated that a continuation of the Commission's decision was not necessary.

Ms. Brenda Tomaras, legal counsel for the Pechanga Indians also expressed the same concerns as Ms. Hoover as asked for the Commission to continue action on the agenda item. She also commented that she spoke to Mr.

Thomas Jex, Assistant Attorney, about the draft ordinance and thanked him for taking the time in explaining the ordinance.

Ms. Michelle Fahley, consultant to the Pechanga Indians, also expressed the same concerns as Ms. Hoover as asked for the Commission to continue action on the agenda item.

Assistant City Attorney Jex commented that he spoke to Ms. Tomaras regarding the draft ordinance amendment and the "Receive and File" process and explained that the City inherited process from the County upon incorporation.

Seeing no other comments, Chairman Dykstra closed the public hearing.

Commissioner Devine asked for clarification if any project that is subject to SB 18 and the Tribe's consultation will ultimately be reviewed by the City Council.

City Attorney Jex replied in the affirmative.

Chairman Dykstra asked City Attorney Jex if he could provide examples of how the neighboring cities address the "Receive and File" process.

Assistant City Attorney Jex indicated that he was not aware of any process like the City's "Receive and File" procedures. He further commented that the draft ordinance has specific provisions for appeals of Commission and Director's decisions and elimination of the "Receive and File" process would not affect that.

Director Bassi also commented that he and Assistant City Attorney Jex would be available to meet with the Tribe's representatives before the City Council meeting to provide clarification on the draft ordinance, and re-iterated that there was no need to continue the agenda item.

Vice Chairman Smith motioned to adopt PC Resolution No. 11-10. Motion seconded by Commissioner Devine. Motion carried, the following vote resulted:

AYES: Devine, Dykstra, Kazmier, Langworthy, Smith  
NOES:  
ABSENT:  
ABSTAIN:

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #3.1**  
**GENERAL BUSINESS**  
**Meeting Date: January 11, 2012**

---

**TO:** Mayor and City Council Members  
**FROM:** Matthew C. Bassi, Planning Director  
**SUBJECT:** Proposed Cable Ski Park Presentation

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council receive and file the presentation.

**DISCUSSION:**

The Planning Department received a Pre-Application (Project No. 11-0282) several months ago for a proposed cable ski park proposing to be located on the west side of Kilarney Lane, just south of Baxter Road (Attachment 1). The cable ski park will operate fully on a cable/pulley system and will not include any motorized boats, or other vehicles. The applicant has also proposed an 18-hole putting course in the center of the lake that will be accessed via a tunnel from the main parking area.

Staff provided the applicant with a number of design review comments, including but not limited to, requirements for signage, street dedications/improvements and the processing of an Environmental Impact Report. The project will also require a Parcel Merger/Parcel Map, General Plan Amendment, Change of Zone, and Conditional Use Permit. No formal applications have been submitted as of the date of this report.

Staff felt that this proposed project could be a significant development opportunity for the City, thus, we asked Mr. Clemmons if he would prepare project development pamphlets and make a power point presentation for the City Council. As this is intended as a study session, the City Council is limited in its discussion and can only provide feedback to the applicant regarding the Pre-Application.

Staff has provided a copy of the proposed development materials for Council review (Attachment B). Mr. Clemmons will also go into more detail about the proposed project during his power point presentation.

Submitted by:

Approved by:

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Matthew C. Bassi  
Planning Director

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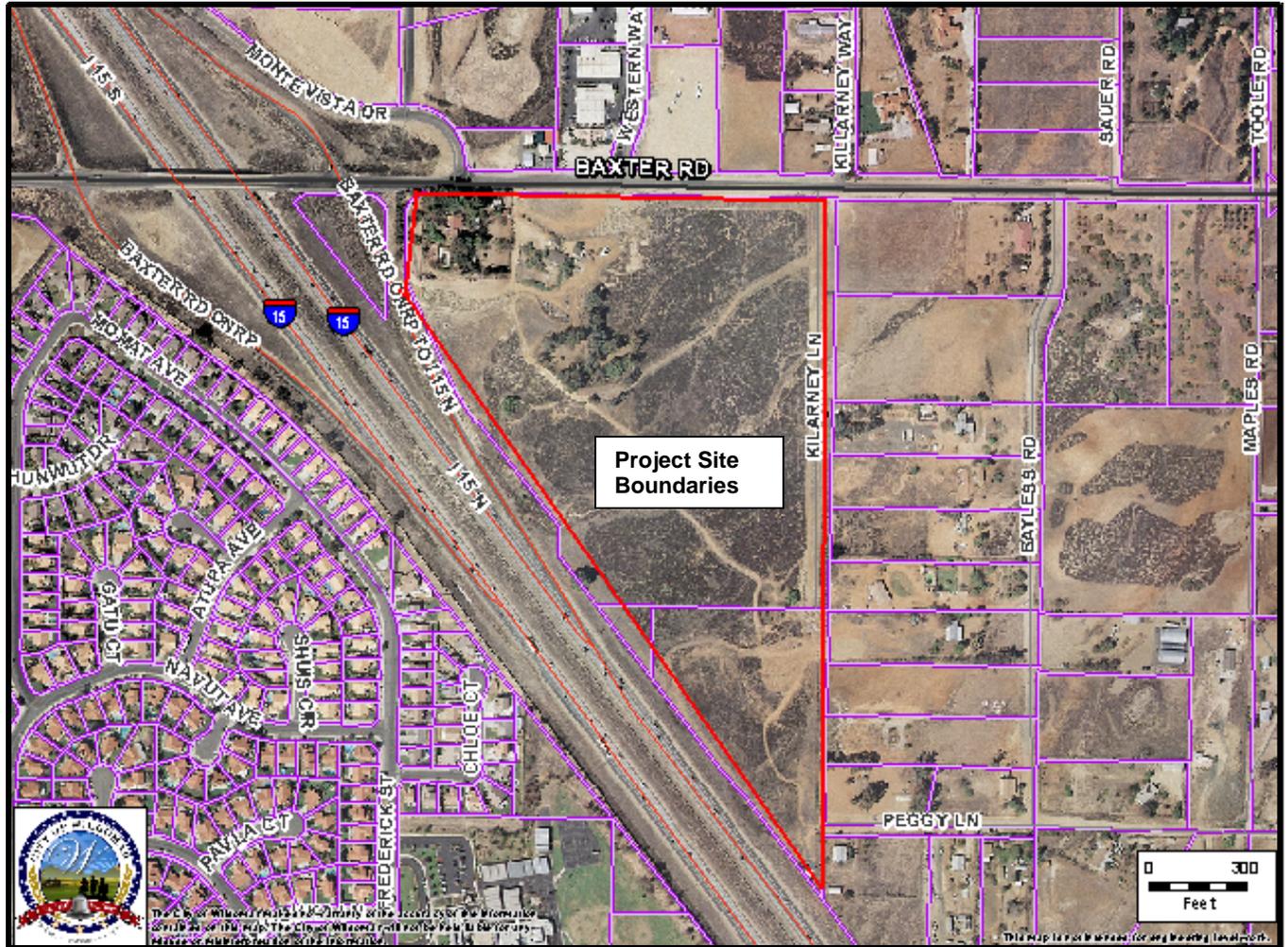
Frank Oviedo  
City Manager

**ATTACHMENTS:**

- A. Aerial Photo Exhibit
- B. Project Presentation Materials

# ATTACHMENT A

## Aerial Photo Exhibit



# **ATTACHMENT B**

**Project Presentation Materials**

OPPORTUNITY



PRESENTED BY:

**John Clemmons**  
**(714) 904-3735**  
[Jclemmons@airsling.com](mailto:Jclemmons@airsling.com)

## California Cable Board Park Wildomar, California

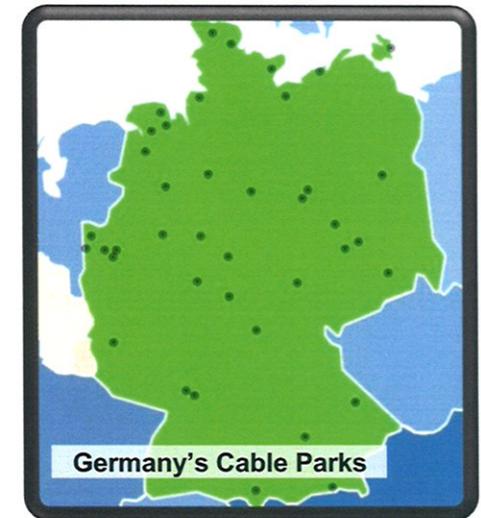
### WHAT IS A CABLE PARK?

**What is cable boarding?** Cable boarding is simply wakeboarding with a moving cable instead of a moving boat. The cable ski system is definitely the coolest addition to the extreme sports list because it combines wakeboarding without the need for a expensive boat.

**How many cable parks are there?** There are over 188 cable parks all over the world including 60 parks in Germany alone! The parks can also be found in Asia, Australia, and many other European countries. Currently, there are only ten in the United States and many more on the drawing board due to the advent of wakeboarding.

**So how does it work? How do you ski without a boat?** Suspended in the air by a series of towers, the overhead cable rotates around a lake. Along the cable are a number of carriers from which ski ropes will attach and pull a rider or skier around the lake.

**Why is Cable Boarding getting so popular?** Because most people will be able to afford it. It is much less expensive than most extreme sports. Cable Parks are clean, efficient, quiet, and environmentally friendly. For riders it means affordable recreation with no expensive boat, no gasoline, no maintenance, no set-up, no clean-up, and much less risk to your body. All this while enjoying more riding time and still being able to learn the skills, thrills, and tricks involved with wakeboarding and waterskiing. Nice concept, don't you think?



Germany is smaller than California  
82 Million People Live in Germany  
40 Million People Live in California  
There are over 60 parks in Germany  
Currently there are 0 in California!!



www.CaliforniaCableBoardPark.com

California's First Family Cable Board Park



- Full Cable Park
- 18 Hole Putting Course
- Restaurant & Patio
- Outdoor BBQ
- Rental Shop
- Training Lake
- Zip Line To Island
- Picnic Areas
- Biking/Jogging Trails
- Under Water Tunnel
- Parking For 250 Vehicles
- And More!



Our Goal is to build the best Cable Park in the United States

Temecula Valley Fwy

© 2010 Google

© 2010

PUTTING COARSE

California Cable Board Park  
Wildomar, California



SNACK BAR

California Cable Board Park  
Wildomar, California



Snack Bar, Pro-Shop, Rental Equipment, & Outdoor BBQ

FREEWAY SIGN

California Cable Board Park  
Wildomar, California



## WHAT IS A CABLE PARK?

**What happens if you fall?** You simply swim to shore and walk back to the starting dock. The distance is short and time is minimal before you're out on the water riding again.

**How many people can ride at the same time?** Anywhere from six to twelve or more people, depending on the size of and the number of carriers on the particular cableway. The beauty and value of cable is that it opens up wakeboarding to the masses, thanks to the reduced costs of running and the higher number of people it's possible to pull at any one time. With cable's ability to tow many people at the same time, groups of people can be catered to much more easily than behind a boat.

**What's the potential for future growth of the sport?** Because more and more people are finally discovering its many efficiencies and environmental advantages, there is absolutely no question that cable wakeboarding has a terrific future! The market potential for construction of more cable parks around the world, particularly in China, the United States, Europe, South America, and other developing regions is absolutely HUGE!



## What Kind Of Special Events Will Be Offered?

1. Special Olympics & Disabled Soldier Day
2. Military Appreciation Day
3. Fireman & Police Appreciation Day
4. Girls Learn To Ride Day
5. Underprivileged Children's Day
6. Ski Shows (Wakeboard, Hydrofoiling, etc)
7. Learn to Ski FOR FREE Day



John Clemmons CO-Founder Special Olympics Water-Ski Division

MEET THE TEAM

**John Clemmons, CEO Operations Manager**

John Clemmons has 10 years experience in research and development with cable ski systems. In the early 1980's, J.C. Enterprises and Banana George Blair was an organization to develop cable water ski parks in Southern California. John was responsible for managing budgets, proposal preparation, and presentations. As Operations Manager, he will be responsible for the proper training of staff, Quality Control, implementing safety programs, hiring and training cable operators, cleanliness, and overall operations of the park.

**John Cranny, Management – Cable Operator**

John Cranny has a Master's Degree in Business, was the CEO of MB Boats for five years, and is skilled in technology, sales, and administration. He is a resourceful, efficient, motivated, and an optimistic team player. He will help manage the day-to-day operations of the cable park.

**Tod Egelund, Construction Manager**

Tod Egelund oversees construction for Sudweeks Development. He recently completed construction of the Newport Commons Business Park in Menifee CA, a retail value of over 10 million dollars. Tod is vital in the design, engineering and building process. He has been in the construction industry for over 15 years and has gained valuable knowledge from his experiences. Tod is well versed on current construction practices and is quite thorough, understanding the value of quality work and expecting the same from all who work with him. Tod is an expert hydrofoiler, wake boarder, and snow boarder.

**Kai Fusser, Consultant for Cable Design and Construction**

Kai Fusser brings over 18 years of experience with cable water ski systems and offers skills to design parks including all amenities. Kai is known for the turnkey installation of cable ski systems, extensive training of personnel, and providing exceptional technical and managerial experience in the beginning phases of business operation. Kai has been a consultant for the design, operation, and construction of parks in Laguna Del Mar, Isla de Margarita, Venezuela, Texas Ski Ranch in New Braunfels, KC Water Sports, in Kansas City, KS, and Wet' n Wild in Orlando, FL. Mr. Fusser has a Masters degree in Nautical Engineering and Business from the University of Oldenburg, Germany.



MEET THE TEAM

**Jade Works, CEO Integrity Golf Course Construction**

Integrity Golf strives to be a different kind of golf course builder. We know that being a part of a successful project is the result of a successful relationship between the contractor, the architect, and the owner. Forming this bond is our primary goal on each new project. We hope that the more projects we undertake and complete, the better our reputation becomes



**Herb O'Brien, CEO Consultant for Pro-Shop and Marketing**

Herb O'Brien is known as an icon in the industry of water sports. O'Brien International began in 1966 when he began making water skis in his garage. He is now one of the industry's leaders in sales. With the creation of wakeboarding in the early 1980's, Herb was one of the first to build a prototype. This brought the creation of the incredibly successful H.O. Sports, Inc. Together with O'Brien International, H.O. Sports, Inc., lead the industry with over 40 million each in annual sales each year. Herb will assist us in the design, layout and operation of the pro-shop. He will be helpful in contributing towards marketing ideas, promotions, and design as well.

**Mike Murphy, CEO Promotions and Marketing Consultant**

Over the past four decades, the efforts of Mike Murphy have influenced countless people across the globe in the sport of waterskiing. He continues to expand his influences today with cutting edge inventions for the water skiing population. Mike has participated in ski shows all over the world and has been a champion in several different arenas. He is the creator of the original Sky Ski, and navigated a successful business that created high performance hydrofoils and accessories. Mike will assist in promotions, networking, and advertising.



**Matt Haskin, Real Estate and Finance**

Matt Haskin has worked in the field of real estate development and finance for the past 15 years. Using his intimate knowledge of the capital markets as well as private equity sources, he has successfully secured funds with both debt and equity for dozens of projects ranging from multi-family housing, retail centers, business parks and resort developments.

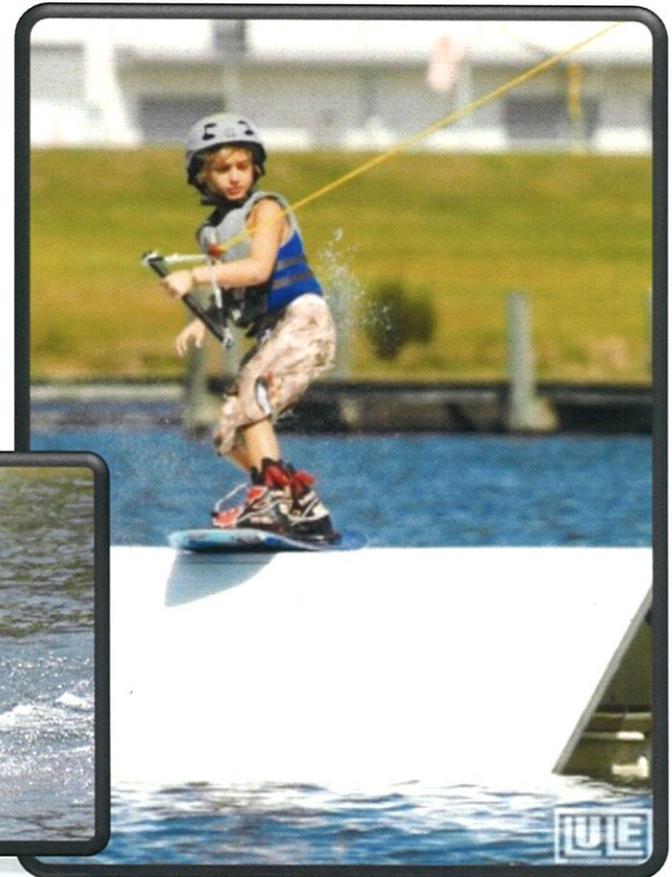


California Cable Board Park  
Wildomar, California

CONCLUSION

We look forward to discussing this opportunity with you personally. Feel free to contact us if you need any additional information.

