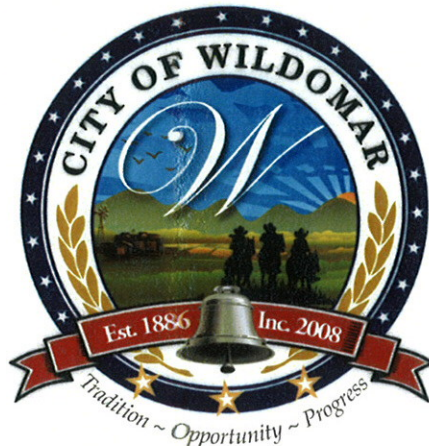


CITY OF WILDOMAR CITY COUNCIL
AGENDA

7:00 P.M. – REGULAR MEETING

MAY 12, 2010
Council Chambers
23873 Clinton Keith Road



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

City Manager
Frank Oviedo

City Attorney
Julie Hayward Biggs

WILDOMAR CITY COUNCIL REGULAR MEETING AGENDA MAY 12, 2010

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.

PUBLIC COMMENTS: Prior to the business portion of the agenda, the City Council will receive public comments regarding any items or matters within the jurisdiction of the governing body. The Mayor will separately call for testimony at the time of each public hearing. If you wish to speak, please complete a "Public Comment Card" available at the Chamber door. The completed form is to be submitted to the City Clerk prior to an individual being heard. Lengthy testimony should be presented to the Council in writing (10 copies) and only pertinent points presented orally. The time limit established for public comments is three minutes per speaker.

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

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

PLEASE TURN ALL CELLULAR DEVICES TO VIBRATE OR OFF FOR THE DURATION OF THE MEETING. YOUR COOPERATION IS APPRECIATED.

CALL TO ORDER

ROLL CALL

MOMENT OF SILENCE

FLAG SALUTE

Kalin Webb – Eagle Scout

PRESENTATIONS

Proclamation – Kalin Webb, Eagle Scout

Proclamation – John Lloyd, Outgoing Parks and Recreation Committee

Chamber Monthly Update

Parks Monthly Update

Fire Department Monthly Update

Library Quarterly Update

PUBLIC COMMENTS

This is the time for citizens to comment on issues not listed on the agenda. Under the provisions of the Brown Act, the City Council is prohibited from discussing or taking action on items not listed on the agenda. Each speaker is asked to fill out a "Public Comments Card" (located on the table by the Chamber door) and give the card to the City Clerk prior to the start of the meeting. Comments are limited to three (3) minutes per speaker. The Council encourages citizens to address them so that questions and/or concerns can be heard.

APPROVAL OF THE AGENDA AS PRESENTED

1.0 CONSENT CALENDAR

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

1.1 Reading of Ordinances

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

1.2 Minutes – April 28, 2010 Regular Meeting

RECOMMENDATION: Approve the Minutes as submitted.

1.3 Warrant Registers Dated April 28 & May 6, 2010; Payroll Warrant Register Dated April 30, 2010

RECOMMENDATION: That the City Council approve:

1. Warrant Register dated April 28, 2010 in the amount of \$215,659.00;
2. Warrant Register dated May 6, 2010 in the amount of \$455,978.95; and
3. Payroll Warrant Register dated April 30, 2010 in the amount of \$288.50.

2.0 PUBLIC HEARINGS

2.1 Ordinance Amending Chapter 1.03 of the Wildomar Municipal Code Pertaining to Code Violations

RECOMMENDATION: That City Council introduce an Ordinance entitled:

ORDINANCE NO. _____
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
WILDOMAR, CALIFORNIA, AMENDING CHAPTER 1.03 OF THE
WILDOMAR MUNICIPAL CODE PERTAINING TO CODE VIOLATIONS

3.0 GENERAL BUSINESS

3.1 **AB1645 "Safe, Clean, and Reliable Drinking Water Supply Act of 2010"**

RECOMMENDATION: That the City Council adopt:

RESOLUTION NO. 2010 - ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,
CALIFORNIA, IN SUPPORT OF THE SAFE, CLEAN, AND RELIABLE
DRINKING WATER SUPPLY ACT OF 2010

3.2 **Inland Valley Hospital Update**

RECOMMENDATION: That the City Council receive and file the report.

3.3 **Autism Task Force**

RECOMMENDATION: That the City Council select a member of the Council to represent the City of Wildomar on the Autism Task Force.

CITY MANAGER REPORT

CITY ATTORNEY REPORT

COUNCIL COMMUNICATIONS

FUTURE AGENDA ITEMS

ADJOURNMENT

2010 City Council Regular Meeting Schedule

| | |
|-------------|--------------|
| May 26 | September 22 |
| June 9 | October 13 |
| June 23 | October 27 |
| July 14 | November 10 |
| July 28 | November 24 |
| August 11 | December 8 |
| August 25 | December 22 |
| September 8 | |

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

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

POSTING STATEMENT: On May 7, 2010, by 5:00 p.m., a true and correct copy of this agenda was posted at the three designated posting locations: Wildomar City Hall, 23873 Clinton Keith Road
U.S. Post Office, 21392 Palomar Street
Mission Trail Library, 34303 Mission Trail Blvd

**CITY OF WILDOMAR
CITY COUNCIL REGULAR COUNCIL MEETING MINUTES
APRIL 28, 2010**

The regular meeting of April 28, 2010, of the Wildomar City Council was called to order by Mayor Moore at 7:00 p.m.

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

Staff in attendance: City Manager Oviedo, Assistant City Manager Nordquist, City Attorney Biggs, Public Works Director Kashiwagi, Planning Director Hogan, Police Chief Cleary, and City Clerk Lee.

MOMENT OF SILENCE

A moment of silence was observed.

FLAG SALUTE

Boy Scout Troop 604 presented colors and led the flag salute.

PRESENTATIONS

Mayor Moore presented a Proclamation designating May 8, 2010 as Mormon Helping Hands Day.

Mayor Moore presented certificates to William Collier Students and Boy Scout Pack 332 recognizing their recycling projects.

Mayor Moore and Council Member Farnam presented a Proclamation and plaque to Scott Nowak, Outgoing Planning Commissioner.

PUBLIC COMMENTS

Sharon Heil, resident, stated the Elks are having a fundraiser event to help raise funds to complete their building and invited everyone.

Desiree Nordgren, Elisnore High School FFA, thanked the City for their support in the past. However, the program is on the verge of being cut due to economic

issues with the School District. She emphasized that the continued support from the City will help ensure the program.

Laura Iverson, Elsinore High School FFA, asked the City Council and citizens to write letters to Elsinore High School supporting the FFA program. She thanked everyone for their continued support.

Diane O'Malley, resident, stated the City needs to adopt a comprehensive Code of Ethics in the City.

APPROVAL OF THE AGENDA AS PRESENTED

A MOTION was made by Council Member Farnam, seconded by Mayor Pro Tem Swanson, to approve the agenda as presented.

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

1.0 CONSENT CALENDAR

City Clerk Lee advised on item #1.2, page 7, top of the page, the vote was 5-0, and not 3-2.

Council Member Cashman asked to pull item #1.5 for separate action.

A MOTION was made by Mayor Pro Tem Swanson, seconded by Council Member Farnam, to approve the Consent Calendar, with the exception of item #1.5, as corrected.

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

1.1 Reading of Ordinances

Approved the reading by title only of all ordinances.

1.2 Minutes – April 14, 2010 Regular Meeting

Approved the Minutes as corrected.

1.3 Warrant Register

Approved Warrant Register dated April 21, 2010 in the amount of \$31,670.00.

1.4 Treasurer's Report – March 2010

Approved the Treasurer's Report for March, 2010.

ITEMS REMOVED FROM THE CONSENT CALENDAR

1.5 Second Reading of Ordinance No. 49 – Zoning Ordinance Amendment 10-01 – Rural Residential Zone Building Setbacks

Council Member Cashman stated there was some issue that this would make our setbacks more stringent than the County. He feels that for properties that are half acre or greater, a 10' setback is good and there is no need for a 20' setback. He would like an amendment to the Ordinance to accommodate this.

Mayor Moore stated there was confusion as to whether the setbacks are in the Code or not and she would like clarification.

City Manager Oviedo stated there was a question as to whether the County had setbacks in place and if it was in the Ordinance. Staff investigated this and found that when the County revised the Ordinance, they had omitted the setback distances, so it is not in the Ordinance. What County Staff then did was develop standards as a "work around" that they used in the Planning Department, but they were not in the Ordinance.

City Attorney Biggs advised that if there is a change to Ordinance No. 49, it would be considered a first reading and would have to be brought forward for a second reading.

A MOTION was made by Council Member Cashman to change the setback, for parcels one-half acre or larger, to 10' in Ordinance No. 49.

Motion died due to lack of a second.

A MOTION was made by Council Member Farnam, seconded by Mayor Pro Tem Swanson, to adopt Ordinance No. 49 as presented.

