

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

723



FROM: Economic Development Agency / Treasurer-Tax Collector /
County Auditor-Controller / County Counsel

SUBMITTAL DATE:
October 27, 2011

SUBJECT: Wildomar Landscape Maintenance District 2006-1 Special Assessment Refunds

RECOMMENDED MOTION: That the Board of Supervisors:

1. Conduct a public hearing and take official notice of the Court of Appeal decision in *Beutz v. County of Riverside*, 184 Cal.App.4th 1516 (2010) judicially invalidating the special assessments levied on behalf of the Wildomar Landscape Maintenance District (Wildomar LMD);

(Continued)

Don Kent

Don Kent
Treasurer-Tax Collector

Robert Field

Robert Field
Assistant County Executive Officer/EDA

Paul Angulo

Paul Angulo
County Auditor-Controller

Pamela J. Walls

Pamela J. Walls
County Counsel

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 9,826	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: EDA Departmental Funds

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *Jennifer L. Sargent*
Jennifer L. Sargent

County Executive Office Signature

FORM APPROVED BY COUNTY COUNSEL

DATE: 10/26/11
BY: DALE A. GARDNER

Departmental Concurrence

Policy
 Policy
 Consent
 Consent

Prev. Agn. Ref.: 9.23 of 8/16/11

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

District: 1

Agenda Number

9.8

RECOMMENDED MOTION: (Continued)

2. Approve each of the requests for refund of the Wildomar LMD assessment filed with the Clerk of the Board and summarized as Exhibit A based on the fact that said assessment was judicially invalidated and determined to be illegally assessed and levied;
3. Order that monies in the amounts claimed in respect of FY 2006-2007 in each verified claim and totaling \$2,504.10 be refunded and paid by warrants drawn upon the appropriate County fund by the County Auditor-Controller;
4. Order that monies in the amounts claimed in respect of FY 2007-2008 in each verified claim and totaling \$2,457 be refunded and paid by warrants drawn upon the appropriate County fund by the County Auditor-Controller;
5. Order that monies in the amounts claimed in respect of FY 2008-2009 in each verified claim and totaling \$2,440.20 be refunded and paid by warrants drawn by the County Auditor-Controller, upon such available funds, if any, as the City of Wildomar may have on deposit in the County Treasury, or in the event such funds are insufficient, then out of funds subsequently accruing to the City of Wildomar and on deposit in the County Treasury; and
6. Order that monies in the amounts claimed in respect of FY 2009-2010 in each verified claim and totaling \$2,424.80 be refunded and paid by warrants drawn by the County Auditor, upon such available funds, if any, as the City of Wildomar may have on deposit in the County Treasury, or in the event such funds are insufficient, then out of funds subsequently accruing to the City of Wildomar and on deposit in the County Treasury.

BACKGROUND:

In 2006, the County established the Wildomar LMD consisting of all residential properties in the community of Wildomar in order to pay the annual ongoing costs of refurbishing and maintaining landscaping in four public parks in the community. In FY 2006-2007 and FY 2007-2008, the County levied special assessments on the real property within the LMD. In 2008, the unincorporated community of Wildomar incorporated and the Wildomar LMD was transferred to the City of Wildomar. In FY 2008-2009 and FY 2009-2010 the City of Wildomar levied special assessments on the real property within the LMD.

In 2010, the Court of Appeal in *Beutz v. County of Riverside* judicially invalidated the special assessments levied in the Wildomar LMD and held that those special assessments had been illegally assessed and levied. The trial court found in favor of the County and upheld the assessments. However, while the case was pending on appeal the California Supreme Court reversed the Court of Appeals decision in *Silicon Valley Taxpayers Association v. Santa Clara County Open Space Authority* (2008) 44 Cal.4th 431. The Court of Appeal then relied on *Silicon Valley* to reverse the trial court's judgment and invalidated the assessments.

(Continued)

BACKGROUND: (Continued)

The County has since received verified claims for refund of the Wildomar LMD special assessments pursuant to California Revenue and Taxation Code (Code) Section 5096 et seq. A true and correct copy of each of the verified claims is filed with the Clerk of the Board. A spreadsheet summary of the claims is attached as Exhibit A.

Section 5096 of the Code provides that any taxes and assessments paid shall be refunded if they were illegally assessed or levied. In *Beutz*, the Court concluded that the Wildomar LMD special assessments levied in each fiscal year were illegally assessed and levied.