**John Clemmons**  
**(714) 904-3735**  
[Jclemmons@airsling.com](mailto:Jclemmons@airsling.com)



**CaliforniaCableBoardPark.com**

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #3.2**  
**GENERAL BUSINESS**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members  
**FROM:** Matthew C. Bassi, Planning Director  
**SUBJECT:** Update on RV/Mini-Storage Moratorium

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council discuss the current moratorium related to boat storage, recreational vehicle storage, self-storage facilities and mini-warehouse uses in commercial and residential zones, and provide Staff with direction on whether to proceed with a Zoning Ordinance Amendment.

**BACKGROUND/ANALYSIS:**

On December 8, 2010, the City Council adopted Ordinance No. 58 extending the existing urgency ordinance moratorium for one-year on the review and processing of development applications related to the establishment land uses related to boat storage, recreational vehicle storage, self-storage facilities and mini-warehouses in the Rural Residential (R-R), General Commercial (C-1/C-P) and Scenic Highway Commercial (C-P-S) zones. The Council's action did not affect these uses in the Manufacturing Service Commercial (M-SC), Industrial Park (I-P), Manufacturing Medium (M-M), and Manufacturing Heavy (M-H) zones.

The current one-year moratorium extension, which represents the final extension, will expire on January 13, 2012. At that time, the Planning Department will legally be required to accept land use development applications for boat storage, recreational vehicle storage, self-storage facilities and/or mini-warehouses. Since a zoning ordinance amendment has not been adopted as originally envisioned, these land uses will fall under the current provisions of the R-R, C-1/C-P and CPS zones.

Currently, recreational vehicle trailer and boat storage uses require a Conditional Use Permit (CUP) application when proposed in the R-R and C-P-S zones, and a Plot Plan application in the C-1/C-P zone. In the I-P zone, these uses are permitted with a Plot Plan application provided they are located in an enclosed building. In the M-SC, M-M and M-H zones, these uses are permitted with a Plot Plan application and are not restricted to enclosed buildings. Further, there are no special development standards for these uses related to screening walls, lighting, parking, gates, roofing and landscaping, however, there are standards related to setbacks and building height.

Mini-warehouse & self-storage uses require a CUP application in the C-1/C-P zone and a Plot Plan application in the I-P, M-SC, M-M and M-H zones. They are prohibited in the R-R and C-P-S zones. As outlined in Section 17.240 of the Zoning Ordinance, mini-warehouses and self-storage uses have specific development standards related to screening walls, lighting, parking, gates, roofing and landscaping.

The primary issue resulting in the moratorium being adopted was that staff had received numerous inquiries regarding development applications. Further, there was a concern whether recreational vehicle trailer and boat storage uses are appropriate in the R-R, C-1/C-P and C-P-S zones. The R-R zone is primarily intended as a residential zone but does allow a wide-variety of other uses. The C-1/C-P and C-P-S zones are primarily intended for commercial retail uses. In all three zones, these uses do not generate much general fund revenue for the City.

Now that the moratorium is due to expire on January 13, 2012, staff has once again begun to receive inquiries about these uses. Recently, staff was in a position to prepare a zoning ordinance amendment that would propose prohibiting recreational vehicle trailer and boat storage uses in R-R, C-1/C-P and C-P-S zones (for the reasons stated in the above paragraph), and allow them via a CUP only in the I-P, M-SC, M-M and M-H zones. The amendment also proposed prohibiting mini-warehouses and self-storage facilities from locating in the C-1/C-P zone (currently allowed via a CUP) and requiring a CUP in the I-P, M-SC, M-M and M-H zones (currently allowed via a Plot Plan).

This amendment was presented to the Council's Economic Development subcommittee a few weeks ago. The Subcommittee raised some concern about the amendment as proposed by staff because, if approved, it could result in existing uses becoming "legal non-conforming" uses. Based on this, staff was directed to prepare a briefing report for the Council so the issue could be discussed at a public meeting.

Staff is requesting Council discussion on this item and formal direction on whether to prepare a zoning ordinance amendment as proposed to the Subcommittee, a variation of the proposed amendment or to let the current moratorium expire. If there is no direction to prepare the amendment for Planning Commission and City Council consideration, then the Planning Department will follow the current zoning ordinance provisions as discussed above. If there is direction to bring forth a zoning ordinance amendment, staff can bring that forward to the Planning Commission in February 2012 and Council in March 2012.

Submitted by:

Approved by:

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Matthew C. Bassi  
Planning Director

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Frank Oviedo  
City Manager

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #3.3**  
**GENERAL BUSINESS**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members  
**FROM:** Tim D’Zmura, Public Works Director  
**PREPARED BY:** Steven Palmer, Supervising Engineer  
**SUBJECT:** Stop Sign on Perla Place at Brillante Drive

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council adopt a Resolution entitled:

RESOLUTION NO. 2011 - \_\_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, AUTHORIZING THE INSTALLATION OF A STOP SIGN ON  
NORTHBOUND PERLA PLACE AT BRILLANTE DRIVE

**BACKGROUND:**

Staff received requests from three residents that live on Brillante Drive to install a stop sign on northbound Perla Place at Brillante Drive. As shown in Attachment 1, this is a “tee” intersection as Perla Place does not continue north of Brillante Drive. The requests state that vehicles travelling northbound on Perla Place are turning left onto Brillante Drive without yielding to through traffic, and that there is a large amount of children crossing the Perla Place at this intersection. Copies of the City’s Service Request Forms and email requests related to this intersection are included in Attachment 2.

The City must comply with the California Manual on Uniform Traffic Control Devices (MUTCD) when installing stop signs. The section of the MUTCD dealing with stop sign applications is included in this staff report as Attachment 3. According to Section 2B.05 of the MUTCD, “stop signs should be used if engineering judgment indicates that one or more of the following conditions exist:

- A. Intersection of a less important road with a main road where application of the normal right-of-way rule would not be expected to provide reasonable compliance with the law;
- B. Street entering a through highway or street;
- C. Unsignalized intersection in a signalized area; and/or
- D. High speeds, restricted view, or crash records indicate a need for control by the STOP sign.”

Additionally, the MUTCD requires a traffic engineering study in order to place a stop sign on the major street, or to place multiway stop signs. This traffic engineering study needs to consider the following:

- A. "Where traffic control signals are justified, the multiway stop is an interim measure that can be installed quickly to control traffic while arrangements are being made for the installation of the traffic control signal.
- B. A crash problem, as indicated by 5 or more reported crashes in a 12-month period that are susceptible to correction by a multiway stop installation. Such crashes include right- and left-turn collisions as well as right-angle collisions.
- C. Minimum volumes:
  - 1. The vehicular volume entering the intersection from the major street approaches (total of both approaches) averages at least 300 vehicles per hour for any 8 hours of an average day, and
  - 2. The combined vehicular, pedestrian, and bicycle volume entering the intersection from the minor street approaches (total of both approaches) averages at least 200 units per hour for the same 8 hours, with an average delay to minor-street vehicular traffic of at least 30 seconds per vehicle during the highest hour, but
  - 3. If the 85th-percentile approach speed of the major-street traffic exceeds 65 km/h or exceeds 40 mph, the minimum vehicular volume warrants are 70 percent of the above values.
- D. Where no single criterion is satisfied, but where Criteria B, C.1, and C.2 are all satisfied to 80 percent of the minimum values. Criterion C.3 is excluded from this condition."

The MUTCD does not require a traffic engineering study for the installation a single-stop sign, two-way stop signs on minor streets, or stop-signs for three-way "tee" intersections.

#### **ANALYSIS:**

Staff investigated the request by contacting the residents and performing a site visit. As shown in photos included in Attachment 4, the existing block wall and planting restricts visibility to the east. These obstructions reduce the distance that a motorist can see when looking for conflicting traffic prior to making a turn from Perla Place onto Brillante Drive. This existing block wall was approved by the County prior to incorporation of the City, and Staff is working with the property owner to trim or remove the plant. Since this request is for a single stop sign at a "tee" intersection, a traffic engineering study is not required and was not prepared. However based on the guidance provided in Section 2B.05 of the 2010 California MUTCD, the sight distance to the east from northbound Perla Place is restricted.

**FISCAL IMPACTS:**

The installation of the stop controls on northbound Perla Place is estimated at \$1,000. Adequate funds are available in the street maintenance budget from the gas tax account.

Submitted by:

Approved by:

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Tim D’Zmura  
Director of Public Works

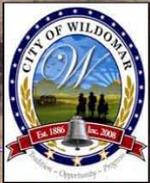
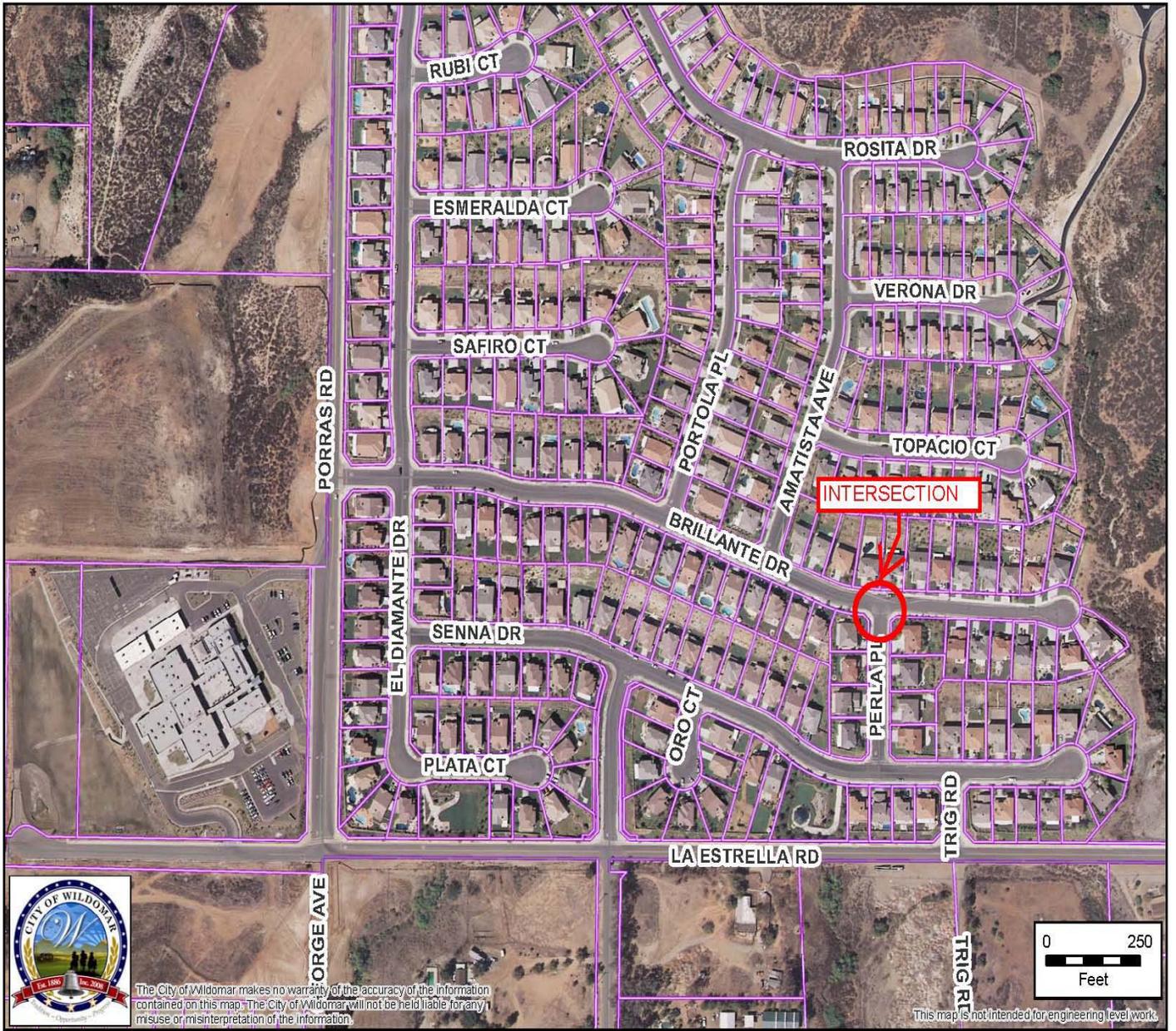
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Frank Oviedo  
City Manager

**ATTACHMENTS:**

- Attachment 1-Location Exhibit
- Attachment 2-Service Requests
- Attachment 3-Chapter 2B, California MUTCD
- Attachment 4-Site Photos
- Attachment 5-Resolution

# ATTACHMENT 1



The City of Wildomar makes no warranty of the accuracy of the information contained on this map. The City of Wildomar will not be held liable for any misuse or misinterpretation of the information.

This map is not intended for engineering level work.

# ATTACHMENT 2

# SERVICE REQUEST FORM



Request # 1131 Request taken by Steven Palmer Date 9/8/2011 Request Made: Citizen

## Requestor Information

First Name [REDACTED] Last Name [REDACTED]

CompanyName [REDACTED] Home Phone [REDACTED] Work Phone [REDACTED]

Address [REDACTED] Brilliante Drive

City Wildomar State CA ZipCode [REDACTED]

## Details of Request

Request Type Traffic - Stop Sign Map Page [REDACTED]

## DescriptiveLocation

**Brilliante at Perla**

## Description of Request

**Stop sign**

Referral Date 9/8/2011 Referred To Joe Semon

## Comments/Notes

checked location, t-interwestion restricted visibility caused by wall and parking

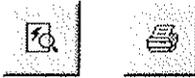
## Resolution Information

Completed By Joe Semon Date Completed 10/10/2011

## ResolutionNotes

*recommend stoping the minor leg of this t-intersection work order to be sent by les*

# SERVICE REQUEST FORM



Request # 1153 Request taken by \_\_\_\_\_ Date 10/19/2011 Request Made: Citizen

## Requestor Information

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

CompanyName \_\_\_\_\_ Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_

Address \_\_\_\_\_  
Brilliante Drive

City Wildomar State CA ZipCode 92595

## Details of Request

Request Type \_\_\_\_\_ Map Page \_\_\_\_\_  
Traffic - Stop Sign

DescriptiveLocation \_\_\_\_\_  
**Intersection @ Peria & Brilliante.**

## Description of Request

**Install stop sign. States that that there have been many close accidents.**

Referral Date 10/19/2011 Referred To Steve Palmer

## Comments/Notes

\_\_\_\_\_

## Resolution Information

Completed By \_\_\_\_\_ Date Completed \_\_\_\_\_

ResolutionNotes \_\_\_\_\_

# SERVICE REQUEST FORM



Request # 1154 Request taken by \_\_\_\_\_ Date 10/19/2011 Request Made: Citizen

## Requestor Information

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

Company Name \_\_\_\_\_ Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

## Details of Request

Request Type Traffic - Stop Sign Map Page \_\_\_\_\_

Descriptive Location  
**CORNER OF PERLA & BRILLIANTE DRIVE**

## Description of Request

**INSTALL STOP SIGN. STATES THAT THERE HAVE BEEN NUMEROUS TIMES PEOPLE HAVE PULLED OUT IN FRONT OF HER W/O STOPPING.**

Referral Date 10/20/2011 Referred To STEVE PALMER

## Comments/Notes

\_\_\_\_\_

## Resolution Information

Completed By \_\_\_\_\_ Date Completed \_\_\_\_\_

## Resolution Notes

\_\_\_\_\_

## Steve Palmer

---

From: [REDACTED]  
Sent: Wednesday, October 19, 2011 10:24 AM  
To: Steve V. Palmer  
Subject: concerned citizen

Hello,

I live in a wonderful neighborhood. Unfortunately not everyone drives safely at all times. Stop signs can be a big help for people...especially when they approach an intersection and are unformed as to whether or not they should stop or cruise on through. (Common sense tells me they should stop, however not everyone has been endowed with this...that is why we have some rules/laws)

In my neighborhood there SHOULD logically be a stop sign at the corner of Perla and Brillante Dr., however there is not. There have been numerous times people have pulled out in front of me without stopping (from Perla which runs north and south and dead ends into Brillante). We all have precious cargo (our families) in our car and don't want a tragedy that could be so easily prevented.

Thank you for your help in getting this taken care of AS SOON AS POSSIBLE.

We really appreciate it.

Sincerely,  
Linda Nuzum

## Steve Palmer

---

From: [REDACTED]  
Sent: Tuesday, October 18, 2011 5:09 PM  
To: Steve V. Palmer  
Subject: Stop sign

Mr Palmer~

I am writing regarding the stop sign on the intersection of Perla and Brillante Dr. I have lived in this neighborhood for 10 years and am wondering where the stop sign went on Perla? Every street that intersects w Brillante has a stop sign, and I believe Perla had one also at one time.

We desperately need it due to the drivers who do NOT look both ways before proceeding; and the large amount of children on the street. There have been many close accidents.

