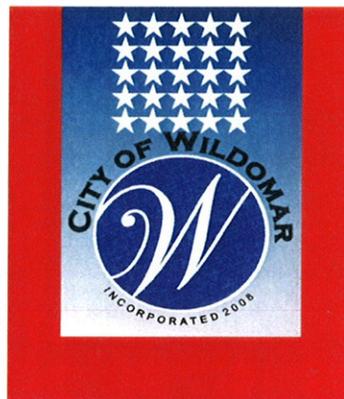


CITY OF WILDOMAR
CITY COUNCIL

AGENDA

7:00 P.M.

JULY 22, 2009
Council Chambers
23873 Clinton Keith Road



Scott Farnam, Mayor
Bridgette Moore, Mayor Pro Tem
Sheryl Ade, Council Member
Bob Cashman, Council Member
Marsha Swanson, Council Member

City Manager
John Danielson

City Attorney
Julie Hayward Biggs

**WILDOMAR CITY COUNCIL
REGULAR MEETING AGENDA
JULY 22, 2009**

ORDER OF BUSINESS: Public sessions of all regular meetings of the City Council begin at 7:00 P.M. Closed Sessions begin at 6:00 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. 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. If you wish to be added to the regular mail list to receive a copy of the agenda, a request must be made through the City Clerk's office in writing or by e-mail.

PUBLIC COMMENTS: Prior to the business portion of the agenda, the City Council will receive public comments regarding any agenda items or matters within the jurisdiction of the governing body. This is the only opportunity for public input except for scheduled public hearing items. The Mayor or chairperson will separately call for testimony at the time of each public hearing. If you wish to speak, please complete a "Public Speaker/Comment Card" available at the 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 (8 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.

7:00 P.M.

Convene the regular meeting of July 22, 2009.

Roll Call

Flag Salute

Presentations Code Enforcement Update

PUBLIC COMMENTS

This is the time for any citizen to comment on any item listed or not listed on the agenda. Comments relative to noticed public hearing items will be heard at that time the public hearing is conducted. Under the provisions of the Brown Act, the legislative body is prohibited from discussing or taking action on items not listed on the agenda. The City Council encourages members of the public to address them at this time so that your questions and/or concerns can be heard.

1. 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 specific items be removed from the Consent Calendar for discussion and/or separate action.

- 1 A. Approve the reading by title only of all ordinances
- 1 B. Approve the special meeting minutes dated July 7, 2009
- 1 C. Approve the regular meeting minutes dated July 8, 2009
- 1 D. Approve the following Warrant Registers and Payroll Register:
Warrant Register dated July 2, 2009 in the amount of \$700.00;
Warrant Register dated July 8, 2009 in the amount of \$23,138.47;
Warrant Register dated July 16, 2009 in the amount of \$18,440.23;
Warrant Register dated July 22, 2009 in the amount of \$36,900.73;
Payroll Warrant Register dated July 7, 2009 in the amount of \$1,807.83; and
Payroll Warrant Register dated July 10, 2009 in the amount of \$1,894.17.
- 1 E. Receive and file the Treasurer's Report for June, 2009

- 1 F. Adopt Resolution No. 09-49 Supporting Assembly Constitutional Amendment (ACA) 8 (Jeffries; Brown Act to apply to State Legislature)

RESOLUTION NO. 09-49
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,
CALIFORNIA, SUPPORTING THE PASSAGE OF ASSEMBLY CONSTITUTIONAL
AMENDMENT 8 (JEFFRIES)

- 1 G. Approve a Letter of Support for AB1506 Regarding State Issued IOUs (Anderson)
- 1 H. Adopt Resolutions Relative to the Fiscal Year 2009-10 Proposed Assessment Within Wildomar Landscape Maintenance District 2006-1

RESOLUTION NO. 09 - 46
A RESOLUTION OF THE CITY OF WILDOMAR ORDERING PREPARATION OF THE
ENGINEER'S REPORT REGARDING THE PROPOSED ASSESSMENT TO BE LEVIED
AND COLLECTED FOR FISCAL YEAR 2009-10 WITHIN THE WILDOMAR
LANDSCAPE MAINTENANCE DISTRICT (LMD) 2006-1

RESOLUTION NO. 09 - 47
A RESOLUTION OF THE CITY OF WILDOMAR DECLARING ITS INTENTION TO LEVY
AND COLLECT ASSESSMENT WITHIN WILDOMAR LMD 2006-1 FOR FISCAL YEAR
2009-10, SETTING THE TIME AND PLACE OF THE PUBLIC HEARING ON THE
ANNUAL ASSESSMENT AND ORDERING NOTICE OF THE PUBLIC HEARING TO BE
GIVEN CONSISTENT WITH THE LANDSCAPING AND LIGHTING ACT OF 1972

- 1 I. Adopt a Resolution Giving Notice of Intent to Establish Charges for Community Services Areas (CSA) 22, 103, and 142 for Fiscal Year 2009-10

RESOLUTION NO. 09 - 50
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA,
ESTABLISHING CHARGES FOR COMMUNITY SERVICE AREAS 22, 103 AND 142
WITHIN THE CITY FOR FISCAL YEAR 2009-10

- 1 J. Adopt a Resolution approving a Graffiti Abatement Contract with the County of Riverside

RESOLUTION NO. 09 - 51
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,
CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN
AGREEMENT APPROVED BY THE CITY ATTORNEY BETWEEN THE CITY OF
WILDOMAR AND THE REDEVELOPMENT AGENCY OF THE COUNTY OF
RIVERSIDE FOR GRAFFITI ABATEMENT SERVICES

- 1 K. Approve the Animal Field Services and Sheltering Agreement between the City of Wildomar and Animal Friends of the Valley, in the amount of not to exceed \$90,000 per year (\$7,500.00 per month) and authorize the City Manager to sign the required documents to initiate the agreement.
- 1 L. Second Reading and Adoption of Ordinance No. 32 Granting a Franchise to Southern California Gas Company

ORDINANCE NO. 32

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, GRANTING TO SOUTHERN CALIFORNIA GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE TO CONSTRUCT, MAINTAIN AND USE PIPES AND APPURTENANCES FOR TRANSMITTING AND DISTRIBUTING GAS FOR ANY AND ALL PURPOSES IN, ALONG, ACROSS, UPON, AND UNDER THE PUBLIC STREETS AND PLACES WITHIN THE CITY OF WILDOMAR

- 1 M. Districting Second Reading - Ordinance No. 31

ORDINANCE NO. 31

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ESTABLISHING ELECTORAL DISTRICTS TO IMPLEMENT A SYSTEM OF ELECTION BY DISTRICTS FOR MEMBERS OF THE LEGISLATIVE BODY AS MANDATED BY A VOTE OF THE PEOPLE

2. PUBLIC HEARINGS

- 2 A. Adopt Resolution No. 09-48 Levying Assessments on all Assessable Lots and Parcels of Land in Landscaping and Lighting Maintenance District No. 89-1-Consolidated for Fiscal Year 2009-10

RESOLUTION NO. 09 - 48

A RESOLUTION OF THE CITY OF WILDOMAR CONFIRMING THE DIAGRAM AND ASSESSMENT FOR ZONE 3, LOCATIONS 7, 23, 24, 25, 29, 35, 42, 43, 45, 47 AND 49; ZONE 52, 59, 62, 67, 71, AND 90, AND STREET LIGHTING ZONE 18, 26, 27, 35, 50, 70, 71 AND 73 OF LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED (HEREIN AFTER "L&LMD NO. 89-1-C") AND LEVYING ASSESSMENTS ON ALL ASSESSABLE LOTS AND PARCELS OF LAND THEREIN FOR FISCAL YEAR 2009-10

2 B. Southern California Edison Franchise

ORDINANCE NO. 33

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ESTABLISHING A FRANCHISE WITH SOUTHERN CALIFORNIA EDISON FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY ON THE SAME TERMS AND CONDITIONS PREVIOUSLY ESTABLISHED BY THE COUNTY OF RIVERSIDE, AND RATIFYING THE PRIOR TRANSFER AND TERMINATION OF THE COUNTY OF RIVERSIDE'S INTEREST IN THAT FRANCHISE

3. GENERAL BUSINESS

- 3 A. Consideration and Possible Approval of Contract for City Manager; and Possible Appointment of City Manager.
- 3 B. Consideration of Council Sponsored Initiative Measures to be Submitted to the Electorate in a Special Election to be Consolidated with the November, 2009 General Election Relating to the Manner in Which Members of the City Council are Elected

RESOLUTION NO. 09 - 52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL ELECTION TO BE HELD IN THE CITY OF WILDOMAR ON TUESDAY, NOVEMBER 3, 2009, TO CONSIDER THREE BALLOT MEASURES AFFECTING THE ELECTION OF MEMBERS OF THE WILDOMAR CITY COUNCIL AND REQUESTING THE REGISTRAR OF VOTERS FOR THE COUNTY OF RIVERSIDE TO CONSOLIDATE IT WITH THE GENERAL ELECTION ON THAT DATE AND TO CONDUCT THE ELECTION

EXHIBIT A

ORDINANCE NO. 09 - E01

AN ORDINANCE OF THE CITY OF WILDOMAR, CALIFORNIA, RELATING TO ELECTION OF MEMBERS OF THE CITY COUNCIL

EXHIBIT B

ORDINANCE NO. 09 - E02

AN ORDINANCE OF THE CITY OF WILDOMAR, CALIFORNIA, ESTABLISHING ELECTORAL DISTRICTS AND ADOPTING A SYSTEM OF ELECTION BY DISTRICTS FOR MEMBERS OF THE LEGISLATIVE BODY

EXHIBIT C
ORDINANCE NO. 09 - E03
AN ORDINANCE OF THE CITY OF WILDOMAR, CALIFORNIA, ESTABLISHING
ELECTORAL DISTRICTS AND ADOPTING A SYSTEM OF ELECTION FROM
DISTRICTS FOR MEMBERS OF THE LEGISLATIVE BODY

- 3 C. Resolution Relating to Council-Sponsored Ballot Measures, Establishing Procedures for Submitting Ballot Arguments and Rebuttal Arguments for City Measures Submitted at Special Election

RESOLUTION NO. 09 - 53
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,
CALIFORNIA, SETTING PRIORITIES FOR FILING A WRITTEN ARGUMENT OR
REBUTTAL REGARDING ORDINANCES TO BE PLACED ON THE BALLOT FOR
THE NOVEMBER 3, 2009 SPECIAL ELECTION

- 3 D. Consider Authorizing the Mayor, on Behalf of the City, to Send a Letter in Support of AB18 to Local California Assembly and Senate Representatives.
- 3 E. Discussion and Direction Regarding the Preparation of a Weed Abatement Ordinance for the City.
- 3 F. Report Regarding County of Riverside Owned Properties Located Within the City of Wildomar.
- 3 G. Open Fire Permit Proclamation

CITY MANAGER REPORT, John Danielson

CITY ATTORNEY REPORT, Julie Hayward Biggs

COUNCIL COMMUNICATIONS

FUTURE AGENDA ITEMS

ADJOURNMENT

The next regular meeting is scheduled for August 12, 2009.

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 who 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 telephone at (951) 677-7751, no later than 10:00 A.M. on the day preceding the scheduled meeting.

POSTING STATEMENT: On July 17, 2009, by 5:00 p.m., a true and correct copy of this agenda was posted at the three designated posting places: Wildomar City Hall, 23873 Clinton Keith Road; U.S. Post Office, 21392 Palomar Street; and Mission Trail Library, 34303 Mission Trail Blvd.

**CITY OF WILDOMAR
CITY COUNCIL SPECIAL MEETING MINUTES
JULY 7, 2009**

The special meeting of July 8, 2009, of the Wildomar City Council was called to order by Mayor Farnam at 8:16 a.m.

Roll Call showed the following Council Members in attendance: Mayor Farnam, Mayor Pro Tem Moore, Council Members Ade, Cashman, and Swanson.

CLOSED SESSION

At 8:16 a.m. the Council convened into closed session, with all Council Members present, with regard to one personnel matter pursuant to the provisions of Government Code Section 54957 as follows:

Public Employment: Interview of candidates for the position of City Manager.

At 12:10 p.m. the City Council took a recess for lunch.

At 1:25 p.m. the City Council reconvened into closed session, with all Council Members present.

ADJOURNMENT

At 3:41 p.m. the City Council reconvened into open session making no announcements. There being no further business, Mayor Farnam declared the meeting adjourned.

Respectfully submitted:



Debbie A. Lee, CMC
City Clerk

Item
#1 C.

**CITY OF WILDOMAR
CITY COUNCIL MEETING MINUTES
JULY 8, 2009**

The regular meeting of July 8, 2009, of the Wildomar City Council was called to order by Mayor Farnam at 7:02 p.m.

Roll Call showed the following Council Members in attendance: Mayor Farnam, Mayor Pro Tem Moore, Council Members Ade, Cashman, and Swanson.

The Flag Salute was led by Mayor Farnam.

Presentations

Mayor Farnam and Mayor Pro Tem Moore presented certificates to the Wildomar Little League Girls All-Stars.

Mayor Edwards, City of Temecula, presented the City with a Proclamation celebrating the City's first year.

Mayor Craton, City of Canyon Lake, presented the City with a plaque commemorating the City's first year.

Chief Beach gave a Fire Department update.

Southern California Edison - Viet Tran - was not present.

PUBLIC COMMENTS

There were no speakers.

1. CONSENT CALENDAR

A MOTION was made by Mayor Pro Tem Moore, seconded by Council Member Swanson, to approve the Consent Calendar as presented.

Roll call vote: Ayes - 5; Nays - 0. Motion carried.

1 A. Approved the reading by title only of all ordinances

1 B. Approved the regular meeting minutes dated June 24, 2009

- 1 C. Approved Warrant Register dated June 26, 2009 in the amount of \$30,338.74; Approved Warrant Register dated July 8, 2009 in the amount of \$15,734.75; Approved Payroll Warrant Register dated June 26, 2009 in the amount of \$1,894.17.
- 1 D. Adopted Resolution No. 09-42 and Resolution No. 09-43 - Landscaping & Lighting Maintenance District No. 89-1-Consolidated, Zones 3, 29, 30, 42, 51, 52, 59, 62, 67, 71, and 90 and Street Lighting Zones 18, 26, 27, 35, 50, 70, 71, and 73.

RESOLUTION NO. 09 - 42

A RESOLUTION OF THE CITY OF WILDOMAR ORDERING PREPARATION OF THE ENGINEER'S REPORT REGARDING THE PROPOSED ASSESSMENTS TO BE LEVIED AND COLLECTED FOR FISCAL YEAR 2009-10 WITHIN ZONES 3 (LOCATIONS 7, 23, 24, 25, 29, 35, 42, 43, 45, 47, 49 AND 53), 29 (LOCATION 2), 30 (LOCATIONS 1 AND 2), 42, 51, 52, 59, 62, 67, 71, AND 90, AND STREET LIGHTING ZONES 18, 26, 27, 35, 50, 70, 71 AND 73 OF LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED

RESOLUTION NO. 09 - 43

A RESOLUTION OF THE CITY OF WILDOMAR DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN ZONES 3 (LOCATIONS 7, 23, 24, 25, 29, 35, 42, 43, 45, 47, 49 AND 53), 29 (LOCATION 2), 30 (LOCATIONS 1 AND 2), 42, 51, 52, 59, 62, 67, 71, AND 90, AND STREET LIGHTING ZONES 18, 26, 27, 35, 50, 70, 71 AND 73 OF LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED FOR FISCAL YEAR 2009-10, SETTING THE TIME AND PLACE OF THE PUBLIC HEARING ON THE ANNUAL ASSESSMENT AND ORDERING NOTICE OF THE PUBLIC HEARING TO BE GIVEN CONSISTENT WITH THE LANDSCAPING AND LIGHTING ACT OF 1972

- 1 E. Authorized the City Manager to enter into 90 day interim contracts with Diamond W Events for Special Events, Park and Emergency Services and CTAI Pacific Greenscape Landscape Services. Each interim contract is not to exceed \$50,000 during this period.
- 1 F. Adopted Resolution No. 09-44 Authorizing Participation in the Riverside County Mortgage Credit Certificate (MCC) Program.

RESOLUTION NO. 09-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR AUTHORIZING PARTICIPATION IN THE RIVERSIDE COUNTY MORTGAGE CREDIT CERTIFICATE (MCC) PROGRAM

- 1 G. Directed staff to hire for the position of Assistant City Manager of Finance and Administration and adopted the proposed salary range.

2. PUBLIC HEARINGS

- 2 A. Adopt Ordinance No. 32 granting a franchise to Southern California Gas Company

Mayor Farnam opened the public hearing.

Public Works Director Kashiwagi gave a brief staff report.

City Clerk Lee stated there were no speakers.

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

After reading the title of Ordinance No. 32, A MOTION was made by Mayor Pro Tem Moore, seconded by Council Member Swanson, to introduce Ordinance No. 32.

ORDINANCE NO. 32
AN ORDINANCE GRANTING TO SOUTHERN CALIFORNIA GAS COMPANY, ITS
SUCCESSORS AND ASSIGNS, THE FRANCHISE TO CONSTRUCT, MAINTAIN
AND USE PIPES AND APPURTENANCES FOR TRANSMITTING AND
DISTRIBUTING GAS FOR ANY AND ALL PURPOSES IN, ALONG, ACROSS,
UPON, AND UNDER THE PUBLIC STREETS AND PLACES WITHIN THE CITY
OF WILDOMAR

Roll call vote: Ayes – 5; Nays – 0. Motion carried.

3. GENERAL BUSINESS ITEMS

Mayor Farnam inquired if items #3E and #3B could change places on the agenda. The graphic artist is present and he would like to have her hear the item earlier in the evening.

It was the consensus of the City Council to move item #3E to be heard in the #3B

slot and #3B would be heard in the #3E slot.

- 3 A. Districting Options; NDC Report on Public Input for the City of Wildomar; and Introduction and first reading of Ordinance No. 31.

Doug Johnson, NDC, explained the Ordinance confirms the district map that the City Council approved at the last City Council meeting. He also wanted to give the Council the full presentation that was given at the public forums. He then showed the presentation. He discussed the options open to the City regarding election systems.

City Attorney Biggs stated the Ordinance before the City Council is a by-district election system. Once it is approved it cannot be changed except by a vote of the people. If the City Council wishes to put other questions on the ballot, staff needs direction and it will have to be done by the next Council meeting.

Speakers:

Gil Rasmussen, resident, stated he originally voted for Districts and feels it was a mistake after reading the report from NDC. He would like a chance to vote for at-large and urged the City Council to place that on the ballot.

There were no further speakers.

Mayor Farnam stated there are seven letters asking that the question of going back to an at-large election system be put on the ballot. He feels that all the options, by district, from district, and at-large, should be placed on the ballot.

City Clerk Lee read the title:

ORDINANCE NO. 31

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ESTABLISHING ELECTORAL DISTRICTS TO IMPLEMENT A SYSTEM OF ELECTION BY DISTRICTS FOR MEMBERS OF THE LEGISLATIVE BODY AS MANDATED BY A VOTE OF THE PEOPLE

A MOTION was made by Council Member Swanson, seconded by Mayor Pro Tem Moore, to adopt Ordinance No. 31.

Roll call vote: Ayes – 5; Nays – 0. Motion carried.

City Attorney Biggs stated the Ordinance will come back at the next meeting for Second Reading. She further stated that if it is the consensus of the City Council, Staff will bring forward, at the next meeting, the Resolutions necessary to place all the questions on the ballot regarding by district, from district, and at-large election systems.

Discussion ensued regarding the election systems options.

It was the consensus of the City Council to direct Staff to bring forward, at the next meeting, the Resolutions necessary to place all the questions on the ballot regarding by district, from district, and at-large election systems.

3 E. Discussion and Direction Regarding the City Logo

Mayor Farnam introduced Wendy Holder who is the graphic artist who designed the options for the logo. He then presented the examples which were displayed in the Chambers and included in the agenda packet.

Wendy Holder stated the options need to be narrowed down.

Discussion ensued regarding logo #10; the colors; the mountain shapes; the tag line; the banner; the "W" edge going outside the circle; the wheat.

It was the consensus of the City Council to choose option #10.

Mayor Farnam stated that everyone should have input into the tag line.

3 C. Delegation of Authority to Determine the Finding of Public Convenience and Necessity

Assistant Planning Director Hogan presented the staff report.

Discussion ensued regarding when this type of issue would come up; the issues being brought before the Planning Commission versus the Planning Director; this is for stores that are under 20,000 square feet; the time frame if it were to be heard before the Planning Commission or if it were to be heard before the Planning Director.

A MOTION was made by Mayor Farnam, seconded by Council Member Ade, to adopt Resolution No. 09-45 giving the authority to the Planning Director.

Roll call vote: Ayes – 3; Nays – 2, Mayor Pro Tem Moore and Council Member Cashman. Motion carried.

RESOLUTION NO. 09 – 45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,
CALIFORNIA, DELEGATING THE AUTHORITY TO MAKE FINDING OF PUBLIC
CONVENIENCE OR NECESSITY PURSUANT TO SECTION 23958.4 OF THE
BUSINESS AND PROFESSIONS CODE TO THE PLANNING DIRECTOR

3 D. Evaluation of the General Plan

Assistant Planning Director Hogan presented the staff report. He went into detail of what is needed in order to update the City's General Plan.

Mayor Farnam commended Assistant Planning Director Hogan on the thoroughness of his staff reports.

Council Member Swanson inquired how the City Council would get input to Staff.

Assistant Planning Director Hogan answered once the Council decides on the course of action, Staff will implement an action plan to start the process. Perhaps a norming session would be a good interactive process.

Council Members Ade and Swanson commended Assistant Planning Director Hogan on the excellent report.

Council Member Cashman stated this is a good time to do this before the development starts up.

Discussion ensued regarding open space; the options; timing due to the slow economy; and possible funding options.

It was the consensus of the City Council to postpone updating the General Plan and that Staff research to find funding for the updates.

3 B. Development Impact Fee (DIF) Adjustments Discussion and Direction

Mayor Farnam stated he asked that this be placed on the agenda. The regional boards that he sits on have done this to try to stimulate some building in various areas. As it turns out, Wildomar is about 40% less on fees than everyone else already. It would not make sense to reduce fees further.

Discussion ensued regarding raising the fees due to the big difference on the comparisons; and how to stimulate the market.

Council Member Swanson stated she would like to see this type of report on the Water Districts in the area.

CITY MANAGER REPORT, John Danielson

There was no report.

CITY ATTORNEY REPORT, Julie Hayward Biggs

There was no report.

COUNCIL COMMUNICATIONS

Council Member Swanson thanked Paula Willette, Mayor Pro Tem Moore, and Staff for their efforts in making the City's First Birthday great.

Mayor Pro Tem Moore reported the City has taken over the Parks and the programs are up and running. There is a movie in the park on Friday, and every Friday during summer there will be either a movie or a concert. She commended Paula Willette for her work on this.

Council Member Cashman commended and thanked everyone who worked on making the Birthday celebration a great success.

Council Member Ade echoed the previous comments as well. Additionally, she stated that the substation at Clinton Keith and Grand will be upgraded and cleaned up. There will be a great deal of work being done there. She also reported that the Cemetery District had a meeting on July 6 where they went over the LAFCO and independent reports done. It appears the County is going to back away on the consolidation idea. She commended the Board for their work they are doing in the District.

Mayor Farnam thanked and commended everyone involved in the Birthday celebration. He stated that he and Mayor Pro Tem Moore were invited to ride in the annual Fourth of July parade at the Farm community. It is a very big event that has been going on for some time. He had a great time and was touched with the community spirit they show. Additionally, he received an email regarding graffiti removal done by Council Member Cashman's daughter, Kim. The property owners are very grateful to her and wanted her acknowledged.

FUTURE AGENDA ITEMS

Letter of support for AB1506 (Anderson)
Certificates of Appreciation to the Logo contest participants

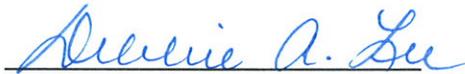
CLOSED SESSION

There was no closed session held.

ADJOURNMENT

There being no further business, Mayor Farnam declared the meeting adjourned at 9:25 p.m.

Respectfully submitted,



Debbie A. Lee, CMC
City Clerk

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #1D.
CONSENT CALENDAR
Meeting Date: July 22, 2009

TO: Mayor and Members of the City Council

FROM: Gary Nordquist, Director of Finance

SUBJECT: Warrant Registers dated July 2, July 8, July 16 and July 22, 2009 and Payroll Registers dated July 7, and July 10, 2009.

STAFF REPORT

RECOMMENDATION:

1. Approve Warrant Register dated July 2, 2009 in the amount of \$700.00;
2. Approve Warrant Register dated July 8, 2009 in the amount of \$23,138.47;
3. Approve Warrant Register dated July 16, 2009 in the amount of \$18,440.23;
4. Approve Warrant Register dated July 22, 2009 in the amount of \$36,900.73;
5. Approve Payroll Warrant Register dated July 7, 2009 in the amount of \$1,807.83;
and
6. Approve Payroll Warrant Register dated July 10, 2009 in the amount of \$1,894.17.

BACKGROUND:

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.

DISCUSSION:

None.

FISCAL IMPACTS:

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 FY08-09 Budget and FY09-10 Budget.

ALTERNATIVES:

1. Take no action
2. Provide staff with further direction.

Submitted by:

Approved by:

Gary Nordquist
Director of Finance

John Danielson
City Manager

Reviewed by:

Julie Hayward Biggs
City Attorney

**City of Wildomar
Warrant Register
July 2, 2009**

Reset Column Widths

Date	Type	Num	Name	Memo/Description	Amount
7/2/2009	Bill Payment (Check)	1782	Michael Rizzuto	Birthday Celebration - July 2009	\$ 400.00
7/2/2009	Bill Payment (Check)	1783	Sound Star	Birthday Celebration - July 2009 Entertainment	\$ 300.00
					Sub-total \$ 700.00

**Warrant Register
July 8, 2009**

7/8/2009	Bill Payment (Check)	1784	Danielson Associates, Inc.	Interim City Manager - June 2009	\$ 17,804.80
7/8/2009	Bill Payment (Check)	1785	Harvest Jacks	Birthday Celebration - July 2009	\$ 900.00
7/8/2009	Bill Payment (Check)	1786	Yvonne Quiring	Reimb. For CM Interview Expenses	\$ 558.74
7/8/2009	Bill Payment (Check)	1787	Diamond W Events	Professional Services for June 2009	\$ 3,874.93
					Sub-total \$ 23,138.47

**Warrant Register
July 16, 2009**

7/16/2009	Bill Payment (Check)	1788	Gary Nordquist	Finance Director Services for June 2009	\$ 12,500.00
7/16/2009	Bill Payment (Check)	1789	Wells Fargo Business Card	Credit Card Payment for June 2009	\$ 5,940.23
					Sub-total \$ 18,440.23

**Warrant Register
July 22, 2009**

7/22/2009	Bill Payment (Check)	1790	AT&T	Council Mobile Phones 5/1/09-6/20/09	\$ 541.97
7/22/2009	Bill Payment (Check)	1791	Brothers Towing	Tree Removal	\$ 125.00
7/22/2009	Bill Payment (Check)	1792	Diamond Enviromental Services	Sanitation units delivered x 2	\$ 613.80
7/22/2009	Bill Payment (Check)	1793	Fitness Foundation Consultants	Company Wellness	\$ 150.00
7/22/2009	Bill Payment (Check)	1794	International Code Council, Inc.	Government Member Dues	\$ 100.00
7/22/2009	Bill Payment (Check)	1795	Naples Plaza Ltd.-Oak Creek II	Outdoor Enclosed Bulletin Board, Public Notices	\$ 1,109.75
7/22/2009	Bill Payment (Check)	1796	North County Times	Notices of Public Hearing, Grant Franchise	\$ 278.40
7/22/2009	Bill Payment (Check)	1797	OnTrac	Overnight Delivery Services	\$ 69.23
7/22/2009	Bill Payment (Check)	1798	PARSAC	Annual Liability Program/Prop Insurance FY 09/10	\$ 28,311.00
7/22/2009	Bill Payment (Check)	1799	The Press-Enterprise	Public Notice	\$ 88.00
7/22/2009	Bill Payment (Check)	1800	Image Printing System	Receipts, Envelopes, Violation Notices	\$ 1,037.26
7/22/2009	Bill Payment (Check)	1801	Verizon	Telephone charges for June 2009	\$ 589.61
7/22/2009	Bill Payment (Check)	1802	California Building Standards Com.	2nd Quarter - Revolving Fund Fees	\$ 532.00
7/22/2009	Bill Payment (Check)	1803	Doggie Walk Bags, Inc.	Dispenser Bags	\$ 143.94
7/22/2009	Bill Payment (Check)	1804	Innovative Document Solutions	Copier Services/Maintenance - June 2009	\$ 620.86
7/22/2009	Bill Payment (Check)	1805	Lake Elsinore Unified School Dist.	Facility Rental - HS Stadium - B'day 2009	\$ 1,735.00
7/22/2009	Bill Payment (Check)	1806	Marathon Reprographics	City Limits Map, Plans for Elk Lodge	\$ 199.78
7/22/2009	Bill Payment (Check)	1807	Yvonne Quiring	Reimb. For CM 2nd Interview Expenses	\$ 655.13
					Sub-total \$ 36,900.73

Grand Total: \$ 79,179.43

**City of Wildomar
Payroll**

July 7, 2009

7/7/2009	Check	5054	Sheryl Ade	July 2009 Stipend	\$ 271.75
7/7/2009	Check	5055	Scott Farnam	July 2009 Stipend	\$ 209.23
7/7/2009	Check	5056	Bridgette Moore	July 2009 Stipend	\$ 255.80
7/7/2009	Check	5057	Marsha Swanson	July 2009 Stipend	\$ 271.75
				Sub-total Checks	\$ 1,008.53
7/7/2009			Direct Deposit Robert Cashman	July 2009 Stipend	\$ 271.75
				Total 7/7/2009 Payroll	\$ 1,807.83

July 10, 2009

7/10/2009	Check	5058	Employee	Payroll Period 13	1894.17
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CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #1 E.
CONSENT CALENDAR
Meeting Date: July 22, 2009

TO: Mayor and Members of the City Council
FROM: Gary Nordquist, Director of Finance
SUBJECT: Treasurer's Report, June 2009

STAFF REPORT

RECOMMENDATION:

Staff recommends City Council to approve the Treasurer's Report.

BACKGROUND/DISCUSSION:

Attached is the Treasurer's Report for Cash and Investments for the month of June 2009. The State of California repaid the four month borrowing of Gas Tax funds as planned on June 1, 2009. Interest earned on the City's investment in the Local Agency Investment Fund (LAIF) has not yet been reported. This will be reported in the next treasurer report.

FISCAL IMPACTS:

None at this time.

ALTERNATIVES:

1. Take no action
2. Provide staff with further direction.

Submitted by:

Approved by:

Gary Nordquist
Finance Director

John Danielson
City Manager

Reviewed by:

Julie Hayward Biggs
City Attorney

Attachments: Treasurer's Report

**CITY OF WILDOMAR
TREASURER'S REPORT FOR
CASH AND INVESTMENT PORTFOLIO
June 2009**

CITY CASH

<u>FUND</u>	<u>ACCOUNT</u>	<u>INSTITUTION</u>	<u>BALANCE</u>	<u>RATE</u>
GENERAL	GENERAL	WELLS FARGO	\$ 1,266,750.00	0.00%
		TOTAL	\$ 1,266,750.00	

<u>FUND</u>	<u>ACCOUNT</u>	<u>INSTITUTION</u>	<u>BEGINNING BALANCE</u>	<u>+ DEPOSITS</u>	<u>(-) WITHDRAWALS</u>	<u>ENDING BALANCE</u>	<u>RATE</u>
GENERAL	GENERAL	WELLS FARGO	\$ 687,746.59	\$ 1,163,489.07	\$ (584,485.66)	\$ 1,266,750.00	0.000%
		TOTAL	\$ 687,746.59	\$ 1,163,489.07	\$ (584,485.66)	\$ 1,266,750.00	

CITY INVESTMENT

<u>FUND</u>	<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>
GENERAL	LOCAL AGENCY INVESTMENT FUND	\$ 1,508,731.11	\$ 1,508,731.11	\$ 1,508,731.11	100.00%	0	
	TOTAL	\$ 1,508,731.11	\$ 1,508,731.11	\$ 1,508,731.11	100.00%		

CITY - TOTAL CASH AND INVESTMENT \$ 2,775,481.11

CITY INVESTMENT

<u>FUND</u>	<u>ISSUER</u>	<u>BEGINNING BALANCE</u>	<u>+ DEPOSITS/ PURCHASES</u>	<u>(-) WITHDRAWALS/ SALES/ MATURITIES</u>	<u>ENDING BALANCE</u>	<u>STATED RATE</u>
GENERAL	LOCAL AGENCY INVESTMENT FUNDS	\$ 1,508,731.11	\$ 0.00	\$ 0.00	\$ 1,508,731.11	
	TOTAL	\$ 1,508,731.11	\$ 0.00	\$ 0.00	\$ 1,508,731.11	

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.

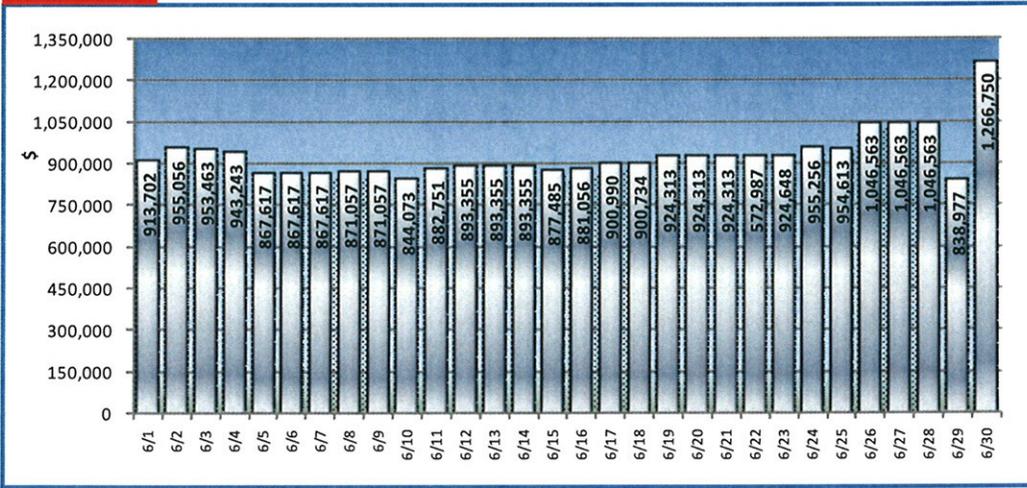
Gary Nordquist
Director of Finance/City Treasurer

Date



June 2009

Daily Cash Balance
All Funds Checking Only
Pool Report Balance



	Ending Balance	Monthly Net Activity
July	\$ 20,855	\$ 20,855
August	2,297,920	2,277,065
September	2,402,083	104,163
October	2,340,436	(61,647)
November	2,203,169	(137,267)
December	747,664	(1,455,505)
January	826,502	78,838
February	733,251	(93,251)
March	571,857	(161,394)
April	644,285	72,428
May	687,746	43,461
June	1,266,750	579,004

June 2009		
Date	Ending Balance In Whole \$	Net Change from Prior Day
6/1	913,702	225,956
6/2	955,056	41,354
6/3	953,463	(1,593)
6/4	943,243	(10,220)
6/5	867,617	(75,626)
6/6	867,617	-
6/7	867,617	-
6/8	871,057	3,440
6/9	871,057	-
6/10	844,073	(26,984)
6/11	882,751	38,678
6/12	893,355	10,604
6/13	893,355	-
6/14	893,355	-
6/15	877,485	(15,870)
6/16	881,056	3,571
6/17	900,990	19,934
6/18	900,734	(256)
6/19	924,313	23,579
6/20	924,313	-
6/21	924,313	-
6/22	924,313	-
6/23	924,648	335
6/24	955,256	30,608
6/25	954,613	(643)
6/26	1,046,563	91,950
6/27	1,046,563	-
6/28	1,046,563	-
6/29	838,977	(207,586)
6/30	1,266,750	427,773

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #1 F.
CONSENT CALENDAR
Meeting Date: July 22, 2009

TO: Mayor and Members of the City Council
FROM: Debbie A. Lee, City Clerk
SUBJECT: Request for a Resolution of Support for ACA 8 (Jeffries)

STAFF REPORT

RECOMMENDATION:

Adopt Resolution No. 09-49 supporting ACA 8 (Apply the Brown Act to the State Legislature).

RESOLUTION NO. 09 – 49

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA,
SUPPORTING THE PASSAGE OF ASSEMBLY CONSTITUTIONAL AMENDMENT 8
(JEFFRIES)

DISCUSSION:

The California Legislature created the Brown Act to regulate local Government; however the Legislature is exempt from the same regulations. Assembly Member Jeffries has introduced Assembly Constitutional Amendment (ACA) 8 to deal with this issue. This amendment would require, among other requirements, that the Legislature post a public notice 72 hours in advance of any vote.

Assembly Member Jeffries is requesting support from local government to help ensure that this Bill will be heard and passed into law.