The Code further provides that the County Board of Supervisors receive and hear claims for refunds of taxes and special assessments and, when appropriate, to order refunds of illegally assessed and levied taxes and special assessments. Pursuant to Section 5099 of the Code, the refund ordered by the Board of Supervisors is to include county taxes and assessments as well as taxes and assessments collected by county officers for a city.

In accordance with Section 5101 of the Code, refunds ordered by the Board in respect of county taxes shall be paid by warrant drawn upon the appropriate fund by the County Auditor. Refunds ordered in respect of cities may be paid by a warrant drawn by the County Auditor, upon such available funds, if any, as the city may have on deposit in the county treasury, or in the event such funds are insufficient, then out of funds subsequently accruing to the city and on deposit in the county treasury.

The refunds for the levies from FY 2006-2007 and FY 2007-2008 are to be made by warrants drawn on the appropriate County fund, because the County levied those annual assessments. The refunds for levies from FY 2008-2009 and FY 2009-2010 are to be made by warrants drawn on the funds of the City of Wildomar, because the city levied those special assessments.

Section 5101 of the Code expressly prohibits the county from using its own funds to refund taxes and assessments levied by cities. Accordingly, the county may not use its own funds to pay refunds on behalf of the City of Wildomar.

Therefore, the Board should take official notice of the Court of Appeals decision; approve the requests for refund; order that the refunds for FY 2006-2007 and FY 2007-2008 be drawn upon the appropriate county funds; and order that the refunds for FY 2008-2009 and FY 2009-2010 be drawn upon such available funds, if any, as the City of Wildomar may have on deposit in the county treasury, or in the event such funds are insufficient, then out of funds subsequently accruing to the city and on deposit in the county treasury.