The pole is already there.

Thx for looking into this concern!

Thanks,

Jasmine Young  
[REDACTED]

## Steve Palmer

---

**From:** [REDACTED]  
**Sent:** Thursday, September 08, 2011 8:49 AM  
**To:** Steve V. Palmer  
**Subject:** We need a stop sign

I live at 24376 brillante Drive. The nearest corner to us is Perla. There needs to be a stop sign there. Every other street that connects to Brillante Drive has one!! I have almost been plowed into about 10 times in the past few months. people are cutting that corner and NOT looking to their right to see if perhaps, another car is coming. This is a danger to not only drivers but also to pedestrians!! There is alot of kids in this neighborhood.....we are within walking distance of Ronald Reagan elementary school!!! Please help us to get a stop sign at the corner of Brillante Drive and Perla.

Thank You

Shannon  
Sent from my iPad

# **ATTACHMENT 3**

## CHAPTER 2B. REGULATORY SIGNS

### Section 2B.01 Application of Regulatory Signs

#### Standard:

Regulatory signs shall be used to inform road users of selected traffic laws or regulations and indicate the applicability of the legal requirements.

Regulatory signs shall be installed at or near where the regulations apply. The signs shall clearly indicate the requirements imposed by the regulations and shall be designed and installed to provide adequate visibility and legibility in order to obtain compliance.

Regulatory signs shall be retroreflective or illuminated to show the same shape and similar color by both day and night, unless specifically stated otherwise in the text discussion of a particular sign or group of signs (see Section 2A.08).

The requirements for sign illumination shall not be considered to be satisfied by street, highway, or strobe lighting.

#### Standard:

Orders, ordinances and resolutions by local authorities which affect State highways shall be approved by Department of Transportation.

#### Support:

Signs required for enforcement are normally placed by, and at the expense of, the authority establishing the regulation.

Refer to CVC 21461 for failure to obey a regulatory sign.

### Section 2B.02 Design of Regulatory Signs

#### Support:

Most regulatory signs are rectangular, with the longer dimension vertical. The shapes and colors of regulatory signs are listed in Tables 2A-4, and 2A-5 2A-5(CA), respectively. Exceptions are specifically noted in the following Sections.

The use of educational plaques to supplement symbol signs is described in Section 2A.13.

#### Guidance:

Changeable message signs displaying a regulatory message incorporating a prohibitory message that includes a red circle and slash on a static sign should display a red symbol that approximates the same red circle and slash as closely as possible.

#### Support:

Sign design details are contained in FHWA's Standard Highway Signs book and Department of Transportation's California Sign Specifications. See Section 1A.11 for information regarding these publications.

Table 2B-101(CA) shows a list of California Regulatory Signs.

Table 2B-102(CA) shows a list of MUTCD Regulatory Signs.

### Section 2B.03 Size of Regulatory Signs

#### Standard:

The sizes for regulatory signs shall be as shown in Table 2B-1.

#### Guidance:

The Freeway and Expressway sizes should be used for higher-speed applications to provide larger signs for increased visibility and recognition.

#### Option:

The Minimum size may be used on low-speed roadways where the reduced legend size would be adequate for the regulation or where physical conditions preclude the use of the other sizes.

The Oversized size may be used for those special applications where speed, volume, or other factors result in conditions where increased emphasis, improved recognition, or increased legibility would be desirable.

Signs larger than those shown in Table 2B-1 may be used (see Section 2A.12).

#### **Section 2B.04 STOP Sign (R1-1)**

##### **Standard:**

When a sign is used to indicate that traffic is always required to stop, a STOP (R1-1) sign (see Figure 2B-1) shall be used.

The STOP sign shall be an octagon with a white legend and border on a red background. Secondary legends shall not be used on STOP sign faces. If appropriate, a supplemental plaque (R1-3 or R1-4) shall be used to display a secondary legend. Such plaques (see Figure 2B-1) shall have a white legend and border on a red background. If the number of approach legs controlled by STOP signs at an intersection is three or more, the numeral on the supplemental plaque, if used, shall correspond to the actual number of legs controlled by STOP signs.

At intersections where all approaches are controlled by STOP signs (see Section 2B.07), a supplemental plaque (R1-3 or R1-4) shall be mounted below each STOP sign.

##### **Option:**

The ALL WAY (R1-4) supplemental plaque may be used instead of the 4-WAY (R1-3) supplemental plaque.

##### **Support:**

The design and application of Stop Beacons are described in Section 4K.05.

A STOP (R1-1) sign is not a "cure-all" and is not a substitute for other traffic control devices. Often, the need for a STOP (R1-1) sign can be eliminated if the sight distance is increased by removing obstructions.

#### **Through Highways**

##### **Option:**

STOP (R1-1) signs may be installed either at or near the entrance to a State highway, except at signalized intersections, or at any location so as to control traffic within an intersection. Refer to CVC 21352 and 21355. See Section 1A.11 for information regarding this publication.

##### **Support:**

When STOP (R1-1) signs or traffic control signals have been erected at all entrances, a highway constitutes a through highway. Refer to CVC 600.

Authority to place STOP (R1-1) signs facing State highway traffic is delegated to the Department of Transportation's District Directors.

##### **Option:**

Local authorities may designate any highway under their jurisdiction as a through highway and install STOP (R1-1) signs in a like manner. Refer to CVC 21354.

##### **Standard:**

No local authority shall erect or maintain any STOP (R1-1) sign or other traffic control device requiring a stop, on any State highway, except by permission of the Department of Transportation. Refer to CVC 21353.

##### **Support:**

The Department of Transportation will grant such permission only when an investigation indicates that the STOP (R1-1) sign will benefit traffic.

#### **Section 2B.05 STOP Sign Applications**

##### **Guidance:**

STOP signs should be used if engineering judgment indicates that one or more of the following conditions exist:

- A. Intersection of a less important road with a main road where application of the normal right-of-way rule would not be expected to provide reasonable compliance with the law;
- B. Street entering a through highway or street;
- C. Unsignalized intersection in a signalized area; and/or
- D. High speeds, restricted view, or crash records indicate a need for control by the STOP sign.

**Standard:**

**Because the potential for conflicting commands could create driver confusion, STOP signs shall not be installed at intersections where traffic control signals are installed and operating except as noted in Section 4D.01.**

**Portable or part-time STOP signs shall not be used except for emergency and temporary traffic control zone purposes.**

**Guidance:**

STOP signs should not be used for speed control.

STOP signs should be installed in a manner that minimizes the numbers of vehicles having to stop. At intersections where a full stop is not necessary at all times, consideration should be given to using less restrictive measures such as YIELD signs (see Section 2B.08).

Once the decision has been made to install two-way stop control, the decision regarding the appropriate street to stop should be based on engineering judgment. In most cases, the street carrying the lowest volume of traffic should be stopped.

A STOP sign should not be installed on the major street unless justified by a traffic engineering study.

**Support:**

The following are considerations that might influence the decision regarding the appropriate street upon which to install a STOP sign where two streets with relatively equal volumes and/or characteristics intersect:

- A. Stopping the direction that conflicts the most with established pedestrian crossing activity or school walking routes;
- B. Stopping the direction that has obscured vision, dips, or bumps that already require drivers to use lower operating speeds;
- C. Stopping the direction that has the longest distance of uninterrupted flow approaching the intersection; and
- D. Stopping the direction that has the best sight distance to conflicting traffic.

The use of the STOP sign at highway-railroad grade crossings is described in Section 8B.08. The use of the STOP sign at highway-light rail transit grade crossings is described in Section 10C.04.

**Section 2B.06 STOP Sign Placement**

**Standard:**

**The STOP sign shall be installed on the right side of the approach to which it applies. When the STOP sign is installed at this required location and the sign visibility is restricted, a Stop Ahead sign (see Section 2C.29) shall be installed in advance of the STOP sign.**

**The STOP sign shall be located as close as practical to the intersection it regulates, while optimizing its visibility to the road user it is intended to regulate.**

**STOP signs and YIELD signs shall not be mounted on the same post.**

**If other signs are grouped with a STOP sign, except for ONE WAY (R6-1 & R6-2) signs and Street Name (D3-1 or G7-1(CA)) signs (see Sections 2B.37 & 2D.38), they shall be installed below the STOP sign.**

**Guidance:**

Other than a DO NOT ENTER sign, no sign should be mounted back-to-back with a STOP sign in a manner that obscures the shape of the STOP sign.

**Support:**

Section 2A.16 contains additional information about separate and combined mounting of other signs with STOP signs.

**Guidance:**

Stop lines, when used to supplement a STOP sign, should be located at the point where the road user should stop (see Section 3B.16).

If only one STOP sign is installed on an approach, the STOP sign should not be placed on the far side of the intersection.

Where two roads intersect at an acute angle, the STOP sign should be positioned at an angle, or shielded, so that the legend is out of view of traffic to which it does not apply.

Where there is a marked crosswalk at the intersection, the STOP sign should be installed in advance of the crosswalk line nearest to the approaching traffic.

Option:

At wide-throat intersections or where two or more approach lanes of traffic exist on the signed approach, observance of the stop control may be improved by the installation of an additional STOP sign on the left side of the road and/or the use of a stop line. At channelized intersections, the additional STOP sign may be effectively placed on a channelizing island.

Support:

Figure 2A-2 2A-2(CA) shows examples of some typical placements of STOP signs.

**Standard:**

**When a required stop is to apply at the entrance to an intersection from a one-way street with a roadway of 9.1 m (30 ft) or more in width, stop signs shall be erected both on the left and the right sides of the one-way street at or near the entrance to the intersection. Refer to CVC 21355.**

### **Section 2B.07 Multiway Stop Applications**

Support:

Multiway stop control can be useful as a safety measure at intersections if certain traffic conditions exist. Safety concerns associated with multiway stops include pedestrians, bicyclists, and all road users expecting other road users to stop. Multiway stop control is used where the volume of traffic on the intersecting roads is approximately equal.

The restrictions on the use of STOP signs described in Section 2B.05 also apply to multiway stop applications.

Guidance:

The decision to install multiway stop control should be based on an engineering study.

The following criteria should be considered in the engineering study for a multiway STOP sign installation:

- A. Where traffic control signals are justified, the multiway stop is an interim measure that can be installed quickly to control traffic while arrangements are being made for the installation of the traffic control signal.
- B. A crash problem, as indicated by 5 or more reported crashes in a 12-month period that are susceptible to correction by a multiway stop installation. Such crashes include right- and left-turn collisions as well as right-angle collisions.
- C. Minimum volumes:
  1. The vehicular volume entering the intersection from the major street approaches (total of both approaches) averages at least 300 vehicles per hour for any 8 hours of an average day, and
  2. The combined vehicular, pedestrian, and bicycle volume entering the intersection from the minor street approaches (total of both approaches) averages at least 200 units per hour for the same 8 hours, with an average delay to minor-street vehicular traffic of at least 30 seconds per vehicle during the highest hour, but
  3. If the 85th-percentile approach speed of the major-street traffic exceeds 65 km/h or exceeds 40 mph, the minimum vehicular volume warrants are 70 percent of the above values.
- D. Where no single criterion is satisfied, but where Criteria B, C.1, and C.2 are all satisfied to 80 percent of the minimum values. Criterion C.3 is excluded from this condition.

Option:

Other criteria that may be considered in an engineering study include:

- A. The need to control left-turn conflicts;
- B. The need to control vehicle/pedestrian conflicts near locations that generate high pedestrian volumes;
- C. Locations where a road user, after stopping, cannot see conflicting traffic and is not able to reasonably safely negotiate the intersection unless conflicting cross traffic is also required to stop; and
- D. An intersection of two residential neighborhood collector (through) streets of similar design and operating characteristics where multiway stop control would improve traffic operational characteristics of the intersection.

# ATTACHMENT 4



**NORTHBOUND ON PERLA PLACE APPROACHING BRILLANTE DRIVE**



**NORTHBOUND ON PERLA PLACE LOOKING EAST ON BRILLANTE DRIVE**

# ATTACHMENT 5

RESOLUTION NO. 2012 - \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, AUTHORIZING THE INSTALLATION OF STOP CONTROLS ON  
NORTHBOUND PERLA PLACE AT BRILLANTE DRIVE**

**WHEREAS**, Section 21354 of the California Vehicle Code allows local authorities to designate any intersection under their exclusive jurisdiction as a stop control intersection; and

**WHEREAS**, a traffic engineering study is not required by the 2010 California Manual on Uniform Traffic Control Devices (MUTCD);

**WHEREAS**, in accordance with guidance in the MUTCD, stop control for northbound Perla Place at Brillante Drive is appropriate based on restricted sight distance.

**NOW THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the Wildomar City Council, in regular session assembled on January 11, 2012, that:

1. The intersection of Perla Place and Brillante Drive is a stop controlled intersection. Traffic on Perla Place entering the intersection is required to stop before entering the intersection.
2. Staff shall install the necessary signs and pavement markings for stop control.

**PASSED, APPROVED, AND ADOPTED** this 11th day of January, 2012.

\_\_\_\_\_  
Ben J. Benoit  
Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Julie Hayward Biggs  
City Attorney

\_\_\_\_\_  
Debbie A. Lee, CMC  
City Clerk

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #3.4**  
**GENERAL BUSINESS**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members

**FROM:** Julie Hayward Biggs, City Attorney

**SUBJECT:** Resolution Requesting Extension of Repayment Time Period for Transition Year Services

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council adopt a Resolution entitled:

RESOLUTION NO. 2012 - \_\_\_\_\_  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,  
CALIFORNIA, REQUESTING EXTENSION OF TIME FOR REPAYMENT  
OF TRANSITION YEAR SERVICES COSTS TO COUNTY OF RIVERSIDE

**DISCUSSION:**

The conditions of approval for the incorporation of the City of Riverside adopted by the Riverside County Local Agency Formation Commission on August 23, 2007 provide that the City of Wildomar ("City"), in accord with the provisions of Government Code Section 57384(b), must repay the County of Riverside ("County") for transition year services provided by the County within five years unless otherwise agreed by the County and the City.

The actual cost for services provided by the County to the City during the transition year have been determined to be \$1,394,376.50 in general fund services and \$383,243.00 in non-general fund (gas tax) services for a total repayment obligation of \$1,777,619.50.

Since incorporation of the City on July 1, 2008, unforeseen events have dramatically reduced available funding for repayment purposes including a severe national economic recession, invalidation of the LMD 2006-1 park maintenance assessment established by the County for maintenance of the City's parks and action by the State Legislature enacting SB 89 which cut vehicle license fees that had previously been allocated to new cities for transition purposes and thereby reduced available revenues to the City by more than 20% of the City's projected annual budget.

In order to assure the continued vitality of the City it is necessary for the City to request an extension of the five year repayment time period for transition year service costs.

**FISCAL IMPACTS:**

Adopting this resolution will encourage the County of Riverside to consider extending the repayment time period for the City's transition year services obligation. This will enhance the City's cash-flow and supplement the City's budget by amortizing the cost over a longer period of time. While extending the time for repayment will also impose interest costs over a longer period of time, the City will have more time to experience economic growth and with that higher revenues to permit the City to continue to provide governmental services to the community.

Submitted By:

Approved By:

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Julie Hayward Biggs  
City Attorney

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Frank Oviedo  
City Manager

**RESOLUTION NO. 2012 - \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, REQUESTING EXTENSION OF TIME FOR REPAYMENT OF TRANSITION YEAR SERVICES COSTS TO COUNTY OF RIVERSIDE**

WHEREAS, the conditions of approval for the incorporation of the City of Riverside adopted by the Riverside County Local Agency Formation Commission on August 23, 2007 provide that the City of Wildomar ("City"), in accord with the provisions of Government Code Section 57384(b), must repay the County of Riverside ("County") for transition year services provided by the County within five years unless otherwise agreed by the County and the City; and

WHEREAS, the actual cost for services provided by the County to the City during the transition year have been determined to be \$1,394,376.50 in general fund services and \$383,243.00 in non-general fund (gas tax) services for a total repayment obligation of \$1,777,619.50; and

WHEREAS, since incorporation of the City on July 1, 2008, unforeseen events have dramatically reduced available funding for repayment purposes including a severe national economic recession, invalidation of the LMD 2006-1 park maintenance assessment established by the County for maintenance of the City's parks and action by the State Legislature enacting SB 89 which cut vehicle license fees that had previously been allocated to new cities for transition purposes and thereby reduced available revenues to the City by more than 20% of the City's projected annual budget; and

WHEREAS, in order to assure the continued vitality of the City it is necessary for the City to request an extension of the five year repayment time period for transition year service costs.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WILDOMAR DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The City formally requests a ten year extension of the five year repayment obligation for transition year service costs provided by the County during fiscal year 2008-2009, which five year period would otherwise end on July 1, 2014, so that the total period of time for repayment will end on July 1, 2014.

Section 2. The City also formally requests that the interest charged during the repayment period be limited to the lesser of the pooled rate earned on County investments or 4% annually with the total repayment to be amortized over the extended period of time and with annual payments of no less than \$100,000.