ATTACHMENTS:

1. Resolution No. 09-49
2. Email from Assembly Member Jeffries Requesting Support
3. The Sun newspaper editorial regarding ACA 8
4. Letter of Support from the City of Murrieta
5. Text of ACA 8

Submitted by:

Approved by:

Debbie A. Lee, CMC
City Clerk

John Danielson
City Manager

Reviewed by:

Julie Hayward Biggs
City Attorney

ATTACHMENT NO. 1
RESOLUTION NO. 09 - 49

RESOLUTION NO. 09 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, SUPPORTING THE PASSAGE OF ASSEMBLY CONSTITUTIONAL AMENDMENT 8 (JEFFRIES)

WHEREAS, Open and transparent government is the bedrock of our communities, our state and our country; and

WHEREAS, Existing law requires meetings of each house and committee of the Legislature to be open to the public, except that closed meetings may be held to consider specified matters, including employment and personnel, security, advice from counsel, and caucus meetings; and

WHEREAS, state legislation is often rapidly crafted, or gutted and amended in a hasty manner with minimal if any time for public inspection; and

WHEREAS, the inability or lack of the public, media and many legislators to thoroughly inspect and review proposed legislation in a timely manner before such legislation is to be voted upon works against basic principles of democracy and transparent government; and

WHEREAS, said practices are common within the California Legislature, often leaving citizens, local agencies, community groups, and even legislative members feeling blindsided, and impeding informed debate; and

WHEREAS, The Legislature passed the Ralph Brown Act in 1953, which helped prohibit local government from engaging in such practices, and has continued to regulate and require local governments to post public notices and make records publicly available without requiring the same standards of openness in its own operations;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Wildomar, California, does hereby support the passage of Assembly Constitutional Amendment 8 which would require a House or Committee of the Legislature, at least 72 hours before a regularly scheduled meeting, to post an agenda containing a brief general description of each item to be considered, including items to be considered in closed session; and also that said items be in print and available to the public at least 24 hours before they can be voted on.

PASSES, APPROVED AND ADOPTED this 22nd day of July, 2009.

Scott Farnam
Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

ATTACHMENT NO. 2
E-MAIL FROM ASSEMBLY MEMBER JEFFRIES

Debbie Lee

From: Bridgette Moore
Sent: Thursday, July 09, 2009 2:23 PM
To: 'John Danielson'; 'Debbie Lee - City Clerk'
Cc: 'Mayor Farnam'
Subject: FW: Request for Support for ACA 8 (Apply Brown Act to Legislature)
Attachments: ACA 8 SUPPORT RESOLUTION TEMPLATE (final).doc; 6.23.09 SB Sun Editorial.doc; ACA 8- city of Murrieta support letter.pdf

----- Original Message -----

From: "Assemblymember Jeffries" <Assemblymember.Jeffries@assembly.ca.gov>
Date: 7/9/09 12:19 pm
To: "Assemblymember Jeffries" <Assemblymember.Jeffries@assembly.ca.gov>
Subj: Request for Support for ACA 8 (Apply Brown Act to Legislature) Having served for 18 years in local government before becoming a state Assemblyman, I was surprised to see how much legislative business in the State Capitol is conducted with little or no advance public notice or input.
<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

It was the California State Legislature that created the Brown Act to regulate local government, however the Legislature has continued to exempt itself from the same Brown Act rules. The exemption allows the Legislature to regularly craft budget deals and legislation completely out of view of local government and the public - often dropping multi-hundred page bills on legislators' desks moments before they are expected to vote on it and without any real opportunity to review the language before being asked to approve it. This is not only bad policy, but can result in bad law, as well.

I have introduced ACA 8 to deal with this issue. ACA 8 is a very simple Constitutional Amendment that would force the legislature to recognize the most basic tenets of open government, by requiring them to post a public notice 72 hours in advance of any vote, and to make the text of any legislation available to legislators and the public at least 24 hours in advance of any vote. This would allow at least a minimum of opportunity for the public, local governments and stakeholder groups to have some input into legislation before it is too late.

I am hopeful we will get a hearing on ACA 8 this year, but support from you and your agency can help improve our chances of having this bill heard and passed into law. I am quite confident that if we can pass this measure through the legislature, the people of this state will support it overwhelmingly at a future ballot box.

I hope that you will consider introducing the attached sample resolution supporting ACA 8 at your next meeting and help make the California Legislature more responsive and more accountable to the people it represents. If you are unable to do so, a letter from you personally would also be helpful, as would any assistance in spreading the word about this measure to your contacts in other parts of this state. I have attached a letter of support

from the City of Murrieta and a recent editorial on ACA 8 to provide further background on the need for this reform.

Thank you for considering my request, and please do not hesitate to contact me if you have any questions or concerns about this measure or on any other issue in which I may be of service.

Sincerely,

Kevin D. Jeffries

Assemblyman Kevin Jeffries

ATTACHMENT NO. 3
THE SUN NEWSPAPER EDITORIAL

THE SUN

San Bernardino County Sun (California)
June 23, 2009 Tuesday

Require public notice of votes

SECTION: OPINION

A constitutional amendment introduced in the Assembly in January would put a couple of simple restrictions on state lawmaking that would promote open government and improve the quality of deliberation in the Legislature.

ACA 8 would require the state Legislature to notify the public 72 hours before voting on a bill and to make the text of the bill available in print 24 hours before voting.

But the measure has languished without so much as a committee hearing in the Assembly, much to the frustration of its sponsor, Assemblyman Kevin Jeffries, R-Temecula.

"I find it ironic that a bill that would put an end to backroom deals is being held hostage in a backroom somewhere," Jeffries said in a press release last week. "So much for 'open and transparent' government."

So much, indeed.

It's hard to believe that such a straight-forward open-government measure hasn't gained any traction, but then we are talking about the California Legislature. ACA 8 is in the hands of the Assembly Rules Committee, chaired by Ted W. Lieu, D-El Segundo.

Jeffries, whose district stretches all the way from Julian in San Diego County to Jurupa Valley on the San Bernardino County line, says he introduced ACA 8 because he was fed up with the way the Legislature does business. He doesn't like being handed a measure minutes before being forced to vote on it, so there's no time to read it - let alone study it.

Local governments are required by the state's Brown Act to post their agenda at least three days in advance, Jeffries reasons, so why shouldn't the Legislature let constituents know what it's up to?

He suspects that as the Legislature wrestles with a \$24 billion budget deficit, majority Democrats will spring a last-minute budget proposal on legislators and expect them to vote on it with little time for review.

"That is exactly what happened (in February) during the last budget impasse," he said. "We were giving language for a bunch of 'tax and spend' measures only a few hours before being asked to cast a vote on them. How can I be asked to vote on a bill that I haven't had a chance to read?"

Realistically, Jeffries' measure has no chance of making a difference in the current budget mess, which will be resolved for better or worse long before ACA 8 could possibly take effect. Jeffries' amendment to the state constitution would have to be approved by a two-thirds vote in the Assembly and in the Senate, then placed on a general ballot for majority approval by voters.

Still, ACA 8 should be passed. It's such an obvious good-government measure, it's hard to figure that any legislator would have the nerve to vote no on it. Perhaps that's why it's simply being kept on the shelf.

ATTACHMENT NO. 4
LETTER OF SUPPORT FROM THE CITY OF
MURRIETA



COPY

CITY OF MURRIETA

January 15, 2009

The Honorable Kevin Jeffries
California State Capitol
Room 5128
Sacramento, CA 95814

RE: Support of ACA 8

Assemblyman Jeffries:

The City of Murrieta is pleased to convey a position of support for Assembly Constitutional Amendment (ACA) 8. Your dedication and advocacy for open, transparent government should be commended, and the City looks forward to a lively debate of this measure.

The City has taken great steps to implement a strict policy of open, transparent government. While we readily acknowledge that government could become more efficient should meetings be held behind closed doors, this opens the door to abuses that would negatively impact our residents. Acting in private is inappropriate at a minimum, and very often illegal. The only way to ensure effective and honest representation by officials is through decisive open government measures.

Transparency is the bedrock of our communities, our state and our country. It has been said, "information is the currency of democracy." If citizens do not receive all the information, how are they supposed to be a full participant in the governmental process? Backroom deals, private meetings, items slipped onto the agenda at the last minute, "gut and amend" practices and other methods are not only a threat to the principles of democracy, they lessen the voice of cities. Far too often we have forecasted our budget on specific plans of the State, only to find some type of "gut and amend" legislation passed, and now the City is negatively impacted. To say our City is now skeptical of State actions is an understatement. Unfortunately, these methods have become commonplace. Section 3 of Article 1 of the California Constitution states, "The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good. The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny."

I close with a quote by Thomas Jefferson: "I know of no safe repository of the ultimate power of society but people. And if we think them not enlightened enough, the remedy is not to take the power from them, but to inform them by education."

Sincerely,

Gary Thomasiu
Mayor

Cc: City Council

ATTACHMENT NO. 5
TEXT OF ACA 8

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

Assembly Constitutional Amendment

No. 8

Introduced by Assembly Member Jeffries

January 12, 2009

Assembly Constitutional Amendment No. 8—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 3 of Article I thereof, and by amending ~~Section 7~~ *Sections 7 and 8* of, and adding Section 7.3 to, Article IV thereof, relating to meetings of the Legislature.

LEGISLATIVE COUNSEL'S DIGEST

ACA 8, as amended, Jeffries. Meetings of the Legislature.

Existing provisions of the California Constitution require meetings of each house and committee of the Legislature to be open to the public, except that closed meetings may be held to consider specified matters, including employment and personnel, security, advice from counsel, and caucus meetings. *Existing provisions of the California Constitution provide that no bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, 2/3 of the membership concurring. Existing provisions of the California Constitution prohibit a bill from being passed until the bill with amendments has been printed and distributed to the members.*

This measure would further require a house or committee of the Legislature, at least 72 hours before a regularly scheduled meeting, to post an agenda containing a brief general description of each item to be considered, including items to be considered in closed session. The measure would generally prohibit consideration of any matter not

included in the agenda. The measure would require public disclosure of a writing provided to members of a house or a committee in connection with the consideration of agenda items unless the writing is exempt from the mandatory disclosure requirements imposed by statute. The measure would require each agenda for a regular committee meeting to provide an opportunity for members of the public to directly address the committee on an item of interest to the public, before or during the committee's consideration of the item, that is within the subject matter jurisdiction of the committee. The measure would provide for the calling of a special or emergency meeting of the house or a committee upon specified notice to its members and the media.

The measure would prohibit the passage of a bill in either house of the Legislature until the bill with amendments has been printed and distributed to the members of the house at least 24 hours before the vote in that house on passage of the bill.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2009–10 Regular
3 Session commencing on the first day of December 2008, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California that the Constitution of the
6 State be amended as follows:

7 First—That Section 3 of Article I thereof is amended to read:

8 SEC. 3. (a) The people have the right to instruct their
9 representatives, petition government for redress of grievances, and
10 assemble freely to consult for the common good.

11 (b) (1) The people have the right of access to information
12 concerning the conduct of the people's business, and, therefore,
13 the meetings of public bodies and the writings of public officials
14 and agencies shall be open to public scrutiny.

15 (2) A statute, court rule, or other authority, including those in
16 effect on the effective date of this subdivision, shall be broadly
17 construed if it furthers the people's right of access, and narrowly
18 construed if it limits the right of access. A statute, court rule, or
19 other authority adopted after the effective date of this subdivision
20 that limits the right of access shall be adopted with findings
21 demonstrating the interest protected by the limitation and the need
22 for protecting that interest.

1 (3) Nothing in this subdivision supersedes or modifies the right
2 of privacy guaranteed by Section 1 or affects the construction of
3 any statute, court rule, or other authority to the extent that it
4 protects that right to privacy, including any statutory procedures
5 governing discovery or disclosure of information concerning the
6 official performance or professional qualifications of a peace
7 officer.

8 (4) Nothing in this subdivision supersedes or modifies any
9 provision of this Constitution, including the guarantees that a
10 person may not be deprived of life, liberty, or property without
11 due process of law, or denied equal protection of the laws, as
12 provided in Section 7.

13 (5) This subdivision does not repeal or nullify, expressly or by
14 implication, any constitutional or statutory exception to the right
15 of access to public records or meetings of public bodies that is in
16 effect on the effective date of this subdivision, including, but not
17 limited to, any statute protecting the confidentiality of law
18 enforcement and prosecution records.

19 (6) Nothing in this subdivision repeals, nullifies, supersedes, or
20 modifies protections for the confidentiality of proceedings and
21 records of the Legislature, the Members of the Legislature, and its
22 employees, committees, and caucuses provided by Sections 7 and
23 7.3 of Article IV, state law, or legislative rules adopted in
24 furtherance of those provisions; nor does it affect the scope of
25 permitted discovery in judicial or administrative proceedings
26 regarding deliberations of the Legislature, the Members of the
27 Legislature, and its employees, committees, and caucuses.

28 Second—That Section 7 of Article IV thereof is amended to
29 read:

30 SEC. 7. (a) Each house shall choose its officers and adopt
31 rules for its proceedings. A majority of the membership constitutes
32 a quorum, but a smaller number may recess from day to day and
33 compel the attendance of absent Members.

34 (b) Each house shall keep and publish a journal of its
35 proceedings. The rollcall vote of the Members on a question shall
36 be taken and entered in the journal at the request of three Members
37 present.

38 (c) Neither house without the consent of the other may recess
39 for more than 10 days or to any other place.

40 Third—That Section 7.3 is added to Article IV thereof, to read:

1 SEC. 7.3. (a) (1) The proceedings of each house and the
2 committees thereof shall be open and public. However, closed
3 sessions may be held solely for any of the following purposes:

4 (A) To consider the appointment, employment, evaluation of
5 performance, or dismissal of a public officer or employee, to
6 consider or hear complaints or charges brought against a Member
7 of the Legislature or other public officer or employee, or to
8 establish the classification or compensation of an employee of the
9 Legislature.

10 (B) To consider matters affecting the safety and security of
11 Members of the Legislature or its employees or the safety and
12 security of any buildings and grounds used by the Legislature.

13 (C) To confer with, or receive advice from, its legal counsel
14 regarding pending or reasonably anticipated, or whether to initiate,
15 litigation when discussion in open session would not protect the
16 interests of the house or committee regarding the litigation.

17 (2) A caucus of the Members of the Senate, the Members of the
18 Assembly, or the Members of both houses, which is composed of
19 the members of the same political party, may meet in closed
20 session.

21 (b) (1) At least 72 hours before a regularly scheduled meeting
22 of either house of the Legislature, or of a committee of either house,
23 the house or committee, as applicable, shall post an agenda
24 containing a brief general description of each item to be considered,
25 including items to be considered in closed session. A brief general
26 description of an item to be considered generally need not exceed
27 20 words, exclusive of the title of a bill.

28 (2) The agenda shall specify the time and location of the
29 regularly scheduled meeting and shall be posted in a location that
30 is freely accessible to the public and, if so requested, made
31 available in appropriate alternative formats accessible to persons
32 with a disability.

33 (c) A special meeting of a house or of a committee may be
34 called, as applicable, by the presiding officer or chair, or by a
35 majority of the members of the house or committee, by delivering
36 written notice to each member of the house or committee and to
37 each newspaper of general circulation and television or radio station
38 requesting notification. The notice must be delivered at least 24
39 hours prior to the scheduled special meeting and must specify the
40 time, place, and items to be considered at the special meeting. A

1 member may waive his or her right to receive written notice of a
2 special meeting by filing a written waiver with, as applicable, the
3 clerk of the house or the secretary of the committee. The written
4 notice may also be dispensed with for any member actually present
5 when the special meeting is convened.

6 (d) (1) An emergency meeting of a house or of a committee
7 may be called only by the presiding officer or chair, or by a
8 majority of the members of the house or committee, but only if an
9 emergency has been declared by the Governor and the declaration
10 is confirmed in a resolution adopted by the Legislature, by rollcall
11 vote entered in the journal, two thirds of the membership
12 concurring. An emergency meeting shall not be called sooner than
13 one hour after providing telephone notice to each member of the
14 house or committee and to each newspaper of general circulation
15 and television or radio station requesting notification.

16 (2) For purposes of this subdivision, “emergency” means any
17 of the following:

18 (A) A work stoppage, crippling activity, or activity that severely
19 impairs public health or safety.

20 (B) A crippling disaster, mass destruction, terrorist act, or
21 threatened terrorist activity that poses an immediate and significant
22 peril to the public health or safety.

23 (C) The existence of conditions of disaster or extreme peril to
24 the safety of persons and property within the State, or parts thereof,
25 caused by conditions such as attack or probable or imminent attack
26 by an enemy of the United States, fire, flood, drought, storm, civil
27 disorder, earthquake, or volcanic eruption.

28 (3) An emergency meeting shall address only matters relating
29 to the emergency.

30 (e) No action or discussion shall be taken on any item not
31 appearing on an agenda or notice posted pursuant to subdivision
32 (b), (c), or (d), except under one or more of the following
33 conditions:

34 (1) The action or discussion consists of brief responses to
35 statements or questions posed by persons exercising their right to
36 public testimony under subdivision (g), questions for clarification,
37 brief announcements or reports of a member’s personal activities,
38 or directions to staff to investigate an issue or to place that issue
39 on a future agenda.

1 (2) The item is continued from the agenda of a meeting that was
2 held less than six days previously.

3 (3) The house or committee finds, two-thirds of the membership
4 concurring, that there is a need to take immediate action and that
5 the need for immediate action became known to the body after the
6 agenda notice was posted.

7 (f) A writing distributed to all members of a house or committee
8 in connection with the consideration of an agenda item shall be
9 made available to the public unless that writing is statutorily
10 exempt from the mandatory disclosure requirements imposed by
11 statute.

12 (g) An agenda for a regularly scheduled meeting of a committee
13 shall provide an opportunity for members of the public to directly
14 address the committee on any item of interest to the public, before
15 or during the committee's consideration of the item, that is within
16 the subject matter jurisdiction of the committee. However, the
17 agenda need not provide an opportunity for members of the public
18 to address the committee on any item that has already been
19 considered, unless the item has been substantially changed since
20 the committee heard the item, as determined by the committee.

21 (h) The Legislature shall implement this section by concurrent
22 resolution adopted by rollcall vote entered in the journal, two-thirds
23 of the membership of each house concurring, or by statute, and
24 shall prescribe that, when a closed session is held pursuant to
25 paragraph (1) of subdivision (a), reasonable notice of the closed
26 session and the purpose of the closed session shall be provided to
27 the public. If there is a conflict between a concurrent resolution
28 and statute, the last adopted or enacted shall prevail.

29 *Fourth—That Section 8 of Article IV thereof is amended to read:*

30 SEC. 8. (a) At regular sessions no bill other than the budget
31 bill may be heard or acted on by committee or either house until
32 the 31st day after the bill is introduced unless the house dispenses
33 with this requirement by rollcall vote entered in the journal, ~~three~~
34 ~~fourths~~ *three-fourths* of the membership concurring.

35 (b) The Legislature may make no law except by statute and may
36 enact no statute except by bill. No bill may be passed unless it is
37 read by title on 3 days in each house except that the house may
38 dispense with this requirement by rollcall vote entered in the
39 journal, ~~two-thirds~~ *two-thirds* of the membership concurring. No
40 bill may be passed *in either house* until the bill with amendments

1 has been printed and distributed to the members *of the house at*
2 *least 24 hours before the vote in that house on the passage of the*
3 *bill.* No bill may be passed unless, by rollcall vote entered in the
4 journal, a majority of the membership of each house concurs.

5 (c) (1) Except as provided in paragraphs (2) and (3) of this
6 subdivision, a statute enacted at a regular session shall go into
7 effect on January 1 next following a 90-day period from the date
8 of enactment of the statute and a statute enacted at a special session
9 shall go into effect on the 91st day after adjournment of the special
10 session at which the bill was passed.

11 (2) A statute, other than a statute establishing or changing
12 boundaries of any legislative, congressional, or other election
13 district, enacted by a bill passed by the Legislature on or before
14 the date the Legislature adjourns for a joint recess to reconvene in
15 the second calendar year of the biennium of the legislative session,
16 and in the possession of the Governor after that date, shall go into
17 effect on January 1 next following the enactment date of the statute
18 unless, before January 1, a copy of a referendum petition affecting
19 the statute is submitted to the Attorney General pursuant to
20 subdivision (d) of Section 10 of Article II, in which event the
21 statute shall go into effect on the 91st day after the enactment date
22 unless the petition has been presented to the Secretary of State
23 pursuant to subdivision (b) of Section 9 of Article II.

24 (3) Statutes calling elections, statutes providing for tax levies
25 or appropriations for the usual current expenses of the State, and
26 urgency statutes shall go into effect immediately upon their
27 enactment.

28 (d) Urgency statutes are those necessary for immediate
29 preservation of the public peace, health, or safety. A statement of
30 facts constituting the necessity shall be set forth in one section of
31 the bill. In each house the section and the bill shall be passed
32 separately, each by rollcall vote entered in the journal, two thirds
33 of the membership concurring. An urgency statute may not create
34 or abolish any office or change the salary, term, or duties of any
35 office, or grant any franchise or special privilege, or create any
36 vested right or interest.

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #1 G.
CONSENT CALENDAR
Meeting Date: July 22, 2009

TO: Mayor and Members of the City Council
FROM: Debbie A. Lee, City Clerk
SUBJECT: Request for a Letter of Support of AB 1506 Regarding State Issued IOUs (Anderson)

STAFF REPORT

RECOMMENDATION:

Approve a Letter of Support regarding AB 1506 – State issued IOUs.

DISCUSSION:

AB 1506 would allow recipients of state issued IOUs to endorse and return the IOUs to the state as payment for any obligations they owe to the state (taxes, DMV fees, public university tuition, etc.).

Assembly Member Anderson is requesting support from local government to help ensure that this Bill will be heard and passed into law.

ATTACHMENTS:

1. Letter of Support
2. Email from Assembly Member Anderson Requesting Support
3. Fact Sheet on AB 1506
4. News Articles
5. Text of AB 1506

Submitted by:

Approved by:

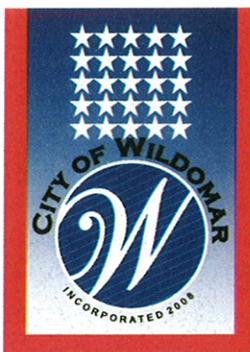
Debbie A. Lee, CMC
City Clerk

John Danielson
City Manager

Reviewed by:

Julie Hayward Biggs
City Attorney

ATTACHMENT NO. 1
LETTER OF SUPPORT



SCOTT FARNAM, MAYOR
BRIDGETTE MOORE, MAYOR PRO TEM
BOB CASHMAN, COUNCIL MEMBER
MARSHA SWANSON, COUNCIL MEMBER
SHERYL ADE, COUNCIL MEMBER

July 22, 2009

Assembly Member Joel Anderson
P.O. Box 942849
Sacramento CA 94249-0077

Re: AB 1506 Support

Dear Assembly Member Anderson:

AB 1506 fixes a serious flaw in the State's IOU system. The concept is simple: if an individual or company has money due them from the State, the entity may use that credit towards any payment owed to the State.

In the event of a fiscal crisis, your bill would save many businesses and individuals from severe financial hardships by stopping the State from charging taxes and fees while withholding payments.

Under current State law, the public is required to accept registered warrants, or IOUs, under certain emergency circumstances. However, the State itself will not accept such securities as payment. This is a double standard that harms those hardworking public employees, taxpayers and contracted businesses caught in the middle.

Not only does receiving an IOU create serious short term cash-flow problems, it also places an onerous tax burden on many individuals and companies. While issuing IOUs may become a painful necessity at some point, the problem should not be exacerbated by requiring taxes to be paid to the State on income that the State is simultaneously withholding.

AB 1506 alleviates these problems by requiring the State to accept its own credit as payment for taxes and fees.

With continuing economic uncertainty and erosion of State revenues, it is important for Californians to have a fair system of payment of its debts and obligations.

I write in support of AB 1506.

Sincerely,

Scott Farnam
Mayor

ATTACHMENT NO. 2
E-MAIL FROM ASSEMBLY MEMBER ANDERSON

Debbie Lee

From: Sanchez, Alex [Alex.Sanchez@asm.ca.gov]
Sent: Tuesday, July 14, 2009 1:41 PM
To: Debbie Lee
Subject: Official Request for Support for AB 1506 (Anderson)

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 95834-0077
(916) 319-2377
FAX (916) 319-2177

Assembly
California Legislature



JOEL ANDERSON
ASSEMBLYMAN MEMBER, SEVENTY-SEVENTH DISTRICT

DISTRICT OFFICE
500 FESLER STREET, SUITE 201
EL CAJON, CA 92020
(619) 441-2322
FAX (619) 441-2327

Memo

To: City of Wildomar
From: Assemblyman Joel Anderson
Date: July 14, 2009
Re: Assembly Bill 1506

AB 1506 – Request for Letter of Support

AB 1506 would allow recipients of state-issued IOUs to endorse and return the IOUs to the state as payment for any obligations they owe to the state (state taxes, DMV fees, public university tuition, etc.).

For example, if you are a business with state contracts and you receive an IOU for \$50,000 from the state, and you also owe the state \$50,000 in payroll taxes, you may send the IOU to the Franchise Tax Board as payment for your tax obligation.

Please click on the links below to review several background articles, a fact sheet and a sample letter of support.

Letters may be faxed, emailed or mailed to my office.

Thank you for your consideration.

ATTACHMENT NO. 3
FACT SHEET ON AB 1506

FACT SHEET

Assemblyman Joel Anderson

Assembly Bill 1506 – ISSUANCE OF STATE WARRANTS

SUMMARY

Assembly Bill 1506 is a taxpayer rights bill that would require a state agency to accept, from any person, a registered warrant – commonly known as an IOU – endorsed by that person, at full face value, for the payment of any obligations owed by that person to that state agency.

ISSUE

In a letter to the Legislature on January 16, 2009, Controller John Chiang gravely declared that, “To ensure the State has sufficient resources to meet payments classified by constitutional mandate, federal law, or judicial order as having first claim to available cash in the General Fund – including education and debt service – my only options are either delaying payments or issuing registered warrants for all other payments.”

Even with the Legislature’s passage of the revenue & cuts package in February, Chiang again issued his warning. “While progress was made, this recent budget deal does not put California’s fiscal house in order. Revenue erosion of nearly \$900 million in the month of February alone, coupled with numerous indicators that California’s economy has not yet turned the corner, demands vigilance over the State finances during the months ahead,” Chiang said. “While current-year cash flow problems appear to be manageable, early projections indicate the recently-enacted budget did little to guarantee there would be sufficient cash solutions to meet the State’s payment obligations for the coming fiscal year. If the Governor and lawmakers do not take action before July, we could be accelerating towards the very cliff that we just stopped short of falling over.”

At the end of March, the Controller’s office reported, “the budget projects the State will have exhausted all available cash, plus \$19 billion in internal funds this summer, and will likely need to borrow externally to bridge a \$10.6 billion gap between projected expenditures and revenues.

On May 22, 2009, the Legislative Analyst’s Office explained, “Even if the Legislature enacted the May Revision proposals, the state probably would have difficulty paying some bills on time even if it were able to secure \$10 billion of RAW or RAN borrowing during 2009-10. ...It may be difficult to borrow \$10 billion of RAWs or RANs based on the state government’s credit. Therefore, delaying billions of dollars of scheduled payments will almost certainly be required.”

Existing law already allows the state to distribute IOUs. According to Government Code section 17203, “Such registered warrants are acceptable and may be used as security for the faithful performance of any public or private trust or obligation or for the performance of any act, including the use of such registered warrants by banks and savings and loan associations as security for deposits of funds of any county, municipal or public corporation, district, political subdivision, or state agency.” This reminds us of Wimpy’s famous line, “I’d gladly pay you Tuesday for a hamburger today.” So, the inequity then is revealed by the private citizen’s inability to use those instruments in a practical way.

SOLUTION

Assembly Bill 1506 fixes that flaw in the system. It simply follows-up the code section mentioned above with, “A state agency shall accept from any person a registered warrant endorsed by that person, at full face value, for the payment of any obligations owed by that person to that state agency.” This is a fair allowance in order that citizens may make usual and necessary payments to the state, like DMV registration, tax payments, and school tuition. Why should ordinary Californians’ efforts to take care of their payments on time be refused, denying citizens’ option to use the very monetary instrument their state saw fit to issue to them?

SUPPORT

- San Diego East County Chamber of Commerce
- People’s Advocate, Inc.
- Associated Builders and Contractors – San Diego Chapter
- California Association of Health Facilities
- San Diego County Medical Society
- St. Madeleine Sophie’s Center
- Noah Homes
- Home of Guiding Hands
- Santee School District
- Yehudi Gaffen, Founder of Gafcon
- Vice Mayor Brian Jones, City of Santee

FURTHER INFORMATION

David Yow, by phone at (916) 319-2077 or email at david.yow@asm.ca.gov.

ATTACHMENT NO. 4
NEWS ARTICLES

Without a budget, California could issue IOUs

By Steve Wiegand, Bee Capitol Bureau
Published Sunday, Jun. 14, 2009

June 15 is usually recognized around the Capitol as the day on which the Legislature thumbs its collective nose at a constitutional deadline that a state budget be passed.

That's how it's been celebrated on 29 of the past 33 June 15ths.

This year, however, there's a twist: Lawmakers have already approved a budget for the fiscal year that starts July 1 – in fact, they did it in February.

But they've been unable to mend a \$24 billion rip that has appeared in it since then – and that could cause as much trouble as if they were still squabbling over the budget itself.

That's because without a budget patch in place by the end of this month, state finance officials say there's a chance state government might have to do what it hasn't done in 17 years: issue IOUs instead of paying its bills.

"This week I sat down with the controller and also with the treasurer," Gov. Arnold Schwarzenegger told a Southern California audience on Friday, "and we all agreed that after June 15, every day of inaction jeopardizes our state's solvency, and our ability to pay schools and teachers, and to keep hospitals and ERs open."

The actual fiscal jeopardy is neither that dire nor that simple, but it's still serious.

In most years, state government has to borrow money during the first part of the fiscal year to tide it over until tax revenue catches up with the bills in the last half of the year.

Also in most years, legislators and the governor drag out the fight over adopting a new state budget until after the fiscal year has started. Until a budget is in place, the state can't borrow money.

Instead, the controller's office is forced to delay payments to various creditors. The decisions on who gets paid and who doesn't are determined in part by the state constitution (schools and bondholders get paid first); in part by federal law (state employees can't be paid in IOUs), and in part by any court edict that has ordered the state to pay someone.

Everyone else – companies that do business with the state, students who get state aid, local governments, taxpayers awaiting refunds – has to wait.

But this is not a normal year, for a number of reasons.

One is that the major banks and Wall Street investors that California usually borrows from have been so battered by the worldwide recession that just having a budget in place isn't good enough for them to lend the state money: they want it balanced, too.

Tom Dresslar, spokesman for Treasurer Bill Lockyer, said the state could probably squeak through the first few months of the fiscal year by borrowing from \$7 billion to \$9 billion.

"But to do that will take a credible \$24 billion solution by the end of June, and the solution should include the governor's reserve number" of \$4.5 billion, Dresslar said.

Another reason the cash vise is tighter this year is that the state has already maxed out its internal borrowing from funds set aside for special state programs.

In addition, tax revenue continues to come in at lower-than-expected levels, a sign that California's economic woes have yet to hit bottom.

State Controller John Chiang has forecast that absent a budget deal that allows borrowing, the state will be in the red by July 28.

And last week, the governor took one stopgap tool off the table, saying he would not approve the issuance of revenue anticipation warrants, or RAWs, if the budget is not balanced by July 1.

The warrants are costly financial mechanisms that allow the state to borrow even when the money can't be repaid in the same fiscal year. The last time California issued RAWs was in June 2003, in the midst of another bitter budget fight.

Schwarzenegger said that issuing RAWs would only prolong the hard decisions on program cuts that legislators are facing.

"I've heard accusations that I tried to shut down state government," the governor said Friday. "I don't have to shut down state government, because when they don't produce a budget on time we will run out of cash and therefore our government will shut down by itself."

Absent either a budget deal or the sale of RAWs, said Hallie Jordan, spokeswoman for state Controller Chiang, the options are to delay payments, or issue the equivalent of IOUs, called registered warrants.

In February, Chiang withheld \$4.1 billion in payments for 30 days, while legislators and the governor hammered out a deal that temporarily closed a gaping budget gap.

But the state is even more strapped for cash now than it was in February. That, Jordan said, "means we may have to go straight to registered warrants. That's something that we are looking at daily."

The last time the state issued registered warrants – and the only time since the Great Depression – was 1992, when the state handed out 1.6 million warrants worth a total of \$3.8 billion over a two-month period.

State financial officers say that issuing registered warrants would make it even harder to borrow from commercial markets and private investors – and nearly impossible without a balanced budget in place.

"If we are without a budget," said Mike Genest, the governor's director of finance, "we would be going to the market and saying 'well, we're still haggling over the budget, there's no political agreement, we're still spending \$24 billion more than we're going to have and we don't know what we are going to do about it, and oh by the way, the year after that is going to be worse ... so in reality our chances of paying you back are murky at best ... but hey we'd like you to loan us the money anyway.'

"Now, there is probably somebody out there who would lend us the money, but there are only so many suckers in the world, so we'd probably only end up with a billion or so."

California set to issue IOUs as fiscal crisis weighs

Wed Jun 24, 2009 10:00pm EDT
By Dan Whitcomb and Ciara Linnane

LOS ANGELES/NEW YORK (Reuters) - California's controller said on Wednesday that he would have to issue IOUs in a week if lawmakers can't quickly solve a \$24 billion budget deficit, and the state's treasurer plans to tap a reserve fund to meet debt service costs.

The measures came as a budget crisis deepened in the most populous U.S. state and the gridlocked legislature failed to pass a proposed \$11 billion in cuts.

"Next Wednesday we start a fiscal year with a massively unbalanced spending plan and a cash shortfall not seen since the Great Depression," Controller John Chiang said in a statement announcing that he would be forced to use IOUs to pay the state's bills beginning on July 2.

"The state's \$2.8 billion cash shortage in July grows to \$6.5 billion in September and after that we see a double digit freefall," Chiang said. "Unfortunately, the state's inability to balance its checkbook will now mean short-changing taxpayers, local governments and small businesses."

State Treasurer Bill Lockyer, meanwhile, is planning to draw on reserves for economic recovery sales tax bonds, according to a spokesman.

Rating agency Standard & Poor's warned it may downgrade the bonds, given the problems California is likely to face in replenishing its emergency funds.

The state is expecting to file a material event notice on Thursday to alert bondholders to the move that comes in response to plunging sales tax receipts, said spokesman Tom Dresslar.

"The senior coverage account will be drawn on and debt service on all economic recovery bonds will be paid in full on July 1," Dresslar said.

California has been in crisis since the housing slump and credit crunch caused a severe decline in revenues. The state has seen its unemployment rate climb steadily to 11.5 percent in May from 6.8 percent a year earlier, according to labor department data.

LAWMAKERS REJECT CUTS

The government dipped into the same reserve fund in December to make a principal payment on economic recovery bonds, but was able to top the reserve back up within days.

The California Legislature on Wednesday voted down \$11 billion in proposed cuts to state services, sending members seeking a budget deal back to the drawing board.

The vote failed largely along party lines in both houses, with the Republicans saying it falls short of the savings needed and amounted to posturing by Democrats.

Standard & Poor's said it will review its economic recovery bond, or ERB ratings "after further evaluation of state projections as to the size and timing of potential draws on the ERBs' reserves."

The bonds, which were approved by voters in 2004 to help the state through another fiscal crisis, are secured by a sales tax and a general obligation pledge of the state.

California has about \$8.6 billion of the bonds outstanding, although some have credit support and will not be affected by any rating change, S&P analyst David Hitchcock said.

S&P rates the bonds at A-plus, or fifth-highest investment grade and six notches above speculative, or "junk" status.

That's one notch above the A rating assigned to California's \$57 billion of general obligation debt, the lowest rating of any U.S. state.

S&P has the GO debt on alert for a downgrade.

Moody's also has the state on review and has warned of a potential multi-notch downgrade.

Draws on debt service reserve funds are rare and will likely make waves in the bond market, said Dick Larkin, director of credit analysis at the Iselin, New Jersey, office of broker Herbert J. Sims & Co.

"I am not aware of a situation where an issuer has drawn on a debt reserve for sales tax bonds," he said in emailed comments.

"I am also not aware of a situation where a unit needed to draw on a formal debt reserve fund to pay normal debt service on general obligation bonds," he said.

Larkin said the latest developments reflect the strain on California's cash flow and may signal a situation that leads to a temporary disruption of normal debt service payments.

"In the end, though, I still believe that California debt holders would be paid in full, even if there is a temporary disruption because of this financial crisis," he said.

ATTACHMENT NO. 5
TEXT OF AB 1506

AMENDED IN ASSEMBLY JULY 1, 2009
AMENDED IN ASSEMBLY JUNE 29, 2009
AMENDED IN ASSEMBLY MAY 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1506

Introduced by Assembly Member Anderson
(Coauthors: Assembly Members Adams, Bill Berryhill, Tom Berryhill, Duvall, Fletcher, Gaines, Garrick, Hagman, Harkey, Jeffries, Knight, Logue, Miller, Nestande, Niello, Nielsen, Silva, Smyth, Audra Strickland, Tran, and Villines)

February 27, 2009

An act to add Section 17203.6 to the Government Code, relating to state funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1506, as amended, Anderson. State funds: registered warrants.

Existing law prescribes procedures for the issuance of registered warrants and provides that a registered warrant is acceptable and may be used as security for the performance of any public or private trust or obligation.