Roll call vote: Ayes – 4; Nays – 1, Council Member Cashman. Motion carried.

ORDINANCE NO. 49
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
WILDOMAR, CALIFORNIA, AMENDING CHAPTER 17.16 OF
MUNICIPAL CODE OF THE CITY OF WILDOMAR PERTAINING TO
BUILDING SETBACKS IN THE RURAL RESIDENTIAL ZONING
(ZONING CODE AMENDMENT 10-01)

2.0 PUBLIC HEARINGS

No Public Hearings scheduled.

3.0 GENERAL BUSINESS

3.1 FY2009/10 3rd Quarter Budget Report and FY2010/11 Budget Program

Assistant City Manager Nordquist presented the staff report.

Discussion ensued regarding what the City has to have versus what the City would like to have; the need and desire to hear from the community; look into interns going after grants; and hold a workshop for community input.

3.2 Medical Marijuana Dispensary Educational Report

City Manager Oviedo presented the staff report and gave an overview of the timeline of how and why this is before the Council and spoke briefly regarding the invited speakers.

City Attorney Biggs presented a legal overview of the issues surrounding medical marijuana, the conflicting laws between the Federal and State, the difference between a collective and dispensary, secondary effects from these types of businesses, and the measures on the November ballot regarding medical marijuana.

Discussion ensued regarding if money changes hands or how dispensaries and collectives work.

Sgt. Eric Hernandez, Riverside County Sheriff's Department, stated one of his duties in the special investigations unit is handling cases regarding marijuana. He has attended classes regarding the medical marijuana issues and has handled many investigations surrounding this. He discussed the issues surrounding limits on the possession, or cultivation, of medical marijuana. Where most people get into trouble is payment, and it is a very gray area. However, collectives and cooperatives are not allowed to make a profit, just get enough money to cover costs of growing and cultivating.

Discussion ensued regarding non-profits and the parameters to be such.

Planning Director Hogan gave an overview of land uses and zoning options regarding medical marijuana dispensaries. The Council could ban dispensaries; permit it in every zone; require a conditional use permit; or permit it as a special use, such as an adult business would have to have.

City Manager Oviedo stated that Supervisor Stone was invited to speak on this issue and appears he is unable to make it. Supervisor Stone was invited to speak as he is, by profession, a Pharmacist, and is very educated regarding the issues surrounding medical marijuana. Also, as an elected official he is also dealing with this issue at the County level. Also, the County is in the process of drafting a new ordinance to deal with medical marijuana.

Dr. Fitchner, clinical psychologist and mental health physician, gave background, from a medical view, of the benefits of medical marijuana and access to it.

City Manager Oviedo stated that the video from "We The People", a group that held a Town Hall meeting in Lake Elsinore, has a segment from Judge James Gray who is a retired Judge from Orange County. This segment of the video was then shown. City Manager Oviedo then read a page from the DEA's website stating their stand against medical marijuana. He then stated that the next three speakers are the groups which have applied for a business registration with the City regarding medical marijuana.

Paula Carter, West Coast Weeds, gave her background of her community service and volunteerism. She then spoke regarding the various varieties of medical marijuana, each one aids with specific physical ailments.

William Sump, Wildomar Patient's Compassionate Group, stated they are a non-profit corporation and he then related how their operation works and the strict guidelines they operate under. He urged the Council to regulate the use of medical marijuana.

Kyle Castanon, Alt Meds of Wildomar, stated his background and education. He would like to open a brick and mortar storefront to service those in the collective and also hold classes to teach these individuals how to care for themselves using medical marijuana. They plan to grow their cannabis in a sterile environment and will be certified organic.

SPEAKERS:

George Taylor, resident, gave the Council a letter and stated he does not believe a medical marijuana dispensary is a good fit in the City. He is concerned regarding this type of business being near children. He urged the Council to not do anything until it is legally necessary to amend the Municipal Code.

Gerald Hall, resident, stated the surrounding cities have been contacted regarding this issue and the cities have turned them down. Wildomar should contact these cities to find out why. He is concerned regarding law enforcement and the demand for service these types of businesses would require. This will cost the tax payers in the end. He would like background checks on all these applicants.

Gil Rasmussen, resident, stated he would like to have medical marijuana investigated for value to help with pain and discomfort. Some of the medications that are prescribed have very serious and severe negative side effects that medical marijuana may not have. He would like to look at the medicinal benefits of medical marijuana.

Kinnith Fontenot, Tree House Club in San Diego, was not present.

Carlos Stahl, Lake Elsinore resident, stated he is a disabled Veteran and he does use medical marijuana. He and his son went to the Wildomar City Hall with an application to open a collective and were told it is prohibited in the City and would not accept the application. He would now like to be considered. He invited everyone to their facility and stated they have never had a problem. They currently have about 800 customers.

Lanny Swerdlow, Marijuana Anti-Prohibition Project, handed out some informational material on medical marijuana. He worked with City Officials in Palm Springs on the Medical Marijuana Task Force and they have increased the number of collectives from 2 to 3 and they are now implementing their Ordinance.

Judy Thompson, resident, stated the Council needs to enforce laws that have been passed and to represent everyone in the community. She urged the Council to move forward and put rules and regulations in place regarding allowing medical marijuana.

Council Member Farnam thanked all the speakers and feels the meeting has been very informative. He recommends that this be looked into

further and have Staff work with the applicant. He suggested the applicants pay all costs and that the taxpayers do not pay for this. He is not saying he is favor of medical marijuana, and he is making no promises, however if this is approved he doesn't want a large number of dispensaries. He would prefer the business model that Mr. Castanon showed and urged that all potential businesses use this model.

Council Member Ade stated that she is against a precedent of making the applicants pay for the Ordinance and that it is likely illegal.

Discussion ensued regarding Staff time and money, and how it may change in November; and Cost for possible litigation for not having an Ordinance.

Mayor Moore stated at the last Council meeting the Council consensus was to put a 10:00 p.m. curfew on Council meetings. It is almost 10:00 p.m. and does the City Council wish to continue with this meeting, and if so, how long.

It was the consensus of the City Council to extend the curfew to no later than 10:30 p.m.

Council Member Cashman stated the City should pay for policy. He also does not wish to wait until November as the people who need this are sick now. As long as there is not an inordinate amount of money spent on it, he feels the City should draft an Ordinance.

Discussion ensued regarding the cost, in terms of staff time, and attorney fees, to draft an Ordinance; the costs for litigation; utilizing an existing Ordinance for Wildomar; the election in November for the State-wide measures and how that could change what the City is trying to do now.

A MOTION was made, and amended, by Council Member Cashman, seconded by Council Member Ade, to direct the City Manager to draft an Ordinance regulating medical marijuana in the City of Wildomar utilizing the Ordinance of the City of Laguna Woods.

Roll call vote: Ayes – 4; Nays – 1, Mayor Moore. Motion carried.

CITY MANAGER REPORT

City Manager Oveido reminded the Council that on April 29, there will be the

training workshop held on CEQA.

City Clerk Lee reported that after checking with the Assemblyman's Office, it is official that since the proposed legislation was not signed by the Governor, the City of Wildomar will have three Council seats open for the November 2, 2010 election.

CITY ATTORNEY REPORT

City Attorney Biggs reported that an appeal has been filed by Mr. St. Marie in the case seeking to invalidate the incorporation election based on the CEQA requirement. Mr. St. Marie did lose at the trial court level and is now appealing. Also, there is still no word on the Beutz matter.

City Manager Oviedo stated in the near future he would like to brief the Council on the St. Marie case as it is starting to cost the City a great deal of money to assist the County in this matter.

COUNCIL COMMUNICATIONS

Council Member Cashman announced that the Wildomar book is finally here. He stated it will be soon sold by the Historic Society. Every book bought from the Historic Society goes back to the Society.

Council Member Ade thanked all the speakers and citizens for attending the meeting and she is happy the City is going to get an Ordinance so that the City has more control.

Council Member Swanson stated The Farm put on a great dinner for their volunteer security team. She attended the event and urged the City to look into utilizing volunteers. Also, the Rotary BBQ was phenomenal and looks forward to next year's.

Mayor Moore agreed with Council Member Swanson regarding the BBQ. She also had some help from volunteers to man the Census table at the Post Office and urged everyone to return their census. This coming Saturday there will be a clean-up event in the City. Also, the Miss Wildomar event will be on Saturday. She listed all the events she had attended in the last few weeks.

FUTURE AGENDA ITEMS

Update on the Hospital

ADJOURNMENT

There being no further business, Mayor Moore declared the meeting adjourned at 10:28 p.m.