EXHIBIT A

APN	Name	Address	City, State & Zip	2006	2007	2008	2009	Total Refund
376263006-5	Bonnie I. Hickman	35444 Marsh Ln	Wildomar, CA 92595	30.80	30.80	28.00	28.00	\$ 117.60
376381021-3	Francisco J. Gomez & Laura Gomez	23531 Westpark St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
367392013-4	Janine Bennett	34575 Hickory Ln	Wildomar, CA 92595	28.40	28.00	28.00	28.00	\$ 112.40
365072006-5	Cecilio Pineda	32385 Mesa Dr	Lake Elsinore, CA 92530	28.00	28.00	28.00	28.00	\$ 112.00
376391001-6	Michael Sommerfeld	23024 Teil Glen Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366436014-3	Johnnie Francis & Delia Angel	33650 Canyon Ranch Rd	Wildomar, CA 92595	28.00	28.00	29.40	28.00	\$ 113.40
362550053-3	Kurt Sine	24307 Rosita Dr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
368262004-1	Louis Alex Bonyhadi Jr. & Diane Bonyhadi	21121 Union St	Wildomar, CA 92595	29.38	28.00	28.00	28.00	\$ 113.38
376212020-9	Alcira Villa	22830 Hunwut Dr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
382170006-3	Robert W. Stimple	14264 Memory Ln	Clearlake, CA 95422	28.40	28.00	28.00	28.00	\$ 112.40
362582009-3	Walter L. Frazee	35568 Country Park Dr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376312023-1	Christina Burton	35807 Sea Lion Ct	Wildomar, CA 92595	30.80	30.80	14.00	0.00	\$ 75.60
376402005-3	Scott Ballard & Jill Ballard	23071 Harbor Seal Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376233006-2	Maria Schneider	35315 Billic Ann Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
365081004-1	John Cassab	32450 Lakeview Ter	Lake Elsinore, CA 92530	28.00	28.00	28.00	28.00	\$ 112.00
370270021-8	Paul D. LaBella	20290 Palomar St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
368070022-4	Teresa A. Milano	32702 Wesley St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
362561028-5	Gary Adams	24841 Parkland Ct	Wildomar, CA 92595	30.80	30.80	30.80	28.00	\$ 120.40
376233011-6	Elsie M. Lacuesta	8603 Eileen St	Spring Valley, CA 91977	28.00	28.00	28.00	28.00	\$ 112.00
366041035-2	Julio Rivas	21489 Olive St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366444010-4	Robert Putnam	33790 Canyon Ranch Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
368070010-3	Robert L. Herbelin	1933 Tudor Dr	San Jacinto, CA 92583	28.40	28.00	28.00	28.00	\$ 112.40
368160006-8	Kimberly Rector	PO BOX 766	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366373002-8	Victor M. Perez & Ester A. Perez	20133 Winton Rd	Corona, CA 92881	28.00	28.00	28.00	28.00	\$ 112.00
380312033-1	Brian Horne	21923 Heliotrope Ln	Wildomar, CA 92595	29.38	30.80	29.40	29.40	\$ 118.98
376121001-1	Paulette H. Masters	32760 Central St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366032005-7	James Baumann	21225 Victorian Ln	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376032012-6	Wells Fargo Home Mortgage	MAC X2302-04D, 1 Home Campus	Des Moines, IA 50328	29.38	28.00	28.00	28.00	\$ 113.38
362522012-9	Joshua Allen & Tina M. Allen	24096 Brillante Dr	Wildomar, CA 92595	30.80	28.00	28.00	28.00	\$ 114.80
380120024-0	John Llado	6 Via Del Lago	Lake Elsinore, CA 92532	28.00	28.00	28.00	28.00	\$ 112.00
368210018-3	Walter M. Cleary	20360 Grand Ave	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
380170022-3	Jesus Esteban Carlon	23201 Palomar St	Murrieta, CA 92562	28.00	28.00	28.00	28.00	\$ 112.00
368093023-6	Adelaido Avila	21259 Illinois St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366260040-3	Cecil P. Johnson & Kazuyo O. Johnson	611 N. Rose Dr. F205	Placentia, CA 92870	28.00	28.00	28.00	28.00	\$ 112.00
370400039-6	Cecelia Gonzalez	621 N. Bonnie Beach Pl	Los Angeles, CA 90063	28.40	28.00	28.00	28.00	\$ 112.40
376302025-2	George Avila & Brenda Avila	35533 Frederick St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376231004-4	John Summers Ellison Jr.	35288 Glen Ln	Wildomar, CA 92595	28.40	28.00	28.00	28.00	\$ 112.40
376311015-1	Sidney Y. Uyehara	22944 Teil Glen Rd	Wildomar, CA 92595	28.00	29.40	28.00	29.40	\$ 114.80
366411003-6	Daryl V. McKown & Deborah A. McKown	33887 Barrengo Dr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
376302048-3	Daniel Lapointe & Patricia Lapointe	22980 Showut Ave	Wildomar, CA 92595	28.00	29.40	28.00	28.00	\$ 113.40
366023001-5	Rosa N. Cheek	21165 Vine St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
368220041-4	Mildred McLay	32840 Sheila Ln	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00