This bill would require a state agency to accept, from any person or entity, a registered warrant *or other similar evidence of indebtedness issued by the Controller* endorsed by that payee, at full face value, for the payment of any obligations owed by that payee to that state agency.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17203.6 is added to the Government
2 Code, to read:

3 17203.6. A state agency shall accept from any person or entity
4 a registered warrant *or other similar evidence of indebtedness*
5 *issued by the Controller that is endorsed by that payee, at full face*
6 *value, for the payment of any obligations owed by that payee to*
7 *that state agency.*

8 SEC. 2. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety within
10 the meaning of Article IV of the Constitution and shall go into
11 immediate effect. The facts constituting the necessity are:

12 In order to allow the residents of the state to pay for all
13 obligations owed to the state, while the state is issuing registered
14 ~~warrants, which is, in fact, an "IOU" issued by the state, it is~~
15 *warrants, or other similar debt instruments, which are, in fact,*
16 *"IOUs" issued by the state, it is necessary that this act take effect*
17 *immediately.*

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #1 H.
CONSENT CALENDAR
Meeting Date: July 22, 2009

TO: Honorable Mayor and City Council Members
FROM: Michael Kashiwagi, City Engineer
SUBJECT: Wildomar Landscape Maintenance District 2006-1

STAFF REPORT

RECOMMENDATION:

That the City Council adopts the following Resolutions:

RESOLUTION NO. 09 - 46
A RESOLUTION OF THE CITY OF WILDOMAR, CALIFORNIA, ORDERING
PREPARATION OF THE ENGINEER'S REPORT REGARDING THE
PROPOSED ASSESSMENT TO BE LEVIED AND COLLECTED FOR FISCAL
YEAR 2009-10 WITHIN THE WILDOMAR LANDSCAPE MAINTENANCE
DISTRICT (LMD) 2006-1

RESOLUTION NO. 09-47
A RESOLUTION OF THE CITY OF WILDOMAR, CALIFORNIA, DECLARING
ITS INTENTION TO LEVY AND COLLECT ASSESSMENT WITHIN WILDOMAR
LMD 2006-1 FOR FISCAL YEAR 2009-10, SETTING THE TIME AND PLACE
OF THE PUBLIC HEARING ON THE ANNUAL ASSESSMENT AND ORDERING
NOTICE OF THE PUBLIC HEARING ON THE ANNUAL ASSESSMENT AND
ORDERING NOTICE OF THE PUBLIC HEARING TO BE GIVEN CONSISTENT
WITH THE LANDSCAPING AND LIGHTING ACT OF 1972

BACKGROUND:

The Board of Supervisors of Riverside County approved the formation of the Wildomar LMD 2006-1 on September 12, 2006. Wildomar LMD 2006-1 will fund the operation and maintenance costs of public parks in the Wildomar area. Maintenance and servicing of landscape improvements will be in the following parks: Marna O'Brien, Heritage, Windsong and a future Wildomar park.

For Fiscal Years 2006-07, 2007-08, and 2008-09, the assessment amount within Wildomar LMD 2006-1 was \$28 per equivalent dwelling unit. For Fiscal Year

2009-10, there will be no increase in the Wildomar LMD 2006-1, and the annual assessment will remain at \$28 per equivalent dwelling unit. For Fiscal Year in which the landscape improvements of all four parks are completed, the annual assessment may be increased to \$45, adjusted for inflation.

FISCAL IMPACTS:

Adoption of these resolutions will allow the City of Wildomar to collect sufficient funds to meet its maintenance obligation for Wildomar LMD 2006-1.

ALTERNATIVES:

1. Take no action.
2. Provide staff with further direction.

ATTACHMENTS:

Resolution No. 2009-46
Resolution No. 2009-47

Submitted by:

Approved by:

Michael Kashiwagi
City Engineer

John Danielson
City Manager

RESOLUTION NO. 09-46

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
WILDOMAR, CALIFORNIA, ORDERING PREPARATION OF
ENGINEER'S REPORT REGARDING PROPOSED
ASSESSMENTS TO BE LEVIED AND COLLECTED FOR FISCAL
YEAR 2008-09 WITHIN WILDOMAR LANDSCAPE
MAINTENANCE DISTRICT 2006-1 OF THE COUNTY OF
RIVERSIDE PURSUANT TO LANDSCAPING AND LIGHTING
ACT OF 1972**

WHEREAS, the City Council (hereinafter the "City Council") of the City of Wildomar (hereinafter the "City") has conducted proceedings for and has established Wildomar Landscape Maintenance District 2006-1 of the City of Wildomar, County of Riverside, State of California (hereinafter "Wildomar LMD 2006-1") pursuant to the Landscaping and Lighting Act 3f 1972, Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code, (hereinafter the "Streets and Highways Code"); for the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of the landscaping appurtenances including repair, removal or replacement, providing for the life and growth, health, and beauty of the landscaping. The removal of trimmings, rubbish, debris, and other solid waste, together with the necessary incidental expenses; and

WHEREAS, it is necessary that the City Council adopt a resolution pursuant to Section 22622 of the Streets and Highways Code ordering the preparation and filing of an Engineer's Report (hereinafter the "Report") in accordance with Article 4 (commencing with Section 22565) of the Streets and Highways Code with regard to the assessments which are proposed to be levied on assessable lots and parcels of land within Wildomar LMD 2006-1 for the 2009-10 fiscal year.

NOW, THEREFORE, BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED by the Council in regular session on July 22, 2009, as follows:

Section II: Improvements

The improvements and maintenance authorized for Wildomar LMD 2006-1 are:

- (a) Furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of the landscaping appurtenances including repair, removal or replacement, providing for the life and growth, health, and beauty of the landscaping.
- (b) The removal of trimmings, rubbish, debris, and other solid waste, together with the necessary incidental expenses.

Section II: Report

The City Council, or its designee, is hereby designated Engineer (hereinafter "Engineer") and is ordered to prepare and file a report with the City Clerk the report with regard to the assessments proposed to be levied on assessable lots and parcels of land within Wildomar LMD 2006-1 to pay the costs of the maintenance and servicing of landscaping improvements for the 2009-10 Fiscal Year, pursuant to Sections 22565 through 22574 of the Streets and Highways Code.

PASSED, APPROVED, AND ADOPTED this 22nd day of July 2009.

Scott Farnam
Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

RESOLUTION NO. 09-47

**A RESOLUTION OF THE CITY COUNCIL OF WILDOMAR,
CALIFORNIA, DECLARING INTENTION TO LEVY AND
COLLECT ASSESSMENTS WITHIN WILDOMAR LANDSCAPE
MAINTENANCE DISTRICT 2006-1 OF THE COUNTY OF
RIVERSIDE PURSUANT TO LANDSCAPING AND LIGHTING
ACT OF 1972 FOR THE MAINTENANCE AND SERVICING OF
LANDSCAPING FOR FISCAL YEAR 2009-10; APPROVING THE
ENGINEER'S REPORT AND GIVING NOTICE AND SETTING
THE TIME AND PLACE OF THE PUBLIC HEARING ON THE
ANNUAL ASSESSMENT AND ORDERING NOTICE OF THE
PUBLIC HEARING TO BE PUBLISHED**

WHEREAS, the City Council (hereinafter the "City Council") of the City of Wildomar (hereinafter the "City") has conducted proceedings for and has established Wildomar Landscape Maintenance 2006-1 of the City of Wildomar, County of Riverside, State of California (hereinafter "Wildomar LMD 2006-1") pursuant to the Landscaping and Lighting Act of 1972, Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code (hereinafter the "Streets and Highways Code"); for the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of the landscaping appurtenances including repair, removal or replacement, providing for the life and growth, health, and beauty of the landscaping. The removal of trimmings, rubbish, debris, and other solid waste, together with the necessary incidental expenses; and

WHEREAS, as ordered by the City Council, its Designee has filed with the City Clerk an Engineer's Report (hereinafter the "Report") regarding the assessments to be levied and collected within Wildomar LMD 2006-1 for Fiscal Year 2009-10 to pay the costs of maintenance services and improvements as identified in the preceding recital, and the Report has been presented to and considered by the City Council; and

WHEREAS, the Report filed with the City Clerk states that the assessments to be levied in Wildomar LMD 2006-1 for Fiscal Year 2009-10 are in an amount that is the same as levied in Fiscal Years 2006-07, 2007-08, and 2008-09 and consistent with the terms of the ballot proposition approving the assessment; and

WHEREAS, it is necessary that the City Council adopt a resolution of intention pursuant to Section 22624 of the Streets and Highways Code, which fixes and gives notice, pursuant to Section 22626(a) of the Streets and Highways Code, of the time and place of a public hearing on said Report and the annual assessments for Fiscal Year 2009-10;

NOW, THEREFORE, BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED by the City Council of the City of Wildomar in a regular session on July 22, 2009, as follows:

Section I: Findings

The City Council finds after reviewing the Report that:

- (a) The foregoing recitals are true and correct;
- (b) The Report for Wildomar LMD 2006-1 contains all matters required by Section 22565 through 22574 of the Streets and Highways Code and may, therefore, be approved by the City Council; and
- (c) The 2009-10 annual assessment within Wildomar LMD 2006-1 is \$28 per equivalent dwelling unit ("EDU"); and
- (d) Beginning in the fiscal year in which the landscape maintenance improvements for all four public parks are completed, the annual assessment and all subsequent annual assessments may be increased accordingly as authorized by the ballot proposition approving the formation of the District and the levy of an assessment. The annual assessment may be increased to an amount not to exceed \$45 per EDU, adjusted for inflation, in the fiscal year in which the landscape maintenance improvements for the public parks are completed, as detailed in and supported by the Engineer's Report for said fiscal year.

Section II: Intent

The City Council declares that it intends to levy assessments on assessable lots and parcels of land within Wildomar LMD 2006-1. The annual assessments will be collected at the same time and in the same manner as property taxes are collected, and all laws providing for the collection and enforcement of property taxes shall apply to the collection and enforcement of said assessments. The Wildomar LMD 2006-1 assesses single-family, residential dwelling units or equivalent dwelling units that contain person(s) who may receive special recreational benefits from visiting the parks and using their amenities, who receive special benefits by means of an improved quality of life and increased property values on account of adjacent maintained parkland, and who receive other special benefits as outlined in the Report. Although residential property within Wildomar LMD 2006-1 would receive special benefits from access to maintained park facilities to promote walking and physical activities and from recreational trails, exercise stations, and other maintained facilities such as picnic shelters, playgrounds, sports fields and courts as well as the restroom and concession facilities, publicly owned properties such as public streets, public easements, public rights-of-way, public greenbelts, and public parkways and

parks could not be said to receive similar special benefits from access to these maintained facilities because the respective public entity's rights in and use of such publicly owned property are limited and designed to achieve a particular public purpose not aided by the existence of the maintained parkland in Wildomar LMD 2006-1. Due to the respective public entity's limited rights in and use of such publicly owned property, the special benefits designated in the Report could not be deemed to benefit these publicly owned properties, notwithstanding the fact that residential properties within Wildomar LMD 2006-1 would be benefited. Because, publicly owned property receives no special benefit, it is not assessed.

Section III: Description of Services and Improvements to Be Provided

The maintenance service and improvements authorized within the Wildomar LMD 2006-1 are:

- (a) Furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of the landscaping appurtenances including repair, removal or replacement, providing for the life and growth, health, and beauty of the landscaping.
- (b) The removal of trimmings, rubbish, debris, and other solid waste, together with the necessary incidental expenses.

Section IV: Boundaries

All the property within the boundaries of Wildomar LMD 2006-1 is proposed to be included within Wildomar LMD 2006-1 and shall include that property in the City of Wildomar as shown in the Report.

Section V: Report

The Report, which is on file with the City Clerk and which has been presented to the City Council, is hereby approved. Reference is to be made to the Report for a full and detailed description of the improvements, the boundaries of the district, and the annual assessments to be levied upon assessable lots within Wildomar LMD 2006-1 for Fiscal Year 2009-10.

Section VI: Public Hearing

A public hearing will be held on Aug. 12, 2009 at 7:00 p.m. at City of Wildomar Council Chambers, 23873 Clinton Keith Rd, Wildomar, CA, regarding the Report and the proposed assessments to be levied for Fiscal Year 2009-10 within Wildomar LMD 2006-1.

Section VII: Information

Any property owner desiring additional information regarding Wildomar LMD 2006-1, the report, or the proposed assessments shall contact Leni Zarate, LMD Administrator on behalf of the City of Wildomar, Psomas, 2010 Iowa Ave., Ste. 101, Riverside, CA 92507 at (951) 787-8421.

Section III: Notice of the Public Hearing

Notices of the public hearing shall be consistent with Section 22626(a) of the Streets and Highways Code. The notice of the public hearing shall be given by publication in The Press Enterprise of a certified copy of this Resolution once at least ten (10) days prior to Aug. 12, 2009. Publication of this Resolution is to be effected by the City Clerk of the City of Wildomar.

PASSED, APPROVED, AND ADOPTED this 22nd day of July 2009.

Scott Farnam
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 I.
CONSENT CALENDAR
Meeting Date: July 22, 2009

TO: Honorable Mayor and City Council Members

FROM: Michael Kashiwagi, City Engineer

SUBJECT: Notice of Intent to Establish Charges for Community Services Areas (CSA) 22, 103, and 142 for Fiscal Year 2009-10

STAFF REPORT

RECOMMENDATION:

That the City Council:

1. Adopt Resolution 09-50 to set a public hearing on August 26, 2009, regarding CSA charges for Fiscal Year 2009-10; and
2. Direct the City Clerk to set the date and publish a notice for the public hearing.

BACKGROUND:

Upon incorporation on July 1, 2008, the City of Wildomar assumed the responsibility for certain County Service Areas now within the City's jurisdictional boundaries, and now is responsible for the services and charges provided by County Service Areas 22, 103 (Drainage, Landscape), 103 (Lighting), and 142. As such the City of Wildomar requests that the Council adopts Resolution 09-50 setting a public hearing regarding the City's Community Service Areas for Fiscal Year 2009-10 for Fiscal Year 2009-10. Proposed charges are attached in Exhibit 'A'.

FISCAL IMPACTS:

Adoption of this resolution will allow the City of Wildomar to collect funds to meet its financial obligations for City of Wildomar Community Service Areas.

ALTERNATIVES:

1. Take no action.
2. Provide staff with further direction.

ATTACHMENTS:

Resolution No. 09-50
Exhibit 'A'

Submitted by:

Approved by:

Michael Kashiwagi
City Engineer

John Danielson
City Manager

RESOLUTION NO. 09 - 50

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
WILDOMAR, CALIFORNIA, ESTABLISHING CHARGES FOR
COMMUNITY SERVICE AREAS 22, 103, AND 142 WITHIN THE
CITY FOR FISCAL YEAR 2009/2010**

WHEREAS, upon incorporation on July 1, 2008, the City of Wildomar assumed the responsibility for certain County Service Areas now within the City's jurisdictional boundaries, and now is responsible for the services and charges provided by County Service Areas 22, 103 (Drainage, Landscape), 103 (Lighting), and 142; and

WHEREAS, the City Council has determined that it is necessary to continue the County Service Area charges within such areas in order to continue to provide such extended services; and

WHEREAS, on July 1, 2008, the City Council of the City of Wildomar adopted all County of Riverside Ordinances in effect including Riverside County Ordinance No. 573; and

WHEREAS, Riverside County Ordinance No. 573 requires that the City Council annually shall cause to be prepared and filed with it a report of the services, parcels and charges provided by each County Service Area for the upcoming fiscal year; and

WHEREAS, upon the filing of such report with the City Clerk, the City Council shall cause to be noticed and thereafter conduct a public hearing to hear and consider testimony regarding the continuation of charges for such extended services within such County Service Areas within the City of Wildomar.

NOW THEREFORE, be it resolved by the City of Wildomar Council assembled in regular session on July 22, 2009, that this Council intends to conduct a public hearing on August 26, 2009 at 7:00 p.m. in the Council Chambers of the City Council, 23873 Clinton Keith Rd, Wildomar, CA for the purposes of allowing public testimony regarding the enactment of proposed Fiscal Year 2009-10 Community Service Area charges (See Exhibit 'A').

BE IT FURTHER RESOLVED, that the City Clerk is to give notice of said hearing pursuant to Government Code Section 6066. Any person affected by the proposed charges may submit written comments to the Clerk before the hearing or may appear in support of, or opposition to, the proposals at the time of the hearing.

PASSED, APPROVED, AND ADOPTED this 22nd day of July, 2009.

Scott Farnam
Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

Exhibit 'A'

Projected CSA Levy Ranges

| Current Fund No. to be changed by EDA | FundNumberName | Date Formed | Escalator | Preliminary Parcels | FY 2008-2009 Total Levy | Minimum | Maximum | FY 2008-2009 Levy Range | Projected FY 2009-2010 Levy Range | Does it ESCALATE 2% | Notes |
|---------------------------------------|--|-------------|-----------|---------------------|-------------------------|---------|---------|-------------------------|-----------------------------------|---------------------|---|
| 684642 | CSA #22
Lake Elsinore
Lighting | 11/8/1965 | Yes | 878 | \$29,685.85 | Minimum | Maximum | \$1.76
\$55.14 | \$1.76
\$56.24 | No/Yes | |
| ??? | CSA #142
Wildomar
Lighting | 1/31/1985 | Yes | 504 | \$29,831.25 | Minimum | Maximum | \$31.50
\$872.08 | \$31.50
\$889.52 | No/Yes | varying escalation |
| 684644 | CSA #103
French Valley
Drainage, Landscape | 12/18/1973 | | 1076 | \$22,480.00 | Minimum | Maximum | \$20.00
\$30.00 | \$20.00
\$30.00 | No | |
| 684645 | CSA#103
French Valley
Lighting | 12/18/1973 | Yes | 3146 | \$117,550.51 | Minimum | Maximum | \$28.86
\$1,144.60 | \$28.86
\$1,167.49 | No/Yes | varying escalation
1 parcel escalates from max |

(1) Ranges represent all parcels previously levied and new parcels to be levied due to this year's audit, annexations, and Engineer's Reports processed through April 8, 2009, and may be changed as additional annexations, Engineer's Reports, and parcel changes are continually processed up until enrollment.

(2) Annual charge was increased by 2.0% per EDA's direction (Amber) rather than the CPI which was lower as Feb

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #1 J.
CONSENT CALENDAR
Meeting Date: July 22, 2009

TO: Honorable Mayor and City Council Members

FROM: Michael Kashiwagi, Development Services

SUBJECT: Agreement for Services Between the Redevelopment Agency of the County of Riverside and the City of Wildomar

STAFF REPORT

RECOMMENDATION:

Adopt Resolution No. 09-51 authorizing the City Manager to execute an agreement approved by the City Attorney between the City of Wildomar and the Redevelopment Agency of the County of Riverside for Graffiti Abatement Services.

BACKGROUND:

Prior to incorporation, the County of Riverside performed graffiti abatement services in the Wildomar community. City Staff has determined that due to the specialized nature of these services the continuation of these services through the County of Riverside would be cost effective and in the best interests of the City of Wildomar. All services provided by this agreement will be performed on a request basis, Riverside County will only perform services requested by the City. All work will be performed under the direction of City, staff and costs will be based upon the hourly rates referenced in the attached agreement.

FISCAL IMPACTS:

There is no fiscal impact since costs associated with this agreement will be paid with General Fund and/or non-General Fund sources within the City's adopted operating budget.

ALTERNATIVES:

1. Take no action.
2. Provide staff with further direction.

ATTACHMENTS:

1. Resolution No.09-51
2. Agreement

Submitted by:

Approved by:

Michael Kashiwagi
Development Services

John Danielson
City Manager

RESOLUTION NO. 09 - 51

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT APPROVED BY THE CITY ATTORNEY BETWEEN THE CITY OF WILDOMAR AND THE REDEVELOPMENT AGENCY OF THE COUNTY OF RIVERSIDE FOR GRAFFITI ABATEMENT SERVICES

THE CITY COUNCIL OF THE CITY OF WILDOMAR DOES RESOLVE AS FOLLOWS:

SECTION I

WHEREAS, prior to incorporation, the County of Riverside performed graffiti abatement services throughout the Wildomar community;

WHEREAS, the City of Wildomar and County of Riverside have determined that it's in the best interest of the citizens of Wildomar for the County to continue to provide these services as determined by the City of Wildomar; and

WHEREAS, the Redevelopment Agency of the County of Riverside has the expertise, resources, and experience to provide services requested by the City of Wildomar; and
THE CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

Authorizes the City Manager to execute an agreement between the City of Wildomar and the Redevelopment Agency of the County of Riverside for graffiti abatement services

PASSED, APPROVED, AND ADOPTED this 22nd day of July, 2009.

Scott Farnam
Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

AGREEMENT BY AND BETWEEN
THE REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE
AND THE CITY OF WILDOMAR FOR GRAFFITI ABATEMENT SERVICES

THIS AGREEMENT ("Agreement") is made and entered into by and between the REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE, a public body corporate and politic in the State of California ("AGENCY"), and the City of Wildomar, California ("CITY").

RECITALS

- A. **WHEREAS**, the AGENCY is a Redevelopment Agency duly created, established and authorized to transact business and exercise its powers pursuant to the provisions of the California Community Redevelopment Law which is Part 1 of Division 24 of the California Health and Safety Code (commencing with Section 33000, et seq.); and
- B. **WHEREAS**, CITY was officially established on July 1, 2008 and has requested that the AGENCY provide graffiti abatement services to it on a contract basis; and
- C. **WHEREAS**, the County of Riverside has adopted by Ordinance Number 793 the redevelopment plan for Project Area 1-1986, Amendment No. 1, Lakeland Village/Wildomar Sub-Area ("PROJECT AREA"); and
- D. **WHEREAS**, portions of the CITY, as shown on Attachment A, are located within the boundaries of the PROJECT AREA; and
- E. **WHEREAS**, CITY desires to contract with AGENCY to provide graffiti abatement services within CITY'S jurisdictional boundaries located inside and outside the PROJECT AREA beginning July 1, 2009; and
- F. **WHEREAS**, Health and Safety Code Section 33420.2 provides that AGENCY may, within a project area, take any actions that the agency determines are necessary to remove graffiti from public or private property upon making a finding that, because of the magnitude and

severity of the graffiti within the project area, the action is necessary to effectuate the purpose of the redevelopment plan and assist with the elimination of the blight; and

G. **WHEREAS**, providing graffiti abatement services by AGENCY within the PROJECT AREA is necessary to effectuate the purpose of the PROJECT AREA's redevelopment plan and will assist with the elimination of blight because the graffiti is severe and excess within the PROJECT AREA; and

H. **WHEREAS**, AGENCY and CITY desire to define herein the terms and conditions under which the AGENCY will provide graffiti abatement services to the CITY within CITY'S jurisdictional boundaries located inside and outside the PROJECT AREA.

NOW THEREFORE, the parties hereto mutually agree as follows:

SECTION 1 – SCOPE OF SERVICES

1. CITY staff shall direct graffiti abatement complaints to AGENCY, either through the Graffiti Busters telephone hotline at (951) 955-3333 or **(866) 732-1444** (toll free), or the Graffiti Busters web site at <http://www.rcgraffitibusters.com>. Referrals shall include location, cross streets, and any additional information required to locate the graffiti.

2. AGENCY shall provide graffiti abatement services within the CITY'S jurisdictional boundaries located inside and outside the PROJECT AREA ("Service Area") as shown on Attachment B. Graffiti abatement services may include, but are not limited to: removal of all graffiti at reported locations, including words, pictures, and any general defacement of property; paint matching, painting, pressure washing, and other appropriate methods of removal; and monitoring and sweeps of areas located within the Service Area. Frequency of monitoring and sweep activities will be determined by AGENCY, based on scheduling and time constraints.

3. All information and data that is existing and available to CITY and necessary for

carrying out the work described above shall be furnished to AGENCY without charge by CITY.

4. Prior to performing graffiti abatement services on private property within the Service Area, AGENCY shall obtain consent from the property owners to enter and remove graffiti from the private property.

SECTION 2 – COST OF SERVICES

1. AGENCY shall fund the graffiti abatement services provided by AGENCY to the CITY within the PROJECT AREA. Providing the graffiti abatement services to the CITY will assist the AGENCY in effectuating the purpose of the PROJECT AREA's redevelopment plan and assist in the elimination of blight within the PROJECT AREA.

2. CITY shall fund the graffiti abatement services provided by AGENCY to the CITY outside the PROJECT AREA, but within the CITY's jurisdictional boundaries.

a. CITY shall pay the AGENCY an hourly rate for the above services as set by the AGENCY's Board of Directors. The current hourly rate for FY 09-10 is \$127.31.

b. AGENCY shall submit an invoice to CITY within ten (10) days from the last date of each calendar month, unless no charges were incurred for the month. All billings shall list the location of graffiti that was removed by street address and/or general location description (i.e. wall in alley between A and B streets).

c. CITY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice.

SECTION 3 - STANDARDS OF PERFORMANCE.

1. AGENCY represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. AGENCY shall at all times faithfully,

competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, AGENCY shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of AGENCY under this Agreement.

2. The AGENCY shall comply with all applicable laws, ordinances and codes of the federal, state and local governments while performing the services described herein in a good, skillful, and professional manner.

SECTION 4 – INSPECTION AND FINAL ACCEPTANCE.

CITY may inspect and accept or reject any of AGENCY's work under this Agreement, either during performance or when completed. CITY shall reject work by providing within 5 days of the inspection a timely written explanation, otherwise AGENCY's work shall be deemed to have been accepted.

SECTION 5 - INDEPENDENT CONTRACTOR.

1. CITY retains AGENCY on an independent contractor basis. AGENCY is not, and shall not be considered to be in any manner, an employee, agent or representative of the CITY. Personnel performing the services under this Agreement on behalf of AGENCY shall at all times be under AGENCY's exclusive direction and control. AGENCY shall pay all wages, salaries and other amounts due such personnel in connection with their performance of service and as required by law. AGENCY shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security taxes, income tax withholdings, unemployment insurance, and workers compensation insurance.

2. AGENCY shall have no authority to bind CITY in any manner, nor to incur any

obligation, debt or liability of any kind on behalf of or against CITY, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by CITY.

SECTION 6 – TERM

This Agreement shall become effective upon approval of the Board of Directors of the Redevelopment Agency for the County of Riverside and upon approval of the City Council for the CITY. This agreement shall remain in force until June 30, 2010.

By mutual written agreement this Agreement may be extended for up to an additional twelve (12) months subject to mutual agreement on the services to be provided under this Agreement.

SECTION 7 – TERMINATION

This agreement may be terminated by either party upon thirty (30) days written notice to the other party. The rights and remedies of the parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

SECTION 8 - INDEMNIFICATION

1. The AGENCY shall indemnify, defend, and hold harmless the CITY, its officials, officers, employees and agents from any and all liability from loss, damage, or injury to property or persons, including wrongful death, in any manner arising out of or incident to any negligent acts, omissions or willful misconduct of the AGENCY arising out of or in connection with the performance of the duties and obligations under this Agreement including, without limitation the payment of attorney's fees.

2. The CITY shall indemnify, defend, and hold harmless the AGENCY, its officials, officers, employees and agents from any and all liability from loss, damage, or injury to property or persons, including wrongful death, in any manner arising out of or incident to

any negligent acts, omissions or willful misconduct of the CITY arising out of or in connection with the performance of the duties and obligations under this Agreement including, without limitation the payment of attorney's fees.

SECTION 9 – WAIVER OF SUBROGATION

As respects to Workers Compensation coverage, AGENCY shall waive its rights to subrogate against CITY, its officers, officials, employees and volunteers.

SECTION 10 – ENTIRE AGREEMENT

This Agreement is intended by the parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous agreements and understandings, oral or written, in connection therewith. This Agreement may be changed or modified only upon the written consent of the parties hereto.

SECTION 11 - SEVERABILITY.

Each paragraph and provision of this Agreement is severable from each other provision, and if any provision or part thereof is declared invalid, the remaining provisions shall remain in full force and effect.

SECTION 12 - MINISTERIAL ACTS.

The AGENCY Executive Director or designee(s) are authorized to take such ministerial actions, including ministerial amendments, as may be necessary or appropriate to implement the terms, provisions, and conditions of this Agreement as it may be amended from time to time by AGENCY.

SECTION 13 - AMENDMENTS AND MODIFICATIONS.

Any change, extension or modification, which is mutually agreed upon by the AGENCY

and CITY shall be incorporated in written amendments to this Agreement. No amendment to this Agreement shall be effective and binding upon the parties, unless it expressly makes reference to this Agreement, is in writing and is signed and acknowledged by duly authorized representatives of all parties.

SECTION 14 - ASSIGNMENT.

The Parties shall not make any assignment or transfer in any form with respect to this Agreement, without prior written approval of both Parties. Any assignment or purported assignment of this Agreement by the parties without the prior written consent of the other party will be deemed void and of no force or effect.

SECTION 15 - INTERPRETATION AND GOVERNING LAW.

This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

SECTION 16 - WAIVER.

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

SECTION 17 - JURISDICTION AND VENUE.

Any action at law or in equity arising under this Agreement or brought by a party hereto

for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed in the consolidated Courts of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.

SECTION 18- INCORPORATION OF RECITALS AND ATTACHMENTS.

The recitals and any attachments are incorporated into this Agreement by this reference.

SECTION 19 – NOTICES

Any notices required or permitted to be sent pursuant to either party shall be deemed given when deposited in the U.S. Mail, postage prepaid and mailed, addressed as follows, or upon personal delivery:

Redevelopment Agency for the
County of Riverside
P.O. Box 1180
Riverside, CA 92502-9985
Attention: Tina English,
Redevelopment Director

City of Wildomar
23873 Clinton Keith Road, Suite 201
Wildomar, CA 92595
Attention: John Danielson,
City Manager

(Signatures on Following Page)

IN WITNESS WHEREOF, the AGENCY and CITY have executed this Agreement as of the date shown below.

AGENCY

CITY

_____ Dated: _____
Jeff Stone
Chairman, Redevelopment Agency
Board of Directors

_____ Dated: _____
Scott Farnam
Mayor, City of Wildomar

APPROVED AS TO FORM:
Pamela J. Walls
Agency Counsel

APPROVED AS TO FORM:
Julie Hayward Biggs
City Attorney

_____ Dated: _____
By: Deputy

_____ Dated: _____
By:

ATTEST:
CLERK OF THE BOARD:

ATTEST:
CITY CLERK:

By: _____
Kecia Harper-Ihem

By: _____
Sheryll Schroeder

(SEAL)

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #1 K.
CONSENT CALENDAR
Meeting Date: July 22, 2009

TO: Mayor and Members of the City Council
FROM: Gary Nordquist, Director of Finance
SUBJECT: Animal Control Services Agreement

STAFF REPORT

RECOMMENDATION:

Approve the recommended Animal Field Services and Sheltering Agreement between the City of Wildomar and Animal Friends of the Valley, in the amount of not to exceed \$90,000 for per year (\$7,500.00 per month) with one change to the agreement, increasing insurance coverage from \$1 million to \$2 million.

Authorize the City Manager to sign the required documents to initiate the agreement.

COUNCIL GOALS:

Operate in a Businesslike Manner
Live within our means.

BACKGROUND:

Two organizations, Riverside County and Animal Friends of the Valley have been providing various animal control services to the City during this past year of transitioning services from Riverside County responsibility to the City of Wildomar. On June 24, 2009 the City Council authorized the City Manager to approve temporary agreements to provide animal controls services with Riverside County Department of Animal Services and Animal Friends of the Valley while longer term solutions were being discussed.

DISCUSSION:

Discussions regarding continuing some or all of these services for Wildomar residents during the 2009/10 fiscal year, have concluded between the organizations as both have submitted bids for service as follows

Riverside County Department of Animal Services:

Field Services (1 officer, 8 hours/day, 5 days per week)..... \$122,179 per year.
Animal Sheltering Services at San Jacinto Shelter (when completed).....\$195,515 per year.

Total Field and Shelter Services..... \$317,694 per year.

Animal Friends of the Valley (AFV)

Animal Sheltering Services only..... \$50,000 per year.

Field Services (1 officer, 5 hours/day, 5 days per week and emergency calls) and Animal Sheltering with AFV retaining all City licensing and citation revenues..... \$90,000 per year.

Total Field and Shelter Services..... \$90,000 per year.

Animal Friends of the Valley has been providing animal sheltering and licensing services for the residents of Wildomar for the past year. Additionally, AFV has been providing animal control services in the valley for the past 21 years and has provided services to the cities of Canyon Lake, Lake Elsinore, Murrieta and Temecula. AFV has 34 employees and the shelter is located in nearby Lake Elsinore. Wildomar residents may obtain animal licenses from the shelter, the AFV administrative offices in Wildomar and at Petco.

Upon review of the attached proposed agreement, prior services levels, site inspection and reference reviews, staff recommends that the City of Wildomar enter into the contract with Animal Friends of the Valley.

FISCAL IMPACT: The FY 2009/10 Budget includes funds for recommended Animal Friends of the Valley Animal Control Services costs.

ALTERNATIVES:

- 1. Take no action
- 2. Provide staff with further direction.

Submitted by:

Approved by:

Gary Nordquist
Finance Director

John Danielson
City Manager

Reviewed by:

Julie Hayward Biggs
City Attorney

Attachment: (1) *Animal Field Services and Sheltering Agreement between the City of Wildomar and Animal Friends of the Valley.*

Attachment 1

**ANIMAL FIELD SERVICES AND SHELTERING AGREEMENT
BETWEEN THE CITY OF WILDOMAR
AND ANIMAL FRIENDS OF THE VALLEYS (aka L.E.A.F.)**

THIS AGREEMENT is made and effective as of July 1, 2009, between the City of Wildomar, a municipal corporation ("City") and Animal Friends of the Valleys, Inc. a nonprofit corporation ("Contractor").

WHEREAS the City is interested in CONTRACTOR providing a full range of animal control activities for the purpose of safeguarding the health and safety of the population of the City of Wildomar and the health and safety of its domestic animals, and for the purpose of promoting the humane treatment of animals and the stimulation of public support for enforcement of City ordinances relating to animal control; and

WHEREAS, CONTRACTOR has the ability to provide such services:

In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM.** This Agreement shall commence on July 1, 2009, and shall remain in affect until June 30, 2011, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES.** Contractor shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Contractor shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. **PERFORMANCE.** Contractor shall at all time faithfully, competently and to the best of his or her ability, experience, and talent, perform all tasks described herein. Contractor shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Contractor hereunder in meeting its obligations under this Agreement.

4. **PAYMENT.**

a. The City agrees to pay Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B other than the payment rates and schedule of payment are null and void. This amount shall not exceed \$7,500.00 per month with CONTRACTOR retaining license and citation fees. In no event this amount shall exceed \$90,000.00 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

b. Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Contractor shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Contractor at the time City's written authorization

is given to Contractor for the performance of said services. The City Manager may approve additional work up to **Ten Thousand Dollars and No Cents (\$10,000.00)** annually. Any additional work in excess of this amount shall be approved by the City Council.

c. Contractor will submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of contractor's fees it shall give written notice to Contractor within 30 days of receipt of an invoice of any disputed fees set forth on the invoice.

5. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE.

a. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the contractor at least ten (10) days prior written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Contractor the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Contractor will submit an invoice to the City pursuant to Section 4.

6. DEFAULT OF CONTRACTOR.

a. The Contractor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Contractor. If such failure by the Contractor to make progress in the performance of work hereunder arises out of causes beyond the Contractor's control, and without fault or negligence of the Contractor, it shall not be considered a default.

b. If the City Manager or his delegate determines that the Contractor is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Contractor with written notice of the default. The Contractor shall have (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Contractor fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

7. DEFAULT OF CITY. If the Contractor determines that the City is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the City with written notice of the default. The City shall have (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the City fails to cure its default within such period of time, the Contractor shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. OWNERSHIP OF DOCUMENTS.

a. Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Contractor shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts there from as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

b. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused or otherwise disposed of by the City without the permission of the Contractor. With respect to computer files containing data generated for the work, Contractor shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

c. With respect to the design of public improvements, the Contractor shall not be liable for any injuries or property damage resulting from the reuse of the design at a location other than that specified in Exhibit A without the written consent of the Contractor.

9. INDEMNIFICATION. The Contractor agrees to defend, indemnify, protect and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims, demands, losses, defense costs or expenses, including attorney fees and expert witness fees, or liability of any kind or nature which the City, its officers, agents and employees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Contractor's negligent or wrongful acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement, excepting only liability arising out of the negligence of the City.

10. INSURANCE REQUIREMENTS. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

a. Minimum Scope of Insurance. Coverage shall be at least as broad as:

- (1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.
- (2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If the Contractor owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

- (3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Contractor has no employees while performing under this Agreement, worker's compensation insurance is not required, but Contractor shall execute a declaration that it has no employees.

b. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

- (1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- (2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- (3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City Manager. At the option of the City Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

d. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (1) The City, its officers, officials, employees and volunteers are to be covered as insured's as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.
- (2) For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

- (4) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

f. Verification of Coverage. Contractor shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

11. INDEPENDENT CONTRACTOR.

a. Contractor is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Contractor or any of Contractor's officers, employees, or agents except as set forth in this Agreement. Contractor shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Contractor shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

b. No employee benefits shall be available to Contractor in connection with the performance of this Agreement. Except for the fees paid to Contractor as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing services hereunder for City. City shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing services hereunder.

12. LEGAL RESPONSIBILITIES.

The Contractor shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Contractor shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this section.

13. RELEASE OF INFORMATION.

a. All information gained by Contractor in performance of this Agreement shall be considered confidential and shall not be released by Contractor without City's prior written authorization. Contractor, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney,

voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

b. Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Contractor and/or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

14. NOTICES. Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Wildomar
23873 Clinton Keith Rd. #201
Wildomar, CA 92595
ATTN: City Manager

To Contractor: Animal Friends of the Valley
33751 Mission Trail
Wildomar, CA 92595
(951) 674-0618

15. ASSIGNMENT. The Contractor shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Contractor's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Contractor.