Respectfully submitted by:

Debbie A. Lee, CMC
City Clerk

CITY OF WILDOMAR CITY COUNCIL

Agenda Item #1.3

CONSENT CALENDAR

Meeting Date: May 12, 2010

TO: Mayor and City Council

FROM: Gary Nordquist, Assistant City Manager

SUBJECT: Warrant Registers dated April 28, and May 6, 2010, and Payroll Warrant Register dated April 30, 2010

STAFF REPORT

RECOMMENDATION:

1. Approve Warrant Register dated April 28, 2010 in the amount of \$215,659.00;
2. Approve Warrant Register dated May 6, 2010 in the amount of \$455,978.95; and
3. Approve Payroll Warrant Register dated April 30, 2010 in the amount of \$288.50.

BACKGROUND:

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

DISCUSSION:

None


FISCAL IMPACTS:

These Warrant Registers will have a budgetary impact in the amount noted in the recommendation section of this report. These costs are included in the Fiscal Year 2009-10 Budget.

ALTERNATIVES:

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

Submitted by:



Gary Nordquist
Assistant City Manager

Approved by:



Frank Oviedo
City Manager

**City of Wildomar
Warrant Register
April 28, 2010**

| Date | Num | Name | Memo/Description | Amount |
|------------|------|--|--|---------------------------------|
| 04/28/2010 | 2369 | A & A Janitorial Services | Janitorial Services & Supplies - Marna O'Brien Park - April 2010 | \$ 662.64 |
| 04/28/2010 | 2370 | Animal Friends of the Valleys, Inc. | Animal Services - March 2010 | \$ 7,500.00 |
| 04/28/2010 | 2371 | California Municipal Treasurers Association | CMTA Membership Renewal - 2010 - Finance Director | \$ 155.00 |
| 04/28/2010 | 2372 | Data Ticket, Inc. | Code Enforcement Citation Processing - March 2010 | \$ 200.00 |
| 04/28/2010 | 2373 | DMN Publishing | Community Services Announcement - 1st QTR 2010 | \$ 578.00 |
| 04/28/2010 | 2374 | Innovative Document Solutions | Copier Services & Maintenance - March 2010 | \$ 396.36 |
| 04/28/2010 | 2375 | Edison | Park Utilities, Wildomar Lamps - March 2010 | \$ 4,376.08 |
| 04/28/2010 | 2376 | Interwest Consulting Group | Various Municipal Services - March 2010 | \$ 198,233.00 |
| 04/28/2010 | 2377 | North County Times | Planning Commission Bylaws and Zoning - Code 10-03 | \$ 114.40 |
| 04/28/2010 | 2378 | Riverside County Sheriff's Department | Booking Fees for March 2010 | \$ 1,420.32 |
| 04/28/2010 | 2379 | Riverside Department of Environmental Health | Complaint Response - January through March 2010 | \$ 1,051.25 |
| 04/28/2010 | 2380 | Your Branding Company | City of Wildomar Pencils and Pens | \$ 629.95 |
| 04/28/2010 | 2381 | US Electric Company | Trouble-shoot booster pumps @ Marna O'Brien & Windsong Parks | \$ 297.00 |
| 04/28/2010 | 2382 | Elsinore Valley Municipal Water District | Recycled Water Training (Windsong Park) | \$ 45.00 |
| | | | | Sub-Total: \$ 215,659.00 |

**City of Wildomar
Warrant Register
May 6, 2010**

| Date | Num | Name | Memo/Description | Amount |
|------------|------|--|--|---------------------------------|
| 05/06/2010 | 2383 | County of Riverside - Fire Dept | Fire Protection Services - 3rd QTR FY09/10 | \$ 414,295.40 |
| 05/06/2010 | 2384 | EDC of Southwest California | Business Meeting Summit | \$ 75.00 |
| 05/06/2010 | 2385 | Harv Dykstra | Planning Commission Meeting - 4/21/2010 | \$ 75.00 |
| 05/06/2010 | 2386 | Image Printing System | Business Cards - Moore & D'Zmura, Farmers' Market Flyers | \$ 319.74 |
| 05/06/2010 | 2387 | Michael Kazmier | Planning Commission Meeting - 4/21/2010 | \$ 75.00 |
| 05/06/2010 | 2388 | MuniServices, LLC | Sales Tax Reporting Systems, STARS Service-4th QTR 2009 | \$ 375.00 |
| 05/06/2010 | 2389 | Robert Devine | Planning Commission Meeting - 4/21/2010 | \$ 75.00 |
| 05/06/2010 | 2390 | Scott Nowak | Planning Commission Meeting - 4/21/2010 | \$ 75.00 |
| 05/06/2010 | 2391 | AFLAC | Insurance Premium for City Council & City Clerk - April 2010 | \$ 611.64 |
| 05/06/2010 | 2392 | Riverside Department of Environmental Health | Services for Complaint Response - Oct-Dec 2009 | \$ 2,392.00 |
| 05/06/2010 | 2393 | The Pin Center | Lapel Pins - Logo Set-up and Shipping | \$ 785.00 |
| 05/06/2010 | 2394 | WRCOG | Multi-Species Habitat Fee - March/April 2010 | \$ 4,815.81 |
| 05/06/2010 | 2395 | AT&T | Council Mobile Phones - 3/21-4/20/10 | \$ 552.96 |
| 05/06/2010 | 2396 | Crystal Clean Maintenance | Janitorial Services - May 2010 | \$ 698.00 |
| 05/06/2010 | 2397 | CTAI Pacific Greenscape | Park Maintenance Services for April 2010 | \$ 4,491.71 |
| 05/06/2010 | 2398 | Diamond W Events | Contractual Services - Parks & Emer Prep - April 2010 | \$ 7,321.74 |
| 05/06/2010 | 2399 | Naples Plaza Ltd.-Oak Creek II | Monthly Lease - May 2010 | \$ 10,114.56 |
| 05/06/2010 | 2400 | Elsinore Valley Municipal Water District | Water for Parks - 3/18/2010 - 4/16/2010 | \$ 6,916.31 |
| 05/06/2010 | 2401 | Guardian | Insurance Payment - May 2010 | \$ 907.46 |
| 05/06/2010 | 2402 | North County Times | Notice of Public Hearing; Planning Commission Opening | \$ 198.12 |
| 05/06/2010 | 2403 | Protection Rescue Security Services - Vendor | Security Services - April 2010 - O'Brien, Heritage, Windsong | \$ 425.00 |
| 05/06/2010 | 2404 | Snap Graphic Design | Farmers' Market Marketing AD & Logo | \$ 315.00 |
| 05/06/2010 | 2405 | Wildomar Little League | Softballs for Adult League on Sundays | \$ 68.50 |
| | | | | Sub-total: \$ 455,978.95 |

**City of Wildomar
Payroll Warrant Register
30-Apr**

| | | | | |
|-----------|------|-----------------|--------------------|-----------|
| 4/30/2010 | 5105 | Bridgette Moore | April 2010 Stipend | \$ 288.50 |
|-----------|------|-----------------|--------------------|-----------|

CITY OF WILDOMAR – CITY COUNCIL

Agenda Item #2.1

PUBLIC HEARING

Meeting Date: May 12, 2010

TO: Mayor and City Council

FROM: Michael Kashiwagi, Development Services

SUBJECT: Ordinance Amending Chapter 1.03 of the Wildomar Municipal Code
Pertaining to Code Violations

STAFF REPORT

RECOMMENDATION:

That the City Council introduce an Ordinance entitled:

ORDINANCE NO. _____
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,
CALIFORNIA, AMENDING CHAPTER 1.03 OF THE WILDOMAR MUNICIPAL CODE
PERTAINING TO CODE VIOLATIONS

BACKGROUND:

The City has broad authority to declare what conditions on private property may constitute a public nuisance. The Municipal Code currently designates many such conditions as public nuisances, in particular those related to building code and zoning ordinance violations. The current remedies available to the City against a public nuisance are: (1) a criminal action; (2) a civil action, or (3) administrative citations. The selection of a particular remedy is wholly within the City's discretion and is dependent on the particular facts and circumstances of each case.

At present, the Municipal Code is lacking several key provisions relating to Code Enforcement, the absence of which limits City staff's ability to respond to certain nuisance conditions. The missing provisions include: (1) a procedure for administrative abatement, which would permit staff to address public nuisance conditions without having to initiate court proceedings; (2) a procedure to collect unpaid administrative citation penalties; (3) authorization for Code Enforcement officers to issue misdemeanor citations; (4) clarification of the City Attorney's authority to initiate misdemeanor prosecutions and civil lawsuits; and (5) authorization for the prevailing party in nuisance abatement actions to collect attorneys' fees. The proposed Ordinance would add these provisions to the Municipal Code and clarify and adapt existing procedures to the needs of the City.