PASSED, APPROVED AND ADOPTED this 11th day of January, 2012.

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Ben J. Benoit  
Mayor

APPROVED AS TO FORM:

ATTEST:

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Julie Hayward Biggs  
City Attorney

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Debbie A. Lee, CMC  
City Clerk

**CITY OF WILDOMAR – CITY COUNCIL**  
**Agenda Item #3.5**  
**GENERAL BUSINESS**  
**Meeting Date: January 11, 2012**

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**TO:** Mayor and City Council Members

**FROM:** Stephen McEwen, Deputy City Attorney

**SUBJECT:** Update Regarding Medical Marijuana Following Appellate Ruling in *City of Riverside v. Inland Empire Patient's Health and Wellness Center*

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the City Council consider implications of the ruling in *City of Riverside v. Inland Empire Patient's Health and Wellness Center* with regard to enforcement options in the City of Wildomar and give direction to staff.

**DISCUSSION:**

In 2011, litigation over local regulation of medical marijuana dispensaries, collectives, and cooperatives become commonplace throughout California. These cases addressed a wide range of issues, but the most significant question was whether local governmental agencies could enact and enforce zoning regulations that banned marijuana dispensaries completely. Medical marijuana dispensary advocates argued repeatedly that state law legalized storefront dispensaries and, therefore, preempted local prohibitions. In *City of Riverside v. Inland Empire Patient's Health and Wellness Center, Inc.* (Nov. 9, 2011, E052400) 200 Cal.App.4<sup>th</sup> 885, the Court of Appeal in Riverside addressed this issue squarely and held that state marijuana laws do not preempt local prohibitions.

*Inland Empire* involved the application of the City of Riverside's zoning ordinance, which banned medical marijuana dispensaries throughout the city. A dispensary appealed a preliminary injunction and argued that the MMPA preempted Riverside's dispensary prohibition. This Court disagreed and upheld the injunction, finding that Riverside's ban on medical marijuana dispensaries did not duplicate, contradict, or occupy the field of state law, either expressly or impliedly. The Court stated, "Nothing stated in the CUA and MMP precludes cities from enacting zoning ordinances banning MMD's within their jurisdictions." The Court further stated that "nothing in the CUA or MMP suggests that cities are required to accommodate the use of medical marijuana and MMD, by allowing MMD's in within every city."

We are still waiting to see if the California Supreme Court will review the decision in *Inland Empire*. Until then, the decision represents controlling precedent and affirms the authority of cities and counties to enforce complete bans on medical marijuana dispensaries. Since *Inland Empire* was issued, at least two other unpublished appellate decisions have been issued reaching the same conclusion.

In addition to *Inland Empire*, there have been three other significant legal developments in the area of medical marijuana:

- *Pack v. Superior Court (City of Long Beach)*, 2011 WL 4553155 (2011) struck down Long Beach's ordinance which allowed medical marijuana dispensaries through an extensive permitting scheme. In a case of first impression, the Court held the local permitting scheme conflicted with federal law and, thus, could not be implemented and enforced. As with *Inland Empire*, we are waiting to see whether the California Supreme Court will review this decision. *Pack* is significant because it seems to preclude any local ordinance that would allow medical marijuana dispensaries to operate with permit.

- The Federal Government launched a statewide crackdown on medical marijuana dispensaries and their landlords and announced unequivocally that such dispensaries were illegal under federal law. Many dispensaries shut down in response to this law enforcement action.

- On August 31, 2011, the Governor signed into law Assembly Bill 1300, which further amended the MMPA. This law, which took effect on January 1, 2012, amends Health and Safety Code section 11362.83 to provide that the MMPA does not prevent a local government from "[a]dopting local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective." Further, the newly-amended section 11362.83 allows both civil and criminal enforcement of such ordinances. Even without *Inland Empire*, the passage of AB 1300 strongly supported the conclusion that local government could prohibit or strongly regulate medical marijuana dispensaries; there cannot be state law preemption when the state law expressly recognizes local regulation.

In light of *Inland Empire* and these additional developments, Wildomar's most sensible enforcement option for medical marijuana dispensaries is the existing zoning regulation. For the time being, *Pack* forecloses any local permitting scheme. The existing regulations, which prohibit medical marijuana dispensaries completely, are consistent with *Inland Empire*, *Pack*, AB 1300 and the Federal Government's recently-announced enforcement policy.

**FISCAL IMPACTS:**

It is difficult to estimate the cost of future enforcement actions. We are not aware of any active medical marijuana dispensaries within the City.

Submitted By:

Approved By:

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Stephen McEwen  
Deputy City Attorney

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Frank Oviedo  
City Manager

**ATTACHMENTS:**

*City of Riverside v. Inland Empire Patient's Health and Wellness Center, Inc.* (Nov. 9, 2011, E052400) 200 Cal.App.4<sup>th</sup> 885

200 Cal.App.4th 885, 133 Cal.Rptr.3d 363, 11 Cal. Daily Op. Serv. 13,799, 2011 Daily Journal D.A.R. 16,413  
 (Cite as: 200 Cal.App.4th 885, 133 Cal.Rptr.3d 363)

**H**

Court of Appeal, Fourth District, Division 2, California.

CITY OF RIVERSIDE, Plaintiff and Respondent,  
 v.

INLAND EMPIRE PATIENT'S HEALTH AND  
 WELLNESS CENTER, INC. et al., Defendants and  
 Appellants.

No. E052400.

Nov. 9, 2011.

**Background:** City brought action against medical marijuana dispensary (MMD) operators for public nuisance, seeking injunctive relief. The Superior Court, Riverside County, No. RIC10009872, John D. Molloy, J., granted preliminary injunction. Operators appealed.

**Holdings:** The Court of Appeal, Codrington, J., held that:

- (1) ban on MMDs did not contradict Medical Marijuana Program Act (MMPA);
- (2) ban on MMDs was not subject to express field preemption;
- (3) ban on MMDs was not subject to implied field preemption; and
- (4) MMPA authorizes local governments to enact ordinances totally banning MMDs.

Affirmed.

West Headnotes

**[1] Appeal and Error 30 ↪ 954(1)**

30 Appeal and Error

30XVI Review

30XVI(H) Discretion of Lower Court

30k950 Provisional Remedies

30k954 Injunction

30k954(1) k. In general. Most Cited

Cases

**Injunction 212 ↪ 138.15**

212 Injunction

212IV Preliminary and Interlocutory Injunctions

212IV(A) Grounds and Proceedings to Pro-  
 cure

212IV(A)2 Grounds and Objections

212k138.15 k. Balancing hardships or  
 equities. Most Cited Cases

**Injunction 212 ↪ 138.18**

212 Injunction

212IV Preliminary and Interlocutory Injunctions

212IV(A) Grounds and Proceedings to Pro-  
 cure

212IV(A)2 Grounds and Objections

212k138.18 k. Likelihood of success  
 on merits. Most Cited Cases

Courts review an order granting a preliminary injunction, under an abuse of discretion standard, to determine whether the trial court abused its discretion in evaluating the two interrelated factors pertinent to issuance of a preliminary injunction: (1) the likelihood that the plaintiffs will prevail on the merits at trial, and (2) the interim harm that the plaintiffs are likely to sustain if the injunction were denied as compared to the harm the defendant is likely to suffer if the preliminary injunction were issued, where an abuse of discretion as to either factor warrants reversal.

**[2] Municipal Corporations 268 ↪ 111(2)**

268 Municipal Corporations

268IV Proceedings of Council or Other Govern-  
 ing Body

268IV(B) Ordinances and By-Laws in Gener-  
 al

268k111 Validity in General

268k111(2) k. Conformity to constitu-  
 tional and statutory provisions in general. Most  
 Cited Cases

Whether state law preempts a local ordinance is

200 Cal.App.4th 885, 133 Cal.Rptr.3d 363, 11 Cal. Daily Op. Serv. 13,799, 2011 Daily Journal D.A.R. 16,413  
(Cite as: 200 Cal.App.4th 885, 133 Cal.Rptr.3d 363)

a question of law that is subject to de novo review.

**[3] Municipal Corporations 268 ↪ 122.1(2)**

268 Municipal Corporations  
268IV Proceedings of Council or Other Governing Body

268IV(B) Ordinances and By-Laws in General

268k122.1 Evidence  
268k122.1(2) k. Presumptions and burden of proof. Most Cited Cases

The party claiming that general state law preempts a local ordinance has the burden of demonstrating preemption.

**[4] Municipal Corporations 268 ↪ 111(2)**

268 Municipal Corporations  
268IV Proceedings of Council or Other Governing Body

268IV(B) Ordinances and By-Laws in General

268k111 Validity in General  
268k111(2) k. Conformity to constitutional and statutory provisions in general. Most Cited Cases

If otherwise valid local legislation conflicts with state law, it is preempted by such law and is void.

**[5] Municipal Corporations 268 ↪ 111(2)**

268 Municipal Corporations  
268IV Proceedings of Council or Other Governing Body

268IV(B) Ordinances and By-Laws in General

268k111 Validity in General  
268k111(2) k. Conformity to constitutional and statutory provisions in general. Most Cited Cases

**Municipal Corporations 268 ↪ 592(1)**

268 Municipal Corporations  
268X Police Power and Regulations

268X(A) Delegation, Extent, and Exercise of Power

268k592 Concurrent and Conflicting Exercise of Power by State and Municipality  
268k592(1) k. In general. Most Cited Cases

Three types of conflict give rise to state law preemption of local legislation: a local law (1) duplicates state law, (2) contradicts state law, or (3) enters an area fully occupied by state law, either expressly or by legislative implication.

**[6] Controlled Substances 96H ↪ 51**

96H Controlled Substances

96HII Offenses  
96Hk48 Defenses  
96Hk51 k. Medical necessity. Most Cited Cases

Compassionate Use Act (CUA) does not create a statutory or constitutional right to obtain marijuana, or allow the sale or nonprofit distribution of marijuana by medical marijuana dispensaries (MMD). West's Ann.Cal.Health & Safety Code § 11362.5.

**[7] Controlled Substances 96H ↪ 51**

96H Controlled Substances

96HII Offenses  
96Hk48 Defenses  
96Hk51 k. Medical necessity. Most Cited Cases

With regard to "drug den" abatement, the Medical Marijuana Program Act (MMPA) provides a new affirmative defense to criminal liability for qualified patients, caregivers, and holders of valid identification cards who collectively or cooperatively cultivate marijuana. West's Ann.Cal.Health & Safety Code §§ 11362.775, 11570.

**[8] Zoning and Planning 414 ↪ 1676**

414 Zoning and Planning  
414X Judicial Review or Relief  
414X(C) Scope of Review

200 Cal.App.4th 885, 133 Cal.Rptr.3d 363, 11 Cal. Daily Op. Serv. 13,799, 2011 Daily Journal D.A.R. 16,413  
(Cite as: 200 Cal.App.4th 885, 133 Cal.Rptr.3d 363)

414X(C)3 Presumptions and Burdens

414k1676 k. Validity of regulations in general. Most Cited Cases

Generally a municipal zoning ordinance is presumed to be valid.

**[9] Controlled Substances 96H ↪ 3**

96H Controlled Substances

96HI In General

96Hk1 Nature and Power to Regulate

96Hk3 k. Preemption. Most Cited Cases

**States 360 ↪ 18.65**

360 States

360I Political Status and Relations

360I(B) Federal Supremacy; Preemption

360k18.65 k. Product safety; food and drug laws. Most Cited Cases

Compassionate Use Act (CUA) and Medical Marijuana Program Act (MMPA) are not preempted by federal law. West's Ann.Cal.Health & Safety Code §§ 11362.5, 11362.775.

**[10] Municipal Corporations 268 ↪ 111(2)**

268 Municipal Corporations

268IV Proceedings of Council or Other Governing Body

268IV(B) Ordinances and By-Laws in General

268k111 Validity in General

268k111(2) k. Conformity to constitutional and statutory provisions in general. Most Cited Cases

A "duplicative" local rule subject to state law preemption is one that mimics a state law or is co-extensive with state law.

**[11] Municipal Corporations 268 ↪ 111(2)**

268 Municipal Corporations

268IV Proceedings of Council or Other Governing Body

268IV(B) Ordinances and By-Laws in General

268k111 Validity in General

268k111(2) k. Conformity to constitutional and statutory provisions in general. Most Cited Cases

A "contradictory" rule subject to state law preemption is one that is inimical to or cannot be reconciled with a state law.

**[12] Health 198H ↪ 235**

198H Health

198HI Regulation in General

198HI(C) Institutions and Facilities

198Hk235 k. Establishment of hospitals and other facilities in general. Most Cited Cases

The Compassionate Use Act (CUA) and Medical Marijuana Program Act (MMPA) do not provide individuals with inalienable rights to establish, operate, or use medical marijuana dispensaries (MMD). West's Ann.Cal.Health & Safety Code §§ 11362.5, 11362.775.

**[13] Zoning and Planning 414 ↪ 1033**

414 Zoning and Planning

414I In General

414k1019 Concurrent or Conflicting Regulations; Preemption

414k1033 k. Other particular cases. Most Cited Cases

The Compassionate Use Act (CUA) and Medical Marijuana Program Act (MMPA) do not preclude local governments from regulating medical marijuana dispensaries (MMD) through zoning ordinances. West's Ann.Cal.Health & Safety Code §§ 11362.5, 11362.775.

**[14] Health 198H ↪ 233**

198H Health

198HI Regulation in General

198HI(C) Institutions and Facilities

198Hk233 k. Power of local government. Most Cited Cases

The Compassionate Use Act (CUA) and Medical Marijuana Program Act (MMPA) do not pro-

200 Cal.App.4th 885, 133 Cal.Rptr.3d 363, 11 Cal. Daily Op. Serv. 13,799, 2011 Daily Journal D.A.R. 16,413  
(Cite as: 200 Cal.App.4th 885, 133 Cal.Rptr.3d 363)

hibit cities and counties from banning medical marijuana dispensaries (MMD). West's Ann.Cal.Health & Safety Code §§ 11362.5, 11362.775.

#### [15] Zoning and Planning 414 ↪1033

##### 414 Zoning and Planning

###### 414I In General

414k1019 Concurrent or Conflicting Regulations; Preemption

414k1033 k. Other particular cases. Most Cited Cases

Medical marijuana dispensary (MMD) operators failed to establish that local zoning ordinance declaring MMDs anywhere in the city to be nuisances subject to abatement was preempted based on any contradiction with the Medical Marijuana Program Act (MMPA) provision granting an affirmative defense to "drug den" nuisance abatement proceedings and the statute providing that nothing done "under the express authority of a statute can be deemed a nuisance," and thus trial court acted within its discretion in granting preliminary injunction against the MMD, since the Legislature did not expressly prohibit cities from enacting zoning regulations banning MMDs or from bringing a nuisance action enforcing such ordinances. West's Ann.Cal.Civ.Code § 3482; West's Ann.Cal.Health & Safety Code §§ 11362.775, 11570.

#### [16] Zoning and Planning 414 ↪1033

##### 414 Zoning and Planning

###### 414I In General

414k1019 Concurrent or Conflicting Regulations; Preemption

414k1033 k. Other particular cases. Most Cited Cases

Although the Medical Marijuana Program Act (MMPA) allows lawful medical marijuana dispensaries (MMD), a municipality can limit or prohibit MMDs through zoning regulations and prosecute such violations by bringing a nuisance action and seeking injunctive relief. West's Ann.Cal.Health & Safety Code § 11362.775.

#### [17] Nuisance 279 ↪6

##### 279 Nuisance

###### 279I Private Nuisances

279I(A) Nature of Injury, and Liability Therefor

279k6 k. Acts authorized or prohibited by public authority. Most Cited Cases

Protection under the statute providing that nothing done "under the express authority of a statute can be deemed a nuisance" is applied very narrowly, only where the alleged nuisance is exactly what was lawfully authorized. West's Ann.Cal.Civ.Code § 3482.

#### [18] Municipal Corporations 268 ↪592(1)

##### 268 Municipal Corporations

###### 268X Police Power and Regulations

268X(A) Delegation, Extent, and Exercise of Power

268k592 Concurrent and Conflicting Exercise of Power by State and Municipality

268k592(1) k. In general. Most Cited Cases

Local legislation enters an area that is fully occupied by general law, as would support state law preemption, when the Legislature has expressly manifested its intent to fully occupy the area.

#### [19] Zoning and Planning 414 ↪1033

##### 414 Zoning and Planning

###### 414I In General

414k1019 Concurrent or Conflicting Regulations; Preemption

414k1033 k. Other particular cases. Most Cited Cases

Medical marijuana dispensary (MMD) operators failed to establish that local zoning ordinance declaring MMDs anywhere in the city to be nuisances subject to abatement was subject to express field preemption by the Compassionate Use Act (CUA) and Medical Marijuana Program Act (MMPA) and thus trial court acted within its discretion in granting preliminary injunction against the

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MMD, since the CUA and MMPA did not expressly state an intent to fully occupy the area of regulating, licensing, and zoning MMDs to the exclusion of all local law. West's Ann.Cal.Health & Safety Code §§ 11362.5, 11362.775.