16. LICENSES. At all times during the term of this Agreement, Contractor shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

17. GOVERNING LAW. The City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Wildomar. In the event such litigation is filed by one

party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

18. PROHIBITED INTEREST. No officer, or employee of the City of Wildomar shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Contractor, or Contractor's sub-contractors for this project, during his/her tenure or for one year thereafter. The Contractor hereby warrants and represents to the City that no officer or employee of the City of Wildomar has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the Contractor or Contractor's sub-contractors on this project. Contractor further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

19. ENTIRE AGREEMENT. This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

20. AUTHORITY TO EXECUTE THIS AGREEMENT. The person or persons executing this Agreement on behalf of Contractor warrants and represents that he or she has the authority to execute this Agreement on behalf of the Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF WILDOMAR

Scott Farnam, Mayor

Attest:

Debbie Lee, City Clerk

Approved As to Form:

Julie Hayward Biggs, City Attorney

CONTRACTOR

Administrative Office:

Animal Friends of the Valley
33751 Mission Trail
Wildomar, CA 92595
(951) 471-8344

Shelter:

22951 Bastron Ave.
Lake Elsinore, CA 92530
(951) 674-0618

By: _____

Name: Kristine Anderson
Title: President

By: _____

Name: Marcene Carre
Title: Secretary

(Two Signatures of Corporate Officers Required For Corporations)

EXHIBIT A

Scope of Services

1. Services To Be Provided. Contractor shall operate a complete animal control program for the City consisting of, but not limited to, field services, shelter operation, and licensing. Animal Friends of the Valleys will provide 1 Animal Control Officer, a fully equipped vehicle, and shelter for the City of Wildomar's animals. The Animal Control Officer will be serving the City of Wildomar 5 hours per day, 5 days per week, as well as emergency calls after hours, on week-ends and holidays.

In the conduct of this program, CONTRACTOR shall perform the following specific functions:

(a) Enforcement. Enforce all applicable provisions of the Wildomar Municipal Code (Animal Control) as it exists on the date of this Agreement pertaining to animals, including the issuing of warning notices or citations as necessary for violations of such Ordinances. In the event the Municipal Code is amended and the amendments would substantially alter the duties and responsibilities of CONTRACTOR under this Agreement, the parties hereto agree to meet and in good faith renegotiate those terms and conditions of this Agreement affected by such amendments.

(b) Impound. Impound all animals caught at large and collect all impound fees assessed on behalf of the City; accept stray animals brought in by private citizens; provided, however that identified, vaccinated, spayed or neutered cats shall be released as required by the Wildomar Municipal Code.

(c) Quarantine. Quarantine as prescribed by law all animals suspected to be rabid.

(d) Complaint Investigation & Resolution. Investigate and pursue action on complaints and/or reports of potential violations of Municipal Code relating to animals, including unnecessary noise, in accordance with such procedures adopted by the City; respond to requests from the County Fire Department and contract law enforcement provider for assistance with animal related situations.

(e) Dead Animals. Remove dead animals from the public right-of-way within City limits and from other areas upon request.

(f) Potentially Dangerous/Vicious Animals. In accordance with the Wildomar Municipal Code, identify potentially dangerous and/or vicious animals and initiate the administrative or legal process for their control.

(g) Trapping & Removal. As limited by subsection (b) above, respond to requests for assistance in the trapping and removal of domestic or wild animals, including coyotes and skunks, from public or private property. CONTRACTOR will offer advice in setting a trap in any enclosed space and will remove an animal caught in a trap, but shall not be required to move belongings, climb trees, crawl under houses, or so forth, or to maintain on-premises surveillance unless in the Officer's or his or her supervisor's

opinion there is a direct, clear and present danger to human life or injury. CONTRACTOR will provide traps but will not be required to provide vector control. CONTRACTOR shall charge a fee for traps as set out in CONTRACTORS Fee Schedule.

(h) Dog Licensing.

(i) CONTRACTOR shall implement a comprehensive licensing program including conducting dog license inspections. Area-wide canvassing will be conducted as part of the field service activity. CONTRACTOR shall administer the current licensing provision of the Wildomar Municipal Code.

(ii) Dog licenses shall be issued by mail, at the Animal Shelter, at AFV's administrative office, at vaccination clinics and by Animal Control Officers in the field. CONTRACTOR shall send renewal notices by mail to owners of currently licensed dogs, and shall send an application for licensing when requested by owners.

(iii) CONTRACTOR shall, at Contractor's expense, provide the forms and tags for such licenses, and shall affix a professionally prepared sign at the Animal Shelter, stating applicable fees for licensing for the City.

(iv) CONTRACTOR shall collect all license fees and penalties on behalf of the City, issue receipts for all such fees collected and keep copies thereof. CONTRACTOR shall retain \$6.00 for each dog license sold.

(v) CONTRACTOR shall pursue collection and/or prosecution, if appropriate, to recover any fraudulent, delinquent or worthless payment received as payment for dog licenses issued, including penalties.

(vi) CONTRACTOR shall cancel any dog license issued for which invalid payment was received, and give notice of such cancellation to the licensee.

(vii) CONTRACTOR shall maintain such records in such form as required by the City's Director of Finance so as to provide for proper cash management and for review and audit of the monies collected. CONTRACTOR shall furnish the City a monthly report detailing the licensing activities.

(viii) CONTRACTOR shall bill the City for the balance owing for Animal Control Services after crediting the amounts collected for license and penalty fees.

(i) Animal Bites. Investigate reported animal bites. CONTRACTOR may initially receive animal bite reports by telephone, but also shall respond in person to all reported bites by dogs or other suspected rabid or wild animals. CONTRACTOR shall take appropriate steps consistent with the circumstances of each separate incident to locate and quarantine the suspected animal(s) and/or assist the complained and/or injured party or parties to trap the suspected animal(s).

(j) Disposition of Unclaimed Animals. After notice and hearing as required, provide euthanasia service in a humane manner in accordance with procedures approved by the City Manager for unlicensed animals held for five (5) days and licensed animals held ten (10) days or more, if these animals are not reclaimed by their owner and are deemed unsuitable by CONTRACTOR for adoption.

(k) Clinics. Make all necessary arrangements and conduct at least two (2) one-day clinics for rabies vaccination and licensing of dogs each year which are open to City residents and which may be located in the City, or may be held in conjunction with the City of Lake Elsinore.

(1) Field Services. Assign one field service officer appointed as Animal Control Officer. Routine field services will be provided as necessary within the hours limitation of this Agreement. The number of hours per week include, but are not necessarily limited to routine mobile patrols, investigative and rescue time, court appearances and impoundment of dangerous, wild, injured or loose animals. CONTRACTOR shall assign a sufficient number of field service employees to duty at all times to meet the needs of this Agreement. CONTRACTOR shall provide service of five (5) hours per day during such hours as approved by the City Manager. Telephone service for members of the public shall be not less than seven and one half (7 1/2) hours per day on a schedule approved by the City Manager. The Shelter shall be open from 10:00 a.m. to 4:00 p.m. Monday through Saturday. Emergency response shall be available 24 hours per day; seven days per week as described in subparagraph (m). CONTRACTOR shall advise fire and law enforcement authorities serving the City of Wildomar of the telephone numbers to access its services and shall cooperate with such authorities in developing the procedures necessary to provide after hours services.

(m) After-Hours. Provide a field service person either on duty or on call after regular hours as necessary to respond to emergency calls. The City and CONTRACTOR agree that any incident reported to CONTRACTOR or City staff, through the fire or law enforcement provider involving a dangerous, wild or stray injured animal, constitutes an emergency and requires immediate action by CONTRACTOR. When the City Manager or his or her designee has reason to believe that an animal control emergency exists, the Manager or his or her designee shall notify CONTRACTOR and request a prompt response. If CONTRACTOR fails to respond to such request within a reasonable time or fails to respond at all, the City shall request in writing that CONTRACTOR send to the City a written explanation giving the reason(s) for the delay in responding or the failure to respond. Contractor's written explanation shall be submitted to the City Manager within two (2) working days from the date of the request for emergency service. This Agreement and the provisions herein shall not be construed to limit the interpretation of what constitutes an emergency and/or the need for a priority response. The following examples are illustrative of the need for an immediate response from CONTRACTOR.

(1) Requests to remove a wild, dangerous or injured animal or animals from an inhabited place or vehicle;

(2) Reported animal bites involving loose animals; and,

(3) Livestock, fowl or game birds being attacked or killed by dogs or other animals.

(n) Public Relations. Provide service to the public on matters covered in this Agreement consistent with established policies and procedures that promote courteous and efficient service and good public relations. Other policies and procedures notwithstanding, CONTRACTOR in processing any type of complaint or request for service will indicate to the caller when a response can be expected from CONTRACTOR and how CONTRACTOR will respond. In the event an in-person response is appropriate to the specific situation, CONTRACTOR shall make such response by the end of the following business day. This provision shall be subordinate to shorter time limits specified elsewhere in this Agreement.

(o) Complaints Regarding Service. Cooperate with the City to resolve any and all complaints filed with CONTRACTOR and/or the City pertaining to services provided under this Agreement. The City shall submit to CONTRACTOR in writing all complaints filed with the City concerning services provided by CONTRACTOR under this Agreement. CONTRACTOR shall report monthly in writing to the City the number of complaints received by CONTRACTOR directly or indirectly through the City pertaining to quality of service(s) provided under this Agreement.

(P) Legal. Coordinate with City and City Attorney any inspection warrants impounds or potential dangerous/vicious animal hearings or court actions.

(q) Records. Maintain and keep timely, complete and accurate records of the receipt and disposition of all animals delivered into its custody. CONTRACTOR will file a report with the law enforcement provider within twenty-four (24) hours if an impounded animal is missing or suspected to have been stolen. CONTRACTOR shall indicate on the police report the circumstances of the animal's disappearance and make available to the City Manager the designated report or file number.

(r) Communications Equipment. CONTRACTOR agrees to provide radio equipment and frequency as necessary for effective performance of its obligations hereunder and in order to provide law enforcement backup for its field personnel.

(s) Other Equipment. CONTRACTOR shall provide all vehicles and equipment necessary for the performance of this Agreement and shall be responsible for maintenance of such vehicles and equipment, including the installation and removal of the paging or radio equipment described in Paragraph (q) of this Section. CONTRACTOR shall be responsible for all costs relating to theft, vandalism, or destruction of said equipment by fire, accident or intentional acts.

(t) Personnel & Supplies. CONTRACTOR shall provide all personnel, supplies, and equipment necessary for the efficient and effective operation of the Animal Shelter and animal control services and programs provided for herein, including, but not limited to Animal Control Officers, clerical staff, license tags and forms, citation forms, notices and all necessary envelopes and postage. Animal Control Officers will complete the required animal control training program, or its equivalent, and such other training as may be required by law, before being issued a badge and given the authority to perform Animal Control duties. CONTRACTOR shall provide citations and door tags.

(u) Use of Animal Shelter. CONTRACTOR shall provide access to and use of the Animal Shelter which it leases pursuant to its animal control services agreement with the City of Wildomar.

(v) Attendance at Meetings. Provide input and coordination on amendment of City animal control fees and ordinances and shall attend City Council and other City meetings as required or requested to do so.

2. Coordination. Contractor's Executive Director and the City Manager shall meet as agreed to discuss Agreement performance.

3. Reporting.

(a) CONTRACTOR shall furnish the City monthly reports detailing shelter, field, licensing and identification activities, including a summary of the utilization of field service employees' hours required in Section 1 above and the records required by Section 1(P).

(b) CONTRACTOR shall maintain and keep records of all expenditures and obligations incurred pursuant to this Agreement and all income and fees received according to generally recognized accounting principles. Such records shall be maintained by CONTRACTOR for a minimum of four (4) years following the termination of this Agreement unless a lesser period is approved in writing by the City Manager. The records and/or animal control operations of CONTRACTOR shall be open to inspection and audit by the City or its authorized representative as is deemed necessary by the City upon reasonable notice to CONTRACTOR. CONTRACTOR shall provide the City a copy of Contractor's full Annual financial statement immediately upon completion thereof, but in no case later than six (6) months after the close of each fiscal year.

4. CONTRACTOR shall also implement the following programs on a continuing basis:

(a) Public School presentations

(b) Spay/neuter subsidy programs for low income persons (when funds are available)

(c) Ordinance review and changes aimed at ending pet overpopulation

(d) Animal Rescue Plan for domestic animals during disaster

(e) State Humane Officer services

5. In addition, CONTRACTOR will consult with the City and on any policy/procedure that affects Wildomar animals, which shall be approved by the City Manager prior to implementation.

EXHIBIT B
PAYMENT SCHEDULE

1. The City shall pay a monthly flat rate to Contractor in the amount of \$7500.00 per month for animal control services. CONTRACTOR will retain all license and citation fees. In no event this amount shall **exceed \$90,000.00** for the term of the Agreement.

2. Contractor shall charge License Fees for dogs within the City as follows:
 - a. Altered dogs \$15.00 for 1 year
 - b. Altered dogs \$20.00 for 2 years
 - c. Altered dogs \$25.00 for 3 years
 - d. Unaltered dogs \$50.00 for 1 year
 - e. Unaltered dogs \$100.00 for 2 years
 - f. Unaltered dogs \$150.00 for 3 years
 - g. Senior Citizen's dogs-altered \$8.00 for 1 year
(60 yrs. plus)
 - h. Senior Citizen's dogs-altered \$10.00 for 2 years
(60 yrs. plus)
 - i. Senior Citizen's dogs-altered \$12.00 for 3 years
(60 yrs. plus)
 - j. Late penalty of \$20.00 per license
 - k. Senior Citizen's Late Penalty-altered dog \$15.00
(60 yrs. plus)

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #1 L.
CONSENT CALENDAR
Meeting Date: July 22, 2009

TO: Honorable Mayor and City Council Members
FROM: Mike Kashiwagi, City Engineer
SUBJECT: Southern California Gas Company franchise

STAFF REPORT

RECOMMENDATION:

That the City Council adopt Ordinance No. 32, granting a franchise to construct, maintain and use pipes and appurtenances for transmitting and distributing gas to Southern California Gas Company.

ORDINANCE NO. 32

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,
CALIFORNIA, GRANTING TO SOUTHERN CALIFORNIA GAS COMPANY, ITS
SUCCESSORS AND ASSIGNS, THE FRANCHISE TO CONSTRUCT, MAINTAIN AND
USE PIPES AND APPURTENANCES FOR TRANSMITTING AND DISTRIBUTING
GAS FOR ANY AND ALL PURPOSES IN, ALONG, ACROSS, UPON, AND UNDER
THE PUBLIC STREETS AND PLACES WITHIN THE CITY OF WILDOMAR

BACKGROUND:

Southern California Gas Company currently holds a gas franchise within the City of Wildomar, which was granted by the County prior to the incorporation of the City. Upon the incorporation of the City, the County's interest in that franchise transferred to the City pursuant to the conditions of approval of incorporation. However, the County has continued to administer the franchise and collect the franchise fees from Southern California Gas Company, and then transferring the franchise fees to the City. It is the City's desire to establish a direct franchisor-franchisee relationship between the City and Southern California Gas Company.

This franchise is governed by The Franchise Act of 1937, which requires the City Council to adopt a resolution declaring its intention to grant the franchise prior to the actual adoption of the franchise ordinance, and setting the public hearing for the ordinance granting the franchise. The resolution of intention for this franchise was adopted by the Council at its June 10, 2009 meeting. The Resolution of Intention set the public hearing for this ordinance for July 8, 2009.

By adopting this Ordinance, this City will be establishing a direct franchisor-franchisee relationship with the Southern California Gas Company. The terms of the franchise ordinance are largely set by the Franchise Act of 1937, however, there was some negotiation between City staff and Southern California Gas Company. The franchise ordinance grants Southern California Gas Company the right to construct, maintain and use pipes and appurtenances for transmitting and distributing gas for any and all purposes, under, along, across or upon the streets of the City. In exchange, Southern California Gas Company will pay the City two percent of its gross annual receipts arising from the use, operation or possession of the franchise. Southern California Gas Company must construct, install and maintain its facilities in accordance with City regulations, and is responsible for repairing any damage arising from the operation or existence of any pipes and appurtenances constructed or maintained under the franchise.

FISCAL IMPACTS:

The adoption of this ordinance will have a positive fiscal impact on the City because Southern California Gas Company will commence paying its franchise fees directly to the City.

ALTERNATIVES:

1. Take no action
2. Provide staff with further direction and take action at a subsequent Council meeting.

Submitted by:

Approved by:

Michael Kashiwagi
City Engineer

John Danielson
City Manager

ORDINANCE NO. 32

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, GRANTING TO SOUTHERN CALIFORNIA GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE TO CONSTRUCT, MAINTAIN AND USE PIPES AND APPURTENANCES FOR TRANSMITTING AND DISTRIBUTING GAS FOR ANY AND ALL PURPOSES IN, ALONG, ACROSS, UPON, AND UNDER THE PUBLIC STREETS AND PLACES WITHIN THE CITY OF WILDOMAR

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

SECTION 1 DEFINITIONS.

Whenever in this ordinance the words or phrases hereinafter in this section defined are used, they shall have the respective meaning assigned to them in the following definitions (unless, in the given instance, the context wherein they are used shall clearly import a different meaning).

(a) The word "grantee" shall mean Southern California Gas Company, and its lawful successors or assigns;

(b) The word "city" shall mean the City of Wildomar, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form;

(c) The word "streets" shall mean the public streets, ways, alleys and places as the same now or may hereafter exist within said city, including state highways, now or hereafter established within said city, and freeways hereafter established within said city;

(d) The word "franchise" shall mean and include any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, maintain and use pipes and appurtenances for the business of transmitting and distributing gas for all purposes under, along, across or upon the public streets, ways, alleys and places in the City, and shall include and be in lieu of any existing or future City requirement to obtain a license or permit for the privilege of transacting and carrying on a business within the City;

(e) The phrase "pipes and appurtenances" shall mean pipes, pipelines, mains, services, traps, vents, cables, conduits, vaults, manholes, meters, appliances, associated communications infrastructure, attachments, appurtenances, and any other property located or to be located in, upon, along, across, or under the streets of the city,

and used or useful in the transmitting and/or distributing of gas;

(f) The word "gas" shall mean natural or manufactured gas, or a mixture of natural and manufactured gas;

(g) The phrase "construct, maintain, and use" shall mean to construct, erect, install, lay, operate, maintain, use, repair, or replace; and

(h) The phrase "gross annual receipts" shall mean gross operating receipts received by Grantee from the sale of gas to Grantee's customers less uncollectible amounts and less any refunds or rebates made by Grantee to such customers pursuant to California Public Utilities Commission orders or decisions.

SECTION 2 PURPOSE.

That the right, privilege and franchise, subject to each and all of the terms and conditions contained in this ordinance, and pursuant to the provisions of Division 3, Chapter 2 of the Public Utilities Code of the State of California, known as the Franchise Act of 1937, be and the same is hereby granted to Grantee to construct, maintain and use pipes and appurtenances for transmitting and distributing gas for any and all purposes, under, along, across or upon the streets of the City.

SECTION 3 TERM.

Said franchise shall be indeterminate from and after the effective date hereof; that is to say, said franchise shall endure in full force and effect until the same shall, with the consent of the Public Utilities Commission of the State of California, be voluntarily surrendered or abandoned by the Grantee, or until the state or some municipal or public corporation thereunto duly authorized by law shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of said franchise and situated in the territorial limits of the state, municipal, or public corporation purchasing or condemning such property, or until said franchise shall be forfeited for non-compliance with its terms by the Grantee pursuant to Section 9 of this Ordinance.

SECTION 4 CONSIDERATION.

(a) The Grantee of said franchise shall, during the term thereof, pay to the City at the times hereinafter specified, in lawful money of the United States, 1) a sum annually which shall be equivalent to two percent (2%) of the gross annual receipts of said Grantee arising from the use, operation or possession of said franchise; provided, however, that such payment shall in no event be less than one percent (1%) of the gross annual receipts of Grantee derived from the sale of gas within the limits of said City under this franchise and 2) all applicable surcharge payments due pursuant to the Municipal Public Lands Use Surcharge at California Public Utilities Code Section 6350 et seq.

(b) The Grantee shall file with the Clerk of said city, within three (3)

months after the expiration of the calendar year, or fractional calendar year, following the date of the granting hereof, and within three (3) months after the expiration of each and every calendar year thereafter, a duly verified statement showing in detail the total gross annual receipts of such Grantee during the preceding calendar year, or such fractional calendar year, from the sale of gas within said City. Such Grantee shall pay to said city within fifteen (15) days after the time for filing such statement, in lawful money of the United States, the aforesaid percentage of its gross annual receipts for such calendar year, or such fractional calendar year, covered by such statement.

SECTION 5 OTHER FRANCHISES.

This grant is made in lieu of all other gas utility franchises owned by the Grantee, or by any successor of the Grantee to any rights under this franchise, for transmitting and distributing gas within the limits of the City, as said limits now or may hereafter exist, and the acceptance of the franchise hereby granted shall operate as an abandonment of all such gas utility franchises within the limits of this City, as such limits now or may hereafter exist, in lieu of which this franchise is granted.

SECTION 6 OBLIGATIONS OF GRANTEE.

(a) All facilities or equipment of Grantee shall be constructed, installed and maintained in accordance with and in conformity with all of the ordinances, rules and regulations heretofore, or hereafter adopted by the legislative body of this City in the exercise of its police powers and not in conflict with the paramount authority of the State of California, and, as to state highways, subject to the provisions of the general laws relating to the location and maintenance of such facilities.

(b) If any portion of any street shall be damaged by reason of defects in any of the pipes and appurtenances maintained or constructed under this grant, or by reason of any other cause arising from the operation or existence of any pipes and appurtenances constructed or maintained under this grant, Grantee shall, at its own cost and expense, immediately repair any such damage and restore such portion of such damaged street to as good condition as existed before such defect or other cause of damage occurred.

(c) The Grantee shall pay to the City, on demand, the cost of all repairs to public property made necessary by any operations of the Grantee under this franchise.

(d) Notwithstanding any other provision of this ordinance, Grantee hereby expressly agrees to be subject to any ordinance, rule or regulation adopted heretofore or hereafter by the City in the exercise of its police powers and not in conflict with the paramount authority of the State of California requiring Grantee to obtain a permit from the City prior to excavating any paved street within the City, or to pay a fee to the City in association with such permit or approval consistent with California Government Code Section 66014 et seq.

(e) Except for such losses or damages caused by the negligence or

willful misconduct of City and any officers and employees, Grantee shall indemnify, save, and hold harmless, City and any officers and employees thereof against and from all damages, judgments, decrees, costs and expenditures which city, or such officer or employee, may suffer, or which may be recovered from, or obtainable against City, or such officer or employee, for, or by reason of, or growing out of or resulting from the exercising by Grantee of any or all of the rights or privileges granted hereby, or by reason of any act or acts of Grantee or its servants or agents in exercising the franchise granted hereby, and Grantee shall defend any suit that may be instituted against City, or any officer or employee thereof, by reason of or growing out of or resulting from the exercise by Grantee of any or all of the rights or privileges granted hereby, or by reason of any act or acts of Grantee, or its servants or agents, in exercising the franchise granted hereby.

SECTION 7 REMOVE OR RELOCATE FACILITIES.

(a) City reserves the right for itself to lay, construct, erect, install, use, operate, repair, replace, remove, relocate or maintain below surface or above surface improvements of any type or description in, upon, along, across, under or over the streets of the City. City further reserves the right to lawfully change the grade, alignment or width of any street. If the necessary exercise of the aforementioned reserved rights conflicts with any pipes and appurtenances of Grantee constructed, maintained, and used pursuant to the provisions of the franchise granted hereby, Grantee shall, without cost or expense to City within ninety (90) days after written notice from the City Manager, or his designated representative, and request so to do, begin the physical design and field construction of changing the location of all facilities or equipment so conflicting. Grantee shall proceed promptly to complete such required work.

(b) Irrespective of any other provision of this ordinance, Grantee's right to construct, maintain, and use, or remove pipes and appurtenances thereto shall be subject at all times to the right of the City, in the exercise of its police power, to require the removal or relocation of said pipes and appurtenances thereto at the sole cost and expense of Grantee and such work shall be done to the reasonable satisfaction of the City, except (1) as the law may otherwise provide, or, (2) except where Grantee's right to possession is pursuant to instruments evidencing right-of-way, easements or other interest in real property, or (3) except where the removal or relocation is made at the request of the City on behalf of or for the benefit of any private developer, CalTrans, or other third party.

(c) In the event that the City is made aware of a project developed by a governmental agency, water company, private party or the City that would be located within five hundred feet of a regulator station or other major gas facilities, City shall notify Grantee and initiate discussions among the implicated parties in order to assess potential economic and community impacts and facilitate coordinated and economically reasonable outcomes.

SECTION 8 TRANSFER OR SALE OF FRANCHISE.

Grantee of the franchise granted hereby shall file with the legislative body of the City within thirty (30) days after any sale, transfer, assignment or lease of this franchise, or any part thereof, or of any of the rights or privileges granted thereby, written evidence of the same, certified thereto by the Grantee or its duly authorized officers.

SECTION 9 FORFEITURE.

This franchise is granted upon each and every condition herein contained. Nothing shall pass by the franchise granted hereby to Grantee unless it be granted in plain and unambiguous terms. Each of said conditions is a material and essential condition to the granting of the franchise. If Grantee shall fail, neglect or refuse to comply with any of the conditions of the franchise granted hereby, and if such failure, neglect or refusal shall continue for more than thirty (30) days after written demand by the City Manager for compliance therewith, then City, by the City Council, in addition to all rights and remedies allowed by law, thereupon may terminate the rights, privilege, and franchise granted in and by this ordinance, and all the rights, privileges and the franchise of Grantee granted hereby shall thereupon be at an end. Thereupon and immediately, Grantee shall surrender all rights and privileges in and to the franchise granted hereby. No provision herein made for the purpose of securing the enforcement of the terms and conditions of the franchise granted hereby shall be deemed an exclusive remedy or to afford the exclusive procedure for the enforcement of said terms and conditions, but the remedies and procedure outlined herein or provided, including forfeiture, shall be deemed to be cumulative.

SECTION 10 ACQUISITION AND VALUATION.

The franchise granted hereunder shall not in any way or to any extent impair or affect the right of the City to acquire the property of the Grantee hereof either by purchase of through the exercise of the right of eminent domain, and nothing herein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the City's right of eminent domain in respect to the Grantee; nor shall this franchise ever be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the Grantee of the necessary publication and any other sum paid by it to the City therefor at the time of the acquisition thereof.

SECTION 11 PUBLICATION COSTS.

The Grantee of said franchise shall pay to the City a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting thereof, such payment to be made within thirty (30) days after the City shall have furnished such Grantee with a written statement of such expenses.

SECTION 12 EFFECTIVE DATE.

The franchise granted hereby shall not become effective until written acceptance thereof shall have been filed by the Grantee with the City Clerk. When so

filed, such acceptance shall constitute a continuing agreement of the Grantee that if and when the City shall thereafter annex or consolidate with additional territory, any and all franchise rights and privileges owned by the Grantee therein shall likewise be deemed to be abandoned within the limits of the additional territory.

SECTION 13 WRITTEN ACCEPTANCE.

After the publication of this ordinance, the Grantee shall file with the City Clerk a written acceptance of the franchise hereby granted, and an agreement to comply with the terms and conditions hereof.

SECTION 14 PUBLICATION.

The City Clerk shall certify to the adoption of this ordinance, and within fifteen (15) days after its adoption, shall cause the same (with a list of the Council Members voting for and against) to be published in a newspaper of general circulation published and circulated in said City.

PASSED APPROVED AND ADOPTED this 22nd day of July, 2009.

Scott Farnam
Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

ORDINANCE NO. 31

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ESTABLISHING ELECTORAL DISTRICTS TO IMPLEMENT A SYSTEM OF ELECTION BY DISTRICTS FOR MEMBERS OF THE LEGISLATIVE BODY AS MANDATED BY A VOTE OF THE PEOPLE

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

SECTION 1. Establishment of Electoral Districts

(a) This ordinance establishes five electoral districts for the election of members of the City Council by-district in accord with the provisions Measure D, which was approved by the voters on February 5, 2008 and with the implementing provisions of Government Code Section 34872.

(b) The boundaries and number of each of the five electoral districts established by this ordinance are set forth in Exhibit A including a map of the districts, which is incorporated herein by reference.

SECTION 2. Election of Members to the City Council by Electoral Districts

(a) One member of the City Council shall reside in each of the electoral districts established by this ordinance and shall be elected by a vote of the voters of that District only.

(b) The first election of by-district representative members of the City Council for the City of Wildomar pursuant to this ordinance shall be for the two seats located in the even-numbered districts as depicted in Exhibit A in 2010. The second election shall be for the three seats located in the odd-numbered districts as depicted in Exhibit A in 2012.

(c) Each member of the City Council elected pursuant to this ordinance shall hold office for a four year term commencing in the year in which he or she is elected by-district.

SECTION 3. Amendment of District Boundaries

To the extent that district boundaries must be adjusted on a decennial basis as required by the provisions of California Elections Code §21601 *et seq.*, such

amendment shall be processed and approved by the City Council and need not be submitted to the voters for approval. Any other amendment of the district boundaries established by this ordinance, however, shall be submitted to the voters for approval in accord with the provisions of California Government Code §§ 34874-77.

SECTION 4. 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 5. Effective Date.

This ordinance shall take effect thirty (30) days after its passage by the City Council.

SECTION 6. Publication.

The City Clerk shall cause this ordinance to be published or posted in accordance with California law.

PASSED, APPROVED, AND ENACTED this ____ day of _____, 2009.

Scott Farnam
Mayor

APPROVED AS TO FORM:

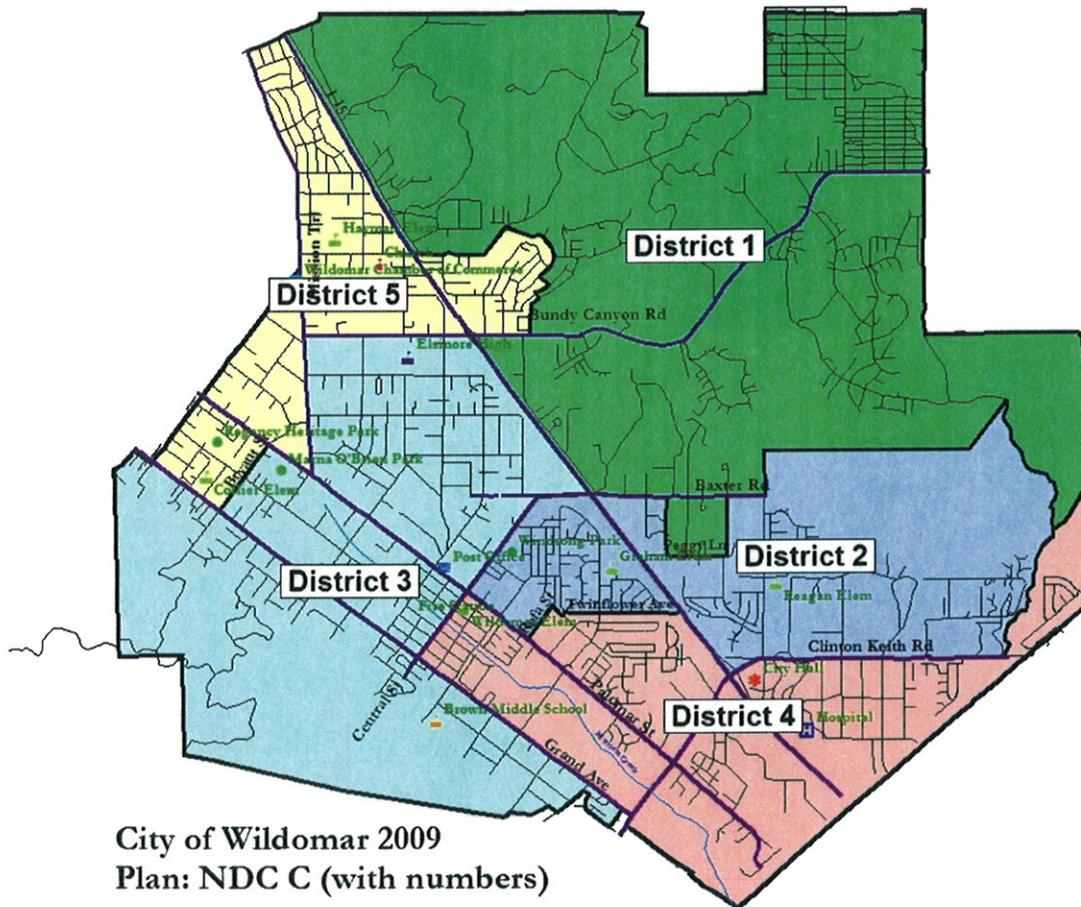
ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

EXHIBIT A

WILDOMAR ELECTORAL DISTRICT MAP AND LEGAL DESCRIPTIONS



First District - The region bounded and described as follows:

Beginning at the point of intersection of the centerline of Interstate 15 and Bundy Canyon Road, and proceeding easterly along Bundy Canyon Rd to Canyon Ranch Rd, and proceeding northerly along Canyon Ranch Rd to Leaf Stock Trail, and proceeding northerly along Leaf Stock Trail to Breckenridge Trail, and proceeding northerly along Breckenridge Trail to Seed Leaf Trail, and proceeding northerly along Seed Leaf Trail to Great Falls Rd, and proceeding northerly along Great Falls Rd to Gafford Rd, and proceeding westerly along Gafford Rd to Lemon St, and proceeding southerly along Lemon St to the centerline of Interstate 15, and proceeding northerly along the centerline of Interstate 15 to the City Border, and proceeding easterly and southerly along the City Border to the ditch comprising the border between Census Block 060650432081014 on the west and Census Block 060650432081041 on the east, and proceeding

southwesterly along that Census Block boundary to the dirt road between Census Block 060650432081027 on the west and Census Block 060650432081014 on the east, and proceeding along the dirt road to the wash between Census Block 060650432081027 on the west and Census Block 060650432081026 on the east, and proceeding along the wash to Farm Road, and proceeding southwesterly and westerly and southerly along the border between Census Block 060650432083009 on the west and Census Block 060650432081027 on the east to Baxter Rd, and proceeding west along Baxter Rd to Susan Dr, and proceeding southerly along Susan Dr to Peggy Ln, and proceeding westerly along Peggy Ln to Bayless Rd, and proceeding northerly along Bayless Rd to Baxter Rd, and proceeding westerly along Baxter Rd to the centerline of Interstate 15, and proceeding northerly along the centerline of Interstate 15 to the point of beginning.

Second District - The region bounded and described as follows:

Beginning at the point of intersection of Central Street and Palomar Street, and proceeding easterly along Palomar St to Refa St, and proceeding northerly along Refa St to Charles St, and proceeding easterly along Charles St to Woshka Ln, and proceeding northerly along Woshka Ln to Showut Ave, and proceeding easterly along Showut Ave to Twinflower Ave, and proceeding easterly along Twinflower Ave to the centerline of Interstate 15, and proceeding southerly along the centerline of Interstate 15 to Clinton Keith Road, and proceeding easterly along Clinton Keith Road to the ditch comprising the Census Block boundary running between Census Block 060650432081027 on the west and 060650432081041 on its east, in the hills between Loring Road to the west and Via Sarah to the east, and proceeding northeast along the hills, ditch and Census Block boundary to the dirt road between Census Block 060650432081027 on the west and Census Block 060650432081014 on the east, and proceeding along the dirt road to the wash between Census Block 060650432081027 on the west and Census Block 060650432081026 on the east, and proceeding along the wash to Farm Road, and proceeding southwesterly and westerly and southerly along the border between Census Block 060650432083009 on the west and Census Block 060650432081027 on the east to Baxter Rd, and proceeding west along Baxter Rd to Susan Dr, and proceeding southerly along Susan Dr to Peggy Ln, and proceeding westerly along Peggy Ln to Bayless Rd, and proceeding northerly along Bayless Rd to Baxter Rd, and proceeding westerly along Baxter Rd to Central St, and proceeding southerly along Central St to the point of beginning.

Third District - The region bounded and described as follows:

Beginning at the point of intersection of Grand Ave and Corydon Rd, and proceeding southerly along Grand Ave to Bryant St, and proceeding northerly along Bryant St to Palomar St, and proceeding southerly along Palomar St to

Mission Trail, and proceeding northerly along Mission Trail to Bundy Canyon Rd, and proceeding easterly along Bundy Canyon Rd to the centerline of Interstate 15, and proceeding southerly along the centerline of Interstate 15 to Baxter Rd, and proceeding westerly along Baxter Rd to Central St, and proceeding southerly along Central St to Grand Ave, and proceeding southerly along Grand Ave to the northeast corner of parcel 380150027, and proceeding southwesterly, westerly, and northerly along the City Border to the point of beginning.

Fourth District - The region bounded and described as follows:

Beginning at the point of intersection of Central St and Grand Ave, and proceeding northerly along Central St to Palomar St, and proceeding easterly along Palomar St to Refa St, and proceeding northerly along Refa St to Charles St, and proceeding easterly along Charles St to Woshka Ln, and proceeding northerly along Woshka Ln to Showut Ave, and proceeding easterly along Showut Ave to Twinflower Ave, and proceeding easterly along Twinflower Ave to the centerline of Interstate 15, and proceeding southerly along the centerline of Interstate 15 to Clinton Keith Road, and proceeding easterly along Clinton Keith Road to the ditch comprising the Census Block boundary running between Census Block 060650432081027 on the west and 060650432081041 on its east, in the hills between Loring Road to the west and Via Sarah to the east, and proceeding northeast along the hills, ditch and Census Block boundary to the City Border, and proceeding southerly and northerly along the City Border to Clinton Keith Road, and proceeding northerly along Clinton Keith Road to Grand Avenue, and proceeding northerly along Grand Avenue to the point of beginning.