DISCUSSION:

The purpose of the proposed Ordinance is to strengthen existing Municipal Code provisions dealing with nuisance abatement and increase Code Enforcement staff's flexibility and options for dealing with nuisance conditions. The proposed Ordinance accomplishes the following:

- Adds a "Definitions" section to Chapter 1.03, setting forth the meaning of various terms and phrases related to nuisance abatement proceedings, including a definition of "Hearing Officer" which will be applicable to both administrative abatement proceedings and administrative citation appeals.
- Authorizes the City Attorney expressly to prosecute code violations. Such authority is granted only implicitly under existing Code provisions.
- Authorizes Code Enforcement officers to issue criminal citations pursuant to Penal Code section 836.5. Code Enforcement officers need the ability to issue notices to appear in court when they discover significant Code violations. A misdemeanor citation may be filed with the court in lieu of a formal misdemeanor complaint drafted by the City Attorney. A misdemeanor citation may not be appropriate for all violations, but is an important tool for Code Enforcement officers to utilize and may save the City time and money in dealing with certain violations.
- Adds a new section providing for "Administrative Abatement," which will provide a uniform administrative abatement procedure for all public nuisances. The major advantage of administrative abatement is the ability to avoid the cost and delays often associated with judicial actions. The City controls the proceedings and, subject to due process considerations, can proceed in a time frame that best suits the nature of the potential nuisance and the profile of the responsible person. The proceedings are less formal than a judicial action in that traditional rules of evidence do not apply and lawyers are not required. On the other hand, the severity or imminent threat posed by some nuisances often favors a judicial action over an administrative proceeding, particularly where a responsible party demonstrates a high degree of unwillingness or inability to comply with city orders.

Administrative abatement actions begin with the issuance of courtesy notice of violation. Such notices will be prepared by Code Enforcement staff. If the responsible person fails to voluntarily correct the situation, and if the City determines that the property condition is significant enough to pursue abatement and elects to proceed administratively, then the City would schedule a hearing before a hearing officer and send a "Notice of Abatement Hearing" to the property owner advising of the right to present evidence at the hearing. The notice will further inform the owner that all costs of abatement may ultimately be charged as a special assessment on the property if the alleged violation is not corrected.

Hearings are conducted like a mini-trial, but because it is a fairly informal process, a typical hearing should generally not last more than one or two hours. Again, because of due process concerns, the City hearing officer should be independent of the department pursuing the violation and preferable independent of the City itself. For example, many cities now routinely contract with private companies to administer parking citations. The City already does this in connection with administrative citation appeals.

At the conclusion of the hearing, the hearing officer will issue an order either upholding the alleged violation as a nuisance, or finding a lack of evidence supporting such claim. If a violation is deemed to exist, the order will require compliance within a prescribed period. If the nuisance is not abated within the period specified by the order of the hearing officer or City Council, the City may cause the nuisance to be abated and charge such costs to the property owner. In situations where the responsible person remains uncooperative, cities may sometimes seek a court order authorizing the entry upon the premises to abate the nuisance. This procedure does not involve a trial on the merits of the city's nuisance determination, but rather, is akin to obtaining an inspection warrant authorizing entry upon the subject property.

At the conclusion of the administrative proceeding, the enforcement officer or City agent, will file an itemized cost report with the City Council, which, following a noticed public hearing, will determine the total cost of the abatement and authorize the recordation of a special assessment against the property.

The availability of administrative abatement procedures does not preclude the City from pursuing criminal or civil actions or a combination of any of these procedures. It merely gives the City one more Code enforcement option to utilize at its discretion.

- Amends the City's administrative citation procedures. The administrative citation program has proven to be a successful tool for dealing with the majority of public nuisance conditions. However, based on the past year's experience, it is staff's conclusions that the existing procedures can be strengthened.

With regard to administrative citations, the Ordinance does the following: (1) clarifies who is considered a "responsible party" and thus subject to an administrative citation; (2) revises the requirements for notices of violation, the content of citations, and the service of citations to ensure compliance with Due Process requirements; and (3) adds procedures for the collection of unpaid fines. It is Staff's opinion that these revisions will enhance Code Enforcement's ability to issue citations, enforce the Code, and collect outstanding fines.

- Adds provisions permitting the recovery of attorneys' fees in nuisance abatement actions. While Code Enforcement staff can address the majority of Municipal Code violations with administrative citations, there are certain situations in which a civil lawsuit seeking injunctive relief is appropriate. In such situations, it is important that the City be able to recover its attorneys' fees and costs, as permitted by state law.

Government Code section 38773.5 authorizes cities to adopt ordinances that provide for the recovery of attorneys' fees in nuisance abatement actions. A 2007 appellate decision interpreting section 38773.5 held that a city could not recover attorneys' fees unless the municipal code stated expressly that the prevailing party, rather than just the city, was entitled to recover attorneys' fees. The Wildomar Municipal Code's existing provisions regarding the recovery of attorneys' fees do not refer to the prevailing party. This ordinance amends the Municipal Code to add a provision regarding the prevailing party's entitlement to attorneys' fees in nuisance abatement actions.

The proposed ordinance would bring the Wildomar Municipal Code in conformance with section 38773.5 and existing case law. It would add sections 1.03.090 and 1.03.100, which would confirm the City's ability to recover attorneys' fees in civil actions and ensure that such fees may be recovered by the prevailing party. The amount of the attorneys' fees for either party will be limited to the amount of reasonable fees incurred by the City in the action.

CEQA REVIEW:

The Ordinance is exempt from CEQA because it is not a project as defined in Public Resources Code section 21065 and CEQA Guidelines section 15378. (CEQA Guidelines section 15060(c)(3).) The Ordinance does not meet the definition of a project because it does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further, the Ordinance is not subject to CEQA under CEQA Guidelines section 15060 (c)(2) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment. The Ordinance merely supplements preexisting code enforcement authority by adding procedures for administrative abatement of public nuisances, refining existing administrative citation procedures, and ensuring the City's ability to recover costs in nuisance abatement actions. Because the City already has the authority and power to enforce the Municipal Code through misdemeanor prosecution, civil actions, and administrative citations, the Ordinance will not encourage or discourage development. Accordingly, there is no possibility of a physical change in the environment.

The Ordinance is also exempt from CEQA under section 15061(b)(3) of the CEQA Guidelines (the common sense exception) which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. As noted above, the Ordinance does not relate to any one physical project and will not result in any physical change to the environment because it merely supplements preexisting code enforcement authority and does not encourage or discourage any development within the City.

FISCAL IMPACTS:

An independent hearing officer will typically involve an hourly rate. For example the Office of Administrative Hearings typically charges approximately \$180 per hour, plus a \$66 case filing fee. The exact fiscal impact cannot be determined in advance of a particular nuisance abatement action.

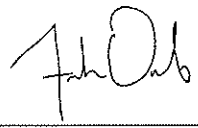
ALTERNATIVES:

1. Take no action.
2. Amend the Ordinance

Submitted by:

Michael Kashiwagi
Development Services

Approved by:



Frank Oviedo
City Manager

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF WILDOMAR, CALIFORNIA, AMENDING CHAPTER 1.03
OF THE WILDOMAR MUNICIPAL CODE PERTAINING TO
CODE VIOLATIONS**

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

SECTION 1. Amendment of Chapter 1.03. Chapter 1.03 of the Wildomar Municipal Code is hereby amended to read in its entirety to read as shown in Exhibit "A" to this Ordinance.

SECTION 2. CEQA. The City Council finds that this Ordinance ("Ordinance") is not subject to the California Environmental Quality Act (CEQA) for the following reasons:

A. The Ordinance is exempt from CEQA because it is not a project as defined in Public Resources Code section 21065 and CEQA Guidelines section 15378. (CEQA Guidelines section 15060(c)(3).) The Ordinance does not meet the definition of a project because it does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further, the Ordinance is not subject to CEQA under CEQA Guidelines section 15060 (c)(2) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment. The Ordinance merely supplements preexisting code enforcement authority by adding procedures for administrative abatement of public nuisances, refining existing administrative citation procedures, and ensuring the City's ability to recover costs in nuisance abatement actions. Because the City already has the authority and power to enforce the Municipal Code through misdemeanor prosecution, civil actions, and administrative citations, the Ordinance will not encourage or discourage development. Accordingly, there is no possibility of a physical change in the environment.

B. The City has analyzed the Ordinance and has determined that it is exempt from CEQA under section 15061(b)(3) of the CEQA Guidelines (the common sense exception) which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Ordinance does not relate to any one physical project and will not result in any physical change to the environment because it merely supplements preexisting code enforcement authority and does not encourage or discourage any development within the City.

SECTION 2. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it

would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3. Publication. The City Clerk is directed to cause this ordinance to be published or posted in accordance with Government Code section 36933.

PASSED, APPROVED, AND ENACTED this ____ day of _____, 2010.

Bridgette Moore, Mayor

ATTEST:

Debbie Lee, City Clerk

APPROVED AS TO FORM:

Julie Hayward Biggs, City Attorney

EXHIBIT “A”

Chapter 1.03

CODE VIOLATIONS

Sections:

- 1.03.010 Definitions
- 1.03.020 Violation of Municipal Code – Misdemeanor.
- 1.03.030 Aiding and Abetting.
- 1.03.040 Punishments.
- 1.03.050 Imprisonment in County Jail.
- 1.03.060 Violations – Public Nuisances.
- 1.03.070 Administrative Abatement.
- 1.03.080 Administrative Citations.
- 1.03.090 Civil Actions.
- 1.03.100 Attorneys' Fees.
- 1.03.110 Notice of Noncompliance.
- 1.03.120 Treble Damages.