**[20] Municipal Corporations 268 ↪592(1)**

268 Municipal Corporations  
268X Police Power and Regulations  
268X(A) Delegation, Extent, and Exercise of Power  
268k592 Concurrent and Conflicting Exercise of Power by State and Municipality  
268k592(1) k. In general. Most Cited Cases

Local legislation enters an area that is "fully occupied" by general law, as would support field preemption, when the Legislature has impliedly done so in light of one of the following indicia of intent: (1) the subject matter has been so fully and completely covered by general law as to clearly indicate that it has become exclusively a matter of state concern; (2) the subject matter has been partially covered by general law couched in such terms as to indicate clearly that a paramount state concern will not tolerate further or additional local action; or (3) the subject matter has been partially covered by general law, and the subject is of such a nature that the adverse effect of a local ordinance on the transient citizens of the state outweighs the possible benefit to the locality.

**[21] Municipal Corporations 268 ↪592(1)**

268 Municipal Corporations  
268X Police Power and Regulations  
268X(A) Delegation, Extent, and Exercise of Power  
268k592 Concurrent and Conflicting Exercise of Power by State and Municipality  
268k592(1) k. In general. Most Cited Cases

Court of Appeal is reluctant to invoke the doctrine of implied preemption of local regulation by state law.

**[22] Municipal Corporations 268 ↪592(1)**

268 Municipal Corporations  
268X Police Power and Regulations  
268X(A) Delegation, Extent, and Exercise of Power  
268k592 Concurrent and Conflicting Exercise of Power by State and Municipality  
268k592(1) k. In general. Most Cited Cases

In determining whether the state Legislature has preempted by implication to the exclusion of local regulation courts must look to the whole purpose and scope of the legislative scheme.

**[23] Municipal Corporations 268 ↪592(1)**

268 Municipal Corporations  
268X Police Power and Regulations  
268X(A) Delegation, Extent, and Exercise of Power  
268k592 Concurrent and Conflicting Exercise of Power by State and Municipality  
268k592(1) k. In general. Most Cited Cases

Preemption of local regulation by state law will not be implied where local legislation serves local purposes, and the general state law appears to be in conflict but actually serves different, statewide purposes.

**[24] Municipal Corporations 268 ↪592(1)**

268 Municipal Corporations  
268X Police Power and Regulations  
268X(A) Delegation, Extent, and Exercise of Power  
268k592 Concurrent and Conflicting Exercise of Power by State and Municipality  
268k592(1) k. In general. Most Cited Cases

There is a presumption against preemption of local regulation by state law.

**[25] Zoning and Planning 414 ↪1033**

414 Zoning and Planning

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#### 414I In General

414k1019 Concurrent or Conflicting Regulations; Preemption

414k1033 k. Other particular cases. Most Cited Cases

Medical marijuana dispensary (MMD) operators failed to establish that local zoning ordinance declaring MMDs anywhere in the city to be nuisances subject to abatement was subject to implied field preemption by the Compassionate Use Act (CUA) and Medical Marijuana Program Act (MMPA) and thus trial court acted within its discretion in granting preliminary injunction against the MMD, since neither the CUA nor MMPA addressed the areas of land use, zoning, and business licensing, and the CUA and MMPA expressed an intent to permit local regulation of MMDs, absent evidence that any adverse effect on the public from banning MMDs outweighed the possible benefit to the city. West's Ann.Cal.Health & Safety Code §§ 11362.5, 11362.83, 11362.768(f, g), 11362.775.

See 13 Witkin, *Summary of Cal. Law (10th ed. 2005) Equity*, § 151; 2 Witkin & Epstein, *Cal. Criminal Law (3d ed. 2000) Crimes Against Public Peace and Welfare*, § 70; 2 Witkin & Epstein, *Cal. Criminal Law (2011 supp.) Crimes Against Public Peace and Welfare*, § 70B; *Cal. Jur. 3d, Nuisances*, § 62; *Cal. Jur. 3d, Zoning And Other Land Controls*, § 279; *Annot., Construction and Application of Medical Marijuana Laws and Medical Necessity Defense to Marijuana Laws (2009) 50 A.L.R.6th 353.*  
[26] Nuisance 279 ↪6

#### 279 Nuisance

279I Private Nuisances

279I(A) Nature of Injury, and Liability Therefor

279k6 k. Acts authorized or prohibited by public authority. Most Cited Cases

#### Nuisance 279 ↪65

#### 279 Nuisance

279II Public Nuisances

279II(A) Nature of Injury, and Liability

Therefor

279k65 k. Acts authorized or prohibited by public authority. Most Cited Cases

Medical Marijuana Program Act (MMPA) provides immunity only as to lawful medical marijuana dispensaries (MMD). West's Ann.Cal.Health & Safety Code § 11362.775.

#### [27] Zoning and Planning 414 ↪1033

#### 414 Zoning and Planning

414I In General

414k1019 Concurrent or Conflicting Regulations; Preemption

414k1033 k. Other particular cases. Most Cited Cases

A medical marijuana dispensary (MMD) operating in violation of a zoning ordinance prohibiting MMDs is not lawful, for purposes of the rule that the Medical Marijuana Program Act (MMPA) provides immunity only as to lawful MMDs. West's Ann.Cal.Health & Safety Code § 11362.775.

#### [28] Municipal Corporations 268 ↪592(1)

#### 268 Municipal Corporations

268X Police Power and Regulations

268X(A) Delegation, Extent, and Exercise of Power

268k592 Concurrent and Conflicting Exercise of Power by State and Municipality

268k592(1) k. In general. Most Cited Cases

#### Municipal Corporations 268 ↪592(4)

#### 268 Municipal Corporations

268X Police Power and Regulations

268X(A) Delegation, Extent, and Exercise of Power

268k592 Concurrent and Conflicting Exercise of Power by State and Municipality

268k592(4) k. Ordinances permitting acts which state law prohibits. Most Cited Cases

A local ordinance is not impliedly preempted by conflict with state law unless it mandates what

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state law expressly forbids, or forbids what state law expressly mandates, because when a local ordinance does not prohibit what the statute commands or command what it prohibits, the ordinance is not inimical to the statute.

**[29] Health 198H** ⚡107

198H Health  
198HI Regulation in General  
198HI(A) In General  
198Hk107 k. Preemption. Most Cited

**Municipal Corporations 268** ⚡592(1)

268 Municipal Corporations  
268X Police Power and Regulations  
268X(A) Delegation, Extent, and Exercise of Power  
268k592 Concurrent and Conflicting Exercise of Power by State and Municipality  
268k592(1) k. In general. Most Cited Cases

**Zoning and Planning 414** ⚡1033

414 Zoning and Planning  
414I In General  
414k1019 Concurrent or Conflicting Regulations; Preemption  
414k1033 k. Other particular cases. Most Cited Cases

The statute providing that the Medical Marijuana Program Act (MMPA) does not prohibit "ordinances or policies that further restrict the location or establishment" of a medical marijuana dispensary (MMD) and does not preempt ordinances adopted prior to January 1, 2011 that "regulate the location or establishment" of a MMD authorizes local governments to enact ordinances totally banning MMDs, since a ban or prohibition is simply a type or means of restriction or regulation. West's Ann.Cal.Health & Safety Code § 11362.768.

**[30] Nuisance 279** ⚡6

279 Nuisance  
279I Private Nuisances  
279I(A) Nature of Injury, and Liability Therefor  
279k6 k. Acts authorized or prohibited by public authority. Most Cited Cases

A "nuisance per se" exists when a legislative body with appropriate jurisdiction, in the exercise of the police power, expressly declares a particular object or substance, activity, or circumstance, to be a nuisance.

**[31] Nuisance 279** ⚡6

279 Nuisance  
279I Private Nuisances  
279I(A) Nature of Injury, and Liability Therefor  
279k6 k. Acts authorized or prohibited by public authority. Most Cited Cases

Where the law expressly declares something to be a nuisance, then no inquiry beyond its existence need be made.

**[32] Nuisance 279** ⚡65

279 Nuisance  
279II Public Nuisances  
279II(A) Nature of Injury, and Liability Therefor  
279k65 k. Acts authorized or prohibited by public authority. Most Cited Cases

Under city ordinance expressly declaring medical marijuana dispensaries (MMD) to be nuisances, MMD was a public nuisance per se.

**\*\*366** Law Office of J. David Nick and J. David Nick, San Francisco, for Defendants and Appellants.

Gregory P. Priamos, City Attorney, Neil Okazaki, Deputy City Attorney; Best Best & Krieger, Irvine, Jeffrey V. Dunn and Lee Ann Meyer for Plaintiff and Respondent.

**\*891 OPINION**

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CODRINGTON, J.

## I INTRODUCTION

Defendants and appellants **Inland Empire Patient's Health and Wellness Center Inc., et al.**<sup>FN1</sup> (**Inland Empire Center**) appeal from a judgment entered in favor of plaintiff and respondent, the City of Riverside\*\*367 (Riverside), after the trial court found that **Inland Empire Center's** medical marijuana dispensary (MMD)<sup>FN2</sup> constituted a public nuisance per se and issued a preliminary injunction enjoining **Inland Empire Center** from operating its MMD in Riverside.

FN1. Defendants and appellants also include William Joseph Sump II, Lanny David Swerdlow, Angel City West, Inc., Meneleo Carlos, and Filomena Carlos.

FN2. When referring to MMD's, we use the term MMD broadly to include cooperatives, collectives, and dispensaries, despite any technical differences that may exist between them.

**Inland Empire Center** contends Riverside's ordinance banning MMD's throughout Riverside is preempted by state law; specifically, the Compassionate Use Act of 1996(CUA) (Health & Saf.Code, § 11362.5)<sup>FN3</sup> and the Medical Marijuana Program (MMP) (§§ 11362.7–11362.83). We conclude Riverside's ordinance banning MMD's is not preempted by state law. We therefore affirm the preliminary injunction and judgment.

FN3. Unless otherwise noted, all statutory references are to the Health and Safety Code.

## II FACTUAL AND PROCEDURAL BACKGROUND

**Inland Empire Center** is a nonprofit mutual benefit corporation established for the purpose of facilitating an MMD located in Riverside. **Inland Empire Center's** MMD is a nonprofit collaborative

association of patient members, who collectively cultivate medical marijuana and redistribute it to each other. **Inland Empire Center** has operated its MMD in Riverside since 2009.

Defendant Lanny Swerdlow (Swerdlow) is a registered nurse and manager of an adjacent, separate medical clinic, THCF Medical Clinic, unassociated with the MMD. Defendant William Joseph Sump II is an **Inland Empire Center** board member and general manager of **Inland Empire Center's** Riverside MMD. Defendants Meneleo Carlos and Filomena Carlos (the Carloses) own the property upon which the MMD is located and lease the \*892 property to Swerdlow. Defendant Angel City West, Inc. (Angel) provides management services for the property.

In January 2009, Riverside's Community Development Department planning division sent Swerdlow a letter stating that Riverside's zoning code prohibits MMD's in Riverside. In May 2010, Riverside filed a complaint against Angel, Swerdlow, Sump,<sup>FN4</sup> the Carloses, East West Bancorp, Inc.,<sup>FN5</sup> and THCF Health and Wellness Center,<sup>FN6</sup> for injunctive relief to abate public nuisance. The complaint alleges **Inland Empire Center's** MMD constitutes a public nuisance, in violation of Riverside's zoning code, Riverside Municipal Code (RMC) section 6.15.020(Q). Riverside notified Swerdlow of the violation. Nevertheless, Swerdlow continues to operate the MMD.

FN4. Sump is added as Doe 1 in an amendment to the complaint.

FN5. East West Bancorp, Inc. is not a party to this appeal.

FN6. Riverside added **Inland Empire Center** by amendment to the complaint as Doe 2.

Riverside's complaint includes two causes of action, both alleging public nuisance, and prays for injunctive relief enjoining **Inland Empire Center**

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from operating its MMD in Riverside. Riverside alleges in the complaint that **Inland Empire** Center is located in a commercial zone. Under Riverside's zoning code, MMD's are prohibited. (RMC, §§ 19.150.020, 19.910.140.) Riverside's zoning code further states that any use which is prohibited by state and/or federal law is strictly prohibited in Riverside. (RMC, § 19.150.020.) Any violation of Riverside's municipal code is deemed a public nuisance under RMC sections \*\*368 1.01.110 and 6.15.020(Q). **Inland Empire** Center's MMD violates Riverside's zoning code and is therefore a public nuisance subject to abatement.

Riverside filed a motion for a preliminary injunction, seeking to close **Inland Empire** Center's MMD in Riverside. Riverside Police Detective Darren Woolley (Woolley) concluded in his supporting declaration that the medical clinic, "THCF Medical Clinic," where Swerdlow worked as a nurse, was connected to **Inland Empire** Center's MMD and referred patients to the MMD. Riverside requested the trial court to take judicial notice of various documents, including a report entitled, "California Police Chiefs Association's Task Force On Marijuana Dispensaries" and a report by the Riverside County District Attorney's Office, entitled, "Medical Marijuana: History and Current Complications." **Inland Empire** Center objected to judicial notice of these documents. The court did not rule on the judicial notice request.

In support of **Inland Empire** Center's opposition to Riverside's motion for a preliminary injunction, Swerdlow states in his declaration that he managed the medical clinic Woolley claimed was associated with the MMP. According \*893 to Swerdlow, the medical clinic is not connected with the MMD. Woolley erroneously referred to **Inland Empire** Center's MMD as the THCF Medical Clinic, which is at a different location nearby.

**Inland Empire** Center's general manager, Sump, also provided a declaration supporting **Inland Empire** Center's opposition, stating that **Inland Empire** Center had advised Riverside that it

would be operating an MMD in Riverside. Sump further stated that **Inland Empire** Center had been lawfully operating its MMD and it did not constitute a nuisance to the surrounding community.

On November 24, 2010, the trial court heard Riverside's motion for a preliminary injunction and granted the motion, concluding *City of Claremont v. Kruse* (2009) 177 Cal.App.4th 1153, 100 Cal.Rptr.3d 1 (*Kruse*) controlled and therefore Riverside could use zoning regulations to prohibit MMD's, "especially given the conflict between state and federal law." The trial court added it was not finding that federal law preempted state law in this instance. The court acknowledged there was case law holding that there was no federal law preemption. The trial court entered a written order enjoining **Inland Empire** Center from operating its MMD on the Carloses' property.

### III

#### STANDARD OF REVIEW

[1] In this appeal, **Inland Empire** Center challenges the trial court's order granting Riverside's request for a preliminary injunction. "We review an order granting a preliminary injunction, under an abuse of discretion standard, to determine whether the trial court abused its discretion in evaluating the two interrelated factors pertinent to issuance of a preliminary injunction—(1) the likelihood that the plaintiffs will prevail on the merits at trial, and (2) the interim harm that the plaintiffs are likely to sustain if the injunction were denied as compared to the harm the defendant is likely to suffer if the preliminary injunction were issued. [Citation.] Abuse of discretion as to either factor warrants reversal. [Citation.]" (*Alliant Ins. Services, Inc. v. Gaddy* (2008) 159 Cal.App.4th 1292, 1299–1300, 72 Cal.Rptr.3d 259.) "[W]e interpret the facts in the light most favorable to the prevailing party and indulge in all reasonable inferences in support of the trial court's order. [Citations.]" \*\*369 [Citations.]" (*Id.* at p. 1300, 72 Cal.Rptr.3d 259.)

[2][3] Here, the validity of the injunction and likelihood **Inland Empire** Center will prevail at tri-

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al turn on a question of law: whether Riverside's zoning code banning MMD's in Riverside is valid and enforceable. The underlying facts demonstrating a violation of the zoning code are undisputed. **Inland Empire** Center was operating an MMD on Riverside property, owned, leased, \*894 used and/or managed by the **Inland Empire** Center defendants. **Inland Empire** Center argues the zoning code prohibiting MMD's is invalid and unenforceable because it is preempted by state law (the CUA and MMP). " 'Whether state law preempts a local ordinance is a question of law that is subject to de novo review. [Citation.] [Citation.] 'The party claiming that general state law preempts a local ordinance has the burden of demonstrating preemption. [Citation.] [Citation.]" (*Kruse, supra*, 177 Cal.App.4th at p. 1168, 100 Cal.Rptr.3d 1.)

Since the material facts relevant to preemption are undisputed, this is a question of law which we review de novo. (*Kruse, supra*, 177 Cal.App.4th at p. 1168, 100 Cal.Rptr.3d 1.) **Inland Empire** Center bears the burden of demonstrating preemption. We conclude **Inland Empire** Center has not met this burden and therefore the trial court did not abuse its discretion in granting a preliminary injunction enjoining **Inland Empire** Center from operating its MMD in Riverside.