Fifth District - The region bounded and described as follows:

Beginning at the point of intersection of Grand Ave and Corydon Rd, and proceeding southerly along Grand Ave to Bryant St, and proceeding northerly along Bryant St to Palomar St, and proceeding southerly along Palomar St to Mission Trail, and proceeding northerly along Mission Trail to Bundy Canyon Rd, and proceeding easterly along Bundy Canyon Rd to Canyon Ranch Rd, and proceeding northerly along Canyon Ranch Rd to Leaf Stock Trail, and proceeding northerly along Leaf Stock Trail to Breckenridge Trail, and proceeding northerly along Breckenridge Trail to Seed Leaf Trail, and proceeding northerly along Seed Leaf Trail to Great Falls Rd, and proceeding northerly along Great Falls Rd to Gafford Rd, and proceeding westerly along Gafford Rd to Lemon St, and proceeding southerly along Lemon St to the centerline of Interstate 15, and proceeding northerly along the centerline of Interstate 15 to the City Border, and proceeding westerly and southerly along the City Border to the point of beginning.

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #2 A.
PUBLIC HEARING
Meeting Date: July 22, 2009

TO: Honorable Mayor Farnam, Members of the City Council

FROM: Juan C. Perez, Director of Transportation, County of Riverside
acting on behalf of the City of Wildomar

SUBJECT: Landscaping and Lighting Maintenance District No.
89-1-Consolidated, Zones 3 (Locations 7, 23, 24, 25, 29, 35, 42,
43, 45, 47, 49, and 53), 29 (Location 2), 30 (Locations 1 and 2), 42,
51, 52, 59, 62, 67, 71, and 90, and Street Lighting Zones 18, 26,
27, 35, 50, 70, 71, and 73.

STAFF REPORT

RECOMMENDATION:

That the City Council adopt the following Resolution:

RESOLUTION NO. 09-48, A RESOLUTION OF THE CITY OF WILDOMAR CONFIRMING THE DIAGRAM AND ASSESSMENT FOR ZONE 3, LOCATIONS 7, 23, 24, 25, 29, 35, 42, 43, 45, 47 AND 49; ZONE 29, LOCATION 2; ZONE 30, LOCATIONS 1 AND 2; ZONE 42, ZONE 51; ZONE 52; ZONE 59; ZONE 62; ZONE 67; ZONE 71; AND ZONE 90; AND STREET LIGHTING ZONE 18, STREET LIGHTING ZONE 26, STREET LIGHTING ZONE 27, STREET LIGHTING ZONE 35, STREET LIGHTING ZONE 50, STREET LIGHTING ZONE 70, STREET LIGHTING ZONE 71 AND STREET LIGHTING ZONE 73 OF LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED (HEREINAFTER "L&LMD NO. 89-1-C") AND LEVYING ASSESSMENTS ON ALL ASSESSABLE LOTS AND PARCELS OF LAND THEREIN FOR FISCAL YEAR 2009-10.

BACKGROUND:

The proposed assessments for Zones 3, 29, 30, 51, 52, 59, 62, 67, 71, and 90 and Street Lighting Zones 18, 26, 27, 35, 50, 70, 71, and 73 are described in Attachment A. The annual budget for fiscal year 2009-10 totals \$288,792.00.

Pursuant to the Landscaping and Lighting Act of 1972 and Resolution No. 09-43, a public hearing was held on July 22, 2009 to receive testimony regarding the assessment levy for fiscal year 2009-10 for Zones 3, 29, 30, 51, 52, 59, 62, 67,

71, and 90 and Street Lighting Zones 18, 26, 27, 35, 50, 70, 71, and 73 of L&LMD No. 89-1-C. Notice of the public hearing was given by publication of a certified copy of Resolution No. 08-53 in The Press Enterprise at least ten (10) days prior to the public hearing date of July 22, 2009.

Adoption of Resolution No. 09-48 confirms the assessment levy, as indicated in the Engineer's Report for fiscal year 2009-10 for L&LMD No. 89 1 C and orders the placement of the annual assessment of the County's Assessment Roll.

ALTERNATIVES:

1. Take no action. This would mean that the County of Riverside could not continue collecting assessments to pay for maintenance of improvements in these specific right-of-ways and would need to discontinue (a) the maintenance of landscaping, trails, fencing, and irrigation services to these areas, in certain zones, (b) maintaining the fossil filters in certain zones as required by the Santa Margarita Regional Water Quality Control Board re compliance with the National Pollutant Discharge Elimination System (NPDES) permit, and (c) paying Edison for streetlight energy costs in certain zones.
2. Provide staff with further direction.

Attachments:

Attachment A
Resolution No. 09-48

Submitted by:



Juan C. Perez
Director of Transportation,
County of Riverside acting
on behalf of the City of Wildomar

Approved by:

John Danielson
City Manager

Approved as to form:

Julie Hayward Biggs
City Attorney

ATTACHMENT A

The proposed assessments for Zones 3, 29, 30, 51, 52, 59, 62, 67, 71, and 90 and Street Lighting Zones 18, 26, 27, 35, 50, 70, 71, and 73 of L&LMD No. 89-1-C are as follows:

Zone 3

One of the twelve Locations within Zone 3 was established prior to the adoption of Proposition 218 (the "Proposition"). The annual assessment for these Locations, and for each of the Locations annexed to Zone 3, was set as of the effective date of the Proposition. Consequently, the annual assessment levied for all Locations in Zone 3 does not include an inflation increase factor and has not been increased since the effective date of the Proposition and no increase is proposed for fiscal year 2009-10.

The proposed assessment for FY 2009-10 for all Locations in Zone 3 remains at \$77.68 per parcel. The proposed budget for fiscal year 2009-10 is \$108,208.00.

As to all of the following Zones, the mailed assessment ballot proposition approved by the property owners provides that the annual assessment will be increased each year by the greater of two percent (2%) or the cumulative percentage increase, if any, in the Consumer Price Index for the Los Angeles-Riverside-Orange County California Standard Metropolitan Statistical Area (the "Index") as the Index stands as of March of each calendar year. For FY 2009-10, the proposed annual assessment for each of the following Zones may be increased by 2%.

Zone 29

The proposed assessment for fiscal year 2009-10 for Zone 29 is \$78.06 per parcel The proposed budget for fiscal year 2009-10 is \$781.00.

Zone 30

The proposed assessment for fiscal year 2009-10 for Zone 30 is \$156.08 per parcel The proposed budget for fiscal year 2009-10 is \$25,597.00.

Zone 42

The proposed assessment for fiscal year 2009-10 for Zone 42 is \$145.42 per parcel The proposed budget for fiscal year 2009-10 is \$27,775.00.

Zone 51

The proposed assessment for fiscal year 2009-10 for Zone 51 is \$105.36 per parcel The proposed budget for fiscal year 2009-10 is \$6,427.00.

Zone 52

The proposed assessment for fiscal year 2009-10 for Zone 52 is \$570.56 per parcel The proposed budget for fiscal year 2009-10 is \$51,921.00.

ATTACHMENT A

Zone 59

The proposed assessment for fiscal year 2009-10 for Zone 59 is \$315.76 per acre The proposed budget for fiscal year 2009-10 is \$4,061.00.

Zone 62

The proposed assessment for fiscal year 2009-10 for Zone 62 is \$125.20 per parcel The proposed budget for fiscal year 2009-10 is \$14,523.00.

Zone 67

The proposed assessment for fiscal year 2009-10 for Zone 67 is \$138.64 per parcel The proposed budget for fiscal year 2009-10 is \$6,100.00.

Zone 71

The proposed assessment for fiscal year 2009-10 for Zone 71 is \$60.10 per parcel The proposed budget for fiscal year 2009-10 is \$8,534.00.

Zone 90

The proposed assessment for fiscal year 2009-10 for Zone 90 is \$297.94 per parcel The proposed budget for fiscal year 2009-10 is \$30,092.00.

As to all of the following Street Lighting Zones, the mailed assessment ballot proposition approved by the property owners provides that the annual assessment will be increased each year by the greater of two percent (2%) or the cumulative percentage increase, if any, in the Consumer Price Index for electricity for the Los Angeles-Riverside-Orange County California Standard Metropolitan Statistical Area (the "Index") as the Index stands as of March of each calendar year. For FY 2009-10, the proposed annual assessment for each of the following Zones will be increased by 2%.

Street Lighting Zone 18

The proposed assessment for fiscal year 2009-10 for Street Lighting Zone 18 is \$604.38 per parcel. The proposed budget for fiscal year 2009-10 is \$604.00.

Street Lighting Zone 26

The proposed assessment for fiscal year 2009-10 for Street Lighting Zone 26 is \$86.18 per acre. The proposed budget for fiscal year 2009-10 is \$842.00.

Street Lighting Zone 27

The proposed assessment for fiscal year 2009-10 for Street Lighting Zone 27 is \$109.60 per acre. The proposed budget for fiscal year 2009-10 is \$950.00.

ATTACHMENT A

Street Lighting Zone 35

The proposed assessment for fiscal year 2009-10 for Street Lighting Zone 35 is \$38.46 per acre. The proposed budget for fiscal year 2009-10 is \$157.00.

Street Lighting Zone 50

The proposed assessment for fiscal year 2009-10 for Street Lighting Zone 50 is \$32.96 per acre. The proposed budget for fiscal year 2009-10 is \$235.00.

Street Lighting Zone 70

The proposed assessment for fiscal year 2009-10 for Street Lighting Zone 70 is \$231.46 per acre. The proposed budget for fiscal year 2009-10 is \$968.00.

Street Lighting Zone 71

The proposed assessment for fiscal year 2009-10 for Street Lighting Zone 71 is \$25.64 per acre. The proposed budget for fiscal year 2009-10 is \$330.00.

Street Lighting Zone 73

The proposed assessment for fiscal year 2009-10 for Street Lighting Zone 73 is \$210.62 per acre. The proposed budget for fiscal year 2009-10 is \$687.00.

RESOLUTION NO. 09-48

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR CONFIRMING THE DIAGRAM AND ASSESSMENT FOR ZONES 3, 29, 30, 51, 52, 59, 62, 67, 71, AND 90 AND STREET LIGHTING ZONES 18, 26, 27, 35, 50, 70, 71, AND 73 OF LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED OF THE CITY OF WILDOMAR AND LEVYING ASSESSMENTS ON ALL LOTS AND PARCELS OF LAND THEREIN FOR FISCAL YEAR 2009-10; AND AUTHORIZE THE COUNTY OF RIVERSIDE TO ADMINISTER THE LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 89-1-CONSOLIDATED BUDGET FOR FISCAL YEAR 2009-10

WHEREAS, on July 8, 2009, the City Council (hereinafter the "City Council") of the City of Wildomar (hereinafter the "City"), adopted Resolution No. 09-43, pursuant to Section 22624 of the Streets and Highways Code (hereinafter the "Streets and Highways Code"), which among other things, scheduled a public hearing on the annual levy and collection of assessments on all lots and parcels of assessable land in 11 Zones (hereinafter "Zone 3", "Zone 29", "Zone 30", "Zone 42", "Zone 51", "Zone 52", "Zone 59", "Zone 62", "Zone 67", "Zone 71", "Zone 90", and, collectively "Zones"); and 8 Street Lighting Zones (hereinafter "Street Lighting Zone 18", "Street Lighting Zone 26", "Street Lighting Zone 27", "Street Lighting Zone 35", "Street Lighting Zone 50", "Street Lighting Zone 70", "Street Lighting Zone 71", "Street Lighting Zone 73" and, collectively "Street Lighting Zones"); of Landscaping and Lighting Maintenance District No. 89-1-Consolidated (hereinafter "L&MD No. 89-1-C") for FY 2009-10 to pay the costs of the installation and planting of landscaping; the installation of multi-purpose trails; the installation of fencing; the installation of fossil filters; the installation of irrigation or electrical facilities; and the maintenance and servicing of such landscaping, multi-purpose trails, fencing, and fossil filter improvements, and the provision of electricity for streetlights within the public rights-of-way, for July 22, 2009, at Wildomar City Hall, 23873 Clinton Keith Rd Suite 201, Wildomar, CA 92595; and

WHEREAS, notice of said public hearing was duly published as required by Resolution No. 09-43 and Section 22626(a) of the Streets and Highways code; and

WHEREAS, at the time and place of said public hearing, as set forth in Resolution No. 09-43, the City Council held the public hearing and afforded all interested persons an opportunity to testify and be heard, and considered all oral statements and all written protests or communications made or filed by any interested persons and at the conclusion of said hearing determined that a majority protest had not been received; and

WHEREAS, the City Council may proceed, pursuant to Section 22631 of the Streets and Highways Code, to adopt a resolution confirming the diagram and assessment, either as originally proposed, or as changed by it, and the adoption of such a

resolution shall constitute the levy of an assessment on all assessable lots and parcels of land within of L&MD No. 89-1-C for FY 2009-10.

NOW, THEREFORE, BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED by the City Council of the City of Wildomar assembled in regular session on July 22, 2009 as follows:

SECTION 1 Findings. That the City Council finds:

- (a) the preceding recitals are correct;
- (b) compliance has been had with all of the requirements of the Landscaping and Lighting Act of 1972, Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code;
- (c) a majority protest to the annual levy for existing Zones 3, 29, 30, 51, 52, 59, 62, 67, 71, and 90 and Street Lighting Zones 18, 26, 27, 35, 50, 70, 71, and 73 of L&LMD No. 89-1-C has not been filed;
- (d) the City Council may proceed to adopt a resolution confirming the diagram and assessment for L&MD No. 89-1-C either as originally proposed or as changed by it; and the Zones 3, 29, 30, 51, 52, 59, 62, 67, 71, and 90 and Street Lighting Zones 18, 26, 27, 35, 50, 70, 71, and 73 of L&MD No. 89-1-C either as originally proposed or as changed by it; and the assessments to be levied on the assessable lots and parcels of land in Zones 3, 29, 30, 51, 52, 59, 62, 67, 71, and 90 and Street Lighting Zones 18, 26, 27, 35, 50, 70, 71, and 73 of L&MD No. 89-1-C for the installation and planting of landscaping; the installation of multi-purpose trails; the installation of fencing; the installation of fossil filters; the installation of irrigation or electrical facilities; and the maintenance and servicing of such landscaping, multi-purpose trails, fencing, and; and the provision of electricity for streetlights within the public rights-of-way in said district during FY 2009-10 contained in the report to the Director of Transportation, acting on behalf of the City of Wildomar, which is on file with the City Clerk (hereinafter the "Report") are based on benefits derived by such lots and parcels.

SECTION 2 Authorized Improvements for Zones. The improvements authorized for Zones 3, 29, 30, 42, 51, 52, 67, 71 and 90 of L&LMD No. 89-1-C are:

- (a) The installation and planting of landscaping, including trees, shrubs, grass and other ornamental vegetation; and,
- (b) The installation of irrigation and electrical facilities; and
- (c) The maintenance or servicing of any of the foregoing.

In addition, Zones 29, 30, 51, 52, and 90 are authorized to provide the following:

- (a) Weed abatement and debris clean-up of multi-purpose trails;
- (b) Maintenance, repair and/or replacement of fencing.

In addition, Zones 52, 67, and 90 are authorized to provide the following:

- (a) Maintenance, repair and/or replacement of fossil filters within

catch basins within the public right-of-way including incidental costs and expenses.

SECTION 3 Improvements. The improvements authorized for Zones 59 and 62 are:

- (a) Maintenance, repair and/or replacement of fossil filters within catch basins within the public right-of-way including incidental costs and expenses.

In addition, Zone 59 is authorized to provide the following:

- (a) Provision of electricity to all streetlights within the public right-of-ways including incidental costs and expenses.

In addition, Zone 62 is authorized to provide the following:

- (a) Weed abatement and debris clean-up of multi-purpose trails.

SECTION 4 Improvements. The improvements authorized for Street Lighting Zones 18, 26, 27, 35, 50, 70, 71 and 73 of L&MD No. 89-1-C are:

- (a) Provision of electricity to all streetlights within the public right-of-ways including incidental costs and expenses.

SECTION 5 Confirmation of Report. The Report and the assessment diagram and the assessment of the estimated costs of the installation, and maintenance and servicing of landscaping improvements, multi-purpose trails, fencing, and fossil filters, and the provision of electricity for streetlights in Zones 3, 29, 30, 51, 52, 59, 62, 67, 71, and 90; and provision of electricity for streetlights within public right-of-ways in Street Lighting Zones 18, 26, 27, 35, 50, 70, 71, and 73 of L&MD No. 89-1-C for FY 2009-10 contained in the Report are confirmed.

SECTION 6 Levy of Assessment. Pursuant to Section 22631 of the Streets and Highways Code, the adoption of this resolution constitutes the levy of the assessment for the installation, and maintenance and servicing improvements in Zones 3, 29, 30, 51, 52, 59, 62, 67, 71, and 90 and the provision of electricity for streetlights within public right-of-ways in Street Lighting Zones 18, 26, 27, 35, 50, 70, 71, and 73 of L&MD No. 89-1-C for FY 2009-10 contained in the Report, and such assessment is levied. The City Clerk is directed to file a certified copy of this resolution, together with the diagram and assessment contained in the Report with the County Auditor of the County of Riverside, who, pursuant to Section 22645 of Streets and Highways Code, shall enter on the County Assessment Roll opposite each lot or parcel of land the amount assessed thereupon, as shown in said assessment.

SECTION 7 Authorization. The City Council authorizes the County to act as the City's agent to administer the revenue/expenditures and budget for L&MD No. 89 1 C for fiscal year 2009-10.

SECTION 8 Effective Date. This Resolution shall take effect from and after its date of adoption.

PASSED, APPROVED AND ADOPTED this 22nd day of July, 2009.

Scott Farnam
Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #2 B.
PUBLIC HEARING
Meeting Date: July 22, 2009

TO: Honorable Mayor and City Council Members
FROM: Mike Kashiwagi, City Engineer
SUBJECT: Southern California Edison franchise

STAFF REPORT

RECOMMENDATION:

That the City Council introduce Ordinance No. 33, granting a franchise for transmitting and distributing electricity to Southern California Edison.

BACKGROUND:

Southern California Edison currently holds an electricity franchise within the City of Wildomar, which was granted by the County prior to the incorporation of the City. Upon the incorporation of the City, the County's interest in that franchise transferred to the City pursuant to the conditions of approval of incorporation. However, the County continued to administer the franchise and collect the franchise fees from Southern California Edison, and then transferred the franchise fees to the City. It is the City's desire to establish a direct franchisor-franchisee relationship between the City and Southern California Edison.

This franchise is governed by The Franchise Act of 1937, which requires the City Council to adopt a resolution declaring its intention to grant the franchise prior to the actual adoption of the franchise ordinance, and setting the public hearing for the ordinance granting the franchise. The resolution of intention for this franchise was adopted by the Council at its June 24, 2009 meeting. The Resolution of Intention set the public hearing for this ordinance for July 22, 2009.

By adopting this Ordinance, this City will be establishing a direct franchisor-franchisee relationship with the Southern California Edison. The terms of the franchise ordinance are largely set by the Franchise Act of 1937, however, there was some negotiation between City staff and Southern California Edison. The franchise ordinance grants Southern California Edison a franchise to use, and to construct, poles, wires, conduits, and appurtenances, including communication circuits necessary or proper therefor, for transmitting and distributing electricity for all purposes, under, along, across, and upon the public streets, ways, alleys, and places within the City. In exchange, Southern California Edison will pay the City two percent of its gross annual receipts arising from

the use, operation or possession of the franchise. Southern California Edison must construct, install and maintain its facilities in accordance with City regulations, and is responsible for repairing any damage arising from the operation or existence of any pipes and appurtenances constructed or maintained under the franchise.

FISCAL IMPACTS:

The adoption of this ordinance will have a positive fiscal impact on the City because Southern California Edison will commence paying its franchise fees directly to the City.

ALTERNATIVES:

1. Take no action
2. Provide staff with further direction and take action at a subsequent Council meeting.

Submitted by:

Approved by:

Michael Kashiwagi
City Engineer

John Danielson
City Manager

ORDINANCE NO. 33

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ESTABLISHING A FRANCHISE WITH SOUTHERN CALIFORNIA EDISON FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY ON THE SAME TERMS AND CONDITIONS PREVIOUSLY ESTABLISHED BY THE COUNTY OF RIVERSIDE, AND RATIFYING THE PRIOR TRANSFER AND TERMINATION OF THE COUNTY OF RIVERSIDE'S INTEREST IN THAT FRANCHISE

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

SECTION 1. As used in this ordinance, the following words and phrases shall have the following meanings, unless the context in which they are used shall clearly import a different meaning:

- (a) The word "Grantee" shall mean Southern California Edison Company (SCE) and its lawful successors or assigns to which the franchise described in this ordinance is granted;
- (b) The phrase "public streets, ways, alleys, and places" shall mean county highways as defined in Streets and Highways Code section 941 and rights-of-way dedicated to and accepted by the City for road purposes as the same now or may hereafter exist within the City;
- (c) The phrase "poles, wires, conduits, and appurtenances" shall mean poles, towers, supports, wires, conductors, cables, guys, stubs, platforms, crossarms, braces, transformers, insulators, conduits, ducts, vaults, manholes, meters, cut-outs, switches, communication circuits, appliances, attachments, appurtenances, and any other property located or to be located in, over, under, along, across, and upon public streets, ways, alleys, and places within the City;
- (d) The phrase "construct and use" shall mean to lay, construct, excavate, erect, install, operate, maintain, use, repair, replace, relocate, or remove;
- (e) The word "franchise" shall mean and include any authorization granted hereunder to use, and to construct and use, electric transmission and distribution facilities, including communication circuits, for transmitting and distributing electricity for all purposes, under, along, across, and upon the public streets, ways, alleys, and places within the City;

- (f) The word "City" shall mean the City of Wildomar, in the County of Riverside of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

SECTION 2. Pursuant to and in accordance with the provisions of the Franchise Act of 1937, the City hereby grants to Southern California Edison Company (Grantee), its successors and assigns, a franchise to use, and to construct, poles, wires, conduits, and appurtenances, including communication circuits necessary or proper therefor, for transmitting and distributing electricity for all purposes, under, along, across, and upon the public streets, ways, alleys, and places within the City.

SECTION 3. This franchise shall be for an indeterminate term and shall endure in full force and effect unless, with the consent of the Public Utilities Commission of the State of California, this franchise shall be voluntarily surrendered or abandoned by the Grantee, or unless the State or some municipal or public corporation shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of this franchise and situated within the territorial limits of the State, municipal, or public corporation purchasing or condemning such property, or unless this franchise shall be forfeited for noncompliance with its terms by the Grantee.

SECTION 4. The Grantee shall have the following duties and liabilities during the life of this franchise:

- (a) The Grantee shall pay to the City the sum provided by law, which is presently two percent (2%) of the Grantee's gross annual receipts arising from the use, operation, or possession of this franchise; except that such payment shall in no event be less than one percent (1%) of the Grantee's gross annual receipts derived from the sale of electricity within the City;
- (b) The Grantee shall file with the City Clerk, within three (3) months after the expiration of the calendar year, or fractional calendar year, following the date of the granting of this franchise and within three (3) months after the expiration of each calendar year thereafter, a verified statement showing in detail the total gross receipts of the Grantee derived during the preceding calendar year, or fractional calendar year, from the sale of electricity within the City;

- (c) The Grantee shall pay to the City within fifteen (15) days after the time for filing its verified statement of gross receipts, in lawful money of the United States, the percentage specified in Section 4.a. above of its gross receipts for the calendar year, or fractional calendar year, covered by the statement. Any neglect, omission, or refusal by the Grantee to file the verified statement, or to pay the percentage at the times or in the manner hereinbefore provided, shall constitute grounds for the declaration of a forfeiture of this franchise and of all rights hereunder;
- (d) The Grantee shall pay to the City a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting of this franchise; such payment to be made within thirty (30) days after the City furnishes the Grantee with a written statement of such expenses;
- (e) The Grantee shall construct, install, and maintain all poles, wires, conduits, and appurtenances in accordance and in conformity with all of the ordinances and rules adopted by the City Council of the City in the exercise of its police powers and not in conflict with the paramount authority of the State, including but not limited to, any areas regulated by the California Public Utilities Commission and the Federal Energy Regulatory Commission (such as design, access, location of SCE facilities) and, as to state highways, subject to the laws relating to the location and maintenance of such facilities therein;
- (f) If any portion of any public street, way, alley or place shall be damaged by any of the operations of Grantee under this franchise, and is not due to ordinary wear and tear, City shall provide Grantee with written notice of the damage in question. Grantee shall, at its own cost and expense, repair any such damage within forty-five (45) days of its occurrence, and restore such portion of such damaged street, way, or alley to the condition as existed before such damage occurred. If the Grantee believes that it will be unable to complete necessary repairs in the specified time periods, Grantee may request that the City meet and confer with Grantee prior to the expiration of the applicable time period to determine the cause for the delay. If in the City's reasonable opinion, the work could not have been completed within the applicable time period due to unusual or unforeseen circumstances, and the work is being reasonably prosecuted towards completion, the City may extend the repair time periods. Alternatively, if Grantee has not completed the repair work as of the expiration of the applicable time period, City shall have the right to complete the necessary repairs that would have been required of Grantee and Grantee shall reimburse the City for the cost of the repairs.

- (g) The Grantee shall remove or relocate any facilities installed, used and maintained under the franchise if and when made necessary by any lawful change of grade, alignment or width of any public street, way, alley or place. Such removal or relocation shall be performed by Grantee without expense to the City. In no event shall Grantee be obligated to incur the cost of removal or relocation of any Facilities which were previously removed or relocated at the request of the City, if the City request for the removal or relocation is delivered on a date that is less than five (5) years from the date of the completion of a prior removal or relocation requested by the City with respect to such Facilities;
- (h) The Grantee shall file with the City Council of the City within thirty (30) days after any sale, transfer, assignment, or lease of this franchise or any part hereof, or any of the rights or privileges granted hereby, written evidence of the transaction certified to by the Grantee or its duly authorized officers;
- (i) The Grantee shall defend, indemnify and hold harmless the City and its officers from all liability for damages proximately resulting from any operations under this franchise, unless such damage is caused by the negligence of the City, its officers, or those working under or at the City's direction. The Grantee shall also defend, indemnify and hold harmless, the City and its officers from any claim, action or proceeding against the County or its officers to attack, set aside, void, or annul the City's approval of this ordinance;
- (j) The Grantee shall be liable to the City for all damages proximately resulting from the failure of the Grantee well and faithfully to observe and perform any provision of this franchise.

SECTION 5. Whenever any portion of the territory covered by this franchise shall be annexed to, or otherwise become a part of any other municipal corporation the rights reserved under this franchise to the City or any officer thereof, shall inure to the benefit of such municipal corporation, and its appropriate officers.

SECTION 6. This franchise does not in any way impair or affect the right of the City to acquire the property of the Grantee by purchase or condemnation, and nothing in this franchise shall be construed to contract away, modify or abridge either for a term or in perpetuity, the City's right of eminent domain in respect to the Grantee or any other public utility.

SECTION 7. Prior to excavating any public street, way, alley or place pursuant to this franchise, Grantee shall obtain a permit from the City authorizing it to conduct such excavation and shall pay any fee charged by the City that is reasonably related to the cost of issuing the permit. Grantee shall perform all excavation work in accordance with any City standards in effect at the time the excavation occurs.

- (a) Grantee shall work with the City to coordinate, to the extent practicable, its excavations with the City's repaving schedule and other planned excavations known to the City.
- (b) Grantee shall not excavate any public street, way, alley or place within five (5) years of the City's filing of a notice of completion or acceptance of a new street or within five (5) years after the repaving of the portion of the public street, way, alley or place that Grantee seeks to excavate, except in the following circumstances:
 - (i) An emergency which endangers life or property;
 - (ii) Repair or modification to prevent interruption of essential utility service;
 - (iii) Relocation work that is mandated by the City pursuant to Section 4(f) of this Ordinance;
 - (iv) Service for buildings where no other reasonable means of providing service exists;
 - (v) The public street is scheduled for repaving within one (1) year after the excavation permit is issued;
 - (vi) Potholing to verify utility depth or location;
 - (vii) Other situations deemed by the City to be in the best interest of the general public.
- (c) If Grantee is issued a permit to excavate within five (5) years of the City's filing of a notice of completion or acceptance of a new street or within five (5) years after the repaving of the portion of the public street, way, alley or place, Grantee shall repave the excavated area after completion of the work. The repaving shall cover the entire width of the street and shall cover the entire length of the trench plus ten (10) feet at both ends.

SECTION 8. This franchise shall never be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the Grantee of the necessary publication and any other sum paid by it to the City herefor at the time of acquisition.

SECTION 9. The City, by its City Council, may declare this franchise forfeited, if the Grantee fails, neglects or refuses to comply with any of the provisions or conditions of this franchise, and does not within sixty (60) days after written demand for compliance begin the work of compliance, or after such beginning does not prosecute the work with due diligence to completion. Grantee shall be afforded due process, including reasonable notice and reasonable opportunity to cure any non compliance prior to commencement of any termination proceedings.

SECTION 10. The City may sue in its own name for the forfeiture of this franchise, in the event of noncompliance with any of the provisions or conditions hereof by the Grantee.

SECTION 11. This franchise shall not become effective until the Grantee files written acceptance hereof with the City Clerk of the City within thirty (30) days after the adoption of this ordinance. Such written acceptance shall constitute a continuing agreement by the Grantee that if and when the City later annexes, or consolidates with, additional territory, all franchises, rights and privileges owned by the Grantee therein shall be deemed abandoned within the limits of the additional territory.

SECTION 12. Upon the effectiveness of this franchise pursuant to Section 11 above, the prior franchise between SCE and the County of Riverside as it pertains to the City of Wildomar, shall be of no further force and effect, between the parties hereto and this franchise shall control.

SECTION 13. This ordinance and the various parts, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby. If any part, sentence, paragraph, section or clause of this ordinance, or its application to any person or entity is adjudged unconstitutional or invalid, such unconstitutionality or invalidity shall affect only such part, sentence, paragraph, section or clause of this ordinance, or person or

entity; and shall not affect or impair any of the remaining provisions, parts, sentences, paragraphs, sections or clauses of this ordinance, or its application to other persons or entities. The City Council hereby declares that this ordinance would have been adopted had such unconstitutional or invalid part, sentence, paragraph, section or clause of this ordinance not been included herein; or had such person or entity been expressly exempted from the application of this ordinance.

SECTION 14. This ordinance shall take effect thirty (30) days after its passage by the City Council.

SECTION 15. The City Clerk shall cause this ordinance to be published or posted in accordance with Government Code section 36933.

PASSED, APPROVED, AND ADOPTED this ___ day of _____, 2009.

Scott Farnam
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 A.

GENERAL BUSINESS

Meeting Date: July 22, 2009

TO: Mayor and City Council

FROM: Terry L. Fitzwater, Assistant City Manager

SUBJECT: Consideration and possible approval of contract for a City Manager

STAFF REPORT

RECOMMENDATION:

Staff recommends the City Council of the City of Wildomar accept and review the offer for a City Manager and consider approving a subsequent contract.

BACKGROUND INFORMATION:

The City of Wildomar, with its July 1, 2008 incorporation will require a limited number of full-time staff as it continues its evolution and growth. Of paramount importance is the selection of a City Manager who will work with and support the City Council in the achievement of the city's goals and objectives.

DISCUSSION:

A subcommittee of two councilmembers, Sheryl Ade and Bridgette Moore, and the assistant city manager, Terry Fitzwater, was formed to start and complete a process with the ultimate goal to hire a new City Manager for the City of Wildomar. The committee advertised for the position and received approximately 30 resumes. Of that number, 9 were contacted to interview in an initial round of interviews. Three were asked to return for another round of interviews with the entire council. One individual was identified as the candidate of choice and council directed the subcommittee to negotiate terms and conditions of employment.

FISCAL IMPACT:

A late August hire date would impact the 09-10 budget by \$217,008 which includes both salary and benefits. This amount was included in the 09/10 budget.

ATTACHMENTS:

1. Agreement For Employment of City Manager

AGREEMENT FOR EMPLOYMENT OF CITY MANAGER

This Agreement is made and entered into this 22nd day of July, 2009, by and between the CITY OF WILDOMAR (the "CITY"), a general law City, and _____ ("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 _____ 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 responsible 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 benefiting 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 30th of each year. Thereafter, on the commencement of the City's fiscal year on July 1st, 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

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.

CITY MANAGER

CITY OF WILDOMAR

Scott Farnam, Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs, City Attorney

Debbie Lee, City Clerk

CITY OF WILDOMAR – COUNCIL
Agenda Item 3B
DISCUSSION/ACTION ITEM
Meeting Date: July 22, 2009

TO: Honorable Mayor Farnam, Members of the City Council

FROM: Julie Hayward Biggs, City Attorney

SUBJECT: Consideration of Council Sponsored Initiative Measures to be Submitted to the Electorate in a Special Election to be Consolidated with the November 2009 General Election Relating to the Manner in which Members of the City Council are Elected

STAFF REPORT

RECOMMENDATION:

On July 22, 2009, the City Council adopted Ordinance No. 31, implementing the by-district election system for election of members of the City Council commencing with the 2010 election cycle in accord with the terms of Measure D and Government Code sections 34871-34884. The Council has directed that it wishes to consider calling a special election for the consideration by the electorate of Council-sponsored initiative measures that would affirm or alter the manner in which members of the City Council are elected to office.

BACKGROUND:

At the time that the citizens voted to incorporate the City of Wildomar, they were also presented with Measure D which posed the question of whether the voters wished to have members of the City Council elected at-large or by-districts. The voters selected the by-district election system for the City.

To implement that system the City Council retained the services of National Demographics Corporation, Inc. ("NDC"). On June 24, 2009, NDC presented its materials to the City Council and the Council reviewed the various maps presented. After deliberate consideration, the Council chose one of the maps prepared by NDC for inclusion in the implementing ordinance for by-district elections in the City. The implementing ordinance was introduced for first reading at the July 8, 2009 meeting and was approved at the July 22, 2009 meeting.

The Council has the authority to submit initiative measures to the people for consideration under the provisions of Election Code Section 9222. This may be done at a special election in accord with the provisions of Government Code

Section 34871. Because the electorate did not have the opportunity to see the actual boundaries of the electoral districts that will be in place at the time by-district elections were voted on, and because the electorate did not have the opportunity to consider alternative electoral systems including the from-district system, the Council has directed that a resolution calling a special election on these alternatives be prepared along with the necessary ordinances for consideration by the electorate at a Special Election to be consolidated with the November 2009 general election.

Attached is a detailed legal memorandum presenting election guidelines for public agencies. Also attached is a resolution calling for a special election to be consolidated with the November 3, 2009 general election including ordinance measures for at-large, by-district and from-district systems of election for the Council's consideration and possible action. Finally, a memorandum is attached explaining the at-large, by-district and from-district options.

POTENTIAL OUTCOMES

If one of the measures prevails with a majority vote of the voters voting on that measure, it passes and will take effect 10 days after certification of the election results.

If more than one of the measures are approved by a majority of voters voting on each issue, the measure with the greatest number of affirmative votes will prevail in accord with the provisions of Elections Code Section 9221.

If all measures are defeated by a majority of voters voting on each issue, Measure D and Ordinance No. 31 remain in effect and may not be challenged for at least 12 months.

ATTACHMENTS:

1. Resolution 09-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL ELECTION TO BE HELD IN THE CITY OF WILDOMAR ON TUESDAY, NOVEMBER 3, 2009, TO CONSIDER THREE BALLOT MEASURES AFFECTING THE ELECTION OF MEMBERS OF THE WILDOMAR CITY COUNCIL AND REQUESTING THE REGISTRAR OF VOTERS FOR THE COUNTY OF RIVERSIDE TO CONSOLIDATE IT WITH THE GENERAL ELECTION ON THAT DATE AND TO CONDUCT THE ELECTION

2. Legal Memorandum regarding Public Agency Election Guidelines

3. Legal Memorandum regarding election system options

Submitted by:

Approved by:

Debbie Lee
City Clerk

John Danielson
City Manager

Approved as to form:

Julie Hayward Biggs
City Attorney

RESOLUTION NO. 09 - 52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL ELECTION TO BE HELD IN THE CITY OF WILDOMAR ON TUESDAY, NOVEMBER 3, 2009, TO CONSIDER THREE BALLOT MEASURES AFFECTING THE ELECTION OF MEMBERS OF THE WILDOMAR CITY COUNCIL AND REQUESTING THE REGISTRAR OF VOTERS FOR THE COUNTY OF RIVERSIDE TO CONSOLIDATE IT WITH THE GENERAL ELECTION ON THAT DATE AND TO CONDUCT THE ELECTION

WHEREAS, pursuant to the requirements of the laws of the State of California relating to general law cities, the City Council of the City of Wildomar calls and orders to be held in the City of Wildomar, California, on Tuesday, November 3, 2009, a special election on three ballot measures relating to the establishment of electoral districts within the City of Wildomar and the manner in which members of the City Council will be elected; and

WHEREAS, it is desirable that the special election be consolidated with the general election to be held on the same date (November 3, 2009) and that within the city the precincts, polling places and election officers of the elections be the same, and that the county election department of the County of Riverside canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election.

WHEREAS, the City Council requests the Registrar of Voters, County of Riverside, to conduct the special consolidated election.