1.03.010 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) “Administrative citation” or “citation” shall mean a written notice to a responsible party that a violation of this code has occurred and an assessment of civil fines issued by an enforcement officer of the city.

(b) “City” shall mean the City of Wildomar.

(c) “City manager” shall mean the city manager of the city.

(d) “Code” shall mean the Wildomar Municipal Code or any ordinance adopted by the city council or other codes or regulations of the State of California or the County of Riverside or otherwise applicable to the city.

(e) “Continuing violation” shall mean either a particular violation of the code continuing for more than 24 hours without correction or abatement, or a repeated, consecutive violation of the same offense without intervening days.

(f) “Enforcement Officer” shall mean any officer, agent or employee of the city designated by the city manager to have the authority and responsibility to enforce

certain provisions of this code.

(g) "Hearing Officer" shall mean an impartial individual designated by the city manager to preside over administrative abatement hearings pursuant to Section 1.03.070 and administrative citation appeal hearing pursuant to Section 1.03.080. The hearing officer shall not be a city employee. The employment, performance, evaluation, compensation and benefits of the hearing officer, if any, shall not be directly or indirectly conditioned upon the outcome of any administrative hearing and/or the amount of fines upheld. The City may contract with a qualified provider to conduct administrative hearings or to process administrative citations.

(h) "Notice of violation" shall mean a written notice to a responsible party that a violation of this code has occurred and a warning that an administrative citation assessing fines will be issued unless the violation is ceased and abated.

(i) "Responsible party" shall mean any individual who is the owner, tenant, lessee, or occupant of real property, or the owner, majority stockholder, general partner, or authorized agent of any business, company, or entity, or the parent or the legal guardian of any person under the age of 18 years, who causes or maintains a violation of this code.

1.03.020 Violation of Municipal Code -- Misdemeanor.

(a) It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code, any Code adopted by reference by this Code, or any ordinance of the City not included within this Code. Any person violating any such provision or failing to comply with any such requirements shall be guilty of a misdemeanor, unless the violation is specifically designated as an infraction.

(b) Pursuant to California Government Code Section 36900, the city attorney may prosecute any violation of this code in the name of the people of the State of California. In any such criminal prosecution, the city attorney is authorized to reduce the charge for any misdemeanor violation to an infraction.

(c) Pursuant to California Penal Code Section 836.5, Enforcement Officers are authorized to issue criminal citations following the procedures set forth in California Penal Code Sections 853.5 through 853.6a, or such other procedures as the state of California may subsequently enact.

(d) Each person convicted of a misdemeanor or infraction under the provisions of this Code shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision or failure to comply with any of the requirements of this Code, any Code adopted by reference by this Code, or any ordinance of the City not included within this Code is committed, continued or permitted by such person, and may be punished accordingly.

1.03.030 Aiding and Abetting. Whenever any act or omission is made unlawful

by this Code, any Code adopted by reference by this Code, or any ordinance of the City not included within this Code, it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

1.03.040 Punishments.

(a) Any conviction of a misdemeanor under the provisions of this Code shall be punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the County jail for a period not exceeding six months, or by both fine and imprisonment.

(b) Any conviction of an infraction under the provisions of this Code shall be punishable for a first conviction by a fine of not more than one hundred dollars (\$100), for a second conviction within a 12-month period by a fine of not more than two hundred dollars (\$200), and for a third or any subsequent conviction within a 12-month period by a fine of not more than five hundred dollars (\$500).

Any provision or requirement of this Code or of any Code adopted by reference by this Code or of any ordinance of the City not included within this Code, the violation of which or the failure to comply with which is designated as an infraction, shall be prosecutable as a misdemeanor upon a fourth violation within a 12-month period and upon each violation thereafter of the same provision by the same individual within a 12-month period.

1.03.050 Imprisonment in County Jail. Imprisonment for violation of this Code, any code adopted by reference by this Code, or any City ordinance not included in this Code shall be in the County Jail.

1.03.060 Violations – Public Nuisances. In addition to other penalties provided by law, any condition caused or permitted to exist in violation of any provision of this Code, any code adopted by reference by this Code, or any ordinance of the City not included within this Code, or any such threatened violation, shall be deemed a public nuisance.

1.03.070 Administrative Abatement. The Enforcement Officer, as defined in Section 1.03.010(f), may initiate proceedings to abate public nuisances as follows:

(a) First Notice of Nuisance. Upon the determination by the Enforcement Officer that a nuisance exists, a Notice of Nuisance shall be prepared with copies thereof to be served either personally or by mail, postage prepaid, certified, return receipt requested, to the owner of said affected premises as shown on the last equalized assessment role, or the tenant. If no address can be found or is known to the Enforcement Officer, then the notice shall be mailed to such person at the address of the premises affected by the proceedings. The failure of any person to receive the notice does not affect the validity of any proceedings taken hereunder. A copy of the Notice of Nuisance shall be prominently and conspicuously placed upon the premises affected by the nuisance proceedings. Where the Enforcement Officer has determined

that the condition causing the nuisance is imminently dangerous to human life or limb, or to public health or safety, the Enforcement Officer may include in the first notice an order that the property, building or structure affected be vacated pending correction or abatement of the conditions causing the nuisance. The First Notice of Nuisance shall contain the following:

(1) A legal description and street address, assessor's parcel number, or other description sufficient to identify the premises affected.

(2) A description of the condition causing the nuisance. Where the Enforcement Officer has determined that the condition causing the nuisance can be corrected or abated by repair or corrective action, the notice shall state the repairs or corrective actions that will be required and the time limit within which the nuisance must be corrected.

(3) An order to complete abatement of the nuisance within a reasonable amount of time.

(4) A statement that if the nuisance is not corrected as specified, a hearing will be held before an independent Hearing Officer to consider whether to order abatement of the nuisance and that the City may levy a special assessment for the recovery of all costs, including attorneys' fees and hearing officer fees, incurred or expended by the City in the abatement of the nuisance. This special assessment shall be collected at the same time and in the same manner as is provided for the collection of ordinary taxes pursuant to Section 38773.5 of the Government Code. Special assessments shall be subject to the same penalties, interest and procedures of foreclosure and sale in the case of delinquency as is provided for ordinary taxes.

(b) Notice of Nuisance Abatement Hearing. If, upon the expiration of the period specified in the First Notice of Nuisance, action to abate the nuisance has not been commenced, or, if it has been commenced, it has not been pursued with due diligence or completed within the time specified, the Enforcement Officer shall prepare a Notice of Nuisance Abatement Hearing and serve such notice. The hearing shall be scheduled before a Hearing Officer at a stated time and place not less than 15 days after service of the notice to show cause why stated conditions should not be found to be a nuisance and why the nuisance should not be abated by the Enforcement Officer. The Notice of Nuisance Abatement shall contain the following:

(1) The heading "Notice of Nuisance Abatement Hearing."

(2) The date, time and place of the hearing.

(3) The information specified in subsection (a) of this Section.

(c) Abatement Action. A decision to abate a nuisance shall be reached through a hearing conducted in accordance with subdivision (d) below. Upon the

conclusion of the hearing, the Hearing Officer may terminate the abatement proceedings or may order the owner or other affected person to abate the nuisance prescribing a reasonable time (not less than 30 days) for completion of abatement. The order may further provide that, in the event abatement is not commenced, conducted and completed in accordance with the terms set by the hearing officer, the Enforcement Officer is empowered and authorized to abate the nuisance. The order of the hearing officer shall be served by mail, postage prepaid, certified, return receipt requested to the owner of said affected premises as shown on the last equalized assessment roll. The time limits set by the hearing officer begin upon service of the notice. The order issued by the Hearing Officer will be deemed a final order and may be judicially reviewed pursuant to Code of Civil Procedure section 1094.6. There is no right to a City Council appeal.

(d) Abatement Hearing. The Hearing Officer shall hear testimony and shall consider other evidence concerning the conditions constituting cause to revoke approval or conditional approval, to forfeit bond, or to abate a nuisance. Parties to enforcement actions may be present at such hearing, may be represented by counsel, may present testimony, and may cross-examine witnesses. The hearing need not be conducted according to technical rules relating to evidence and witnesses and may be continued from time to time. The Hearing Officer shall deliberate upon the evidence and make findings upon such evidence to support any action of the hearing body to revoke approval or conditional approval, abate a nuisance, or deny an appeal on the forfeiture of a bond. Thereafter, the hearing body shall issue its order to the respondent.

(e) Abatement Penalties and Costs. Upon expiration of the time limits established as set forth in subsection (c) of this section, the Enforcement Officer shall acquire jurisdiction to abate the nuisance. Any materials in or constituting any nuisance abated by the Enforcement Officer may be disposed of or, if directed by the hearing officer, sold in the same manner as surplus City personal property is sold.