#### IV

##### PREEMPTION PRINCIPLES

[4][5] The general principles governing state statutory preemption of local land use regulation are well settled. (*Big Creek Lumber Co. v. County of Santa Cruz* (2006) 38 Cal.4th 1139, 1150, 45 Cal.Rptr.3d 21, 136 P.3d 821 (*Big Creek Lumber*); *Kruse, supra*, 177 Cal.App.4th at p. 1168, 100 Cal.Rptr.3d 1.) Under article XI, section 7 of the California Constitution, "[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." " 'If otherwise valid local legislation conflicts with state law, it is preempted by such law and is void.' " (*Sherwin-Williams Co. v. City of Los Angeles* (1993) 4

Cal.4th 893, 897, 16 Cal.Rptr.2d 215, 844 P.2d 534 (*Sherwin-Williams*), quoting *Candid Enterprises, Inc. v. Grossmont Union High School Dist.* (1985) 39 Cal.3d 878, 885, 218 Cal.Rptr. 303, 705 P.2d 876.) Three types of conflict give rise to state law preemption: a local law (1) duplicates state law, (2) contradicts state law, or (3) enters an area fully occupied by state law, either expressly or by legislative implication. (*Kruse*, at p. 1168, 100 Cal.Rptr.3d 1; *Action Apartment Assn., Inc. v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1242, 63 Cal.Rptr.3d 398, 163 P.3d 89.)

Where, as here, there is no clear indication of preemptive intent from the Legislature, we presume that Riverside's zoning regulations, in an area over which local government traditionally has exercised control, are not preempted by state law. (*Kruse, supra*, 177 Cal.App.4th at p. 1169, 100 Cal.Rptr.3d 1.) " '[W]hen local government regulates in an area over which it traditionally exercised control, such as the location of particular land uses, California \*895 courts will presume, absent a clear indication of preemptive intent from the Legislature, that such regulation is *not* preempted by state statute. [Citation.]' " (*Kruse, supra*, 177 Cal.App.4th at p. 1169, 100 Cal.Rptr.3d 1, quoting *Big Creek Lumber, supra*, 38 Cal.4th at p. 1149, 45 Cal.Rptr.3d 21, 136 P.3d 821.) This court thus must presume, absent a clear indication the \*\*370 Legislature intended to regulate the location of MMD's, that such regulation by local government is *not* preempted by state law.

#### V

##### CALIFORNIA MEDICAL MARIJUANA LAWS

In determining whether Riverside's zoning code banning MMD's is preempted by state law, we first consider the scope and purpose of California's medical marijuana laws, specifically the CUA and MMP.

[6] In 1996, California voters approved a ballot initiative, Proposition 215, referred to as the "Compassionate Use Act of 1996." ( § 11362.5.) The CUA is intended to "ensure that seriously ill

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Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana....” (*Id.*, subd. (b)(1)(A).) The CUA is also intended to “ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.” (*Id.*, subd. (b)(1)(B).) In addition, the CUA is intended to “encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.” (*Id.*, subd. (b)(1)(C).) The CUA provides a limited defense from prosecution for cultivation and possession of marijuana. The CUA is narrow in scope. (*Ross v. RagingWire Telecommunications, Inc.* (2008) 42 Cal.4th 920, 929–930, 70 Cal.Rptr.3d 382, 174 P.3d 200; *Kruse, supra*, 177 Cal.App.4th at p. 1170, 100 Cal.Rptr.3d 1.) It does not create a statutory or constitutional right to obtain marijuana, or allow the sale or nonprofit distribution of marijuana by MMD's. (*Ross* at p. 926, 70 Cal.Rptr.3d 382, 174 P.3d 200, *Kruse*, at pp. 1170–1171, 100 Cal.Rptr.3d 1; *People v. Urziceanu* (2005) 132 Cal.App.4th 747, 773–774, 33 Cal.Rptr.3d 859 (*Urziceanu* ).)

In 2003, the Legislature added the MMP. (§§ 11362.7–11362.83.) The purposes of the MMP include “ [promoting] uniform and consistent application of the [CUA] among the counties within the state’ and [enhancing] the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects.’ [Citation.]” (*County of Los Angeles v. Hill* (2011) 192 Cal.App.4th 861, 864, 121 Cal.Rptr.3d 722 (*Hill* ).) The MMP “includes guidelines for the implementation of the CUA. Among other \*896 things, it provides that qualified patients and their primary caregivers have limited immunity from prosecution for violation of various sections of the Health and Safety Code regulating marijuana including [section 11570,] the ‘drug den’ abatement law. ( §§

11362.765, 11362.775.)” (*Ibid.*, fn. omitted.)

[7] With regard to “drug den” abatement, the MMP “provides a new affirmative defense to criminal liability for qualified patients, caregivers, and holders of valid identification cards who collectively or cooperatively cultivate marijuana. [Citation.]” (*Kruse, supra*, 177 Cal.App.4th at p. 1171, 100 Cal.Rptr.3d 1.) For instance, section 11362.775 of the MMP provides: “Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under \*\*371 Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.” FN7 In addition, section 11362.765 provides limited immunity for transporting, processing, administering, and cultivating medical marijuana.

FN7. These penal statutes criminalize possession of marijuana ( § 11357); cultivation of marijuana ( § 11358); possession of marijuana for sale ( § 11359); transportation of marijuana ( § 11360); maintaining a place for the sale, giving away, or use of marijuana ( § 11366); making available premises for the manufacture, storage, or distribution of controlled substances ( § 11366.5); and abatement of nuisance created by premises used for manufacture, storage, or distribution of controlled substances ( § 11570).

## VI APPLICABLE RIVERSIDE MUNICIPAL CODE PROVISIONS

Chapter 19.150 of the RMC enumerates permissible and impermissible land uses. RMC section 19.150.020 states that table A of section 19.150.020 “identifies those uses that are specifically prohibited. Uses not listed in Tables are prohibited unless, the Zoning Administrator, pursuant to Chapter

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19.060 (Interpretation of Code), determines that the use is similar and no more detrimental than a listed permitted or conditional use. Any use which is prohibited by state and/or federal law is also strictly prohibited." (RMC, § 19.150.020.) Table A states that MMD's constitute a "Prohibited Use" throughout Riverside. (RMC, § 19.150.020.) Riverside's zoning code further states that "persons vested with enforcement authority ... shall have the power to ... use whatever judicial and administrative remedies are available under the Riverside Municipal Code" to enforce the zoning code. (RMC, § 19.070.020.)

\*897 RMC further provides that "any condition caused or permitted to exist in violation of any of the provisions of this Code, or the provisions of any code adopted by reference by this Code, shall be deemed a public nuisance and may be abated by the City, ..." (RMC, § 1.01.110(E).) RMC section 6.15.020, enumerating acts constituting nuisances, states: "It is unlawful and is hereby declared a nuisance for any person owning, leasing, occupying or having charge or possession of any property ... in the City to maintain the property in such a manner that any of the following conditions are present: [¶] ... [¶] Q. Any other violation of this code pursuant to section 1.01.110E." This encompasses a violation of Riverside's zoning code, such as the provision banning MMD's. Under the RMC, **Inland Empire** Center's MMD is a zoning violation, constituting a public nuisance which is amenable to abatement and injunctive relief by civil action.

## VII PREEMPTION

[8] Generally a municipal zoning ordinance is presumed to be valid. (*Stubblefield Construction Co. v. City of San Bernardino* (1995) 32 Cal.App.4th 687, 713, 38 Cal.Rptr.2d 413.) **Inland Empire** Center argues that, while cities and counties may zone where MMD's may be located, Riverside cannot lawfully ban all MMD's from the city. This court must presume Riverside's zoning ordinance banning MMD's in Riverside is valid un-

less **Inland Empire** Center demonstrates the ordinance is unlawful based on state law preemption of Riverside's zoning ordinance.

### A. Federal Preemption of State Law

**Inland Empire** Center argues that under *Qualified Patients Assoc. v. City of Anaheim* (2010) 187 Cal.App.4th 734, 115 Cal.Rptr.3d 89 (*Qualified*), local municipalities\*\*372 cannot enact a total ban of MMD's based solely on federal law preemption. The court in *Qualified* stated: "The city may not justify its ordinance solely under federal law [citations], nor in doing so invoke federal preemption of state law that may invalidate the city's ordinance. The city's obstacle preemption argument therefore fails." (*Qualified*, at p. 763, 115 Cal.Rptr.3d 89, fn. omitted.) In other words, the city cannot rely on the proposition that federal law, which criminalizes possession of marijuana, preempts state law allowing limited use of medical marijuana and MMD's.

[9] We agree that under *Qualified* federal preemption of state medical marijuana law is not a valid basis for upholding Riverside's zoning ordinance banning MMD's. The key issue in determining whether Riverside's zoning ordinance is legally enforceable is whether state medical marijuana statutes, \*898 such as the CUA and MMP, preempt Riverside's zoning ordinance banning MMD's. If the local ordinance is not preempted by state law, the ordinance is valid and enforceable.

### B. State Law Preemption of Local Law

We reject the proposition that local governments, such as Riverside, are preempted by the CUA and MMP from enacting zoning ordinances banning MMD's. Riverside's zoning ordinance does not duplicate, contradict, or occupy the field of state law legalizing medical marijuana and MMD's.

#### 1. Duplicative and Contradictory Rules

[10][11] A duplicative rule is one that mimics a state law or is "coextensive" with state law." (*O'Connell v. City of Stockton* (2007) 41 Cal.4th 1061, 1067, 63 Cal.Rptr.3d 67, 162 P.3d 583; *Hab-*

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*itat Trust for Wildlife, Inc. v. City of Rancho Cucamonga* (2009) 175 Cal.App.4th 1306, 1327, 96 Cal.Rptr.3d 813 [Fourth Dist, Div. Two].) A contradictory rule is one that is inimical to or cannot be reconciled with a state law. (*Habitat Trust for Wildlife*, at p. 1327, 96 Cal.Rptr.3d 813; *O'Connell*, at p. 1068, 63 Cal.Rptr.3d 67, 162 P.3d 583.)

Riverside's zoning ordinance regulating MMD's does not "mimic" or duplicate state law and can be reconciled with the CUA and MMP. Riverside's zoning ordinance banning MMD's differs in scope and substance from the CUA and MMP. (*Sherwin-Williams, supra*, 4 Cal.4th at p. 902, 16 Cal.Rptr.2d 215, 844 P.2d 534.) The CUA is narrow in scope. (*Kruse, supra*, 177 Cal.App.4th at p. 1170, 100 Cal.Rptr.3d 1.) It provides medical marijuana users and care providers with limited criminal immunity for use, cultivation, and possession of medical marijuana. The CUA does not create a constitutional right to obtain marijuana, or allow the sale or nonprofit distribution of marijuana by medical marijuana cooperatives. (*Id.* at pp. 1170-1171, 100 Cal.Rptr.3d 1.)

[12][13][14] The MMP merely implements the CUA and also provides immunity for those involved in lawful MMD's. The CUA and MMP do not provide individuals with inalienable rights to establish, operate, or use MMD's. The state statutes do not preclude local governments from regulating MMD's through zoning ordinances. The establishment and operation of MMD's is thus subject to local zoning and business licensing laws. There is nothing stated to the contrary in the CUA or MMP. The CUA and MMP do not expressly mandate that MMD's shall be permitted within every city and county, nor do the CUA and MMP prohibit cities and counties from banning MMD's. The operative provisions of the CUA and MMP do not speak to local zoning laws. (*Kruse, supra*, 177 Cal.App.4th at pp. 1172-1173, 1175, 100 Cal.Rptr.3d 1.) Although the MMP provides limited immunity to those \*\*373 using and operating \*899 lawful MMD's, the MMP does not restrict or usurp in any

way the police power of local governments to enact zoning and land use regulations prohibiting MMD's.

**Inland Empire** Center argues Riverside's ordinance banning MMD's is invalid because it is inconsistent with the MMP, which provides limited immunity for operating and using MMD's. For instance, section 11362.775 of the MMP provides immunity for a nuisance claim arising from a violation of section 11570, which encompasses operating an MMD. Section 11570 provides civil nuisance liability: "Every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance ... and every building or place wherein or upon which those acts take place, *is a nuisance which shall be enjoined, abated, and prevented*, and for which damages may be recovered, whether it is a public or private nuisance." (Italics added.) Section 11362.775 of the MMP provides: "Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, *shall not solely on the basis of that fact be subject to state criminal sanctions* under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or *11570*." (Italics added.)

As **Inland Empire** Center notes, section 11570, unlike the other statutes listed in section 11362.775, does not provide criminal sanctions. Nevertheless, **Inland Empire** Center argues that under *Qualified, supra*, 187 Cal.App.4th at pages 753-754, 115 Cal.Rptr.3d 89, section 11362.775 provides immunity from a nuisance claim for operating an MMD in violation of section 11570. The court in *Qualified* states: "Sections 11362.765 and 11362.775 of the MMPA immunize operators of medical marijuana dispensaries ... from prosecution under state nuisance abatement law ( § 11570) 'solely on the basis' that they use any 'building or place ... for the purpose of unlawfully selling,

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...serving, storing, keeping, manufacturing, or giving away any controlled substance....”

**Inland Empire** Center claims that section 11362.775 demonstrates the Legislature's intent to bar cities from declaring MMD's a nuisance and banning them. **Inland Empire** Center argues that, by enacting section 11362.775, which refers to section 11570, the Legislature expressly prohibits cities from bringing civil nuisance claims under Civil Code section 3482 for operating MMD's. (*Urziceanu, supra*, 132 Cal.App.4th at p. 785, 33 Cal.Rptr.3d 859.) Civil Code section 3482 provides that “Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.”

[15][16][17] **Inland Empire** Center asserts that, because section 11362.775 exempts an operator of an MMD from liability for nuisance, Riverside's zoning \*900 ordinance, banning MMD's and declaring them a nuisance, is preempted by state law. We disagree. Here, **Inland Empire** Center is prosecuted for a zoning violation, and not “solely on the basis” **Inland Empire** Center used the premises for operating an MMD. Although section 11362.775 allows lawful MMD's, a municipality can limit or prohibit MMD's through zoning regulations and prosecute such violations by bringing a nuisance action and seeking injunctive relief. Protection under Civil Code section 3482 is applied very narrowly, only “where the alleged nuisance is exactly what was lawfully authorized.” \*\*374(*Jacobs Farm/Del Cabo, Inc. v. Western Farm Service, Inc.* (2010) 190 Cal.App.4th 1502, 1532, 119 Cal.Rptr.3d 529, italics added.) **Inland Empire** Center's reliance on Civil Code section 3482 is misplaced since, here, the Legislature did not expressly prohibit cities from enacting zoning regulations banning MMD's or from bringing a nuisance action enforcing such ordinances. Therefore Riverside's zoning ordinance banning MMD's does not duplicate or contradict the CUA and MMP statutes.

## 2. Expressly Occupying the Field of State Law

[18][19] Local legislation enters an area that is

fully occupied by general law when the Legislature has expressly manifested its intent to fully occupy the area. (*Kruse, supra*, 177 Cal.App.4th at p. 1169, 100 Cal.Rptr.3d 1.) Here, the CUA and MMP do not expressly state an intent to fully occupy the area of regulating, licensing, and zoning MMD's, to the exclusion of all local law.

In *Kruse, supra*, 177 Cal.App.4th 1153, 100 Cal.Rptr.3d 1, the court stated that the CUA did not expressly preempt the city's zoning ordinance which temporarily prohibited MMD's: “The CUA does not expressly preempt the City's actions in this case. The operative provisions of the CUA do not address zoning or business licensing decisions. The statute's operative provisions protect physicians from being ‘punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes’ ( § 11362.5, subd. (c)), and shield patients and their qualified caregivers from criminal liability for possession and cultivation of marijuana for the patient's personal medical purposes if approved by a physician ( § 11362.5, subd. (d)). The plain language of the statute does not prohibit the City from enforcing zoning and business licensing requirements applicable to defendants' proposed use.” (*Kruse, supra*, 177 Cal.App.4th at pp. 1172–1173, 100 Cal.Rptr.3d 1.)

The *Kruse* court further explained that the city's temporary moratorium on MMD's was permissible because: “The CUA does not authorize the operation of a medical marijuana dispensary [citations], nor does it prohibit local governments from regulating such dispensaries. Rather, the CUA expressly states that it does not supersede laws that protect individual and public safety: ‘Nothing in this section shall be construed to supersede legislation prohibiting \*901 persons from engaging in conduct that endangers others....’ ( § 1362.5, subd. (b)(2).) The CUA, by its terms, accordingly did not supersede the City's moratorium on medical marijuana dispensaries, enacted as an urgency measure ‘for the immediate preservation of the public health, safety, and welfare.’ ” (*Kruse, supra*, 177

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Cal.App.4th at p. 1173, 100 Cal.Rptr.3d 1.)

The *Kruse* court also concluded the city's zoning ordinance was not expressly preempted by the MMP. The *Kruse* court noted, "The operative provisions of the MMP, like those in the CUA, provide limited criminal immunities under a narrow set of circumstances." (*Kruse, supra*, 177 Cal.App.4th at p. 1175, 100 Cal.Rptr.3d 1.) Furthermore, "[m]edical marijuana dispensaries are not mentioned in the text or history of the MMP. The MMP does not address the licensing or location of medical marijuana dispensaries, nor does it prohibit local governments from regulating such dispensaries. Rather, like the CUA, the MMP expressly allows local regulation.... Nothing in the text or history of the MMP precludes the City's adoption of a temporary moratorium on issuing permits and licenses to medical marijuana dispensaries, or the City's enforcement of licensing and zoning requirements applicable to such \*\*375 dispensaries." (*Ibid.*) As in *Kruse*, the CUA and MMP do not expressly preempt Riverside's zoning ordinance regulating MMD's, including banning them.