NOW THEREFORE, THE CITY COUNCL OF THE CITY OF WILDOMAR, CALIFORNIA , DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Pursuant to the requirements of the laws of the State of California relating to general law cities within the state, there shall be, and there is hereby called and ordered to be held in the City of Wildomar, California on Tuesday, November 3, 2009, a special election of the qualified electors of Wildomar on three ballot measures set forth as Exhibits A, B and C hereto and incorporated herein by reference relating to the establishment of electoral districts within the City of Wildomar and the manner in which members of the City Council will be elected.

SECTION 2. The special election called and ordered by this resolution shall be consolidated with the general election to be held on November 3, 2009.

SECTION 3. Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Riverside is hereby requested to consent and agree to the consolidation of a special election with the general election on Tuesday, November 3, 2009, for the purpose of consideration of adoption of a council-sponsored initiative ordinance relating to the adoption of an ordinance repealing Measure D which was enacted in February of 2008 and establishing at-large election of members of the Wildomar City Council. The proposed question for the ballot measure shall read as follows:

MEASURE _____

| | |
|--|-------------------|
| <p>Shall Ordinance 09-E01 be enacted, repealing Measure D which was enacted in 2008 and repealing Ordinance No. 31, and providing that members of the legislative body of the City of Wildomar shall be elected AT LARGE as set forth in the terms and conditions of approval of the incorporation of the City of Wildomar imposed by the Riverside County Local Formation Commission and approved by a vote of the people?</p> | <p>YES</p> |
| | <p>NO</p> |

SECTION 4. Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Riverside is hereby requested to consent and agree to the consolidation of a special election with the general election on Tuesday, November 3, 2009, for the purpose of consideration of adoption of a council-sponsored initiative ordinance relating to the adoption of an ordinance establishing district boundaries and terms of office for by-district election of members of the Wildomar City Council. The proposed question for the ballot measure shall read as follows:

MEASURE _____

| | |
|--|-------------------|
| <p>Shall Ordinance No. 09-E02 be enacted affirming the enactment of Measure D and Ordinance No. 31 providing that members of the legislative body of the City of Wildomar shall be elected BY districts as set forth in Ordinance No. 09-E02?</p> | <p>YES</p> |
| | <p>NO</p> |

SECTION 5. Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Riverside is hereby requested to consent and agree to the consolidation of a special election with the general election on Tuesday, November 3, 2009, for the purpose of consideration of adoption of a council-sponsored initiative ordinance relating to the adoption of an ordinance establishing district boundaries and terms of office for from-district election of members of the Wildomar City Council. The proposed question for the ballot measure shall read as follows:

MEASURE _____

| | |
|--|---|
| <p>Shall Ordinance 09-E03 be enacted, repealing Measure D which was enacted in 2008 and Ordinance No 31, and providing that members of the legislative body of the City of Wildomar shall be elected FROM districts as those districts are set forth in Ordinance 09-E03?</p> | <p style="font-size: 1.2em; margin: 0;">YES</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p style="font-size: 1.2em; margin: 0;">NO</p> |
|--|---|

SECTION 6. That the County Election Division is authorized to canvass the returns of the special election. The special election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

SECTION 7. That the Board of Supervisors is requested to issue instructions to the County Election Division to take any and all steps necessary for the holding of the special consolidated election.

SECTION 8. That the City of Wildomar recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 9. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Division of the County of Riverside.

SECTION 10. The polls for the election shall be open at seven o'clock a.m. on the day of the election, and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California.

SECTION 11. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding special elections in the City.

SECTION 12. The notice of the time and place of holding the special election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the special election, in time, form and manner as required by law.

SECTION 13. The City Clerk is directed to forward without delay to the County Registrar of Voters, a certified copy of this Resolution.

SECTION 14. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED on July 22, 2009.

Scott Farnam, Mayor

ATTEST:

Debbie Lee, CMC, City Clerk

APPROVED AS TO FORM:

Julie Hayward Biggs, City Attorney

EXHIBIT A

COUNCIL-SPONSORED INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The City Council for the City of Wildomar submits the following initiative measure to the voters of the City for approval and enactment:

ORDINANCE NO. 09-E01

AN ORDINANCE OF THE CITY OF WILDOMAR, CALIFORNIA, RELATING TO ELECTION OF MEMBERS OF THE CITY COUNCIL

THE PEOPLE OF THE CITY OF WILDOMAR ORDAIN AS FOLLOWS:

SECTION 1. Repeal of Measure D and Implementing Ordinance No. 31.

Measure D establishing election by-districts in the City of Wildomar, enacted by a vote of the people on February 5, 2008 and implementing Ordinance No. 31, are hereby repealed in their entirety in accord with the provisions of Government Code Section 34783.

SECTION 2. City Elections.

Members of the City Council shall be elected from the community at large without regard to their geographical residence within the City in accord with the terms and conditions of incorporation imposed by the Riverside County Local Agency Formation Commission.

SECTION 3. Effective Date

This ordinance shall take effect according to law ten days after certification of the election at which it is adopted.

EXHIBIT B

COUNCIL-SPONSORED INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The City Council for the City of Wildomar submits the following initiative measure to the voters of the City for approval and enactment:

ORDINANCE NO. 09-E02

AN ORDINANCE OF THE CITY OF WILDOMAR, CALIFORNIA, ESTABLISHING ELECTORAL DISTRICTS AND ADOPTING A SYSTEM OF ELECTION BY DISTRICTS FOR MEMBERS OF THE LEGISLATIVE BODY

THE PEOPLE OF THE CITY OF WILDOMAR ORDAIN AS FOLLOWS:

SECTION 1. Establishment of Electoral Districts

(a) This ordinance establishes five electoral districts for the election of members of the City Council by-district in accord with the provisions Measure D, which was approved by the voters on February 5, 2008, Government Code Section 34782 and affirms implementing Ordinance No. 31 adopted by the Wildomar City Council on July 22, 2009.

(b) The boundaries and number of each of the five electoral districts established by this ordinance are set forth in Exhibit A including a map of the districts, which is incorporated herein by reference.

SECTION 2. Election of Members to the City Council by Electoral Districts

(a) One member of the City Council shall reside in each of the electoral districts established by this ordinance and shall be elected by a vote of the voters of that District only.

(b) The first election of by-district representative members of the City Council for the City of Wildomar pursuant to this ordinance shall be for the two seats located in the even-numbered districts as depicted in Exhibit A in 2010. The second election shall be for the three seats located in the odd-numbered districts as depicted in Exhibit A in 2012.

(c) Each member of the City Council elected pursuant to this ordinance shall hold office for a four year term commencing in the year in which he or she is elected by-district.

SECTION 3. Amendment of District Boundaries

To the extent that district boundaries must be adjusted on a decennial basis as required by the provisions of California Elections Code §21601 *et seq.*, such amendment shall be processed and approved by the City Council and need not be submitted to the voters for approval. Any other amendment of the district boundaries established by this ordinance, however, shall be submitted to the voters for approval in accord with the provisions of California Government Code §§ 34874-77.

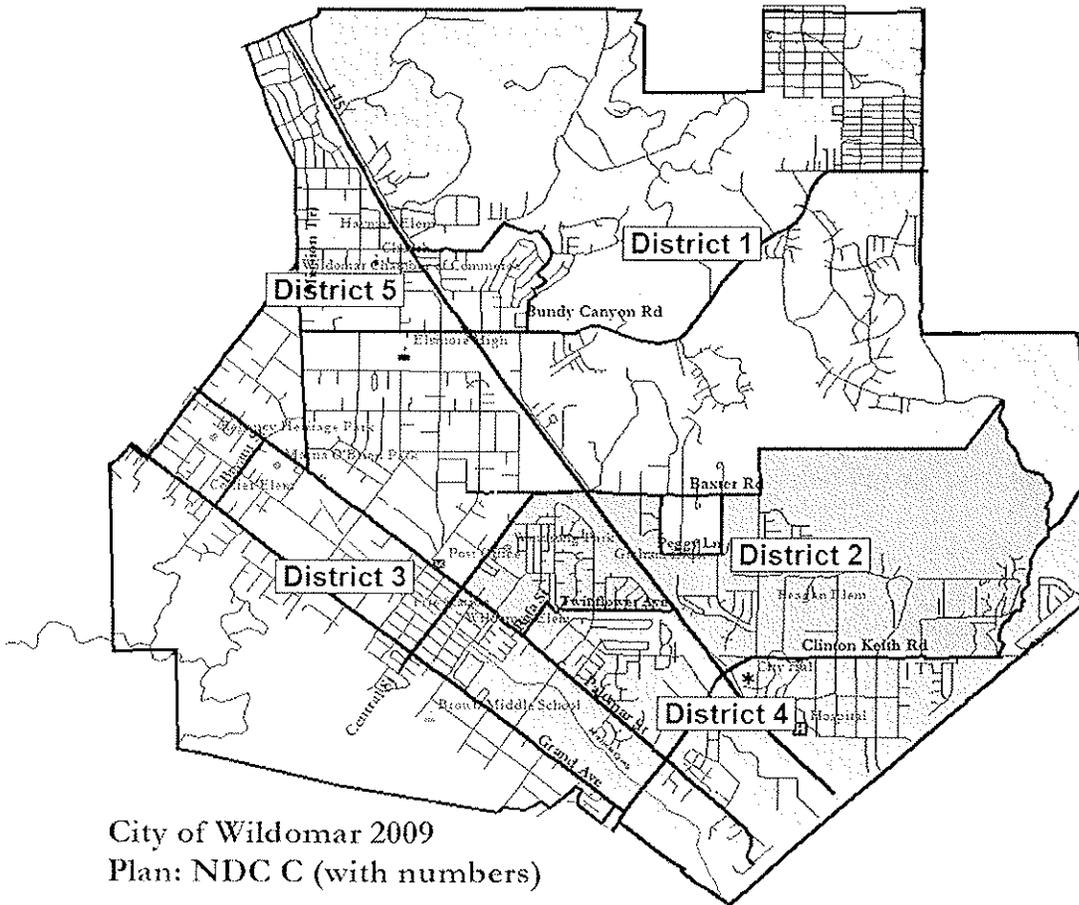
SECTION 4. Severability.

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 5. Effective Date

This ordinance shall take effect according to law ten days after certification of the election at which it is adopted.

EXHIBIT A
WILDOMAR ELECTORAL DISTRICT MAP AND LEGAL DESCRIPTIONS



First District - The region bounded and described as follows:

Beginning at the point of intersection of the centerline of Interstate 15 and Bundy Canyon Road, and proceeding easterly along Bundy Canyon Rd to Canyon Ranch Rd, and proceeding northerly along Canyon Ranch Rd to Leaf Stock Trail, and proceeding northerly along Leaf Stock Trail to Breckenridge Trail, and proceeding northerly along Breckenridge Trail to Seed Leaf Trail, and proceeding northerly along Seed Leaf Trail to Great Falls Rd, and proceeding northerly along Great Falls Rd to Gafford Rd, and proceeding westerly along Gafford Rd to Lemon St, and proceeding southerly along Lemon St to the centerline of Interstate 15, and proceeding northerly along the

centerline of Interstate 15 to the City Border, and proceeding easterly and southerly along the City Border to the ditch comprising the border between Census Block 060650432081014 on the west and Census Block 060650432081041 on the east, and proceeding southwesterly along that Census Block boundary to the dirt road between Census Block 060650432081027 on the west and Census Block 060650432081014 on the east, and proceeding along the dirt road to the wash between Census Block 060650432081027 on the west and Census Block 060650432081026 on the east, and proceeding along the wash to Farm Road, and proceeding southwesterly and westerly and southerly along the border between Census Block 060650432083009 on the west and Census Block 060650432081027 on the east to Baxter Rd, and proceeding west along Baxter Rd to Susan Dr, and proceeding southerly along Susan Dr to Peggy Ln, and proceeding westerly along Peggy Ln to Bayless Rd, and proceeding northerly along Bayless Rd to Baxter Rd, and proceeding westerly along Baxter Rd to the centerline of Interstate 15, and proceeding northerly along the centerline of Interstate 15 to the point of beginning.

Second District - The region bounded and described as follows:

Beginning at the point of intersection of Central Street and Palomar Street, and proceeding easterly along Palomar St to Refa St, and proceeding northerly along Refa St to Charles St, and proceeding easterly along Charles St to Woshka Ln, and proceeding northerly along Woshka Ln to Showut Ave, and proceeding easterly along Showut Ave to Twinflower Ave, and proceeding easterly along Twinflower Ave to the centerline of Interstate 15, and proceeding southerly along the centerline of Interstate 15 to Clinton Keith Road, and proceeding easterly along Clinton Keith Road to the ditch comprising the Census Block boundary running between Census Block 060650432081027 on the west and 060650432081041 on its east, in the hills between Loring Road to the west and Via Sarah to the east, and proceeding northeast along the hills, ditch and Census Block boundary to the dirt road between Census Block 060650432081027 on the west and Census Block 060650432081014 on the east, and proceeding along the dirt road to the wash between Census Block 060650432081027 on the west and Census Block 060650432081026 on the east, and proceeding along the wash to

Farm Road, and proceeding southwesterly and westerly and southerly along the border between Census Block 060650432083009 on the west and Census Block 060650432081027 on the east to Baxter Rd, and proceeding west along Baxter Rd to Susan Dr, and proceeding southerly along Susan Dr to Peggy Ln, and proceeding westerly along Peggy Ln to Bayless Rd, and proceeding northerly along Bayless Rd to Baxter Rd, and proceeding westerly along Baxter Rd to Central St, and proceeding southerly along Central St to the point of beginning.

Third District - The region bounded and described as follows:

Beginning at the point of intersection of Grand Ave and Corydon Rd, and proceeding southerly along Grand Ave to Bryant St, and proceeding northerly along Bryant St to Palomar St, and proceeding southerly along Palomar St to Mission Trail, and proceeding northerly along Mission Trail to Bundy Canyon Rd, and proceeding easterly along Bundy Canyon Rd to the centerline of Interstate 15, and proceeding southerly along the centerline of Interstate 15 to Baxter Rd, and proceeding westerly along Baxter Rd to Central St, and proceeding southerly along Central St to Grand Ave, and proceeding southerly along Grand Ave to the northeast corner of parcel 380150027, and proceeding southwesterly, westerly, and northerly along the City Border to the point of beginning.

Fourth District - The region bounded and described as follows:

Beginning at the point of intersection of Central St and Grand Ave, and proceeding northerly along Central St to Palomar St, and proceeding easterly along Palomar St to Refa St, and proceeding northerly along Refa St to Charles St, and proceeding easterly along Charles St to Woshka Ln, and proceeding northerly along Woshka Ln to Showut Ave, and proceeding easterly along Showut Ave to Twinflower Ave, and proceeding easterly along Twinflower Ave to the centerline of Interstate 15, and proceeding southerly along the centerline of Interstate 15 to Clinton Keith Road, and proceeding easterly along Clinton Keith Road to the ditch comprising the Census Block boundary running between Census Block 060650432081027 on the west and 060650432081041 on its east, in the hills between Loring Road to the west and Via Sarah to the east, and proceeding

northeast along the hills, ditch and Census Block boundary to the City Border, and proceeding southerly and northerly along the City Border to Clinton Keith Road, and proceeding northerly along Clinton Keith Road to Grand Avenue, and proceeding northerly along Grand Avenue to the point of beginning.

Fifth District - The region bounded and described as follows:

Beginning at the point of intersection of Grand Ave and Corydon Rd, and proceeding southerly along Grand Ave to Bryant St, and proceeding northerly along Bryant St to Palomar St, and proceeding southerly along Palomar St to Mission Trail, and proceeding northerly along Mission Trail to Bundy Canyon Rd, and proceeding easterly along Bundy Canyon Rd to Canyon Ranch Rd, and proceeding northerly along Canyon Ranch Rd to Leaf Stock Trail, and proceeding northerly along Leaf Stock Trail to Breckenridge Trail, and proceeding northerly along Breckenridge Trail to Seed Leaf Trail, and proceeding northerly along Seed Leaf Trail to Great Falls Rd, and proceeding northerly along Great Falls Rd to Gafford Rd, and proceeding westerly along Gafford Rd to Lemon St, and proceeding southerly along Lemon St to the centerline of Interstate 15, and proceeding northerly along the centerline of Interstate 15 to the City Border, and proceeding westerly and southerly along the City Border to the point of beginning.

EXHIBIT C

COUNCIL-SPONSORED INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The City Council for the City of Wildomar submits the following initiative measure to the voters of the City for approval and enactment:

ORDINANCE NO. 09-E03

AN ORDINANCE OF THE CITY OF WILDOMAR, CALIFORNIA, ESTABLISHING ELECTORAL DISTRICTS AND ADOPTING A SYSTEM OF ELECTION FROM DISTRICTS FOR MEMBERS OF THE LEGISLATIVE BODY

THE PEOPLE OF THE CITY OF WILDOMAR ORDAIN AS FOLLOWS:

SECTION 1. Repeal of Measure D.

Measure D establishing election by-districts in the City of Wildomar, enacted by a vote of the people on February 5, 2008 and implementing Ordinance No 31, adopted by the Wildomar City Council on July 22, 2009, are hereby repealed in their entirety in accord with the provisions of Government Code Section 34873.

SECTION 1. Establishment of Electoral Districts

(a) This ordinance establishes five electoral districts for the election of members of the City Council from-districts in accord with the provisions of Government Code Section 34871.

(b) The boundaries and number of each of the five electoral districts established by this ordinance are set forth in Exhibit A including a map of the districts, which is incorporated herein by reference.

SECTION 2. Election of Members to the City Council from Electoral Districts

(a) One member of the City Council shall reside in each of the electoral districts established by this ordinance and shall be elected by a vote of the voters of the entire city.

(b) The first election of from-district representative members of the City Council for the City of Wildomar pursuant to this ordinance shall be for the two seats located in the even-numbered districts as depicted in Exhibit A in 2010. The second election shall be for the three seats located in the odd-numbered districts as depicted in Exhibit A in 2012.

(c) Each member of the City Council elected pursuant to this ordinance shall hold office for a four year term commencing in the year in which he or she is elected from-districts.

SECTION 3. Amendment of District Boundaries

To the extent that district boundaries must be adjusted on a decennial basis as required by the provisions of California Elections Code §21601 *et seq.*, such amendment shall be processed and approved by the City Council and need not be submitted to the voters for approval. Any other amendment of the district boundaries established by this ordinance, however, shall be submitted to the voters for approval in accord with the provisions of California Government Code §§ 34874-77.

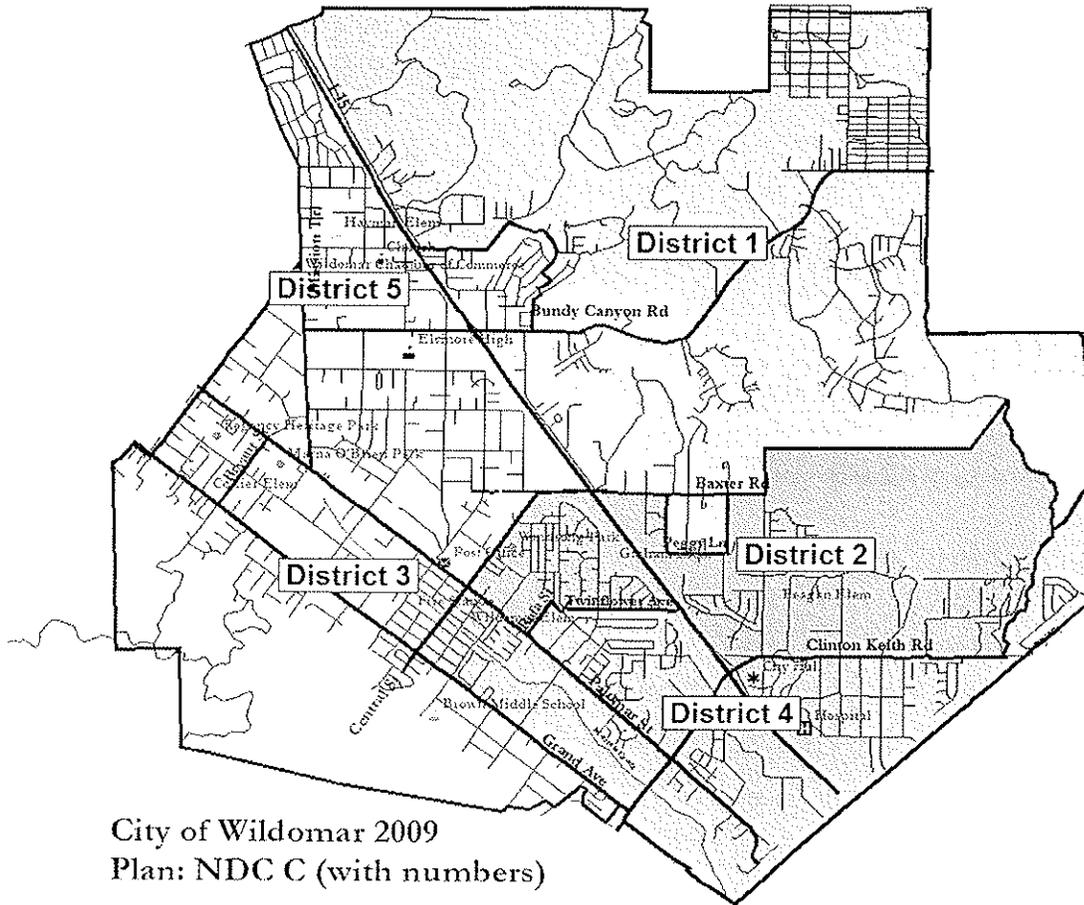
SECTION 4. Severability.

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 5. Effective Date

This ordinance shall take effect according to law ten days after certification of the election at which it is adopted.

EXHIBIT A
WILDOMAR ELECTORAL DISTRICT MAP AND LEGAL DESCRIPTIONS



First District - The region bounded and described as follows:

Beginning at the point of intersection of the centerline of Interstate 15 and Bundy Canyon Road, and proceeding easterly along Bundy Canyon Rd to Canyon Ranch Rd, and proceeding northerly along Canyon Ranch Rd to Leaf Stock Trail, and proceeding northerly along Leaf Stock Trail to Breckenridge Trail, and proceeding northerly along Breckenridge Trail to Seed Leaf Trail, and proceeding northerly along Seed Leaf Trail to Great Falls Rd, and proceeding northerly along Great Falls Rd to Gafford Rd, and proceeding westerly along Gafford Rd to Lemon St, and proceeding southerly along Lemon St to the centerline of Interstate 15, and proceeding northerly along the

centerline of Interstate 15 to the City Border, and proceeding easterly and southerly along the City Border to the ditch comprising the border between Census Block 060650432081014 on the west and Census Block 060650432081041 on the east, and proceeding southwesterly along that Census Block boundary to the dirt road between Census Block 060650432081027 on the west and Census Block 060650432081014 on the east, and proceeding along the dirt road to the wash between Census Block 060650432081027 on the west and Census Block 060650432081026 on the east, and proceeding along the wash to Farm Road, and proceeding southwesterly and westerly and southerly along the border between Census Block 060650432083009 on the west and Census Block 060650432081027 on the east to Baxter Rd, and proceeding west along Baxter Rd to Susan Dr, and proceeding southerly along Susan Dr to Peggy Ln, and proceeding westerly along Peggy Ln to Bayless Rd, and proceeding northerly along Bayless Rd to Baxter Rd, and proceeding westerly along Baxter Rd to the centerline of Interstate 15, and proceeding northerly along the centerline of Interstate 15 to the point of beginning.

Second District - The region bounded and described as follows:

Beginning at the point of intersection of Central Street and Palomar Street, and proceeding easterly along Palomar St to Refa St, and proceeding northerly along Refa St to Charles St, and proceeding easterly along Charles St to Woshka Ln, and proceeding northerly along Woshka Ln to Showut Ave, and proceeding easterly along Showut Ave to Twinflower Ave, and proceeding easterly along Twinflower Ave to the centerline of Interstate 15, and proceeding southerly along the centerline of Interstate 15 to Clinton Keith Road, and proceeding easterly along Clinton Keith Road to the ditch comprising the Census Block boundary running between Census Block 060650432081027 on the west and 060650432081041 on its east, in the hills between Loring Road to the west and Via Sarah to the east, and proceeding northeast along the hills, ditch and Census Block boundary to the dirt road between Census Block 060650432081027 on the west and Census Block 060650432081014 on the east, and proceeding along the dirt road to the wash between Census Block 060650432081027 on the west and Census Block 060650432081026 on the east, and proceeding along the wash to

Farm Road, and proceeding southwesterly and westerly and southerly along the border between Census Block 060650432083009 on the west and Census Block 060650432081027 on the east to Baxter Rd, and proceeding west along Baxter Rd to Susan Dr, and proceeding southerly along Susan Dr to Peggy Ln, and proceeding westerly along Peggy Ln to Bayless Rd, and proceeding northerly along Bayless Rd to Baxter Rd, and proceeding westerly along Baxter Rd to Central St, and proceeding southerly along Central St to the point of beginning.

Third District - The region bounded and described as follows:

Beginning at the point of intersection of Grand Ave and Corydon Rd, and proceeding southerly along Grand Ave to Bryant St, and proceeding northerly along Bryant St to Palomar St, and proceeding southerly along Palomar St to Mission Trail, and proceeding northerly along Mission Trail to Bundy Canyon Rd, and proceeding easterly along Bundy Canyon Rd to the centerline of Interstate 15, and proceeding southerly along the centerline of Interstate 15 to Baxter Rd, and proceeding westerly along Baxter Rd to Central St, and proceeding southerly along Central St to Grand Ave, and proceeding southerly along Grand Ave to the northeast corner of parcel 380150027, and proceeding southwesterly, westerly, and northerly along the City Border to the point of beginning.

Fourth District - The region bounded and described as follows:

Beginning at the point of intersection of Central St and Grand Ave, and proceeding northerly along Central St to Palomar St, and proceeding easterly along Palomar St to Refa St, and proceeding northerly along Refa St to Charles St, and proceeding easterly along Charles St to Woshka Ln, and proceeding northerly along Woshka Ln to Showut Ave, and proceeding easterly along Showut Ave to Twinflower Ave, and proceeding easterly along Twinflower Ave to the centerline of Interstate 15, and proceeding southerly along the centerline of Interstate 15 to Clinton Keith Road, and proceeding easterly along Clinton Keith Road to the ditch comprising the Census Block boundary running between Census Block 060650432081027 on the west and 060650432081041 on its east, in the hills between Loring Road to the west and Via Sarah to the east, and proceeding

northeast along the hills, ditch and Census Block boundary to the City Border, and proceeding southerly and northerly along the City Border to Clinton Keith Road, and proceeding northerly along Clinton Keith Road to Grand Avenue, and proceeding northerly along Grand Avenue to the point of beginning.

Fifth District - The region bounded and described as follows:

Beginning at the point of intersection of Grand Ave and Corydon Rd, and proceeding southerly along Grand Ave to Bryant St, and proceeding northerly along Bryant St to Palomar St, and proceeding southerly along Palomar St to Mission Trail, and proceeding northerly along Mission Trail to Bundy Canyon Rd, and proceeding easterly along Bundy Canyon Rd to Canyon Ranch Rd, and proceeding northerly along Canyon Ranch Rd to Leaf Stock Trail, and proceeding northerly along Leaf Stock Trail to Breckenridge Trail, and proceeding northerly along Breckenridge Trail to Seed Leaf Trail, and proceeding northerly along Seed Leaf Trail to Great Falls Rd, and proceeding northerly along Great Falls Rd to Gafford Rd, and proceeding westerly along Gafford Rd to Lemon St, and proceeding southerly along Lemon St to the centerline of Interstate 15, and proceeding northerly along the centerline of Interstate 15 to the City Border, and proceeding westerly and southerly along the City Border to the point of beginning.

MEMORANDUM

TO: Mayor, City Council Members, and City Manager

FROM: Julie Hayward Biggs, City Attorney

DATE: July 22, 2009

RE: LIMITATIONS ON CITY CAMPAIGN ACTIVITIES RELATING TO BALLOT MEASURES

INTRODUCTION

The City Council is considering calling a special election and placing up to three measures on the ballot relating to at-large and district election options for consideration by the voters. Should that occur, the City needs to understand the role it may play during the election process and the limitations that the law imposes on use of public funds in this regard.

SUMMARY OF CURRENT LEGAL REQUIREMENTS

Public agencies in California have long been on notice that public funds cannot be used to endorse or oppose ballot measures and political causes. The standard of review for such expenditures has been well settled by the California Supreme Court in *Stanson v. Mott* (1976) 17 Cal.3d 206. In evaluating the nature of public materials relating to ballot issues, the court in *Stanson* held that the "style, tenor and timing" of such materials must be considered to determine whether they serve permissible educational purposes or whether they constitute impermissible advocacy.

In a recent California Supreme Court case, *Vargas, et al. v. City of Salinas, et al.* (2009) 46 Cal. 4th 1, the Supreme Court was presented with a proposed new standard of review in such cases and rejected it. In *Vargas*, the City of Salinas prepared informational materials related to a ballot issue that, if passed, would have dramatically reduced available revenues to the City. The information was distributed through the City's regular newsletter, posted on its website and made available at City Hall.

The court of appeal determined that the materials were informational in nature and did not advocate a specific point of view. The court of appeals, however, went beyond the *Stanson* standard in its determination of the case and announced that the standard for review of such matters was one of "express advocacy" rather than the "style, tenor and timing" standard established by *Stanson*. Under this new standard, so

Guidelines for Election for Local Elections
July 22, 2009
Page 2

long as a public agency does not expressly advocate one position or another on a ballot issue it would be free to present any materials it chooses to in connection with the measure.

While the Supreme Court upheld the appellate court's determination that in the *Vargas* case, the City had not violated the prohibition against public funding of political advocacy, it rejected the lower court's new standard of review and reaffirmed the standard set forth in *Stanson*. Thus the following principles still apply:

1. Factual information is permissible. The materials in *Vargas* were fact based.
2. Argument and Inflammatory Rhetoric is Suspect. The facts in *Vargas* were presented in a straightforward unemotional way with no inflammatory or argumentative rhetoric.
3. Distribution through Regular Channels is advisable. The City used regular means of distribution of the information through its regular newsletter and website in *Vargas* and no specific appropriation of funds was made for the materials.

In summary, public agencies must continue to be very careful in expending public funds for educational materials relating to ballot measures. Communications relating to ballot issues paid for by public agencies must be informational and must not advocate a position for or against a particular measure.

LEGAL HISTORY OF CAMPAIGN LIMITATIONS FOR PUBLIC AGENCIES

Although recognizing that municipalities may have a legitimate interest in informing, educating, and even persuading their citizens,¹ the courts and legislature have nevertheless prescribed rules prohibiting certain types of municipal and personal involvement conduct. While it is generally permissible for cities to expend public funds to hold elections, provide unbiased information, and even assist in the preparation of ballot measures, it is not permissible to use funds and resources to promote a partisan position or otherwise seek to influence the voters.²

A number of restrictions have also been placed on the political activities of individuals in public service or in public employ.³ The basic intent of these rules is to

¹ *Miller v. California Commission on the Status of Women*, (1984) 151 Cal.App.3d 693, 700, 701.

² Government Code § 54964; *Choice-in-Education League v. Los Angeles Unified School District*, (1993) 17 Cal.App.4th 415; *League of Women Voters of California v. County-wide Criminal Justice Coordination Committee*, (1988) 203 Cal.App.3d 529; *Stanson v. Mott*, (1976) 17 Cal.3d 206, *Vargas v. City of Salinas* (2009) 46 Cal. 4th 1.

³ See Elections Code § 18500 et seq.; Government Code § 3201 - 3209; Government Code § 54596; and *Bagley v. Washington Tp. Hospital Dist.*, (1966) 65 Cal.2d 499; *Eldridge v. Sierra View Local Hosp. Dist.*, (1990) 224 Cal.App.3d 311.

allow the individual an avenue of political participation while preventing use of a public position to improperly influence the decision of any voter.

SPECIAL GUIDELINES FOR LOCAL ELECTIONS

1. Informational Activities.

The City and City Councilmembers may provide informational material concerning a proposed ballot measure, but may not use public funds to promote a particular position on a ballot measure.⁴

Cities have a right to inform their constituents regarding civic affairs. However, when this right is invoked with regard to a ballot measure, strict limitations apply. The informational materials must be limited to providing a full presentation of the relevant facts and they must be fair, balanced and free from bias. No advocacy or promotion is permitted. The regulations of the Fair Political Practices Commission provide that material will be deemed to "expressly advocate" the passage or defeat of a measure if it contains words such as "vote for," "elect," "support," "cast your ballot," "vote against," "defeat," "reject," "sign petitions for," or other references to a clearly identified candidate or measure so that the communication, taken as a whole, unambiguously urges a particular result in an election.⁵

Despite these bright line rules, the Courts have noted that there is no hard and fast rule that governs every case. It is quite possible for a publication to be so one-sided that even though it uses none of the express words of advocacy identified in the FPPC regulations, the effect is the same. Therefore, in order to determine whether informational material crosses the line into advocacy, the Courts will consider such factors as the style, tenor, and timing in addition to express words of advocacy. Such information should only be provided, after review by legal counsel, and then only with the greatest care and consideration. It is important to remember that unless the City's materials include all consequences good and bad, the informational material may cross the line and be seen as illegal campaigning.

Providing information includes responding to telephone calls, e-mails or letters. However, public officers and employees must limit their response to identifying the City's official position and a fair and impartial presentation of the facts – it is best just to refer to the City's publicly available informational materials (e.g. see the Elections Code § 9212 report discussed below). Debate should not be entertained and individual and personal positions may not be discussed.

⁴Stanson 17 Cal. 3d at 206 & 220; Governor Gray Davis Committee v. American Taxpayer's Alliance, (2002) 102 Cal.App.4th 449.

⁵FPPC Regulation § 18225.

2. Report to the Public.

The City Council may make its Elections Code § 9212 Report available to the public.⁶

The Elections Code permits the City Council to request that its Departments provide a report on the impact of the local ballot measure. This report must be delivered to the City Council at a public meeting and becomes a public record. Provided that the report constitutes a fair and impartial presentation of the relevant facts necessary to aid the electorate in reaching an informed judgment regarding the ballot measure, the Government Code permits the City to use public resources to disseminate the report to the public. This would include making copies available upon request and providing copies to local news organizations.

3. Respond to Requests for Information.

A public officer or employee may respond to a request for information about the City's or Council's official position or about City provided information.⁷

Generally, public officers and employees are prohibited from using City resources (such as phones, e-mail, paper) to further a political dialogue or from engaging in such activity while on-duty. A major exception to this is the ability of City elected and appointed officials, officers and employees to respond to requests for information about the City's official position or any fair and impartial reports the City may have generated. In this context, the individual may respond to a phone call, letter, or e-mail while on-duty and using City resources, but only to the extent necessary to identify the City's official position and to provide or reference any fair and impartial report that may have been prepared by the City. This exception would also permit an officer or employee (provided they are not in uniform) to speak at a meeting of a public or private organization (e.g. a chamber of commerce) regarding the City's position or report. In undertaking any of the above referenced activities, public officers and employees must not engage in any advocacy, and must simply present facts in a fair and impartial manner.

⁶ Stanson, 17 Cal.3d at 221; Elections Code § 9212 & 9214; Government Code § 8314(d).

⁷ Stanson, 17 Cal.3d at 221.

4. Use of Public Funds or Resources to Advocate.

Neither the City Council nor the City may use City funds or resources to advocate for or against, or otherwise support or oppose a local ballot measure.⁸

Except for specific and narrowly defined exceptions, the Courts have found the use of public funds to directly influence the electorate to be a serious potential threat to the integrity of the electoral process. As such, the Legislature and Courts have prohibited the cities and their officers and employees from using City funds and resources to make campaign contributions, to engage in campaign activities, or to otherwise advocate in favor of, or in opposition to, a local ballot measure. Such activities might include the distribution of department circulars, banners, stickers, post cards or other promotional material urging support or opposition to a measure or candidate. Similarly, wearing or carrying campaign materials related to specific candidates during functions of the public agency also would be prohibited as public funds, resources and time are involved in such functions.

Wearing campaign buttons while on duty or while participating in an event sponsored by the public agency may be viewed as crossing the line, in that the promotion of a particular candidate in a local campaign may appear to be endorsed by a public officer or employee. Such an endorsement, while perfectly appropriate in a private setting, is inappropriate in a public setting because it relates directly to the influence and impact of the individual in his or her official position. Also prohibited is the creation or funding of a non-profit entity or campaign entity to support or oppose a local ballot measure, and the listing of a link on the City's web page to a campaign for or against the measure.

5. Official Council Position.

The City Council may vote to officially endorse or oppose a local ballot measure.^{9 & 10}

By majority vote of its members, a City Council may adopt an official position either endorsing or opposing a local ballot measure. This must be done at a regularly scheduled meeting of the City Council and should be done during the non-consent calendar portion of the agenda so that public comment may be had and so that each Councilmember's vote may be recorded in the record. The City Council may memorialize its position in a resolution, but any such resolution should contain a clause

⁸ Stanson 17 Cal. 3d at 217; Schroeder v. Irvine City Council, 97 Cal.App. 4th 174 (2004); Government Code § 8314; California Legislative Counsel Opinion No. 154 (09-18-80).

⁹ League of Women Voters, 203 Cal.App.3d at 560; Choice-in-Education League 17 Cal.App.4th 415.

¹⁰ Bagely, 65 Cal. 2d 499; City of Fairfield v. Superior Court of Solano County, 14 Cal.3d 768, 780-782 (1975).

stating that no public funds or resources shall be used in the campaign for or against the measure.

In addition, each elected and appointed official and City officers may take an individual position in support of or opposition to a local ballot measure. However, the law places several restrictions on the political activities the individual may engaged in while acting in his or her official capacity, when at City Hall, or when using City funds or resources.