(f) Account of Costs and Receipts and Notice of Assessment. The Enforcement Officer will keep an itemized account of the costs of enforcing the provisions of this title and of the proceeds of the sale of any materials connected therewith. Upon completion of abatement, the Enforcement Officer shall prepare a notice to be served by mail, postage prepaid, certified, return receipt requested, to the owner as shown on the last equalized assessment roll specifying:

(1) The work done.

(2) An itemized account of the expenses incurred or expended in the abatement of the nuisance, including the costs and receipts of performing any abatement work, the actual expenses and costs of the City in preparation of notices, specifications, and contracts, inspection of the work, and the cost of printing and mailings required under this chapter, and any attorney fees and costs expended in the abatement of the nuisance, through civil action or otherwise.

(3) An address, legal description, or other description sufficient to identify the premises.

(4) The amount of the assessment proposed to be levied against the premises, or the amount to be refunded, if any, due to excess proceeds over expenses.

(5) The time and place where the Enforcement Officer will submit the account to the Hearing Officer for confirmation. The time and place specified shall be not less than 15 days after service of the notice.

(6) A statement that the Hearing Officer will hear and consider objections and protests to said account and proposed assessment or refund.

(7) A statement that the property may be sold after three years by the tax collector for unpaid delinquent assessments.

(g) Hearing on Account and Proposed Assessment. At the time and place fixed in the notice, the Hearing Officer will hear and consider the account and proposed assessment, together with objections and protests thereto. At the conclusion of the hearing, the Hearing Officer may make such modifications and revisions of the proposed account and assessment as it deems just and may order the account and proposed assessment confirmed or denied, in whole or in part, or as modified and revised. The determination of the Hearing Officer as to all matters contained therein is final and conclusive. The Hearing Officer shall give notice of the decision on the assessment of the costs of abatement by certified mail to the property owner and to any responsible person. The notice shall include a statement that the property may be sold after three years by the tax collector for unpaid delinquent assessments. The decision issued by the City Hearing Officer will be deemed a final order and may be judicially reviewed pursuant to Code of Civil Procedure section 1094.6. There is no right to a City Council appeal.

(h) Notice of Assessment. Upon confirmation of an assessment by the Hearing Officer, the Enforcement Officer is to prepare and have recorded in the office of the County Recorder of Riverside County a notice of assessment. The notice of assessment shall contain the following:

(1) A legal description, address and/or other description sufficient to identify the premises.

(2) A description of the proceeding under which the special assessment was made, including the decision of the Hearing Officer confirming the assessment.

(3) The amount of the assessment.

(4) A claim of assessment upon the described premises.

(i) Assessment. Upon the recordation of a notice of assessment, the amount claimed shall constitute an assessment upon the described premises, pursuant to Section 38773.5 of the Government Code. Such assessment is to be at a parity with the assessments of state and county taxes.

(j) Collection with Ordinary Property Taxes. After recordation, the Notice of Assessment is to be delivered to the County Auditor, who will enter the amount of the assessment on the assessment roll as a special assessment. Thereafter, the amount set forth is to be collected at the same time and in the same manner as ordinary municipal taxes and is subject to the same penalties and interest and to the same procedures for foreclosure and sale in case of delinquency, as is provided for ordinary municipal taxes; all laws applicable to the levy, collection and enforcement of municipal taxes are made applicable to such assessment.

(k) Summary Abatement Procedure. Notwithstanding any other provision of this code, whenever the Enforcement Officer determines that a public nuisance exists within the City and that nuisance constitutes an imminent hazard or danger to public health or safety, the Enforcement Officer, without observing the provisions of this chapter with regard to abatement procedures, may take the following steps to abate the nuisance: (1) give the property owner written notice by U.S. mail of the public nuisance, the City's proposed timing and method of the abatement, and the City's intent to collect the abatement costs as lien against the property subject to collection as property taxes; (2) following notice to the property owner, take all necessary and reasonable steps to cause the abatement of such nuisance in such manner as the Enforcement Officer determines is reasonably required; (3) promptly report any such emergency abatement action to the City Council; and (4) cause to be maintained an itemized account of the costs incurred by the City in abating the imminently dangerous condition. Such costs may be recovered by the city in the same manner that abatement costs are recovered pursuant to subsections (f) through (j) of this section.

1.03.080 Administrative citations. In addition to the remedies and penalties contained in this chapter, and in accordance with Government Code Section 53069.4, an administrative citation may be issued for any violation of this Code. The following procedures shall govern the imposition, enforcement, collection and administrative review of administrative citations and penalties.

(a) Administrative Citation Authority.

(1) Any responsible party violating, causing or maintaining a violation of any provision of this Code may be issued an administrative citation by an Enforcement Officer assessing a civil fine as provided in this section. A responsible party to whom a citation is issued shall be liable for and shall pay to the City the fine or fines described in the citation when due along with correction of the violation listed by the Enforcement Officer.

(2) Any Enforcement Officer of the City, upon determining that a provision of this Code which he is charged to enforce has been violated, has the

authority to issue an administrative citation to any responsible party. Pursuant to this authority, the Enforcement Officer shall determine the appropriate responsible party for each violation.

(3) Each and every day a violation of this Code exists constitutes a separate and distinct offense and will be subject to a separate fine. A single citation may charge a violation for one or more days on which a violation exists, and for violation of one or more Code sections.

(4) The owner of any premises within the City has the responsibility for keeping such premises free of violations related to the use or condition of the property. The owner of such premises is a responsible party and shall be separately liable for violations committed by tenants or occupants relative to the use or condition of the property.

(b) Notice of Violation.

(1) Whenever an Enforcement Officer determines that a violation of this Code exists, the Enforcement Officer may issue a notice of violation to a responsible party prior to issuing an administrative citation. The notice of violation serves as a written warning of responsibility and requires immediate action by the responsible party to cease and abate the violation. The notice of violation must include the information set forth in subsection (c) of this section and a date by which the violation can reasonably be ceased and abated. If the violation is not ceased or abated by the end of the correction period stated in the notice, the Enforcement Officer may issue an administrative citation.

(2) In accordance with Government Code section 53069.4, no responsible party will be assessed an administrative fine under this section for a continuing violation pertaining to a building, plumbing, electrical or similar structural or zoning issue that does not create an immediate danger to the public health or safety without first receiving a notice of violation and a reasonable opportunity to correct or otherwise remedy the violation. In such circumstance, the stated period available to correct the violation prior to the assessment of a fine must be appropriate to the violation as determined by the Enforcement Officer, but in no event less than 7 days. If, after the correction period stated in the notice, the violation is not ceased or abated, the Enforcement Officer may issue an administrative citation.

(3) Any responsible party cited for a continuing violation may petition the Enforcement Officer for an extension of time to correct the violation so long as the petition is received before the end of the correction period. The Enforcement Officer may at his or her discretion grant an extension of time to correct the violation if the responsible party has supplied sufficient evidence showing that the correction cannot reasonably be made within

the stated period.

(4) The procedures of this section shall not apply in the instance of a violation that poses immediate danger to public health or safety. The City shall maintain a list generally describing those violations that pose an immediate danger to public health or safety.

(c) Content of Citation. The administrative citation shall be issued on a form approved by the city attorney and shall contain the following information:

- (1) Name of the person who is charged as a responsible party for the violation;
- (2) Date, location and approximate time the violation was observed;
- (3) Date on which citation is issued;
- (4) The ordinance violated and a brief description of the violation;
- (5) An order to the responsible party to correct the violation within the time specified in the citation and an explanation of the consequences of failure to correct the violation;
- (6) The amount of the administrative penalty imposed for the violation;
- (7) Instructions for the payment of the penalty, and the time period by which it shall be paid and the consequences of failure to pay the penalty within this time period;
- (8) Instructions on how to appeal the citation;
- (9) The signature of the Enforcement Officer;
- (10) Notice that the violation is a nuisance and that collection of unpaid fines and/or nuisance abatement costs can be enforced as an assessment or lien against the property where the violation occurs and that unpaid assessments can result in the property being sold after three years by the county assessor.

The failure of the citation to set forth all required contents shall not affect the validity of the proceedings.

(d) Service of Citation.

- (1) If the responsible party is present at the scene of the violation, the enforcement officer shall deliver a copy of the administrative citation to them.
- (2) If the responsible party is a business, and the business owner is on

the premises, the enforcement officer shall attempt to deliver the administrative citation to them. If the Enforcement Officer is unable to serve the business owner on the premises, the administrative citation may be left with the manager or employee of the business. If left with the manager or employee of the business, a copy of the administrative citation shall also be mailed to the business owner by certified mail, return receipt requested.

(3) If no one can be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy mailed by certified mail, return receipt requested to the responsible party. The citation shall be mailed to the property address and/or the address listed for the owner on the last county equalized assessment roll.

(4) The failure of any interested person to receive the citation shall not affect the validity of the proceedings.

