

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

201



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

**SUBMITTAL DATE:**  
September 20, 2012

**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.4<sup>th</sup> 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

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$804.94	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012/13

**COMPANION ITEM ON BOARD 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*

**County Executive Office Signature**

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Tavaglione, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley  
Nays: None  
Absent: None  
Date: October 2, 2012  
xc: EDA, Auditor, Treasurer, Co.Co.

Kecia Harper-Ihem  
Clerk of the Board  
By: *Kecia Harper-Ihem*  
Deputy

Prev. Agn. Ref.: 9.9 of 11/22/11, 9.7 of 4/10/12, 9.3 of 6/26/12

District: 1/1

Agenda Number: 9.11

9.11

FISCAL PROCEDURES APPROVED  
 PAUL ANGULO, CPA, AUDITOR-CONTROLLER  
 DATE BY: *Paul Angulo* 9/18/12  
 Departmental *CAUDITOR-CONTROLLER*  
 FORM APPROVED COUNTY COUNSEL  
 BY: *DALE A. GARDNER* 9/17/12  
 DATE BY: *DALE A. GARDNER* 9/18/12

Policy  
 Policy  
 Consent  
 Consent  
 Dept't Recomm.:  Consent  
 Per Exec. Ofc.:  Consent

**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 \$202.94 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 \$204.40 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 \$208.60 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 \$189.00 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.4<sup>th</sup> 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
366442015-3	Brandt & Troy Declue	22497 McCormick Ct	Wildomar, CA 92595	29.38	30.80	30.80	28.00	\$ 118.98
367231006-0	Michael Potts	22135 Grove Rd	Wildomar, CA 92595	30.80	28.00	30.80	28.00	\$ 117.60
376060006-8	Manuel Ruiz	21489 Como St	Wildomar, CA 92595	28.00	28.00	28.00	28.00	\$ 112.00
366434015-8	Steve Livingston	33700 Great Falls Rd	Wildomar, CA 92595	28.00	30.80	29.40	30.80	\$ 119.00
367431013-4	Jean Marie Massey	34020 Autumn Sage Ct	Wildomar, CA 92595	28.00	28.00	28.00	29.40	\$ 113.40
380193003-7	Edward J. Miller	32525 Quiet Trail Dr	Winchester, CA 92596	29.38	30.80	30.80	14.00	\$ 104.98
380312025-4	Chad Pinkstaff	21877 Gardena Ln	Wildomar, CA 92595	29.38	28.00	30.80	30.80	\$ 118.98
				\$ 202.94	\$ 204.40	\$ 208.60	\$ 189.00	\$ 804.94