6. Ballot Argument & Rebuttal.

The City Council may provide a ballot argument in opposition to a local ballot measure or provide a ballot rebuttal argument in support of a local ballot measure.¹¹

The Elections Code permits the City Council to submit an argument against local ballot measures. The argument is limited to 300 words, but will be included as the first of the opposing arguments in the sample ballot mailed to all registered voters.

7. Use of Public Facilities for Campaign Activities.

In limited circumstances, certain public facilities (like libraries and community centers) may be used for private political or campaign purposes.¹²

Use of a City hall and other public facilities for campaign activities is generally prohibited. However, public facilities such a convention halls, meeting rooms, libraries, community centers, and parks, may be used for private political or campaign purposes provided: (i) the facilities are generally made available to the public for private functions; (ii) the organizers of the event are made to comply with all standard requirements of the facilities; (iii) no public funds or resources are used to support the event; (iv) public officers and employees attend only in their individual and personal capacities; and (v) the facilities are otherwise open and available for the expression of other points of view.

Respectfully submitted,



Julie Hayward Biggs, City Attorney
Of Burke, Williams & Sorensen, LLP

¹¹ Elections Code § 9219 & §9220.

¹² Government Code § 3207.

MEMORANDUM

To: Mayor Farnam, Members of the City Council, City Manager

From: Julie Hayward Biggs, City Attorney

Date: July 22, 2009

Re: Election Systems - Legal Issues

BACKGROUND

When Wildomar was incorporated as a city, the voters of Wildomar were presented with a ballot measure that asked simply, "Shall members of the Wildomar City Council be elected by district or at large?" No ordinance establishing district boundaries or identifying the terms for each district was presented to the voters. Nor was any alternative option that might have been considered included on the ballot. Voters approved the election by-district system along with the incorporation of the new City, thereby mandating the new City Council to enact an ordinance in accord with the provisions of Government Code Section 34884.

Although the City Council has the authority to enact district boundaries and a by-district electoral system without a vote of the people, the Council is considering submitting an ordinance specifying the boundaries of the electoral districts to the voters for approval. The City Council has asked us to review possible legal issues relating to ballot measures that might be presented to the electorate.

QUESTIONS PRESENTED

1. What are the City's options in terms of electoral systems?
2. What significance, if any, does the California Voting Rights Act have on the City's choice of an electoral method?
3. What alternatives does the Council have with regard to ballot issues relating to the electoral process?

SHORT ANSWERS

1. California law provides several organizational structures for the election of members to city councils. Selecting an organizational structure for election of members of the Council is a legislative process that involves weighing and considering the various options that are available. The most common structure is the one established by the Riverside County Local Agency Formation Commission ("LAFCO") in its terms and conditions of approval for the incorporation of Wildomar – a system where all members of the Council are elected from the City at-large without respect to where they live geographically. The option presented to the voters, however, gave the City the option of establishing a by-district system, where members of the Council live in identified districts and are elected only by voters in that district. The voters approved that electoral system. In addition to the common at-large system, another permissible alternative to election by-district is election "from districts." In this system, districts are created and each district is represented by a member on the City Council, but all the voters in the City elect all members of the council. In order to comply with the electoral mandate for election of councilmembers by-district, the City Council has an obligation to establish district boundaries by adoption of an ordinance. That process is underway. On July 8, 2009, Ordinance 31 was introduced establishing district boundaries and numbers. The City Council is now considering submitting that ordinance to the voters for their consideration along with alternative proposals for either at-large or from-district elections.

2. District elections are designed to serve a variety of purposes. One of the more important purposes is to assure that minority groups are not put at a disadvantage by being either divided or aggregated to dilute their voting power. The California Voting Rights Act assumes that at-large methods of voting are prone to discrimination against minorities in the community. As a result, under the act, it is easier for citizens in a municipality that uses an at-large system to bring suit against that municipality than a municipality holding elections "by district." Although Wildomar does not have a significant concentration of any minority group, it is unclear to what extent the City would be open to lawsuits under CVRA even with an at-large system.

3. The Council has several alternatives with regard to issues that may be placed on the ballot concurrently with the proposed by-district ordinance. Although the voters have mandated election by district in the City, the voters have the power to repeal or change that system. The Council may submit a measure repealing by-district elections and providing for at-large or from-district elections at the same time it submits a by-district ordinance to the voters. If the

by-district system is repealed, the election system in Wildomar will return to the at-large system that was the original system mandated by the conditions of approval imposed by LAFCO. If a from-district system is enacted, the district boundaries will be in place so that the 2010 election can move forward on that basis. Regardless of the outcome, the people of Wildomar will be able to vote for their choice of electoral systems in an informed manner.

DISCUSSION

A. Electoral Options in California

1. "At-large" elections

Although the voters of Wildomar approved election of council members through a "by district" election method, the Council should be aware of all options open to the City under California law. Essentially, there are three possible structures: election "at-large," election "by district," and election "from districts." Each structure has strengths and drawbacks, depending upon the nature of the community involved.

According to California Code, in an **at-large** election, all voters in a municipality may vote for any or all candidates on the ballot. By contrast, a **by district** electoral method is one in which candidates are nominated from within certain geographic districts and voted on only by the residents of that district. A **from districts** election system is one in which candidates for office are required to reside in certain areas of a political subdivision, but are elected by voters from the entire political subdivision.¹ A modification to these systems may also be selected that provides for direct election of the mayor.

¹ Cal. Gov't Code § 34871:

"A municipal or special election may be held "by district," in five, seven, or nine districts, which means election of members of the legislative body who are residents of a district from which they are elected by the voters of the entire city. A municipal or special election may be held "from districts," in five, seven, or nine districts, which means election of members of the legislative body who are residents of the district from which they are elected by the voters of the entire city. A system of electing the city council by or from districts must be established by ordinance, and approved by the voters. The ordinance may be a city council-initiated measure, or an initiative."

Proponents of at-large municipal elections offer numerous arguments in favor of that method.² For example, candidates in at-large elections are less likely to focus primarily on any particular section of the city or the residents who live there. This more expansive focus ideally winnows out candidates who hope to serve only special interests or groups. It may also reduce the incentives of special interest groups to finance the campaigns of candidates.

The at-large method is also a "one person, one vote" scheme that reflects deeply ingrained notions of democratic government. Furthermore, at-large elections have been the customary way to elect legislators since the nineteenth century. In a survey of California cities surveyed by the League of California Cities in 1989, 205 employed the at-large option in contrast to 15 choosing members by district.³ While some cities have chosen to change their electoral process in the wake of the passage of CVRA in 2001, at-large elections remain the norm in the state and across the nation.

Opponents of at-large electoral methods argue that such elections are more prone to legal attack under the CVRA as diluting the voting power of minority. If all the voters from the majority group were to vote en mass, it would be difficult or impossible to overcome their voting strength. Additionally, council members elected through at-large elections may be tempted to ignore less powerful constituents.

2. Election "by district"

Cities that have chosen to adopt "by district" elections argue that a candidate is able to appeal to a smaller number of people to be elected, possibly fostering more accountability among council members. Also, candidates may be able to spend less money on campaigns while focusing more intensely on the needs of their district. This may in turn eliminate special interest campaign financing that occurs in larger cities. Additionally, underrepresented minorities in the community may have more opportunities to serve on the Council by concentrating (as much as possible) their voting power into fewer districts. Finally, because the CVRA specifically gives its blessing to "by district" election

² This analysis of by district and at-large voting methods is culled largely from internet resources, including online discussions by other city councils; ballot information packets from Hacienda Heights, California; Charter Review Commission Recommendations by Santa Monica City Council.

³ Charter Review Commission Recommendations by Santa Monica City Council, p. 16 (1992).

methods while discouraging at-large methods, a City may lessen its exposure to litigation brought under that act.

On the other hand, critics of “by-district” elections argue that such elections risk over-politicizing and the process, potentially setting different minority groups against one another in the same district, even splitting the vote between them. These critics also maintain that a by-district process makes sense only in larger municipalities (e.g., Oakland and San Francisco) where there may be greater voter alienation from local government. Having a city divided by districts may diminish the city’s sense of unity, setting district against district in the pursuit of resources. Moreover, every voter would lose influence over four of the five (or six of the seven, etc.) council members, reducing the accountability of the Council to the community.

Cost of election campaigns is also often cited as a strong point of election by district structures. Because candidates need only campaign in districts, the cost of reaching voters is diminished. This argument, however, has another side. While it is less expensive for candidates to campaign in smaller districts, it is also easier for special interests to fund campaigns. This can result in significant influence wielded by special interests, frequent recall campaigns and political turmoil.

In addition, districts with low voter turnout may have disproportionate representation on the council. Where the districts have similar populations, but turnout is high in one district and low in another, the constituents represented by each councilmember may reflect either a large portion of the City or a very small portion, yet the voting power is the same. Although city councils are legislative bodies, a council elected by district may operate more like a senate than a house of representatives. The one-person one vote principle may not apply.

3. Election “from districts”

The “from districts” electoral system is similar to a “by district” approach, but retains the requirement that all voters in the City vote on every candidate. In a “from districts” scheme, while candidates for office must reside in the districts they hope to represent, they may not receive a majority of votes from that district. Instead, a majority of all voters in the city is required for election. Therefore, a candidate must reach the entire community to be elected and may not need to reach out to the community in which he or she lives. In districts where low voter turnout is the rule, this means that candidates will be looking to

other geographic districts to get elected, rather than focusing on the residents of the district they will represent.

On the other hand, because candidates in a "from district" system need the vote of a majority of the entire municipality rather than their district alone in order to be elected, the "from district" method shares some of the advantages with the at-large system. Because the chances are better that candidates will likely seek more support from their own district as well as the other districts, this method may afford more accountability and voter empowerment over the "by district" method. However, it is not clear that the "from districts" system would withstand a suit filed under CVRA any better than would at-large methods.

Until district boundaries are drawn, a district-based method of election is impossible. That said, however, it is important to note that the Council itself has the authority to adopt district boundaries by ordinance under the provisions of Government Code §34884 because Wildomar is a new City and the voters opted to establish the by-district electoral system.

If the electorate repeals election by-district and approves election from-districts based on the boundaries proposed by the Council, then the 2010 election will be a from-district election. If the voters repeal by-district elections without establishing one of the alternative electoral systems set forth in Government Code 34871, then the at-large system will continue by default as set forth in the terms and conditions of approval imposed by LAFCO.

B. Risk of Challenge under the CVRA

The CVRA was passed as a result of perceived abuses of at-large voting methods that helped keep Hispanics and other minorities from being elected as members of town councils. CVRA provides that an "at-large method of election...may not be imposed or applied in a manner that results in the dilution or abridgment of the right of registered voters who are members of a protected class...by impairing their ability to elect candidates of their choice or to influence the outcome of an election." (S.B. 976) As one attorney who has written on elections noted: "Establishing [a district-based election system] through the local political process almost certainly is preferable to having it imposed by a court as a result of a CVRA lawsuit."⁴ Despite the increased threat of litigation, however,

⁴ Craig Steele, *New Voting Rights Law May Change the Face of Some Local Government Agencies*, The PUBLIC LAW JOURNAL (Vol. 26, No. 1; Winter 2003).

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few suits have been brought under the CVRA. As a result, the likelihood of such suits being successful is unknown.

Briefly, the ability of an aggrieved minority member under CVRA to sue the City for diluting his or her community's voting power through perceived abuses of a district-based or at-large electoral system is probably greater than under the federal Voting Rights Act. The CVRA allows for a cause of action if it can be shown that "racially polarized voting...occurs in elections for governing board members of a political subdivision." (S.B. 976) A "protected class" is defined as a class of voters who are members of a race, color, or language minority group.

CVRA establishes that the intent to discriminate against a protected class is not required to establish a violation. Rather, a violation can occur with either an intentional or facially neutral act or process. An unintentional violation occurs when a plaintiff establishes all the following: (1) The minority group harmed by the practice is sufficiently large and geographically compact to constitute a minority majority in a single-member district; (2) The minority group is politically cohesive; (3) The majority group votes as a bloc to enable it usually to defeat the minority group's preferred candidates." *Thornburg v. Gingles*, 478 U.S. 30 (1986). These are the standards commonly called the "Gingles" preconditions." Where there is no intentional discrimination, the Gingles preconditions must be shown prior to ordering a new districting plan. If the court finds there is intentional dilution of minority voter strength, the Gingles preconditions need not be proven. *Garza*, 918 F.2d 763 (9th Cir. 1990).

While the City's decision to adopt a "by district" electoral process may reduce the City's liability under the CVRA, it does not eliminate it. The Council must carefully craft districts that protect and do not diminish the voting power of the City's minority population. For that reason, the Council has hired a disinterested consulting firm to act as a neutral party to prepare district boundary options with the involvement of the community to assure that a level of consensus has been achieved before any proposal is submitted to the voters.

C. Ballot Alternatives

1. Submit Ordinance 31 implementing the mandate for election by district to a vote of the people

The Council may, but is not required to, submit Ordinance 31 which establishes electoral district boundaries implementing by-district system to the voters. The Council may, however, wish to allow the voters to reconsider the question of election by-district now that the City is incorporated and the citizens have a better idea of how the City operates and the kind of representation that election at-large has provided. In that case, the Council could submit alternative electoral structures to the voters.

2. Submit a ballot measure repealing by-district election and establishing an at-large system

While the Council may submit Ordinance 31 to the electorate to affirm the district boundaries and numbers approved by the Council as set forth above, the Council may also submit a ballot measure asking the voters whether the City should repeal the by-district election system and return to election on an at-large basis. We would note here that there have been a variety of assertions suggesting that the question of at-large election cannot be submitted to the voters because it is not one of the electoral systems set forth in Government Code Section 34871. Those assertions ignore the fact that Government Code Section 34116 specifically requires consideration of at-large elections in the incorporation election and that Section 34873 specifically permits repeal of any of the electoral systems permitted under Section 34871 with a return by default to an at-large election system. The people of Wildomar have considered that question once and may legally consider it again.

The fact is that if the electorate has the power to establish election by district in Wildomar, it has the power to repeal it and return to at-large election of members of the City Council. Both decisions are legislative, policy enactments within the power of the people to enact. Democracy is by its nature a fluid system of government that allows communities to try different methods of governance and to change governing systems at will within the overall statutory framework.

The City of Redlands, for example, experimented with an election by-district system in 1989. After four years under that system, the council placed three measures before the people – by-district elections, from-district elections

and at-large elections. The electorate voted to return to at-large elections in 1993. Newly incorporated cities where by-district election has been approved by the voters have also put the question back on the ballot after incorporation and returned to election at-large. There is nothing new or novel about placing such issues before the public for action. The people have the right to determine how their City Council will be elected and to make changes if they find that appropriate.

3. Submit a ballot measure establishing a “from districts” system

The Council could propose an election from districts system based upon the same district boundaries it selects for the by-district option.

4. Submit three ballot issues setting forth at-large, by-district and from-districts options

The Council might place all three choices on the ballot for the voters to consider. In that event, the system receiving the most affirmative votes over a majority of those voting on each issue will control. If no ballot measure receives a majority of affirmative votes of those votes submitted for that issue, then the current at-large system will remain in effect. This is consistent with California Election Code, which states that “if the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control.” (Cal. Elec. Code § 9221).

5. Do nothing

The Council after second reading of Ordinance 31, will have completed its obligation to move forward with a by-district system. The district boundaries and numbers have been established and the system is now in place. The Council does not need to take any action at this point to complete the process.

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CONCLUSION

The Council may prepare and submit balanced electoral districts to the voters to implement the by-district electoral system the voters approved in the incorporation election. The Council has the authority, however, to submit the question of repeal of by-district elections and to present alternative electoral systems to the voters, as well. In the event that more than one electoral district ordinance receives the affirmative vote of a majority of voters voting on that measure, the ordinance with the largest number of affirmative votes will take effect. If all measures are defeated, Ordinance 31 will remain in effect and the by-district system will have been established as required.

Respectfully submitted,



Julie Hayward Biggs
Burke, Williams & Sorensen, LLP

CITY OF WILDOMAR – COUNCIL
Agenda Item 3C
GENERAL BUSINESS
Meeting Date: July 22, 2009

TO: Mayor and Councilmembers

FROM: John Danielson, City Manager

CONTACT: Debbie Lee, City Clerk

SUBJECT: Resolution Relating to Council-Sponsored Ballot Measures, Establishing Procedures for Submitting Ballot Arguments and Rebuttal Arguments for City Measures Submitted at Special Election.

RECOMMENDATION:

In accord with California law, approve resolutions as follows:

1. Determine whether the City Council or any individual member(s) of City Council will file an argument not exceeding 300 words in length regarding the proposed ordinances, and if so, adopt Resolution No.09-53 entitled "A Resolution of the City Council of the City of Wildomar, California, Authorizing and Setting Priorities for Filing of a Written Argument Regarding the Measures to be Placed on the Ballot for the November 3, 2009 Special Election; and
2. Determine if rebuttal arguments not exceeding 250 words in length will be permitted regarding the proposed ordinances, and if so adopt Resolution No. 09-54 entitled "A Resolution of the City Council of the City of Wildomar, California Providing for the Filing of Rebuttal Arguments for City Measures Submitted at Special Election.

DISCUSSION:

The California Elections Code requires the City Council to adopt the appropriate resolutions to set priorities for filing a written argument regarding the City's proposed measures.

WRITTEN BALLOT ARGUMENT FOR OR AGAINST PROPOSED MEASURES

The City Council, or any member or members of the City Council, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against any City measure. Section 9282 of the Elections Code provides that upon authorization by the City Council, an argument prepared and signed by the City Council or by one or more Councilmembers shall be given first priority for placement in the sample ballot election brochure by the City Elections Official.

The first day the City Clerk's Office will receive typewritten arguments in favor of or against the measure is July 24, 2009, and the last day will be August 7, 2009. (14 calendar days in accordance with the provisions of Elections Code 9286).

If the Council chooses to permit rebuttal arguments, they will be accepted from August 7, 2009 through August 17, 2009 (10 calendar days after the ballot argument time period closes) in accordance with Elections Code 9285.

PUBLIC EXAMINATION PERIOD FOR PROPOSED MEASURES:

The public examination period of the proposed measures, City Attorney's impartial analysis, and the ballot measure arguments filed with the City Clerk's Office is 10 days, commencing at either the close of the time period for receiving ballot arguments (July 7, 2009, and concluding August 17, 2009) or following close of the time period for receiving rebuttal arguments if they are allowed (August 17, 2009 concluding August 27, 2009).

ALTERNATIVES:

The Council could choose to not move forward with the proposed actions at this time. In doing so, Arguments and Rebuttal Arguments for City Measures Submitted at Special Election would not be permitted.

LEGAL REVIEW:

The City Attorney's office has diligently worked with the City Manager and the City Clerk to put together and review the necessary documents for the proposed ordinances and related materials and recommended actions.

FISCAL IMPACTS:

The Fiscal Year 2009-10 City Clerk's budget includes \$38,000 to cover election costs. An additional allocation may be required to ensure sufficient funds to cover these costs. This request will be made to the Council once final costs are known.

Submitted By:

Approved By:

Debbie Lee
City Clerk

John Danielson
City Manager

ATTACHMENTS:

1. "A Resolution of the City Council of the City of Wildomar, California, Authorizing and Setting Priorities for Filing of a Written Argument Regarding the Measures to be Placed on the Ballot for the November 3, 2009 Special Election"

2. "A Resolution of the City Council of the City of Wildomar, California Providing for the Filing of Rebuttal Arguments for City Measures Submitted at Special Election"

ATTACHMENT 1

Resolution No. 09-53 entitled

**A Resolution of the City Council of the City of Wildomar, California,
Authorizing and Setting Priorities for Filing of a Written Argument
Regarding the Measures to be Placed on the Ballot for the November
3, 2009 Special Election**

RESOLUTION NO. 09 - 53

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, SETTING PRIORITIES FOR FILING A WRITTEN ARGUMENT REGARDING THE MEASURES TO BE PLACED ON THE BALLOT FOR THE NOVEMBER 3, 2009 GENERAL ELCTION

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a General Municipal Election shall be held in the City of Wildomar, California, on November 3, 2009, at which there will be submitted to the voters the following measure:

MEASURE _____

| | |
|--|-----|
| | YES |
| | NO |

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council Authorizes

| | |
|--------------------------------|-------------------------------|
| _____ (Councilmember in Favor) | _____ (Councilmember Against) |
| _____ (Councilmember in Favor) | _____ (Councilmember Against) |
| _____ (Councilmember in Favor) | _____ (Councilmember Against) |
| _____ (Councilmember in Favor) | _____ (Councilmember Against) |
| _____ (Councilmember in Favor) | _____ (Councilmember Against) |

Members of that body, to file (a) written argument (s) regarding the City Measure (as specified above), accompanied by the printed name(s) and signature(s) submitting it, in accordance with article 4, Chapter 3, Division 9 of the elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

SECTION 2.

[That the City Council authorizes ALL members of the City Council to file (a) written arguments (s) In Favor of or Against City measure (s) , accompanied by the printed name (s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.]

The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Form of Statement to Be Filed by Author

SECTION 3.

That the City Council Directs the City Clerk to transmit a copy of the measure to the City Attorney, who shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The Impartial Analysis shall be filed by the date set by the City Clerk for the filing of the primary arguments.

SECTION 4.

That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 22nd day of July, 2009.

Scott Farnam
Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

ATTACHMENT 2

Resolution No. 09-54 entitled

**A Resolution of the City Council of the City of Wildomar, California
Providing for the Filing of Rebuttal Arguments for City Measures
Submitted at Special Election**

RESOLUTION NO. 09 – 54

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS

WHEREAS, 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for city measures submitted at municipal elections.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1.

That pursuant to Section 9285 of the Elections Code of the State of California, when the elections official has selected the arguments for and against the measure which will be printed and distributed to the voters, the elections official shall send a copy of an argument in favor of the proposition to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments.

The author or a majority of the authors of an argument relating to a city measure may prepare and submit rebuttal argument not exceeding 250 words or may authorize in writing any other persons to prepare, submit, or sign the rebuttal argument.

A rebuttal argument may not be signed by more than five individuals.

The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of an organization, and the printed name and signature of at least one of its principal officers, not more than 10 days after the final date for filing direct arguments. The rebuttal arguments shall be accompanied by the Form of Statement to Be Filed By Author(s) of Argument

Rebuttal Arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 2.

That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

SECTION 3.

That the provision in Section 1 shall apply at the next ensuing municipal election and at each municipal election after that time.

SECTION 4.

That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 22nd day of July, 2009.

Scott Farnam
Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

PROPOSED LETTER TO LEGISLATORS

July 22, 2009

Gentlemen:

The City of Wildomar supports AB 18 which will bring Sections 57377 and 57379 into conformity with the provisions of 57378 and 34884 of the California Government Code. As these statutes now read, there is a difference in new cities as to which initial incumbent members of the City Council are subject to re-election in the first and second elections following incorporation.

Under current law, if a new city will elect the members of the city council at large, Sections 57377 and 57379 provide that the three lowest vote getters at the incorporation election must stand for re-election. If, however, at the incorporation election it is determined by the voters that future elections will proceed on a by-district system of election, only two of the original incumbents must stand for election in the first election following incorporation.

In both Wildomar and Menifee, as in many other newly incorporated cities in the past, there is now significant discussion as to whether the initial choice of the voters to establish a by-district system is appropriate for the community. Both cities are considering placing ballot measures before the voters for consideration of at-large and from-district system alternatives to the by-district system as they are legally permitted by Elections Code Section 9222 and Government Code 34884, . Should the people vote to re-establish at-large voting in these communities, a current sitting councilmember will be required to run for office two years earlier than under the current system. Clearly, that is both inequitable and contrary to public policy.

The proposed changes to Government Code Sections 57377 and 57379 will resolve this issue and assure consistency in the future.

Sincerely,

Scott Farnam
Mayor

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #3 E.
GENERAL BUSINESS
Meeting Date: July 22, 2009

TO: Honorable Mayor and City Council Members
FROM: Julie Hayward Biggs, City Attorney
SUBJECT: Weed Abatement Ordinances

STAFF REPORT

RECOMMENDATION:

The City Council may wish to consider the attached sample weed abatement ordinances and chart comparing and contrasting the two ordinances and provide City staff with further direction regarding the preparation of a weed abatement ordinance for the City.

BACKGROUND:

Mayor Farnam asked the City Attorney's office to research and report on the weed abatement ordinances adopted by the County of Riverside and the City of Lake Elsinore, and to summarize the salient provisions of each ordinance. The Lake Elsinore ordinance allows the City Council to declare by Resolution that weeds on private property are a public nuisance and provides procedures for the abatement of the nuisance. A copy of the Lake Elsinore Ordinance is attached as Exhibit "A" to this Staff Report. On the other hand, the County of Riverside does not have a comprehensive ordinance similar to Lake Elsinore's. Instead, the County has two different ordinances that allow for the abatement of weeds on unimproved parcels (Chapter 8.56) and in orchards, groves or vineyards (Chapter 8.04). Copies of these relevant provisions are attached as Exhibit "B" to this Staff Report. A chart summarizing and comparing Lake Elsinore's ordinance to the County's weed abatement provisions is attached as Exhibit "C" to this staff report.

FISCAL IMPACTS:

None.

ALTERNATIVES:

1. Take no action
2. Provide staff with further direction and take action at a subsequent Council meeting.

Submitted by:

Julie Hayward Biggs
City Attorney

Approved by:

John Danielson
City Manager

EXHIBIT "A"

Chapter 8.32 WEED AND RUBBISH ABATEMENT

Sections:

- 8.32.010 Definitions.
- 8.32.020 Nuisances – Declaration by resolution.
- 8.32.030 Resolution – Contents.
- 8.32.035 Weed abatement guidelines.
- 8.32.040 Seasonal and recurrent weeds – Abatement notice.
- 8.32.050 Seasonal and recurrent weeds – Preventive chemical control.
- 8.32.055 Recurrent rubbish – Abatement notice.
- 8.32.060 Notices – Posting.
- 8.32.070 Notices – Form.
- 8.32.080 Notices – Mailing – Time limits.
- 8.32.090 Hearing.
- 8.32.100 Abatement – Procedure.
- 8.32.110 Abatement – Costs report.
- 8.32.120 Abatement – By contract.
- 8.32.130 Costs – Assessment.
- 8.32.140 Costs – Payment.
- 8.32.150 Costs – Refunds for erroneous levies.
- 8.32.160 Claims for damages.

8.32.010 Definitions.

"In front of which the nuisance exists" includes to the rear of or abutting the property upon which the nuisance exists.

"Rubbish, refuse and dirt" includes unused or discarded matter having no substantial market value, which is exposed to the elements and is not enclosed by any structure or otherwise consists of such matter as trash, rubble, asphalt, and accumulated dirt from other sites or for which there is no City-approved grading permit.

"Street" includes public street, alley, lane, court or other place.

"Superintendent of Public Works" means the Director of Community Services or designee.

"Weeds" includes any of the following:

1. Weeds which bear seeds of a downy or wingy nature;
2. Sagebrush, chaparral, trees, shrubs, vegetation, brush, and any other growth which creates or causes a hazard or menace to the public health, safety and welfare;
3. Weeds which are otherwise noxious or dangerous;
4. Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health;
5. Dry grass, stubble, brush, litter, or other flammable material which endangers the public safety by creating a fire hazard;
6. Any accumulation of dry grasses or other flammable vegetation within 50 feet of any aboveground flammable liquid;
7. Trees, if determined to increase the fire hazard, due to mortality, insect infestation, disease, or lack of maintenance. [Ord. 1135 § 1, 2004; Ord. 532 § 1,

1974].

8.32.020 Nuisances – Declaration by resolution.

The City Council may declare by resolution as public nuisances and abate:

A. All weeds, as defined in this chapter, growing upon the streets, sidewalks, or private property in the City;

B. All rubbish, refuse and dirt upon parkways, sidewalks, or private property in the City. [Ord. 532 § 2, 1974].

8.32.030 Resolution – Contents.

The resolution shall:

A. Refer to the street by its commonly known name;

B. Describe the property upon which or in front of which the nuisance exists by giving its lot and block number according to the official or City assessment map. Any number of streets, sidewalks, or parcels of property may be included in one resolution. [Ord. 532 § 3, 1974].

8.32.035 Weed abatement guidelines.

The Superintendent of Public Works shall prepare weed abatement guidelines to assist property owners in meeting the requirements of this chapter. Such guidelines shall be available to the public at no charge. [Ord. 1135 § 2, 2004].

8.32.040 Seasonal and recurrent weeds – Abatement notice.

At the time it adopts the resolution as provided in this chapter, the City Council may also find and declare that weeds on specified parcels of property are seasonal and recurrent nuisances.

Such seasonal and recurrent nuisances shall be abated in accordance with the provisions of this chapter; provided, that upon the second and any subsequent occurrence of such nuisance on the same parcel or parcels within the one-year period following adoption of the resolution as provided in this chapter, no further hearings need be held and it shall be sufficient to mail a postcard notice to the owners of the property as they and their addresses appear upon the current assessment roll.

The notice shall refer to and describe the property and shall state that noxious or dangerous weeds of a seasonal and recurrent nature are growing on or in front of the property and that the same constitute a public nuisance which must be abated by the removal of said noxious or dangerous weeds, and that otherwise they will be removed and the nuisance will be abated by the City authorities, in which case the cost of such removal shall be assessed upon the parcel and lands from which or in front of which such weeds are removed and that, upon confirmation, such cost will constitute a lien upon such parcel or lands until paid. [Ord. 1135 § 3, 2004; Ord. 532 § 4, 1974].

8.32.050 Seasonal and recurrent weeds – Preventive chemical control.

A. Where the City Council finds and declares that weeds on specified parcels of property are seasonal and recurrent nuisances as provided in LEMC 8.32.040, it may provide for the preventive abatement of such seasonal and recurrent nuisance as provided in this section.

B. The notice required by LEMC 8.32.040 shall, in addition to containing all other required matters, state that the efficient and economical control of such seasonal and recurrent nuisance requires preventive chemical control of such weeds, weed seeds

and weed seedlings, and that the City may require preventive chemical control of such nuisance.

C. In the event the City is once required to abate such nuisance, the City may, in addition, before and during the next following germinating season of such weeds, provide for the preventive abatement of such nuisance by using chemical control of such weeds. [Ord. 532 § 5, 1974].

8.32.055 Recurrent rubbish – Abatement notice.

At the time it adopts the resolution as provided in this chapter, the City Council may also find and declare that rubbish, refuse and dirt on specified parcels of property are recurrent nuisances.

Such recurrent nuisances shall be abated in accordance with the provisions of this chapter; provided, that upon the second and any subsequent occurrence of such nuisance on the same parcel or parcels within the same one-year period, no further hearings need be held and it shall be sufficient to mail a postcard notice to the owner of the property as they and their addresses appear upon the current assessment roll.

The notice shall refer to and describe the property and shall state that rubbish, refuse and dirt of a recurrent nature are present on the property and that same constitute a public nuisance which must be abated by removal of such rubbish, refuse and dirt, and that otherwise they will be removed and the nuisance will be abated by City authorities, in which case the cost of such removal shall be assessed upon the parcel and lands from which or in front of which such rubbish, refuse and dirt are removed and that, upon confirmation, such cost will constitute a fine upon such parcel or lands until paid. [Ord. 1135 § 4, 2004; Ord. 532 § 5, 1974].

8.32.060 Notices – Posting.

After passage of the resolution, the Superintendent of Public Works shall cause notices to be conspicuously posted on or in front of the property on which the nuisance exists. He shall post:

A. One notice to each separately owned parcel of property of not over 50 feet frontage;

B. Not more than two notices to any such parcel of 100 feet frontage or less;

C. Notices at not more than 100 feet apart if the frontage of such a parcel is greater than 100 feet. [Ord. 532 § 6, 1974].

8.32.070 Notices – Form.

The heading of the notices shall be "Notice to destroy weeds and remove rubbish, refuse, and dirt," in letters not less than one inch in height, and shall be substantially in the following form:

NOTICE TO DESTROY WEEDS AND REMOVE RUBBISH, REFUSE, AND DIRT

Notice is hereby given that on the _____ day of _____, 20____, the City Council of the City of Lake Elsinore passed a resolution declaring that noxious or dangerous weeds were growing upon or in front of the property on this street; and that rubbish, refuse, and dirt were upon or in front of property on this street, in _____, and more particularly described in the resolution, and that they constitute a public nuisance which must be abated by the removal of the weeds, rubbish, refuse, and dirt. Otherwise, they will be removed and the nuisance abated by the City and the cost of removal

assessed upon the land from or in front of which the weeds, rubbish, refuse, and dirt are removed and will constitute a lien upon such land until paid. Reference is hereby made to the resolution for further particulars. A copy of said resolution is on file in the office of the City Clerk.

The property owners having any objections to the proposed removal of the weeds, rubbish, refuse, and dirt are hereby notified to attend a meeting of the City Council of the City of Lake Elsinore to be held _____, when their objections will be heard and given due consideration.

Dated this _____ day of _____, 20__

Superintendent of Public Works

[Ord. 532 § 7, 1974].

8.32.080 Notices – Mailing – Time limits.

A. The notices shall be posted at least five days prior to the time for hearing objections by the City Council.

B. As an alternative to posting notice of the resolution and notice of the meeting when objections will be heard, the City Council may direct written notice of the proposed amendment to be mailed to all persons owning property described in the resolution. Written notice shall be mailed to each person to whom such described property is assessed in the last equalized assessment roll available on the date the resolution was adopted by the City Council.

C. The address of the owners shown on the assessment roll shall be conclusively deemed to be the proper address for the purpose of mailing such notice. Any costs incurred in securing the aforesaid names and addresses shall be a part of the costs of abatement.

D. The notices mailed by the City Clerk shall be mailed at least five days prior to the time for hearing objections by the City Council. [Amended 1987; Ord. 532 § 8, 1974].

8.32.090 Hearing.

At the time stated in the notices, the City Council shall hear and consider all objections to the proposed removal of weeds, rubbish, refuse and dirt. It shall, by motion or resolution, allow or overrule any objections. The hearing may be continued from time to time, but the decision of the City Council is final, and it acquires jurisdiction to proceed and perform the work of removal upon the conclusion of the hearing. [Ord. 532 § 9, 1974].

8.32.100 Abatement – Procedure.

If objections have not been made, or after the City Council has disposed of those made, it shall order the Superintendent of Public Works, by motion or resolution, to abate the nuisance by having the weeds, rubbish, refuse and dirt removed. The Superintendent of Public Works may thereupon enter upon private property to abate the nuisance. Notwithstanding such order of abatement, the owner may, prior to the arrival of the Superintendent of Public Works, remove the weeds, rubbish, refuse and dirt at his own expense. [Ord. 532 § 10, 1974].

8.32.110 Abatement – Costs report.

A. The Superintendent of Public Works shall keep an account of the cost of abatement in front of or on each separate parcel of land where the work is done by him. He shall submit to the City Council for confirmation an itemized written report showing such cost.

B. A copy of the report shall be posted for at least three days prior to its submission to the City Council on or near the chamber door of the City Council, with a notice of the time and submission.

C. At the time fixed for receiving and considering the report, the City Council shall hear it with any objections of the property owners liable to be assessed for the abatement. It may modify the report if it is deemed necessary, and shall then confirm the report by motion or resolution. [Ord. 532 § 11, 1974].

8.32.120 Abatement – By contract.

Abatement of the nuisance may, in the discretion of the City Council, be performed by contract awarded by the City Council on the basis of competitive bids let to the lowest responsible bidder pursuant to Sections 37903, 37904, 37905 and 37931 to 37935 inclusive of the California Government Code. In such event, the contractor shall keep the account and submit the itemized written report for each separate parcel of land required by Section 39574 of said code. [Ord. 532 § 12, 1974].

8.32.130 Costs – Assessment.

A. The cost of abatement in front of or upon each parcel of land constitutes a special assessment against that parcel. After the assessment is made and confirmed, it is a lien on the parcel.

B. After confirmation of the report, a copy shall be given to the City Assessor and the Tax Collector, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

C. If the County Assessor and the Tax Collector assess property and collect taxes for the City, a certified copy of the report shall be filed with the County Auditor on or before August 10th. The descriptions of the parcels reported shall be those used for the same parcels on the County Assessor's map books for the current year.

D. The County Auditor shall enter each assessment on the County tax roll opposite the parcel of land.

E. The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes. If delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale provided for ordinary municipal taxes.

F. The City Council may determine that, in lieu of collecting the entire assessment at the time and in the manner of ordinary municipal taxes, such assessment of \$50.00 or more may be made in annual installments, in any event not to exceed five, and collected one installment at a time at the times and in the manner of ordinary municipal taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for foreclosure and sale provided for ordinary municipal taxes. The payment of assessments so deferred shall bear interest on the unpaid balance at a rate to be determined by the City Council, not to exceed six percent per year.

G. As an alternative method, the County Tax Collector, in his discretion, may collect the assessments without reference to the general taxes by issuing separate bills and receipts for the assessments.

H. Laws relating to the levy, collection and enforcement of County taxes apply to

such special assessment taxes. [Ord. 532 § 13, 1974].

8.32.140 Costs – Payment.

The Superintendent of Public Works may receive the amount due on the abatement cost and issue receipts at any time after the confirmation of the report and until 10 days before a copy is given to the City Assessor and Tax Collector, or where a certified copy is filed with the County Auditor, until August 1st following the confirmation of the report. [Ord. 532 § 14, 1974].