(e) Administrative Penalties.

(1) The penalties assessed for each violation shall not exceed the following amounts:

- a. One hundred dollars (\$100.00) for a first violation;
- b. Two hundred dollars (\$200.00) for a second violation of the same ordinance within one year; and
- c. Five hundred dollars (\$500.00) for each additional violation of the same ordinance within one year.

(2) If the violation is not corrected, additional administrative citations may be issued for the same violation. The amount of the penalty shall increase at the rate specified above.

(3) Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action.

(4) The penalties assessed shall be payable to the City.

(f) Satisfaction of Administrative Citation.

(1) Upon receipt of a citation, the responsible party must pay the fine to the City within 30 days from the issuance date of the administrative citation. All fines assessed shall be payable to the City. Payment of a fine shall not excuse or discharge the failure to correct the violation nor shall it bar further enforcement action by the City.

(2) At any time following 30 days after the issuance of the citation, the

City may deliver a collection bill to the responsible party requiring payment for all outstanding amounts owed for the violation, including the amount due for the initial violation plus any appropriate late payment charge, less any amount remitted pursuant to subsection A of this section.

(3) *Verification of abatement.* The abatement of a continuing violation must be verified by an Enforcement Officer of the City. The responsible party shall contact the phone number designated on the citation and schedule an inspection by an Enforcement Officer.

(g) Administrative Appeal.

(1) *Notice of Appeal.* The recipient of an administrative citation may appeal the citation by filing a written notice of appeal with the director. The written notice of appeal must be filed within 20 days of the service of the administrative citation as set forth in subsection (d) of this section. Failure to file a written notice of appeal within this time period shall constitute a waiver of the right to appeal the administrative citation. The notice of appeal shall be submitted on city forms and shall contain the following information:

- a. A brief statement setting forth the appellant's interest in the proceedings;
- b. A brief statement of the material facts which the appellant claims supports their contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted;
- c. An address at which the appellant agrees notice of any additional proceeding or an order relating to the imposition of the administrative penalty may be received by mail;
- d. The notice of appeal must be signed by the appellant.

(2) *Administrative Hearing.* Upon a timely written request by the recipient of the administrative citation, an administrative hearing shall be held as follows:

- a. *Notice of Hearing.* Notice of the administrative hearing shall be given at least 10 days before the hearing to the person requesting the hearing. The notice may be delivered to the person or may be mailed to the address listed in the notice of appeal.
- b. *Hearing Officer.* The administrative hearing shall be held before a Hearing Officer selected in the manner permitted by Section 1.03.010(g).

c. *Conduct of the Hearing.* The Enforcement Officer who issued the administrative citation shall not be required to participate in the administrative hearing. The contents of the Enforcement Officer's file in the case shall be admitted as prima facie evidence of the facts stated therein. The Hearing Officer shall not be limited by the technical rules of evidence. If the person requesting the appeal fails to appear at the administrative hearing, the Hearing Officer shall make their determination based on the information contained in the notice of appeal.

(3) *Hearing Officer's Decision.* The Hearing Officer's decision following the administrative hearing may be personally delivered to the person requesting the hearing or sent by mail. The Hearing Officer may allow payment of the administrative penalty in installments, if the person provides evidence satisfactory to the hearing officer of an inability to pay the penalty in full. The Hearing Officer's decision shall contain instructions for obtaining review of the decision by the superior court.

(h) Review of Administrative Hearing Officer's Decision.

(1) *Notice of Appeal.* Within 20 days of the date of the delivery or mailing of the Hearing Officer's decision, a person may contest that decision by filing an appeal to be heard by the superior court. The filing fee for the appeal shall be in the amount provided for in Government Code section 70615. The failure to file the written appeal and to pay the filing fee within this period shall constitute a waiver of the right to an appeal and the decision shall be deemed confirmed. A copy of the notice of appeal shall be served in person or by first class mail upon the issuing agency by the contestant.

(2) *Conduct of Hearing.* The conduct of the appeal is a subordinate judicial duty and may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court. The appeal shall be heard de novo, except that the contents of the issuing agency's file in the case shall be received in evidence. A copy of the document or instrument of the issuing agency providing notice of the violation and imposition of the administrative penalty shall be admitted into evidence as prima facie evidence of the facts stated therein. The court shall request that the issuing agency's file on the case be forwarded to the court, to be received within 15 days of the request.

(3) *Judgment.* The court shall retain the filing fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the local agency. Any deposit of the fine or penalty shall be refunded by the issuing agency in accordance with the judgment of the court. If the fine or penalty has not been deposited and the decision of the court is against the

contestant, the issuing agency may proceed to collect the penalty pursuant to the procedures set forth in this chapter, or in any other manner provided by law.

(i) Collection of Unpaid Fines.

(1) The failure of any person to pay a fine or penalty assessed by administrative citation within the time specified on the citation constitutes a debt to the City. To enforce that debt, the City may file a civil action, lien or assess the subject property as set forth below, or pursue any other legal remedy to collect such debt. A person who fails to pay any fine or other charge owed to the city under this chapter is liable in any action brought by the City for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs and attorneys' fees. Such collection costs are in addition to any fines, interest, and late charges.

(2) In addition to any other legal remedy, any violation of this chapter by failure to pay administrative fines or abate a continuing violation shall constitute a nuisance. To compel compliance, the City may seek to abate the nuisance and collect the costs incurred by means of a nuisance abatement lien and/or special assessment against the property where the violation occurred. Any unpaid delinquent civil fines and penalties may be recovered as part of any such lien or special assessment against the property of the responsible party where pursuant to Government Code §§ 38773.1 and 38773.5.

(3) To pursue an abatement of a code violation as a nuisance and recover the costs, including any delinquent civil fines and penalties, as an abatement lien or special assessment, the city manager may at his discretion request the county recorder to record notice of the lien and take any other necessary action to enforce collection of this lien. The city manager may pursue these remedies whether or not the City is pursuing any other action to terminate an ongoing code violation that was the basis for the fine.

(4) Before recording the lien, the city manager shall cause a notice and a report stating the amounts due and owing to be provided to the responsible party by personal service. In the event that personal service is not available, the notice and report shall be served as per the requirements of subsection (d) of this section. The report may include a fee, as established by city council resolution, for the administrative costs associated with the preparation and recordation of the lien.

(5) Following service of the notice and report, the city manager shall cause the lien to be filed in the County Recorder's Office.

(6) After confirmation and recordation, the City shall present a copy of the lien to the County tax collector to add the amount of the lien to the next regular property tax bills levied against the parcel for municipal purposes. This amount will be collected at the same time and in the same manner as ordinary property taxes are collected, and will be subject to the same penalties and procedures under foreclosure and sale as provided for with ordinary municipal taxes. After recording, the lien may be foreclosed by judicial or other sale in the manner and means provided by law.

(7) Once the City receives full payment for outstanding principal, penalties, and costs related to a lien, the city manager will cause to be recorded a notice of satisfaction or provide the property owner with a notice of satisfaction for recordation at the County Recorder's Office. This notice of satisfaction will cancel the City's lien.

1.03.090 Civil Actions. The city attorney, by and at the request of the City council or City staff, may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition(s) found to be in violation of the provisions of this Code, as provided by law. In any civil action commenced by the City to abate a public nuisance, to enjoin violation of any provision of this Code, or to collect a civil debt owing to the City, the City shall be entitled to recover from the defendant in any such action all costs incurred therein, including reasonable attorneys' fees and costs of suit, subject to Section 1.03.100 of this Code.

1.03.100 Attorneys' Fees. In any action, administrative proceeding, or special proceeding brought to abate a public nuisance, the prevailing party will be entitled to recover attorneys' fees, provided that attorneys' fees will only be available in those actions or proceedings in which the City has provided notice at the commencement of such action or proceeding that it intends to seek and recover its own attorneys' fees. In no action or proceeding will an award of attorneys' fees exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

1.03.110 Notice of Noncompliance. Whenever a written notice of violation has been given, the enforcement officer may record a notice of noncompliance with the office of the County Recorder and shall notify the owner of the property of such action. The notice of noncompliance shall describe the property, shall set forth the violations, and shall state that any costs incurred by the county, including, but not limited to investigative, administrative and abatement costs and attorneys' fees as a result of the violation of the Code may become a lien on the property and that the owner has been so notified.

1.03.120 Treble Damages. Upon a second or subsequent civil or criminal judgment within a two-year period for a violation of this Code, codes adopted by reference in this Code, or any other City ordinance, the violator shall be liable to the City for treble the abatement costs, in accordance with Government Code Section 38773.7, except in cases of substandard residential buildings that are prosecuted under Health and Safety Code section 17980.