### 3. Impliedly Occupying the Field of State Law

[20] Riverside's zoning ordinance banning MMD's is not impliedly preempted by state law since Riverside's ordinance does not enter an area of law fully occupied by the CUA and MMP by legislative implication. (*Kruse, supra*, 177 Cal.App.4th p. 1168, 100 Cal.Rptr.3d 1.) " '[L]ocal legislation enters an area that is 'fully occupied' by general law when the Legislature ... has impliedly done so in light of one of the following indicia of intent: '(1) the subject matter has been so fully and completely covered by general law as to clearly indicate that it has become exclusively a matter of state concern; (2) the subject matter has been partially covered by general law couched in such terms as to indicate clearly that a paramount state concern will not tolerate further or additional local action; or (3) the subject matter has been partially covered by general law, and the subject is of such a nature that the adverse effect of a local or-

dinance on the transient citizens of the state outweighs the possible benefit to the' locality [citations]." [Citation.]' [Citation.]" (*Id.* at p. 1169, 100 Cal.Rptr.3d 1.)

[21][22][23][24] This court rarely finds implied preemption: "We are reluctant to invoke the doctrine of implied preemption. 'Since preemption depends upon *legislative intent*, such a situation necessarily begs the question of why, if preemption was legislatively *intended*, the Legislature did not simply say so, as the Legislature has done many times in many circumstances.' [Citation.] ' "In \*902 determining whether the Legislature has preempted by implication to the exclusion of local regulation we must look to the whole purpose and scope of the legislative scheme." ' [Citations.] Indeed, preemption will not be implied where local legislation serves local purposes, and the general state law appears to be in conflict but actually serves different, statewide purposes. [Citation.] There is a presumption against preemption." (*Garcia v. Four Points Sheraton LAX* (2010) 188 Cal.App.4th 364, 374, 115 Cal.Rptr.3d 685.)

#### (a) Complete Coverage

[25] The subject matter of the Riverside zoning ordinance banning MMD's has not been "so fully and completely covered by general law as to clearly indicate that it has become exclusively a matter of state concern[.]" (*Kruse, supra*, 177 Cal.App.4th at p. 1169, 100 Cal.Rptr.3d 1.) As stated in *Kruse*, neither the CUA nor MMP "addresses, much less completely covers, the areas of land use, zoning and business licensing. Neither statute imposes comprehensive regulation demonstrating that the availability of medical marijuana is a matter of 'statewide concern,' thereby preempting local zoning and business licensing laws." (*Id.* at p. 1175, 100 Cal.Rptr.3d 1.) The *Kruse* court further noted that the CUA "does not create 'a broad right to use marijuana without hindrance or inconvenience' [citation], or to dispense marijuana without regard to local zoning and business licensing laws." (*Ibid.*)

Inland Empire Center cites *City of Torrance*

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*v. Transitional Living Centers for Los Angeles, Inc.* (1982) 30 Cal.3d 516, 521, 179 Cal.Rptr. 907, 638 P.2d 1304, *Cohen v. Board of Supervisors* (1985) 40 Cal.3d 277, 293, 219 Cal.Rptr. 467, 707 P.2d 840, *O'Connell v. City of Stockton* (2007) 41 Cal.4th 1061, 1068–1069, 63 Cal.Rptr.3d 67, 162 P.3d 583, and *Northern Cal. Psychiatric Society v. City of Berkeley* (1986) 178 Cal.App.3d 90, 103–104, 223 Cal.Rptr. 609 \*\*376 for the proposition the MMP preempts Riverside's ordinance banning MMD's. These cases are factually inapposite. They do not concern medical marijuana, the CUA, the MMPA, or local ordinances regulating or banning MMD's. While the cases address general preemption principles, they are not dispositive of the issues raised in the instant case.

[26][27] **Inland Empire Center** also lists numerous state statutes which **Inland Empire Center** claims demonstrate the MMP encompasses a comprehensive scheme intended to regulate just about every aspect of the administration of medical marijuana, including MMP's. **Inland Empire Center** argues that the CUA and MMP impliedly and expressly preempt local regulations prohibiting MMD's by fully occupying the area of law through statutes, such as sections 11362.765 and 11362.775 of the MMP. We disagree. The CUA and MMP do not preclude Riverside from enacting zoning ordinances prohibiting MMD's \*903 in the city. In addition, the MMP provides immunity only as to lawful MMD's. An MMD operating in violation of a zoning ordinance prohibiting MMD's is not lawful.

#### (b) State Law Tolerating Local Action

The CUA and MMP do not provide "general law couched in such terms as to indicate clearly that a paramount state concern will not tolerate further or additional local action[.]" (*Kruse, supra*, 177 Cal.App.4th at pp. 1169, 1176, 100 Cal.Rptr.3d 1; *Sherwin-Williams, supra*, 4 Cal.4th at p. 898, 16 Cal.Rptr.2d 215, 844 P.2d 534.) Because the state statutory scheme (the CUA and MMP) expresses an intent to permit local regulation of MMD's, preemption by implication of legislative intent may not

be found here. (*Kruse*, at p. 1176, 100 Cal.Rptr.3d 1.) In *Kruse*, the court explained that the CUA and MMP did not preclude local action regarding medical marijuana, "except in the areas of punishing physicians for recommending marijuana to their patients, and according qualified persons affirmative defenses to enumerated penal sanctions. (§ 11362.5, subs. (c), (d), 11362.765, 11362.775.) The CUA expressly provides that it does not 'supersede legislation prohibiting persons from engaging in conduct that endangers others' (§ 11362.5, subd. (b)(2)), and the MMP expressly states that it does not 'prevent a city or other local governing body from adopting and enforcing laws consistent with this article' (§ 11362.83)." (*Ibid.*)

In addition, after *Kruse* was decided, the Legislature added section 11362.768 in 2010. With regard to this new provision, the court in *Hill, supra*, 192 Cal.App.4th 861, 121 Cal.Rptr.3d 722 noted that "the Legislature showed it expected and intended that local governments adopt additional ordinances" regulating medical marijuana. (*Id.* at p. 868, 121 Cal.Rptr.3d 722.) Section 11362.768 states that: "(f) Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider. [¶] (g) Nothing in this section shall preempt local ordinances, adopted prior to January 1, 2011, that regulate the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider." As the *Hill* court noted regarding this statute, "If there was ever any doubt about the Legislature's intention to allow local governments to regulate marijuana dispensaries, and we do not believe there was, the newly enacted section 11362.768, has made clear that local government may regulate dispensaries." (*Ibid.*) The *Hill* court added that a \*\*377 local government can zone where MMD's are permissible (*id.* at p. 870, 121 Cal.Rptr.3d 722) and apply nuisance laws to MMD's that do not comply with valid ordinances. (*Id.* at pp. 868, 870, 121 Cal.Rptr.3d

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722.)

Preemption by implication of legislative intent may not be found here where the Legislature has expressed its intent to permit local regulation \*904 of MMD's and where the statutory scheme recognizes local regulations. (*Kruse, supra*, 177 Cal.App.4th at p. 1176, 100 Cal.Rptr.3d 1.)

### (c) Balancing Adverse Effects and Benefits of Local Law

**Inland Empire** Center has also not established the third indicium of implied legislative intent to "fully occupy" the area of regulating MMD's. **Inland Empire** Center has not shown that any adverse effect on the public from Riverside's ordinance banning MMD's outweighs the possible benefit to the city. (*Kruse, supra*, 177 Cal.App.4th at p. 1169, 100 Cal.Rptr.3d 1.) **Inland Empire** Center argues that allowing Riverside to ban MMD's would lead to nonuniform application of the law, with MMD's concentrated in limited areas or not existing in entire regions of the state. We recognize that, as **Inland Empire** Center stresses, the Legislature intended in enacting the MMP to promote uniform application of the CUA and enhance access to medical marijuana through MMD's (§ 11362.7, Historical and Stat. Notes, 40, Pt. 2 West's Ann. Health & Saf.Code (2007) foll. § 11362.7, §§ 1 and 3 of Stats.2003, c. 875 (S.B.420)). Nevertheless, nothing in the CUA or MMP suggests that cities are required to accommodate the use of medical marijuana and MMD, by allowing MMD's within every city. Nothing stated in the CUA and MMP precludes cities from enacting zoning ordinances banning MMD's within their jurisdictions. Furthermore, those who wish to use medical marijuana are not precluded from obtaining it by means other than at an MMD in Riverside.

[28] As concluded in *Kruse, supra*, 177 Cal.App.4th at page 1176, 100 Cal.Rptr.3d 1 and *Sherwin-Williams, supra*, 4 Cal.4th at page 898, 16 Cal.Rptr.2d 215, 844 P.2d 534, "neither the CUA nor the MMP provides partial coverage of a subject that 'is of such a nature that the adverse effect of

a local ordinance on the transient citizens of the state outweighs the possible benefit" to the City. [Citations.] "[A] local ordinance is not impliedly preempted by conflict with state law unless it "mandate[s] what state law expressly forbids, [or] forbid[s] what state law expressly mandates." [Citation.] That is because, when a local ordinance "does not prohibit what the statute commands or command what it prohibits," the ordinance is not "inimical to" the statute. [Citation.] [Citation.] Neither the CUA nor the MMP compels the establishment of local regulations to accommodate medical marijuana dispensaries. The City's enforcement of its licensing and zoning laws and its temporary moratorium on medical marijuana dispensaries do not conflict with the CUA or the MMP." (*Kruse, supra*, at p. 1176, 100 Cal.Rptr.3d 1.)

**Inland Empire** Center urges this court to disregard *Kruse, supra*, 177 Cal.App.4th 1153, 100 Cal.Rptr.3d 1 and *City of Corona v. Naulls* (2008) 166 Cal.App.4th 418, 83 Cal.Rptr.3d 1, because these cases are not dispositive for reasons noted in *Qualified, supra*, 187 Cal.App.4th 734, 115 Cal.Rptr.3d 89. We agree *Kruse* and *Naulls* are factually distinguishable from the instant case because *Kruse* and *Naulls* \*905 involve temporary MMD moratoriums, whereas the instant case involves a permanent ban. Nevertheless, the analysis in \*\*378 *Kruse*, addressing the issue of preemption, is applicable in the instant case.

#### 4. Complete Ban

**Inland Empire** Center argues that, although local governments can regulate MMD's under subdivisions (f) and (g) of section 11362.768, this statute only concerns restricting MMD's located near schools. But it is clear from subdivisions (f) and (g), in conjunction with the MMP as a whole, that the Legislature intended to allow local governments to regulate MMD's beyond the limited provisions included in the CUA and MMP, as long as the local provisions are consistent with the CUA and MMP. Zoning ordinances banning MMD's are not inconsistent with the CUA and MMP, as discussed

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above.

[29] **Inland Empire** Center also argues that subdivisions (f) and (g) of section 11362.768 do not authorize local governments to enact ordinances totally banning MMD's. Local government can only "restrict" or "regulate" the location or establishment of MMD's. (§ 11362.768, subs. (f), (g).) **Inland Empire** Center asserts that restricting and regulating MMD's is more limited than completely banning MMD's and therefore Riverside did not have authority under section 11362.768 to ban all MMD's. We disagree.

We construe the words in section 11362.768 in "their context and harmonize them according to their ordinary, common meaning. [Citation.] ... We consider the consequences which would flow from each interpretation and avoid constructions which defy common sense or which might lead to mischief or absurdity. [Citations.] By doing so, we give effect to the legislative intent even though it may be inconsistent with a strict, literal reading of the statute." (*Friedman v. City of Beverly Hills* (1996) 47 Cal.App.4th 436, 441-442, 54 Cal.Rptr.2d 882.)

In determining whether section 11362.768 authorizes local government to ban MMD's, we look to the ordinary, common meaning of the terms "ban," "restrict," "restriction," "regulate," and "regulation." The term "regulate" is defined in the dictionary as: "[T]o govern or direct according to rule ... [or] laws...." (Webster's 3d New Internat. Dict. (1993) p. 1913.) The term "regulation" is defined in Black's Law Dictionary as: "1. The act or process of controlling by rule or restriction.... 3. A rule or order, having legal force, usu. issued by an administrative agency...." (Black's Law Dict. (8th ed. 2004) p. 1311.) "Restriction" is defined as: "1. A limitation or qualification. 2. A limitation (esp. in a deed) placed on the use or enjoyment of property." (Black's Law Dict., *supra*, p. 1341.)

Applying these definitions, we conclude Riverside's prohibition of MMD's in Riverside through enacting a zoning ordinance banning MMD's, is

\*906 a lawful method of limiting the use of property by regulating and restricting the location and establishment of MMD's in the city. (*Leyva v. Superior Court* (1985) 164 Cal.App.3d 462, 473, 210 Cal.Rptr. 545 [Fourth Dist., Div. Two].) A ban or prohibition is simply a type or means of restriction or regulation. Riverside's ban of MMD's is not preempted by the CUA or MMP.

#### 5. Nuisance Per Se

**Inland Empire** Center's MMD constitutes a violation of Riverside's valid and enforceable zoning ordinance banning MMD's in Riverside. In turn, the code violation constitutes a nuisance per se subject to abatement. Since Riverside is likely to prevail on the merits at trial, the trial court did not abuse its discretion issuing a preliminary injunction enjoining **Inland Empire** Center from operating its MMD in \*\*379 Riverside. (*Alliant, supra*, 159 Cal.App.4th at p. 1300, 72 Cal.Rptr.3d 259.)

[30][31] A nuisance per se exists " 'when a legislative body with appropriate jurisdiction, in the exercise of the police power, expressly declares a particular object or substance, activity, or circumstance, to be a nuisance.... [T]o rephrase the rule, to be considered a nuisance per se the object, substance, activity or circumstance at issue must be expressly declared to be a nuisance by its very existence by some applicable law.' [Citation.] '[W]here the law expressly declares something to be a nuisance, then no inquiry beyond its existence need be made....' [Citation.] 'Nuisances per se are so regarded because no proof is required, beyond the actual fact of their existence, to establish the nuisance.' [Citations.]' [Citation.]" (*Kruse, supra*, 177 Cal.App.4th at pp. 1163-1164, 100 Cal.Rptr.3d 1.)

In *Naulls*, the court affirmed a trial court order granting a preliminary injunction closing down an MMD on the ground the MMD constituted a nuisance per se subject to abatement because there was no express code provision permitting MMD's and no request for a variance. It was presumed in *Naulls* that the MMD was impermissible and was a nuisance per se subject to abatement. (*City of Corona v.*

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*Naulls, supra*, 166 Cal.App.4th at pp. 428, 432-433, 83 Cal.Rptr.3d 1.) The *Naulls* court held: "[T]he court was presented with substantial evidence that Naulls, by failing to comply with the City's various procedural requirements, created a nuisance per se, subject to abatement in accordance with the City's municipal code. Issuance of a preliminary injunction was therefore a proper exercise of the court's discretion." (*Id.* at p. 433, 83 Cal.Rptr.3d 1.)

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END OF DOCUMENT

Citing *Naulls*, the court in *Kruse, supra*, 177 Cal.App.4th 1153, 100 Cal.Rptr.3d 1 also upheld injunctive relief enjoining operation of an MMD anywhere in the city. (*Id.* at p. 1158, 100 Cal.Rptr.3d 1.) The *Kruse* court stated, "[w]e find *Naulls* persuasive here. Kruse's operation of a medical marijuana dispensary without the City's approval \*907 constituted a nuisance per se under section 1.12.010 of the City's municipal code and could properly be enjoined." (*Kruse, supra*, 177 Cal.App.4th at p. 1166, 100 Cal.Rptr.3d 1.) No showing the MMD caused any actual harm was required to establish a nuisance per se. (*Ibid.*)

[32] Likewise, here, **Inland Empire** Center's MMD constitutes a municipal code violation and nuisance per se. (RMC, §§ 6.15.020(Q), 1.01.110(E).) The trial court therefore did not abuse its discretion in granting Riverside injunctive relief based upon **Inland Empire** Center's MMD constituting a nuisance per se subject to abatement.

#### VIII DISPOSITION

The judgment is affirmed. Plaintiff is awarded its costs on appeal.

We concur: HOLLENHORST, P.J., and MILLER, J.

Cal.App. 4 Dist., 2011.  
City of Riverside v. Inland Empire Patient's Health and Wellness Center, Inc.  
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**CITY OF WILDOMAR  
WILDOMAR CEMETERY DISTRICT  
REGULAR MEETING MINUTES  
DECEMBER 14, 2011**

**CALL TO ORDER – REGULAR SESSION**

The regular meeting of December 14, 2011, of the Wildomar Cemetery District was called to order by Chairman Swanson 7:59 p.m.