8.32.150 Costs – Refunds for erroneous levies.

The City Council may order refunded all or part of a tax paid pursuant to this chapter if it finds that all or part of the tax has been erroneously levied. A tax or part shall not be refunded unless a claim is filed with the Clerk of the City Council on or before November 1st after the tax became due and payable. The claim shall be verified by the person who paid the tax, or his guardian, executor, or administrator. [Ord. 532 § 15, 1974].

8.32.160 Claims for damages.

If the City Council finds that property damage was caused by the negligence of a City officer or employee in connection with the abatement of a nuisance pursuant to this chapter, a claim for such damages may be paid from the City general fund. Claims therefor are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the California Government Code. [Ord. 532 § 16, 1974].

This page of the Lake Elsinore Municipal Code is current through Ordinance 1258, passed January 13, 2009.

Disclaimer: The City Clerk's Office has the official version of the Lake Elsinore Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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EXHIBIT "B"

Chapter 8.04 ABANDONED OR NEGLECTED ORCHARDS, GROVES AND VINEYARDS

Sections:

- 8.04.010 Findings.
- 8.04.020 Duty to abate hazardous vegetation.
- 8.04.030 Public nuisance.
- 8.04.040 Enforcement.
- 8.04.050 Notice to remove.
- 8.04.060 Appeals.
- 8.04.070 Removal by private contractor--Establishment of removal costs, administrative fee, special assessment and lien.
- 8.04.080 Payment for removal.
- 8.04.090 Violations--Penalties.
- 8.04.100 Recovery of costs.
- 8.04.110 Authority to promulgate rules and regulations.

8.04.010 Findings.

The board of supervisors finds that there has been a proliferation of abandoned or neglected orchards, groves and vineyards within the unincorporated areas of the county. The dead or decaying trees, vines and plants present a fire hazard. The dead or decaying trees, vines and plants may result in a blight condition of the premises, may become a harborage for pests and rodents and may attract illegal dumping and other illegal and suspicious activities on the premises. Abandoned or neglected orchards, groves and vineyards are also an eyesore and decrease property values in the surrounding area.

(Ord. 772 § 1, 1997)

8.04.020 Duty to abate hazardous vegetation.

A. It shall be the duty of every owner, occupant and person in control of any land or interest therein, or premises which are located in the unincorporated territory of the county to abate therefrom, any dead or substantially dead orchard or grove trees, vines, crops, smudge pots, smudge pot fuels, ancillary equipment and dry grass, and/or other flammable vegetation, that constitutes a fire hazard which may endanger or damage neighboring property and/or crops as provided below.

B. Abatement of the neglected or abandoned orchard, grove or vineyard shall include, but not be limited to, the removal of dead or decaying plants or trees (excluding tree stumps no higher than six inches above the ground), leaves and branches and the removal of all weeds, trash, debris, smudge pots and smudge pot fuels as above described from the property and disposing of all such matter in a lawful manner.

C. Abatement shall be carried out in conformance with all state and local environmental laws and regulations including, but not limited to, the Migratory Bird Treaty Act and Endangered Species Act.

(Ord. 772 § 2, 1997)

8.04.030 Public nuisance.

All neglected or abandoned orchards, groves or vineyards, as above described, that constitute a fire, health or safety hazard, which may endanger or injure neighboring property or the crops thereon, or the health, safety or well-being of persons or property are declared to be a public nuisance, which

may be abated by the county as provided hereinafter. The cost of abatement may be assessed against the land pursuant to Riverside County Ordinance No. 725 and Government Code 25845 as a special assessment.

A. In the case of any parcel or contiguous parcels under the same ownership or control consisting of five or less acres upon which such dead trees or vines, flammable vegetation and/or ancillary material exists, as described above, which may constitute a fire hazard, the requirements of this section shall be satisfied if the trees are cut down and removed or chipped and the ground with its remaining vegetation disced or mowed, for the entire acreage.

B. Where the acreage consists of more than five acres the perimeter shall be cleared for a distance of one hundred (100) feet. On such parcels the interior shall be separated into five-acre blocks with each block being surrounded by a cleared path forty (40) feet in width. Groves, orchards or vineyards that are adjacent to developed properties may require larger perimeter clearances depending upon fuel loading and assets at risk as determined by the county fire chief or his or her designee.

C. The owner or possessor of the neglected parcel or parcels shall also dispose of all smudge pots and smudge pot fuels in a lawful manner, including the handling and disposing of such materials as hazardous waste when required.

D. The county fire chief may order, if circumstances so require, that additional removal take place, and that specific standards be met as set forth in Riverside County Ordinance No. 546, the Public Resources Code, or other recognized codes.

E. Public agencies owning or controlling lands on which abandoned or neglected groves or orchards are situated shall work with the county fire chief to develop an appropriate abatement program.

(Ord. 772 § 3, 1997)

8.04.040 Enforcement.

For the purpose of enforcing this chapter, the county fire chief may designate any person or persons as his or her deputy in the performance of the duties enjoined upon him or her by this chapter. In addition, each of the following officers within the county is designated to perform the same duties within the territory of the political subdivision which he serves and whenever the term "county fire chief" is used hereinafter, the following officers are included in the meaning of such word, except that the county fire chief, himself or herself, shall coordinate all such officers in the performance of these duties:

A. Chief or chief engineers of all fire protection districts within the county, and their deputies;

B. Such other officers (including the agricultural commissioner and county code enforcement) as may be designated by the board of supervisors or the county fire chief.

(Ord. 772 § 4, 1997)

8.04.050 Notice to remove.

It shall be the duty of the county fire chief, or any of his or her deputies, whenever such officer deems it necessary to enforce the duty set forth in Section 8.04.020, to issue a written notice to remove by mailing to the owner(s) of the neglected parcel or parcels as shown on the tax rolls and by posting the property with a notice to remove which shall be in substantially the form attached to the ordinance codified in this chapter as Exhibit "A."

The county fire chief or the hazard reduction officer, as his or her designee, shall identify and rank in order of priority those parcels in the county which shall be posted and on which abatement shall be carried out in accordance with the following criteria: (1) assets at risk; (2) fire severity of the area; and (3) fire history of the area.

(Ord. 772 § 5, 1997)

8.04.060 Appeals.

A. Appeals Procedure. Any person who is adversely affected by the notice set forth in Section 8.04.050 may appeal to the board of appeals within thirty (30) calendar days of the postmark on the notice to abate by filing a written appeal with the county fire chief in the county fire department. Timely appeal shall stay any further action for removal or abatement until a hearing is held. The county fire chief or his or her designee shall promptly set the matter for hearing before the board of appeals and shall notify the appellant by mail of the date and time established for such hearing, at least fifteen (15) days prior to the date. If the appellant resides outside the county, the above period of notice by mail before the hearing shall be at least twenty-five (25) days. The appellant shall have the right to appear in person or by agent, designated in writing, at the hearing and present oral, written, and/or photographic evidence.

The failure to timely file a written appeal with the county fire chief or to appear at the hearing before the board of appeals shall constitute a waiver of the right to a hearing and to appeal the decision of the county fire chief to abate the conditions on the property.

The board of appeals shall decide the appeal and shall issue its decision which shall be a written recommendation to the board of supervisors. The board of supervisors may adopt the recommendation without further notice of hearing or may set the matter for a hearing de novo before the board of supervisors.

B. Appeals Boards. An appeals board shall be established for each of Supervisorial Districts No. 1, 3 and 4 to hear appeals for properties located in each of those districts. For cases arising for properties located in other supervisorial districts, the cases shall be heard and decided by the appeals board for supervisorial District No. 3. Each board shall be comprised of three persons selected as follows: one member shall be an officer of the county fire department selected by the county fire chief, but shall not be the issuing officer; one member shall be nominated by the Riverside County farm bureau and one member shall be a resident of the supervisorial district in which the property is located but shall not be engaged in agriculture as an owner operator, lender or investor. The member nominated by the farm bureau and the resident of the supervisorial district in which the property is located, i.e., nonagricultural member, shall be proposed for membership by the supervisor of the particular district, i.e., District 1, 3 or 4, and shall be confirmed by a vote of the majority of the board of supervisors. The member nominated by the farm bureau and the resident member shall not be an owner or tenant of the property on which the abatement is proposed to take place or an owner or tenant of property located within one mile of the boundary of such property. All appeals board members shall serve at the pleasure of the board of supervisors.

(Ord. 772 § 6, 1997)

8.04.070 Removal by private contractor--Establishment of removal costs, administrative fee, special assessment and lien.

If, at the end of the time allowed for compliance in the original notice, or as extended in cases of appeal, or as specified by the board of appeals, compliance has not been accomplished, the county fire chief, may order the dead trees, vines, other flammable vegetation, and ancillary materials such as

smudge pots and fuel to be removed by public officers, public employees, or may cause the removal to be carried out by a private contractor selected by the county purchasing agent in accordance with applicable statutes and in the manner and under the terms specified by the board of supervisors. The cost of such removal accompanied by a reasonable administrative charge may be imposed as a special assessment lien upon the property, as authorized by Government Code Section 25845. The costs so assessed shall be limited to the actual costs incurred by the county in enforcing abatement upon the parcels, including but not limited to payment to the contractor, costs of investigation, boundary determination, measurement, clerical, personnel, consultant, attorneys fees and an administrative cost to be set by the board of supervisors.

(Ord. 772 § 7, 1997)

8.04.080 Payment for removal.

A. Procedure for Payment. When the removal has been completed, the agency or officer so causing the same to be accomplished shall render to the county auditor-controller, an itemized statement covering the costs of the work necessary for such removal. The county auditor-controller shall pay the same from the funds of the agency or officer causing the work to be done or from a funding source designated for this purpose. Thereafter, the agency shall present a written bill for payment to the owner. If complete payment is not made on behalf of the owner within thirty (30) calendar days after the bill was mailed, the agency shall certify to the county auditor-controller that the bill remains unpaid, together with such other information as may be required by law. The auditor-controller shall thereafter cause the charged amount to be entered upon the property from which removal was accomplished as a special assessment which shall be included in the next succeeding tax statement. Thereafter, the amount of the special assessment shall be collected at the same time, and in the same manner, as county taxes are collected, and shall constitute a lien if unpaid and shall be subject to the same penalties and the same procedure for sale, in the case of delinquency, as provided for ordinary county taxes, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon prior to the date on which the first installment of such taxes would become delinquent, then the lien, which would otherwise be imposed by this section, will not attach to such real property and the costs of abatement, shall be transferred to the unsecured roll for collection.

B. Recorded Lien. Following the creation of a special assessment lien, a notice of abatement lien may be recorded. The notice shall identify the record owner or possessor of property, set forth the last known address of the record owner or possessor, set forth the date upon which abatement of the nuisance was ordered and the date the abatement was completed, and include a description of the real property subject to the lien and the amount of the abatement cost.

C. Appeals. A person may appeal the billed charges to the board of appeals, by following the appeal procedure provided in Section 8.04.060.

D. Cancellation of Claim. All or any portion of any such special assessment, lien, penalty or costs heretofore entered, shall, on order of the board of appeals, be cancelled by the county auditor-controller, if the charges were charged or paid:

1. More than once;
2. Through clerical error;
3. Through the error or mistake of the board of appeals, or of the officer, board or commission designated by them to give notice, in respect to any material fact, including the case where the cost report rendered and confirmed, as hereinbefore provided, shows the county abated the nuisance but such is not the actual fact;

4. Illegally; or

5. On property acquired after the lien date by the state or by any county, city, school district, special district, or other political subdivision, and because of this public ownership, is not subject to sale for delinquent taxes.

E. Procedure for Refund of Payment. No order for a refund under the foregoing section shall be made except on a written claim:

1. Verified by the person who actually paid the special assessment, his or her guardian, executor or administrator; and

2. Filed within one year after making the payment sought to be refunded.

F. The fire chief or his or her designee shall have the authority to execute any document that may be required to release or extinguish an assessment or charge that has been recorded against a parcel.

(Ord. 772 § 8, 1997)

8.04.090 Violations--Penalties.

It shall be an infraction or misdemeanor (as charged in the discretion of the issuing officer or prosecuting attorney) for any person, natural or corporate, owning, possessing, occupying or controlling any lands or premises to fail to perform the duties set forth in Section 8.04.020, or to fail to comply with the requirements in the notice to remove as specified in Section 8.04.050, or to interfere with the performance of the duties specified in this chapter for any of the officers named in this chapter or their deputies, or to refuse to allow any such officer or their deputies or employees, or approved private contractors, to enter upon any premises for the purpose of inspecting and/or removing any dead or neglected trees, vines, vegetation or ancillary materials hereinbefore described, or to interfere in any manner whatever with said officers or contractors in the work of inspection and removal provided in this chapter.

(Ord. 772 § 9, 1997)

8.04.100 Recovery of costs.

Upon conviction, punishment (if the offense was charged as a misdemeanor) shall be by a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) and by imprisonment of not more than six months, or both. Recovery of cost related to enforcement shall be as provided for in County Ordinance No. 725 which is incorporated into this chapter by reference.

(Ord. 772 § 10, 1997)

8.04.110 Authority to promulgate rules and regulations.

The board of supervisors reserves its right to adopt reasonable rules, regulations and resolutions consistent with this chapter to enforce, interpret, and carry out the provisions of this chapter. Such rules may vary among different areas within the county.

(Ord. 772 § 11, 1997)

Chapter 8.56 HAZARDOUS VEGETATION*

Sections:

8.56.010 Findings.

8.56.020 Definitions.

8.56.030 Duty to abate hazardous vegetation.

8.56.040 Enforcement.

8.56.050 Notice to abate.

8.56.060 Appeals.

8.56.070 Removal of hazardous vegetation by public officer or by private contractor and establishment of costs and administrative fee.

8.56.080 Payment for abatement.

8.56.090 Violations.

8.56.100 Penalties for violation.

8.56.110 Authority to promulgate reasonable rules and regulations.

* Prior ordinance history: Ords. 695 and 695.1.

8.56.010 Findings.

A. It is the intent of the board of supervisors that this chapter shall apply to the abatement of hazardous vegetation on unimproved property.

B. Riverside County generally has an arid climate conducive to wildfires and is prone to periodic Santa Ana wind events. Many of the county's native and nonnative plant species can be highly flammable during normal dry periods and have contributed to significant wildfires within the county. Santa Ana wind events further exacerbate the fire danger and have resulted in catastrophic fire losses to life, property and the environment.

C. Riverside County has a diverse and complex landscape which includes deserts, mountains and other brush covered wildlands which are home to many rare and sensitive plant and animal species.

D. The board of supervisors has recognized the importance and uniqueness of this diverse and complex landscape through its adoption and implementation of the Western Riverside County Multiple Species Habitat Conservation Plan which preserves land for the protection of these species.

E. Of paramount importance to the board of supervisors and the citizens of Riverside County is the protection of lives and property from the threat of fire and the safety of fire and law enforcement personnel during wildfires.

F. It is the purpose of this chapter to establish a hazardous vegetation abatement program that protects the lives and property of the citizens of Riverside County while at the same time protecting rare and sensitive plant and animal species and the environment.

(Ord. 695.3 § 1 (part), 2007)

8.56.020 Definitions.

As used in this chapter:

"Combustible material" means rubbish, litter or material of any kind other than hazardous vegetation that is flammable and endangers the public safety by creating a fire hazard.

"County fire chief" means the fire chief of the county of Riverside or his or her authorized representative.

"Hazardous vegetation" means vegetation that is flammable and endangers the public safety by creating a fire hazard including, but not limited to, seasonal and recurrent weeds, stubble, brush, dry leaves and tumbleweeds.

"Improved parcel" means a portion of land of any size, the area of which is determined by the assessor's maps and records and may be identified by an assessor's parcel number upon which a structure is located.

"Structure" means any dwelling, house, building or other type of flammable construction including but not limited to a wood fence attached to or near any other structure.

"Unimproved parcel" means a portion of land of any size, the area of which is determined by the assessor's maps and records and may be identified by an assessor's parcel number upon which no structure is located.

(Ord. 695.3 § 1 (part), 2007)

8.56.030 Duty to abate hazardous vegetation.

It shall be the duty of every owner, occupant, and person in control of any unimproved parcel of land or interest therein, which is located in the unincorporated territory of the county of Riverside as that territory is determined and classified by the board of supervisors to abate therefrom, and from all sidewalks and parkways, except:

A. The requirements of this section shall be satisfied if there is cleared pursuant to a notice to abate by disking, mowing or any other method described in said notice:

1. A one hundred (100) foot wide strip of land at the boundary of an unimproved parcels adjacent to a roadway; and/or
2. A one hundred (100) foot wide strip of land around structure(s) located on an adjacent improved parcel (some or all of this clearance may be required on the unimproved parcel depending upon the location of the structure on the improved parcel).

The county fire chief or his or her designee may require more than a one hundred (100) foot width or less than a one hundred (100) foot width for the protection of public health, safety or welfare or the environment. The determination for appropriate clearance distances will be made based upon a visual inspection of the parcel and shall consider all factors that place the property or adjoining structure(s) at risk from an approaching fire. These factors shall include local weather conditions, fuel type(s), topography, and the environment where the property or adjoining structure(s) is located. Examples of the clearance requirements above are attached to the ordinance codified in this chapter as Exhibit "A" for informational purposes only.

B. Where the parcel's terrain is such that it cannot be disked or mowed, the county fire chief may require, or authorize, that other means of removal be used.

(Ord. 695.3 § 1 (part), 2007)

8.56.040 Enforcement.

For the purpose of enforcing this chapter, the county fire chief may designate any person or persons as his or her deputy in the performance of the duties enjoined upon him or her by this chapter. In addition, each of the following officers within the county of Riverside is designated to perform the same duties within the territory of the political subdivision which he or she serves (and whenever the term "county fire chief" is used hereinafter, the following officers are included in the meaning of such word, except that the county fire chief, himself or herself, shall coordinate all such officers in the

performance of these duties):

- A. Chiefs or chief engineers of all fire protection districts within the county, and their deputies; and
- B. Such other officers as are designated by the board of supervisors or the county fire chief.

(Ord. 695.3 § 1 (part), 2007)

8.56.050 Notice to abate.

It shall be the duty of the county fire chief, or any of his or her deputies, whenever such officer deems it necessary to enforce the duty set forth in Section 8.56.030 hereof, to issue a "notice to abate" by mailing the notice to the property owner as his or her name appears on the last equalized assessment roll and to the address as shown in the records of the assessor. The notice to abate shall be in substantially the form attached to the ordinance codified in this chapter as Exhibit "B."

(Ord. 695.3 § 1 (part), 2007)

8.56.060 Appeals.

A. Appeals Procedure. Any person who is adversely affected by the notice set forth in Section 8.56.050, may appeal to the board of appeals within the twenty (20) calendar days of the postmark on the notice to abate by filing a written appeal with the hazard reduction officer. Timely appeal shall stay any further action for removal or abatement until the date set for hearing. The hazard reduction officer shall set the matter for hearing before the board of appeals and shall notify the appellant by mail of the date set for such hearing, at least fifteen (15) days prior to said date. If the appellant resides outside the county, the above period of notice by mail before the hearing shall be at least twenty-five (25) days. The appellant shall have the right to appear in person or by agent, designated in writing, at the hearing, and present oral, written, and/or photographic evidence. The board of appeals shall decide the appeal and shall issue its decision, which shall be in writing.

B. Appeals Board. The board of appeals shall be comprised of three persons as follows: one member shall be an officer of the department of the issuing officer selected by the department head, but not the issuing officer; two members shall be selected by the board of supervisors. Members shall serve at the pleasure of the appointing authority.

(Ord. 695.3 § 1 (part), 2007)

8.56.070 Removal of hazardous vegetation by public officer or by private contractor and establishment of costs and administrative fee.

If, at the end of the time allowed for compliance in the original notice, or as extended in cases of appeal, or as specified by the board of appeals, compliance has not been accomplished, the officer issuing the notice or the agency of which he or she is an officer, may order hazardous vegetation or other combustible material, to be removed by public officers or by employees of said agency, or may cause the removal to be carried out by a private contractor selected by the county purchasing agent in accordance with applicable statutes and in the manner and under the terms specified by the board of supervisors. The cost of such removal accompanied by a reasonable administrative charge may be imposed as a special assessment upon the property, and such property shall be subject to a special assessment lien for said purpose. The costs so assessed shall be limited to the actual costs incurred by the county of Riverside in enforcing abatement upon the parcels, including payment to the contractor,

costs of investigation, boundary determination, measurement, clerical, personnel, consultant, and an administrative cost to be set by resolution adopted by the board of supervisors on those parcels where such weeds have not been removed by the property owner at his or her own expense.

(Ord. 695.3 § 1 (part), 2007)

8.56.080 Payment for abatement.

A. Procedure for Payment. When said abatement has been completed, the agency or officer so causing the same to be accomplished shall render to the county auditor-controller, an itemized statement covering the costs of the work necessary for such abatement. The county auditor-controller shall pay the same from the funds of the agency or officer causing said work to be done. The auditor-controller shall thereafter cause the charged amount to be entered upon the property from which abatement was accomplished as a special assessment which shall be included in the next succeeding tax statement. Thereafter, the amounts of the assessment shall be collected at the same time, and in the same manner, as county taxes are collected, and shall be subject to the same penalties and the same procedure for sale, and in the case of delinquency, as provided for ordinary county taxes, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien, which would otherwise be imposed by this section, will not attach to such real property and the costs of abatement, shall be transferred to the unsecured roll for collection.

B. Appeals. A person may appeal the assessed charges to the board of appeals, by following the appeal procedure provided in Section 8.56.060 and thereafter, to the board of supervisors. Any appeal to the board of supervisors from the decision of the board of appeals, must be filed with the clerk of the board of supervisors within fifteen (15) days from the date of postmark of the mailed decision of the board of appeals. Such appeal must be in writing and must specify wherein the appeals board erred.

C. Cancellation of Claim. All or any portion of any such special assessment, penalty or costs heretofore entered, shall, on order of the board of appeals or the board of supervisors, be canceled by the county auditor-controller if uncollected, or, except in the case provided for in Section 8.56.070, refunded by the county treasurer-tax collector, if collected, if the charges were charged or paid:

1. More than once;
2. Through clerical error;
3. Through the error or mistake of the board of appeals, or of the officer, board or commission designated by them to give notice, in respect to any material fact, including the case where the cost report rendered and confirmed, as hereinbefore provided, shows the county abated the weeds but such is not the actual fact;
4. Illegally; or
5. On property acquired after the lien date by the state of California, or by any county, city, school district, special district, or other political subdivision, and because of this public ownership, is not subject to sale for delinquent taxes. The fire chief or his or her designee shall have the authority to execute any document that may be required to release or extinguish an assessment or charge that has been recorded against a parcel.

D. Procedure for Refund of Payment. No order for a refund under the foregoing section shall be made except on a written claim:

1. Verified by the person who paid the special assessment, his or her guardian,

conservator, executor or administrator; and

2. Filed within one year after making the payment sought to be refunded.

(Ord. 695.3 § 1 (part), 2007)

8.56.090 Violations.

It shall be an infraction or misdemeanor for any person, natural or corporate, owning, possessing, occupying, or controlling any lands or premises to fail to perform the duty set forth in Section 8.56.030 of this chapter, or to fail to comply with the requirements in the notice to abate as specified in Section 8.56.050 of this chapter, or to interfere with the performance of the duties herein specified for any of the officers named in this chapter or their deputies, or to refuse to allow any such officer or their deputies or employees, or approved private contractors, to enter upon any premises for the purpose of inspecting and/or removing any hazardous vegetation and/or combustible material hereinbefore described, or to interfere in any manner whatever with said officers or contractors in the work of inspection and removal herein provided.

(Ord. 695.3 § 1 (part), 2007)

8.56.100 Penalties for violation.

Upon conviction, punishment shall be by a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) and by imprisonment of not more than six months, or both.

(Ord. 695.3 § 1 (part), 2007)

8.56.110 Authority to promulgate reasonable rules and regulations.

The board of supervisors reserves its right to adopt reasonable rules, regulations, and resolutions consistent with the ordinance codified in this chapter to enforce, interpret, and carry out the provisions of this chapter. Such rules may vary among different areas within the county.

(Ord. 695.3 § 1 (part), 2007)

EXHIBIT "C"

| | |
|---|--|
| <p>LAKE ELSINORE WEED ABATEMENT ORDINANCE
 CHAPTER 8.32 – WEED & RUBBISH ABATEMENT</p> | <p>RIVERSIDE COUNTY WEED ABATEMENT ORDINANCE
 695.3 (SECTION 8.56, ET SEQ.) – ABATEMENT OF HAZARDOUS VEGETATION
 ORDINANCE 772 (SECTION 8.04, ET SEQ.) – DECLARING A FIRE HAZARD ABANDONED OR NEGLECTED ORCHARDS, GROVES OR VINEYARDS, AND ANCILLARY WEEDS AND DEBRIS AND PROVIDING FOR THEIR ABATEMENT
 Note: Both Ordinances provide for similar procedures. § 695.3 provides for abatement on unimproved properties and § 772 provides for abatement of dead orchards and groves</p> |
| <p>City Council declares by Resolution that weeds on private property are public nuisances. The Resolution refers to the street and describes the property where the nuisance is located. (8.32.020 & 8.32.030)</p> | <p>Owners of <u>unimproved</u> parcels must disk or mow a 100' strip of land at the boundary and around structures. (section 3)</p> |
| <p>When City Council adopts the Resolution it can also declare that weeds on specific parcels are seasonal and recurrent nuisances. Upon the second and any subsequent occurrence of the nuisance within one year following adoption of the Resolution, no further hearings are needed and it is sufficient to mail postcard notice to owners of Property. The notice must describe the property and state that the weeds are seasonal and recurrent and must be abated – otherwise City will abate them and costs will be assessed as a lien on the property. (8.32.040)</p> | <p>County Fire Chief issues a "Notice to Abate" by mailing notice to owners of the properties. (Section 5) Property owner can file an appeal of the Notice to Abate to the Appeal Board. (Section 6)</p> |
| <p>After passing the Resolution, notices must be posted in front or on the property. The notice must state that the weeds must be removed or they will be abated by City. The notice must also contain the time and date of the City Council hearing where any objections will be heard. (8.32.060 and 8.32.070)</p> | |

| | |
|---|---|
| <p>As an alternative to posting notice, the notices may be directly mailed to the property owners. (8.32.080)</p> | |
| <p>After the City Council hearing on any objections, the Public Works Superintendent may enter private property to abate the nuisance. (8.32.100)</p> | <p>Once the compliance time or appeal time has expired, the weeds may be abated by the City or by a contractor hired by the City. The costs of the abatement are imposed as a special assessment on the property. (Section 7)</p> |
| <p>The Public Works Superintendent keeps a cost report of the abatement activities. The costs of abatement will constitute a special assessment against the parcel. (8.32.110 and 8.32.130)</p> | <p>A property owner may appeal the assessed charges to the City Council within 15 days of the decision of the Board of Appeals. (Section 8)</p> |
| | <p>It is an infraction or misdemeanor to fail to perform the required weed abatement activities or to interfere with a City Officer performing the responsibilities. Punishment is a fine of \$100 to \$1,000 and six months in prison or both. (Sections 9 and 10)</p> |

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #3 F.
GENERAL BUSINESS
Meeting Date: July 22, 2009

TO: Honorable Mayor and City Council Members

FROM: Michael Kashiwagi, City Engineer

SUBJECT: County of Riverside Owned Properties Located Within the City of Wildomar

STAFF REPORT

RECOMMENDATION:

This report is for information only.

BACKGROUND:

City staff has researched current assessor parcel information to identify County owned property within the City limits. The County of Riverside currently holds title to 29 real properties within the City of Wildomar. These properties were granted to the County prior to the incorporation of the City. Attached Figure 1 identifies each property location and approximate size. Staff also visited each site to determine current use. Table 1 provides a summary of this information.

Table 1
Riverside County owned real property within City of Wildomar

| Exhibit A
Map No. | Current Use | Comments |
|----------------------------|--------------------------|--|
| 1, 4, 6, 10, 17,
27, 28 | Public Neighborhood Park | Regency Heritage Park;
Map #28 not shown on Exhibit A, located near Park |
| 2, 16 | Vacant | Appears to be remnant properties located along
Clinton Keith Road south of Palomar Street |
| 3, 5 | Vacant | 26+ acre Future Wildomar Regional Sports Park |
| 7, 12 | Vacant | 83+ acre property along Bundy Canyon |
| 8 | Vacant | Appears to be remnant property adjacent
to Mesa Drive at Elberta Road |
| 9 | Library | Library |
| 11 | Fire Station | Fire Station |
| 13, 14 | Vacant | Appears to be remnant property along Malaga Road |
| 15 | Vacant | Appears to be remnant property along Bundy Canyon |
| 18, 19, 22 | Public Park | Marna O'Brien Park |
| 20, 21 | Public Neighborhood Park | Windsong Park |
| 23, 24, 25, 26 | Vacant | 218+ acre property located east of Hwy 15, north of Clinton Keith
Road; Current County Use is for Park & Open Space |
| 29 | Vacant | Property not shown on Exhibit A, located east of Hwy 15
along Bundy Canyon near Chico Hills Road |

Twelve of the properties currently comprise three city parks, Windsong, Marna O'Brien, and Heritage. Pursuant to the incorporation agreement, these properties were to be transferred to the City of Wildomar. Accordingly, City staff pursued the conveyance of these properties with County staff and at the June 22, 2009 of the Board of Supervisors, RDA Resolution 2009-25 was approved which authorizes the transfer of these properties to the City of Wildomar. The remaining 17 properties remain vested in the County.

FISCAL IMPACTS:

None.

ATTACHMENTS:

Figure 1

Submitted by:

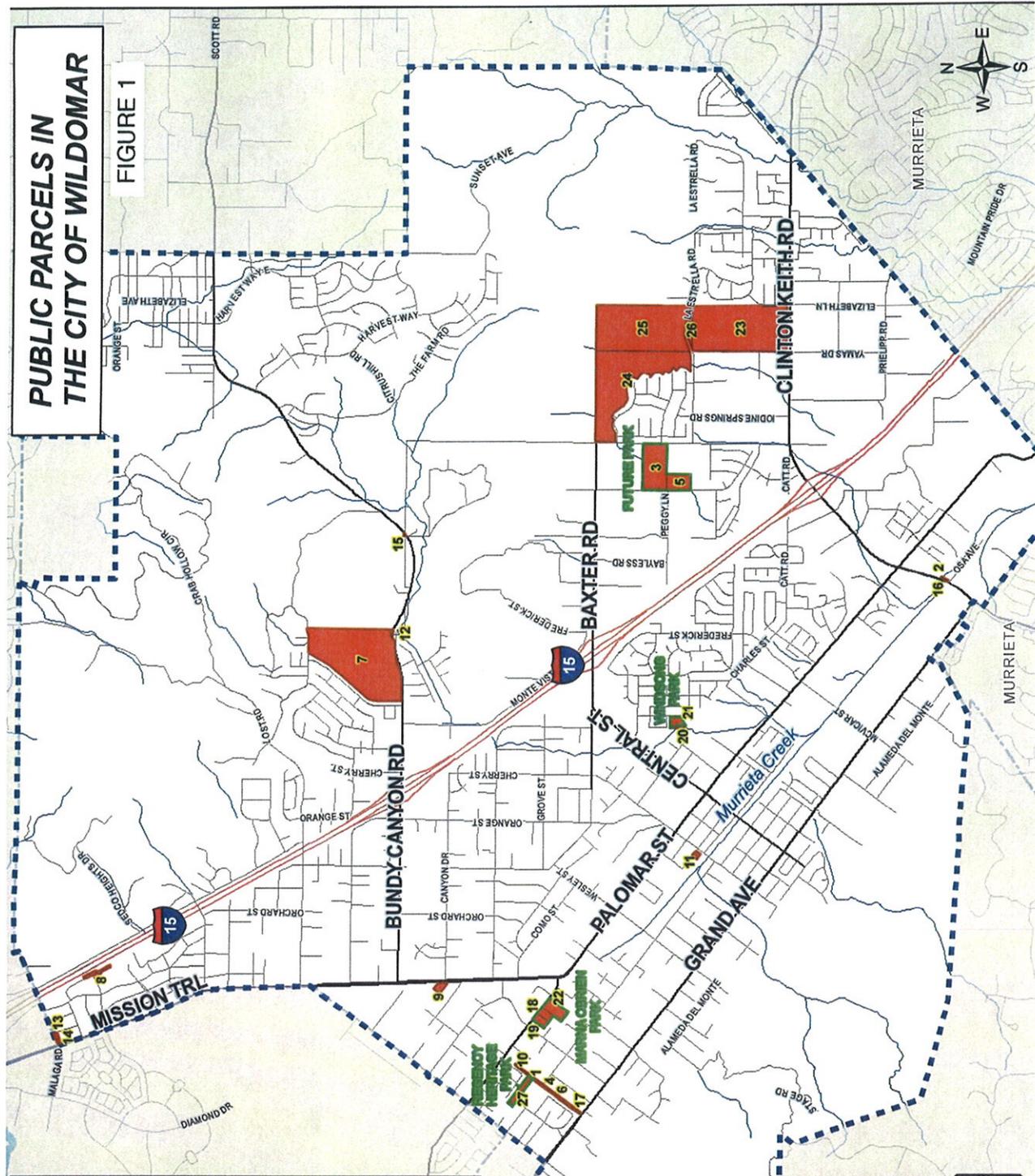
Approved by:

Michael Kashiwagi
City Engineer

John Danielson
Interim City Manager

PUBLIC PARCELS IN THE CITY OF WILDOMAR

FIGURE 1



| MAP NUMBER | PARCEL OWNER | ACRES |
|------------|--|-------|
| 1 | GENERAL COUNTY | 0.24 |
| 2 | GENERAL COUNTY | 0.02 |
| 3 | GENERAL COUNTY | 19.88 |
| 4 | GENERAL COUNTY | 0.54 |
| 5 | GENERAL COUNTY | 6.89 |
| 6 | GENERAL COUNTY | 0.62 |
| 7 | GENERAL COUNTY | 83.91 |
| 8 | GENERAL COUNTY | 1.06 |
| 9 | GENERAL COUNTY | 1.23 |
| 10 | GENERAL COUNTY | 0.28 |
| 11 | GENERAL COUNTY | 0.35 |
| 12 | GENERAL COUNTY | 0.3 |
| 13 | GENERAL COUNTY | 0.31 |
| 14 | GENERAL COUNTY | 0.2 |
| 15 | GENERAL COUNTY | 0.05 |
| 16 | GENERAL COUNTY | 0.07 |
| 17 | REDEVELOPMENT AGENCY | 0.66 |
| 18 | REDEVELOPMENT AGENCY | 1.96 |
| 19 | REDEVELOPMENT AGENCY | 1.96 |
| 20 | REDEVELOPMENT AGENCY | 0.48 |
| 21 | REDEVELOPMENT AGENCY | 2.07 |
| 22 | REDEVELOPMENT AGENCY | 5.02 |
| 23 | RV COUNTY REGIONAL PARK SPECIAL DISTRICT | 75.09 |
| 24 | RV COUNTY REGIONAL PARK SPECIAL DISTRICT | 65.23 |
| 25 | RV COUNTY REGIONAL PARK SPECIAL DISTRICT | 73.03 |
| 26 | RV COUNTY REGIONAL PARK SPECIAL DISTRICT | 2 |
| 27 | ORTEGA TRAIL RECREATION AND PARK DIST | 3.26 |

Source: Ownership information derived from Riverside County Assessor (January 2009)

Legend

- WILDOMAR PARKS
- PARCELS REPRESENTED IN TABLE



CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #3 G.
GENERAL BUSINESS
Meeting Date: July 22, 2009

TO: Honorable Mayor and City Council Members
FROM: Julie Hayward Biggs, City Attorney
SUBJECT: Open Fire Permit Proclamation

STAFF REPORT

RECOMMENDATION:

The City Council may wish to consider the attached proclamation suspending the issuance of open fire permits in the City. This proclamation was recommend by Steve Beach of CalFire as a standard procedure during high fire risk seasons. .

BACKGROUND:

The County of Riverside routinely issues proclamations during high fire risk seasons suspending the issuance of open fire permits. Now that the City has taken control of the fire suppression duties, it is appropriate for the City to issue a similar citation.

FISCAL IMPACTS:

None.

ALTERNATIVES:

1. Take no action
2. Provide staff with further direction and take action at a subsequent Council meeting.

Submitted by:

Approved by:

Julie Hayward Biggs
City Attorney

John Danielson
City Manager

**A PROCLAMATION OF THE CITY COUNCIL OF THE CITY
OF WILDOMAR, CALIFORNIA, SUSPENDING THE
ISSUANCE OF OPEN BURNING PERMITS AND OTHER
USES OF OPEN FIRE.**

Due to the extreme menace of destruction by fire to life, improved property or natural resources caused by critical fire weather and acute dryness of vegetation; and/or fire suppression sources being heavily committed to control fires; and, under the authority provided in Section 307 of the 2007 California Fire Code, adopted by reference in Chapter 8.32 of the Wildomar Municipal Code, the City of Wildomar hereby suspends the privileges of burning by permit and other uses of open fire within the City.

In addition to suspension of open burning, the following restrictions also are hereby applied within the City of Wildomar:

1. Use of campfires is restricted to within established campfire facilities located in established campgrounds open to the public.
2. Cooking fires with a valid permit are permissive when no alternate means of cooking is available and requires an on-site inspection prior to the issuance of a permit.
3. Warming fires are permissive and require an on-site inspection prior to the issuance of a permit when weather conditions exist to justify the request.

This order shall become effective at 1200 hours on July 23, 2009, and remain in effect until the proclamation is formally terminated.

Scott Farnam, Mayor

ATTEST:

Debbie Lee, City Clerk

APPROVED AS TO FORM:

Julie Hayward Biggs, City Attorney