CITY OF WILDOMAR – COUNCIL
Agenda Item #3.1
GENERAL BUSINESS
Meeting Date: May 12, 2010

TO: Mayor and City Council
FROM: Debbie A. Lee, CMC, City Clerk
SUBJECT: AB1645 "Safe, Clean, and Reliable Drinking Water Supply Act of 2010"

STAFF REPORT

RECOMMENDATION:

That the City Council adopt:

RESOLUTION NO. 2010 - _____
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,
CALIFORNIA, IN SUPPORT OF THE SAFE, CLEAN, AND RELIABLE DRINKING
WATER SUPPLY ACT OF 2010

DISCUSSION:

Greg Morrison, Elsinore Valley Municipal Water District, will provide a presentation on the Safe, Clean, and Reliable Drinking Water Supply Act of 2010. This Measure will be before California Voters on the November 2, 2010, ballot.

This Resolution was presented to, and approved by, the WRCOG Executive Committee at their April 5, 2010 meeting.


FISCAL IMPACT:

None

ATTACHMENTS:

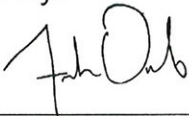
Proposed Resolution of support

Submitted By:



Debbie A. Lee, CMC
City Clerk

Approved By:



Frank Oviedo
City Manager

RESOLUTION NO. 2010 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR,
CALIFORNIA, IN SUPPORT OF THE SAFE, CLEAN, AND RELIABLE DRINKING
WATER SUPPLY ACT OF 2010

WHEREAS, California's water system is facing a growing list of challenges associated with aging infrastructure, ecological problems in the Sacramento-San Joaquin River Delta, climate change, population growth, and other factors; and

WHEREAS, these challenges are eroding the reliability of the State's water supplies, impairing the ability of local water agencies to deliver reliable water to their urban and agricultural customers and adversely affecting the Delta ecosystem; and

WHEREAS, it is widely recognized that comprehensive approach is needed to address those challenges and improve both water supply reliability and ecosystem health in the Delta; and

WHEREAS, the Legislature has approved the Safe, Clean, and Reliable Drinking Water Supply Act of 2010 for the November 2010 ballot to provide that comprehensive approach; and

WHEREAS, if approved by voters, the Measure would provide \$11.14 billion in funding for projects and programs throughout the State to increase water supply reliability, address ecological problems in the Delta, add operational flexibility to the State's water storage and deliver system and expand water recycling and conservation; and

WHEREAS, without these investments in the State's water infrastructure and local resource development programs, California's water supply reliability will continue to erode and put more jobs and local economies at risk.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Wildomar, California, does hereby formally support the Safe, Clean, and Reliable Drinking Water Supply Act of 2010 on the November 2, 2010, ballot.

PASSED, APPROVED, AND ADOPTED this 12th day of May, 2010.

Bridgette Moore
Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

CITY OF WILDOMAR – COUNCIL
Agenda Item #3.2
GENERAL BUSINESS
Meeting Date: May 12, 2010

TO: Mayor and City Council
FROM: Frank Oviedo, City Manager
SUBJECT: Inland Valley Hospital Update

STAFF REPORT

RECOMMENDATION:

That the City Council receive and file the report.

BACKGROUND:

News of the regulatory status of the hospitals in Wildomar and Murrieta has been reported in the news extensively regarding their failure to meet national standards for hospital care which has led the Center for Medicare and Medicaid Services (CMS) to terminate Medicare reimbursement on June 1, 2010. This action would have severe financial implications for the hospitals if they are unable to eventually meet standards to the satisfaction of the regulatory agency.

Additionally, the State has moved to revoke the license to operate their hospitals in California. Both situations will have devastating effects on the residents of Southwest Riverside County, and in particular the City of Wildomar. Shortage of hospital beds has been an issue for Riverside County for some time now. These regulatory actions, if successful, further exacerbate the existing problem.

Since the State and Federal government's actions, Universal Health Services, the parent company of Southwest Healthcare Systems, has informed the cities on the I-15 corridor that they fully intend on improving the situation and getting back into compliance with regulatory agencies. The President of Universal Health Services, Marc Wilson, personally met with the City's Mayor to share all the actions they are taking to resolve the issues.

Important Dates:

- April 19, 2010, Assemblyman Kevin Jefferies coordinated a conference call of City, County, and State officials to get an update on Southwest Healthcare's status.

- April 29, 2010, March Miller, President Universal Health Services meets with Mayor Moore, Mayor Pro Tem Swanson, and City Manager Oviedo to discuss Inland Valley Hospitals status and steps being taken to correct the situation.
- April 29, 2010, the Southwest Cities Coalition met to discuss this issue and are engaged ensuring that all the Cities in Southwest Riverside County are speaking with one voice when it comes to concerns regarding the need for quality healthcare in our region.
- May 5, 2010, Assemblyman Kevin Jefferies arranges to have City, County, State, Federal, and the Hospitals representatives on a conference call to further discuss this issue. The conference call was cancelled.
- May 6, 2010, as promised, Southwest Healthcare delivered its first update to cities via e-mail on their progress.

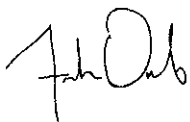
As this issue further evolves, staff intends to bring updates to the City Council and the public in order to keep everyone up to date on the status of the situation.

FISCAL IMPACT:

There is no financial impact related to this report

ATTACHMENTS:

Submitted and Approved By:



Frank Oviedo
City Manager

CITY OF WILDOMAR – COUNCIL
Agenda Item #3.3
GENERAL BUSINESS
Meeting Date: May 12, 2010

TO: Mayor and City Council
FROM: Frank Oviedo, City Manager
SUBJECT: Autism Task Force

STAFF REPORT

RECOMMENDATION:

That the City Council select a member of the Council to represent the City of Wildomar on the Autism Task Force

BACKGROUND:

On March 8, 2010, the City Manager's Office received an invitation from Temecula Council Member Mike Naggar to have a Wildomar City Council Member join a regional task force on the issue of autism.

Staff is asking Council to select a member of the Council to serve on the task force to participate in:

- Learning about the issue from professionals in the field;
- Determine needs;
- Identify existing resources;
- Develop action plans to match resource needs;
- Educate the community about resources and future opportunities to improve the quality of life for those affected.

FISCAL IMPACT:

There is no financial commitment being asked of the City therefore there is no financial impact

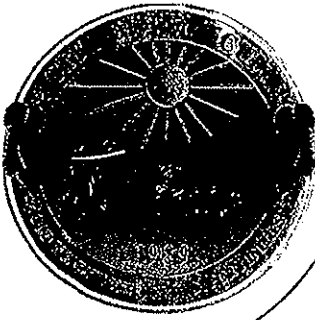
ATTACHMENTS:

Letter from Councilman Mike Naggar

Submitted and Approved By:



Frank Oviedo
City Manager



City of Temecula

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Jeff Comerchero
Mayor

Ronald H. Roberts
Mayor Pro-Tem

Maryann Edwards
Council Member

Michael S. Naggar
Council Member

Chuck Washington
Council Member

951-506-5100
FAX 951-694-6499

March 18, 2010

Mr. Frank Oviedo
City Manager
City of Wildomar
23873 Clinton Keith Road, #201
Wildomar, CA 92595

Dear Mr. Oviedo:

According to a recent study in the American Academy of Pediatrics journal *Pediatrics*, autism is now diagnosed in 1 out of every 91 children. **1 in every 58 boys under the age of 8 has some form of autism spectrum disorder.** 70% of the people in the world with autism are under the age of 14 and over the next few years, this virtual "tsunami" of children affected by autism will enter into adulthood. The societal impact will be tremendous and we must be prepared to help these young adults and their families, both now and then.

As the father of a 4 year old son with autism, I have come to know first-hand how frustrating, time-consuming, and exhausting it can be to obtain services for a child on the spectrum. Research shows that the lifetime cost, which is approximately 3-5 million dollars, can be reduced by 2/3 when intensive interventions are put in place early and consistently carried out over time.

As indicated in the attached articles from the *Press Enterprise* and the *Californian*, Temecula's City Council has authorized me to create a regional *Autism Awareness Program*. I am honored to report that Riverside County Supervisors Stone and Ashley have enthusiastically agreed to participate as co-sponsors of this effort.

I would like to personally invite your City to take part in this groundbreaking program by appointing one elected official to join us. By assembling a regional team, we can work together to assist those families in our communities that are affected by autism. After the roster of regional team members has been

Mr. Frank Oviedo

March 18, 2010

Page 2

established, an initial meeting will be scheduled for May to determine the next steps in the process.

When I presented this concept to the Temecula City Council, I envisioned that Riverside County, cities, and health care professionals and other community leaders would work together to:

- Learn about this issue from professionals in the field;
- Determine needs;
- Identify existing resources;
- Develop action plans to match resources to needs;
- Educate the community about resources and future opportunities to improve the quality of life for those affected.

I believe that by working together we can take a leadership role in addressing this growing community health issue.

Please contact Grant Yates, Deputy City Manager, at 951-506-5100 if you have any questions about this program and to let us know who will participate in this important work.

Sincerely,



Mike Naggar
Council Member



Shawn D. Nelson
City Manager

Attachments