Board of Trustees Roll Call showed the following Members in attendance: Chairman Swanson, Vice Chairman Benoit, Trustees Cashman, Moore, Walker. Trustees absent: None.

Staff in attendance: General Manager Oviedo, Assistant General Manager Nordquist, Cemetery District Attorney Biggs, Clerk of the Board Lee.

**PUBLIC COMMENTS**

There were no speakers.

**APPROVAL OF THE AGENDA AS PRESENTED**

**A MOTION** was made by Trustee Moore, seconded by Vice Chairman Benoit, to approve the agenda as presented.

**MOTION** carried, 5-0.

**4.0 CONSENT CALENDAR**

**A MOTION** was made by Trustee Moore, seconded by Vice Chairman Benoit, to approve the Consent Calendar as presented.

**MOTION** carried, 5-0.

**4.1 Minutes – November 7, 2011 Regular Meeting**

Approved the Minutes as presented.

**4.2 Minutes – November 9, 2011 Regular Meeting**

Approved the Minutes as presented.

## **5.0 PUBLIC HEARINGS**

There are no items scheduled.

## **6.0 GENERAL BUSINESS**

### **6.1 Restated Policies and Procedures Manual**

Clerk Lee read the title.

General Manager Oviedo stated that the policy regarding a stipend for meetings was changed when the District was annexed to the City. The policy will be that the Board will not receive a stipend when a District meeting coincides with a Council meeting. A stipend will be paid at a rate of \$50 per Trustee, per meeting for meetings that are called only for the Cemetery District.

Trustee Moore inquired why only fresh flowers on the graves.

Ms. Willette answered because of mowing and maintenance of the graves.

**A MOTION** was made by Vice Chairman Benoit, seconded by Trustee Walker, to adopt a Resolution entitled:

RESOLUTION NO. WCD 2011 - 05  
A RESOLUTION OF THE WILDOMAR CEMETERY DISTRICT BOARD  
OF TRUSTEES ADOPTING THE RESTATED POLICIES AND  
PROCEDURES MANUAL

**MOTION** carried, 5-0.

## **GENERAL MANAGER REPORT**

There was no report.

## **CEMETERY DISTRICT ATTORNEY REPORT**

There was no report.

**BOARD COMMUNICATIONS**

There were no reports.

**FUTURE AGENDA ITEMS**

There were no items.

**ADJOURN WILDOMAR CEMETERY DISTRICT**

There being no further business, at 8:05 p.m. Chairman Swanson adjourned the Wildomar Cemetery District meeting.

Submitted by:

Approved by:

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Debbie A. Lee, CMC  
Clerk of the Board

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Ben J. Benoit  
Chairman

**WILDOMAR CEMETERY DISTRICT**  
**Agenda Item #4.2**  
**CONSENT CALENDAR**  
**Meeting Date: January 11, 2012**

---

**TO:** Board of Trustees  
**FROM:** Gary Nordquist, Assistant General Manager  
**SUBJECT:** Warrant Registers

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the Board of Trustees approve Warrant Register dated January 5, 2012, in the amount of \$8,171.08.

**DISCUSSION:**

The Wildomar Cemetery District requires that the Trustees audit payments of demands and direct the General Manager to issue checks. The Warrant Registers are submitted for approval.

**FISCAL IMPACT:**

These Warrant Registers will have a budgetary impact in the amount noted in the recommendation section of this report. These costs are included in the Fiscal Year 2011-12 Budgets.

Submitted by:

Approved by:

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Gary Nordquist  
Assistant General Manager

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Frank Oviedo  
General Manager

**ATTACHMENTS:**

Warrant Register dated November 3, 2011 – January 5, 2012.

Wildomar Cemetery District  
 Check Register  
 For the Period From Nov 3, 2011 to Jan 5, 2012

Filter Criteria includes: Report order is by Date.

Check #	Date	Payee	Cash Account	Amount
EFT11-3-11	11/3/11	Morgan White Ins	100000	11.14
3453	11/10/11	CalPERS	100000	640.14
3454	11/10/11	Cintas	100000	35.04
3455	11/10/11	City of Wildomar	100000	438.52
3456	11/10/11	CR&R	100000	121.11
3457	11/10/11	RIGHTWAY	100000	70.55
3458	11/10/11	Whitney's	100000	24.75
3460	11/10/11	Gilbert Rasmussen	100000	100.00
3461	11/10/11	Stan Smith	100000	100.00
3462	11/10/11	Paula Willette	100000	100.00
3463	11/10/11	Gilbert Rasmussen	100000	45.51
EFT11-10-11	11/10/11	Arco	100000	168.00
3464	12/2/11	Best Best & Krieger	100000	10.38
3465	12/2/11	CalPERS	100000	1,260.69
3466	12/2/11	CalPERS	100000	640.14
3467	12/2/11	Cash	100000	171.17
3468	12/2/11	Cintas	100000	105.12
3469	12/2/11	EVMWD	100000	396.52
3470	12/2/11	SCE	100000	107.48
3471	12/2/11	STAUFFER'S LAWN EQP.	100000	56.81
3472	12/2/11	Triangle Termite & Pest Cont	100000	50.00
3473	12/2/11	Verizon Communications	100000	174.91
3474	12/2/11	Whitney's	100000	6.25
3475	12/15/11	California Assoc. of Public	100000	60.00
3476	12/15/11	CalPERS	100000	640.14
3477	12/15/11	CR&R	100000	121.11
3478	12/15/11		100000	15.00
3479	12/15/11	RIGHTWAY	100000	70.55
3480	12/15/11	STAUFFER'S LAWN EQP.	100000	56.81
3481	12/15/11	Whitney's	100000	12.25
3482	12/29/11	Alarm Financial Services	100000	60.00
3484	12/29/11	CalPERS	100000	1,414.03
3485	12/29/11	Cintas	100000	35.04
3486	12/29/11	STAUFFER'S LAWN EQP.	100000	39.29
3487	1/5/12	Cintas	100000	35.04
3488	1/5/12	EVMWD	100000	322.38
3489	1/5/12	RIGHTWAY	100000	70.55
3490	1/5/12	SCE	100000	109.24
3491	1/5/12	Staples	100000	88.33

Wildomar Cemetery District  
Check Register  
For the Period From Nov 3, 2011 to Jan 5, 2012

Filter Criteria includes: Report order is by Date.

<u>Check #</u>	<u>Date</u>	<u>Payee</u>	<u>Cash Account</u>	<u>Amount</u>
3492	1/5/12	Verizon Communications	100000	174.84
3493	1/5/12	Whitney's	100000	12.25
Total				<u>8,171.08</u>

**WILDOMAR CEMETERY DISTRICT**  
**Agenda Item #4.3**  
**CONSENT CALENDAR**  
**Meeting Date: January 11, 2012**

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**TO:** Board of Trustees  
**FROM:** Gary Nordquist, Assistant General Manager  
**SUBJECT:** Treasurer's Report, September 2011

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the Board of Trustees approve the Treasurer's Report for September, 2011.

**DISCUSSION:**

Attached is the Treasurer's Report for Cash and Investments for the month of September 2011.

**FISCAL IMPACT:**

None at this time.

Submitted by:

Approved by:

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Gary Nordquist  
Assistant General Manager

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Frank Oviedo  
General Manager

**ATTACHMENTS:**

Treasurer's Report

**CITY OF WILDOMAR  
TREASURER'S REPORT FOR  
CASH AND INVESTMENT PORTFOLIO  
September 2011**

**DISTRICT CASH**

<u>ACCOUNT</u>	<u>INSTITUTION</u>	<u>BALANCE</u>	<u>RATE</u>
GENERAL	COMMERCE BANK	\$ 14,626.62	0.00%
GREEN	COMMERCE BANK	10,411.74	
	<b>TOTAL</b>	<b>\$ 25,038.36</b>	

<u>ACCOUNT</u>	<u>INSTITUTION</u>	<u>BEGINNING BALANCE</u>	<u>+ DEPOSITS</u>	<u>(-) WITHDRAWALS</u>	<u>ENDING BALANCE</u>	<u>RATE</u>
GENERAL	COMMERCE BANK	\$ 32,101.40	\$ 0.00	\$ (17,474.78)	\$ 14,626.62	0.000%
GREEN	COMMERCE BANK	24,771.74	800.00	(15,160.00)	10,411.74	0.000%
	<b>TOTAL</b>	<b>\$ 56,873.14</b>	<b>\$ 800.00</b>	<b>\$ (32,634.78)</b>	<b>\$ 25,038.36</b>	

**DISTRICT INVESTMENT**

<u>ISSUER</u>	<u>BOOK VALUE</u>	<u>FACE VALUE</u>	<u>MARKET VALUE</u>	<u>PERCENT OF PORTFOLIO</u>	<u>DAYS TO MAT.</u>	<u>STATED RATE</u>
EDWARD JONES	\$ 123,481.03	\$ 123,481.03	\$ 123,481.03	100.00%	0	0.000%
<b>TOTAL</b>	<b>\$ 123,481.03</b>	<b>\$ 123,481.03</b>	<b>\$ 123,481.03</b>	<b>100.00%</b>		

<u>ISSUER</u>	<u>BEGINNING BALANCE</u>	<u>+ DEPOSITS/ PURCHASES</u>	<u>WITHDRAWALS/ SALES/ MATURITIES</u>	<u>ENDING BALANCE</u>	<u>STATED RATE</u>
EDWARD JONES	\$ 122,673.69	\$ 807.34	\$ 0.00	\$ 123,481.03	0.000%
<b>TOTAL</b>	<b>\$ 122,673.69</b>	<b>\$ 807.34</b>	<b>\$ 0.00</b>	<b>\$ 123,481.03</b>	

**TOTAL CASH AND INVESTMENT**

**\$ 148,519.39**

**CASH HELD BY RIVERSIDE COUNTY**

<u>ACCOUNT</u>	<u>INSTITUTION</u>	<u>BALANCE</u>	<u>RATE</u>
CEMETERY	RIVERSIDE COUNTY	\$ 963,608.50	0.00%
DEF COMP	RIVERSIDE COUNTY	89.00	0.00%
ENDOWMENT	RIVERSIDE COUNTY	97,070.86	0.00%
	<b>TOTAL</b>	<b>\$ 1,060,768.36</b>	

<u>ACCOUNT</u>	<u>INSTITUTION</u>	<u>BEGINNING BALANCE</u>	<u>+ DEPOSITS</u>	<u>(-) WITHDRAWALS</u>	<u>ENDING BALANCE</u>	<u>RATE</u>
CEMETERY	RIVERSIDE COUNTY	\$ 944,193.98	\$ 19,414.52	\$ 0.00	\$ 963,608.50	0.000%
DEF COMP	RIVERSIDE COUNTY	89.00	0.00	0.00	89.00	
ENDOWMENT	RIVERSIDE COUNTY	97,070.86	0.00	0.00	97,070.86	0.000%
	<b>TOTAL</b>	<b>\$ 1,041,353.84</b>	<b>\$ 19,414.52</b>	<b>\$ 0.00</b>	<b>\$ 1,060,768.36</b>	

In compliance with the California Code Section 53646, as the General Manager of the Wildomar Cemetery District, I hereby certify that sufficient investment liquidity and anticipated revenues are available to meet the District's expenditure requirements for the next six months.  
I also certify that this report reflects all Government Agency pooled investments and all District's bank balances.

\_\_\_\_\_  
Misty V. Cheng  
Controller

\_\_\_\_\_  
Date

**WILDOMAR CEMETERY DISTRICT**  
**Agenda Item #4.4**  
**CONSENT CALENDAR**  
**Meeting Date: January 11, 2012**

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**TO:** Board of Trustees  
**FROM:** Gary Nordquist, Assistant General Manager  
**SUBJECT:** Treasurer's Report, October 2011

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the Board of Trustees approve the Treasurer's Report for October, 2011.

**DISCUSSION:**

Attached is the Treasurer's Report for Cash and Investments for the month of October 2011.

**FISCAL IMPACT:**

None at this time.

Submitted by:

Approved by:

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Gary Nordquist  
Assistant General Manager

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Frank Oviedo  
General Manager

**ATTACHMENTS:**

Treasurer's Report

**CITY OF WILDOMAR  
TREASURER'S REPORT FOR  
CASH AND INVESTMENT PORTFOLIO  
October 2011**

**DISTRICT CASH**

<u>ACCOUNT</u>	<u>INSTITUTION</u>	<u>BALANCE</u>	<u>RATE</u>
GENERAL	COMMERCE BANK	\$ 46,016.31	0.00%
GREEN	COMMERCE BANK	10,611.74	
	<b>TOTAL</b>	<b>\$ 56,628.05</b>	

<u>ACCOUNT</u>	<u>INSTITUTION</u>	<u>BEGINNING BALANCE</u>	<u>+ DEPOSITS</u>	<u>(-) WITHDRAWALS</u>	<u>ENDING BALANCE</u>	<u>RATE</u>
GENERAL	COMMERCE BANK	\$ 14,626.62	\$ 50,034.50	\$ (18,644.81)	\$ 46,016.31	0.000%
GREEN	COMMERCE BANK	10,411.74	200.00	0.00	10,611.74	0.000%
	<b>TOTAL</b>	<b>\$ 25,038.36</b>	<b>\$ 50,234.50</b>	<b>\$ (18,644.81)</b>	<b>\$ 56,628.05</b>	

**DISTRICT INVESTMENT**

<u>ISSUER</u>	<u>BOOK VALUE</u>	<u>FACE VALUE</u>	<u>MARKET VALUE</u>	<u>PERCENT OF PORTFOLIO</u>	<u>DAYS TO MAT.</u>	<u>STATED RATE</u>
EDWARD JONES	\$ 123,503.14	\$ 123,503.14	\$ 123,503.14	100.00%	0	0.000%
<b>TOTAL</b>	<b>\$ 123,503.14</b>	<b>\$ 123,503.14</b>	<b>\$ 123,503.14</b>	<b>100.00%</b>		

<u>ISSUER</u>	<u>BEGINNING BALANCE</u>	<u>+ DEPOSITS/ PURCHASES</u>	<u>WITHDRAWALS/ SALES/ MATURITIES</u>	<u>ENDING BALANCE</u>	<u>STATED RATE</u>
EDWARD JONES	\$ 123,481.03	\$ 22.11	\$ 0.00	\$ 123,503.14	0.000%
<b>TOTAL</b>	<b>\$ 123,481.03</b>	<b>\$ 22.11</b>	<b>\$ 0.00</b>	<b>\$ 123,503.14</b>	

**TOTAL CASH AND INVESTMENT**      **\$ 180,131.19**

**CASH HELD BY RIVERSIDE COUNTY**

<u>ACCOUNT</u>	<u>INSTITUTION</u>	<u>BALANCE</u>	<u>RATE</u>
CEMETERY	RIVERSIDE COUNTY	\$ 823,665.42	0.00%
DEF COMP	RIVERSIDE COUNTY	89.00	0.00%
ENDOWMENT	RIVERSIDE COUNTY	97,137.86	0.00%
	<b>TOTAL</b>	<b>\$ 920,892.28</b>	

<u>ACCOUNT</u>	<u>INSTITUTION</u>	<u>BEGINNING BALANCE</u>	<u>+ DEPOSITS</u>	<u>(-) WITHDRAWALS</u>	<u>ENDING BALANCE</u>	<u>RATE</u>
CEMETERY	RIVERSIDE COUNTY	\$ 963,608.50	\$ 0.00	\$ (39,943.08)	\$ 923,665.42	0.000%
DEF COMP	RIVERSIDE COUNTY	89.00	0.00	0.00	89.00	
ENDOWMENT	RIVERSIDE COUNTY	97,070.86	67.00	0.00	97,137.86	0.000%
	<b>TOTAL</b>	<b>\$ 1,060,768.36</b>	<b>\$ 67.00</b>	<b>\$ (39,943.08)</b>	<b>\$ 1,020,892.28</b>	

In compliance with the California Code Section 53646, as the General Manager of the Wildomar Cemetery District, I hereby certify that sufficient investment liquidity and anticipated revenues are available to meet the District's expenditure requirements for the next six months.  
I also certify that this report reflects all Government Agency pooled investments and all District's bank balances.

\_\_\_\_\_  
Misty V. Cheng  
Controller

\_\_\_\_\_  
Date

**WILDOMAR CEMETERY DISTRICT**  
**Agenda Item #4.5**  
**CONSENT CALENDAR**  
**Meeting Date: January 11, 2012**

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**TO:** Board of Trustees  
**FROM:** Gary Nordquist, Asst. General Manager  
**SUBJECT:** Treasurer's Report - November 2011

**STAFF REPORT**

**RECOMMENDATION:**

Staff recommends that the Board of Trustees approve the Treasurer's Report for November, 2011.

**DISCUSSION:**

Attached is the Treasurer's Report for Cash and Investments for the month of November 2011.

**FISCAL IMPACT:**

None at this time.

Submitted by:

Approved by:

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Gary Nordquist  
Assistant General Manager

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Frank Oviedo  
General Manager

**ATTACHMENTS:**

Treasurer's Report