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370441004-1	Silvia S. Gibson	32875 Trailwood Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
376340011-7	Alestial L. Abbott	35059 Porras Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
370442023-1	Neil O. Raquipiso	20160 Hill Springs Rd	Wildomar, CA 92595	28.00	28.00	28.00	29.40	\$	113.40
366280012-0	Teresa Sanchez	5241 Norcris Ln	Yorba Linda, CA 92686	29.82	28.00	28.00	28.00	\$	113.82
368220028-3	Alex Monemi	32802 Sheila Ln	Wildomar, CA 92595	28.00	28.00	30.80	28.00	\$	114.80
362550023-6	Dalton Lee	24390 Topacio Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
366362005-7	Lorraine K. Love	33390 Maple Tree Ln	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
370220005-9	Launi Dimaggio	20137 Grand Ave	Wildomar, CA 92595	28.00	29.40	28.00	28.00	\$	113.40
362590015-3	Marie O'Donnell	16902 Harvest Ave	Cerritos, CA. 90703	28.00	28.00	28.00	28.00	\$	112.00
366083005-5	Jose Guadalupe Ramirez	33052 Almond St	Wildomar, CA. 92595	29.38	29.40	30.80	30.80	\$	120.38
366240061-0	Sheila Urlaub	33140 Dial Rd	Wildomar, CA. 92595	28.00	28.00	28.00	28.00	\$	112.00
376211004-2	Jairo A. Valderrama	3531 Hastings Dr	Carlsbad, CA 92008	28.00	29.40	28.00	28.00	\$	113.40
365123014-9	Scott Stiles	32702 Lakeview Ter	Lake Elsinore, CA 92530	28.00	28.00	28.00	28.00	\$	112.00
365091019-6	Alfonso Rivas	21037 Elberta Rd	Lake Elsinore, CA 92530	28.00	28.00	28.00	28.00	\$	112.00
368252007-3	Rich Deslauriers	32877 Ridge Oak Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
366200038-6	Delos Clark & Birchel L. Maitland	28780 Anderson Ct	Sun City, CA 92586	28.40	28.00	28.00	28.00	\$	112.40
367090023-0	Miriam Sanchez	21765 Walnut St	Wildomar, CA 92595	29.38	28.00	28.00	29.40	\$	114.78
376251004-6	Jose L. Gomez	11403 Pecos River Dr	Bakersfield, CA 93312	28.00	30.80	29.40	28.00	\$	116.20
370270033-9	Jason Carroll	32315 Bilton Way	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
370250006-3	Estate of Franz Rieth	800 S. Redlands Ave	Perris, CA 92570	28.40	14.00	0.00	29.40	\$	71.80
376113016-0	Herman De Jong	31910 Corydon St	Wildomar, CA 92595	28.40	28.00	28.00	29.40	\$	113.80
376251002-4	Herman De Jong	31910 Corydon St	Wildomar, CA 92595	28.40	28.00	28.00	28.00	\$	112.40
376391016-0	Rosana O. Mercado	23198 Teil Glen Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
366150013-9	Nemias Saldana & Carmen Saldana	14342 Canyon Ranch Rd	Wildomar, CA 92595	29.38	28.00	28.00	29.40	\$	114.78
362600046-1	Robert Aceret & Rezena Aceret	2399 Belvedere Ave	San Leandro, CA 94577	28.00	28.00	28.00	28.00	\$	112.00
362581003-4	Ana Carlson & Marty Carlson	35733 Country Park Dr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
366111004-0	Jessica Mestas	33391 Loquat St	Wildomar, CA 92595	29.82	29.40	28.00	29.40	\$	116.62
376252034-6	Marie A. Padilla - Kelley	22936 Pavla Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
370330012-5	Cheryl Blackwell	9914 S VL Box	Victorville, CA 92392	29.40	30.80	29.40	0.00	\$	89.60
362550043-4	Dulce Castillo	24344 Verona Ct	Wildomar, CA 92595	30.80	30.80	28.00	28.00	\$	117.60
366230040-0	Alan W. Brubaker	33320 Gafford Rd	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
362611016-8	Matt A. Paulson & Paulina M. Paulson	35885 Camelot Cir	Wildomar, CA 92595	29.38	30.80	29.40	28.00	\$	117.58
368030028-6	Darrel Owen Kirk Jr	32490 Bryant St	Wildomar, CA 92595	29.40	28.00	29.40	29.40	\$	116.20
376252021-4	Ted A. Broyles & Mary A. Broyles	35378 Kish Cir	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
376041006-9	Kimberly Shotts	25063 Gelding Ct	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
366434001-5	Brent Mytinger	33697 Breckenridge Tr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
362542013-2	Natalie Genous	24364 Senna Dr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
376113014-8	George Cambero	21584 Grand Ave	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
376372001-7	Betty Carol Melloch	23096 Boxwood Ct	Wildomar, CA 92595	29.40	28.00	29.40	29.40	\$	116.20
368190010-4	Ralph Roger Apodaca	21255 Shoemaker Dr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
362583005-2	Andrew Sinay	35736 Country Park Dr	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$	112.00
376244019-8	Greg O Sirkin	35285 Shuis Cir	Wildomar, CA 92595	30.80	0.00	28.00	28.00	\$	86.80
376112017-8	Tye McClain	245 N Larch St	Anaheim, CA 92805	29.40	30.80	28.00	28.00	\$	116.20

EXHIBIT A

376320001-6	Michael G. Smith	PO BOX 114	Wildomar, CA 92595	28.40	29.40	28.00	28.00	\$	113.80
376320002-7	Michael G. Smith	PO BOX 996	Wildomar, CA 92595	28.40	28.00	28.00	28.00	\$	112.40
376031005-7	Gwendolyn Ann Barber	4313 Paramount Blvd # C	Pico Rivera, CA 90660	28.00	28.00	28.00	28.00	\$	112.00

\$ 2,504.10 \$ 2,457.00 \$ 2,440.20 \$ 2,424.80 \$ 9,826.10