

AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF
MORENO VALLEY

June 21, 2011

STUDY SESSION – 6:00 P.M.

City Council Closed Session

First Tuesday of each month – 6:00 p.m.

City Council Study Sessions

Third Tuesday of each month – 6:00 p.m.

City Council Meetings

Second and Fourth Tuesdays – 6:30 p.m.

City Hall Council Chamber - 14177 Frederick Street

Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, in compliance with the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to Mel Alonzo, ADA Coordinator at 951.413.3027 at least 48 hours before the meeting. The 48-hour notification will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Jesse L. Molina, Mayor Pro Tem
Robin N. Hastings, Council Member

Richard A. Stewart, Mayor

Marcelo Co, Council Member
William H. Batey II, Council Member

**AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
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COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF MORENO
VALLEY**

**STUDY SESSION - 6:00 PM
JUNE 21, 2011**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

INTRODUCTIONS

PUBLIC COMMENTS ON MATTERS UNDER THE JURISDICTION OF THE CITY COUNCIL

There is a three-minute time limit per person. Please complete and submit a BLUE speaker slip to the City Clerk. All remarks and questions shall be addressed to the presiding officer or to the City Council and not to any individual Council Member, staff member or other person.

SPECIAL ORDER OF BUSINESS

1. BROWN ACT AND CALIFORNIA PUBLIC RECORDS ACT (POWERPOINT PRESENTATION) (CA/30 MIN.)
2. DISCUSSION TO ADOPT A RESOLUTION TO ADD "IN GOD WE TRUST" TO THE CITY'S MOTTO (MOLINA/CO/10 MIN.) ❖
3. CHARITABLE CAR WASH EVENTS (COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT/10 MIN.)
4. 2011 LEAGUE OF CALIFORNIA CITIES (LCC) ANNUAL CONFERENCE DISCUSSION (STEWART/5 MIN.) ❖
5. CITY COUNCIL REQUESTS AND COMMUNICATIONS

(Times shown are only estimates for staff presentation. Items may be deferred by Council if time does not permit full review.)

❖ Oral Presentation only – No written material provided

***Materials related to an item on this Agenda submitted to the City Council/Community Services District/Community Redevelopment Agency after distribution of the agenda packet are available for public inspection in the City Clerk's office at 14177 Frederick Street during normal business hours.**

CLOSED SESSION

A Closed Session of the City Council, Community Services District and Community Redevelopment Agency of the City of Moreno Valley will be held in the City Manager's Conference Room, Second Floor, City Hall. The City Council will meet in Closed Session to confer with its legal counsel regarding the following matter(s) and any additional matter(s) publicly and orally announced by the City Attorney in the Council Chamber at the time of convening the Closed Session.

• PUBLIC COMMENTS ON MATTERS ON THE CLOSED SESSION AGENDA UNDER THE JURISDICTION OF THE CITY COUNCIL

There is a three-minute time limit per person. Please complete and submit a BLUE speaker slip to the City Clerk. All remarks and questions shall be addressed to the presiding officer or to the City Council and not to any individual Council member, staff member or other person.

The Closed Session will be held pursuant to Government Code:

1 SECTION 54956.9(b)(1) - CONFERENCE WITH LEGAL COUNSEL - SIGNIFICANT EXPOSURE TO LITIGATION

Number of Cases: 5

2 SECTION 54956.9(c) - CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION

Number of Cases: 5

3 SECTION 54957.6 - LABOR NEGOTIATIONS

a) Agency Representative: Henry T. Garcia
Employee Organization: MVCEA

b) Agency Representative: Henry T. Garcia
Employee Organization: MVMA

c) Agency Representative: Henry T. Garcia
Employee Organization: Moreno Valley Confidential
Management Employees

REPORT OF ACTION FROM CLOSED SESSION, IF ANY, BY CITY ATTORNEY

ADJOURNMENT

OPEN MEETINGS AND CONFLICTS OF INTEREST

A Presentation to the City Council
of the City of Moreno Valley

by

The City Attorney's Office of the City of
Moreno Valley

BROWN ACT

Purpose

The California open Meeting Laws, or “The Brown Act,” was adopted to ensure that almost all aspects of the decision-making process of legislative bodies of local agencies are conducted in public and open to public scrutiny. It is codified at Government Code §54950 *et seq.*

BROWN ACT APPLIES TO:

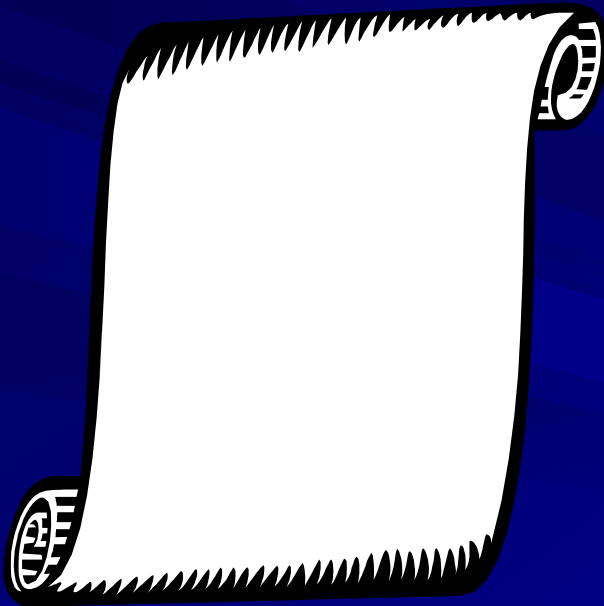
- *City Council*
- *Planning Commission*
- *Commissions, committees, boards, or other bodies of a local agency, whether permanent or temporary, decision-making or advisory*
- *Public Meetings*
- *Persons elected to legislative bodies even prior to taking office*



BROWN ACT

- Agenda Posting Requirements
- Public Meetings and Exceptions
- Public Participation
- Documents at Public Meetings
- Closed Sessions
- Penalties

AGENDA POSTING REQUIREMENTS



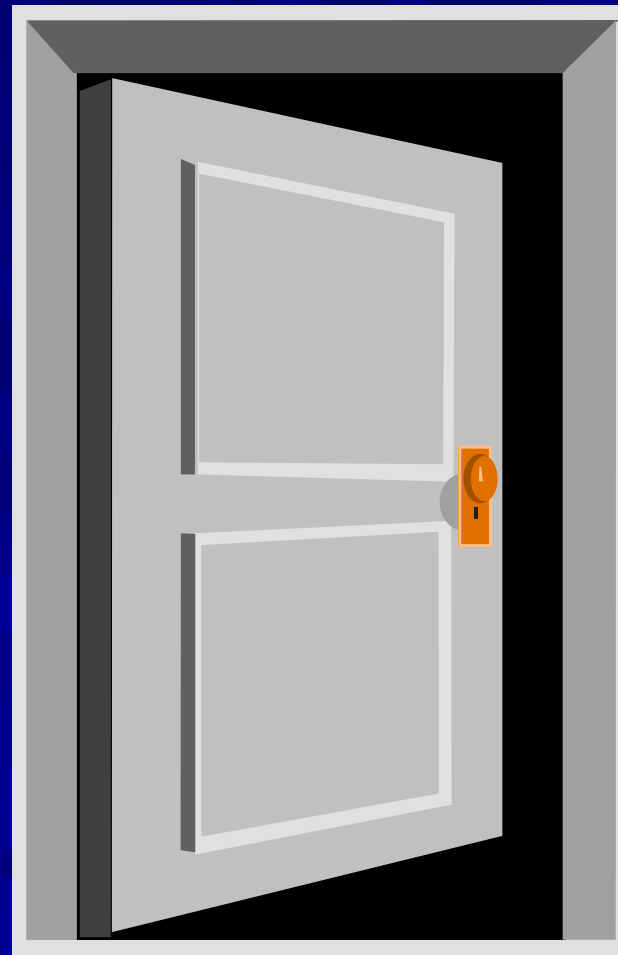
- Reasonable Description of Proposed Actions
- Posted 72 Hours Before Regular Meeting
- Posted 24 Hours Before Special Meeting
- Specify Time and Location of the Meeting

ADDING NON-AGENDA ACTIONS

- Unexpected Need for Immediate Action
- An Emergency Situation Exists Severely Impacting Public Health or Safety or Disruption of Public Facilities
- Action Item Continued From a Properly Posted Meeting Occurring Less than 5 Days Before

BROWN ACT

- Government Code Section 54953:
 - *All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.*



PUBLIC MEETINGS

- All Meetings Must Be Public Unless Exempted By Law
- “Meeting” Means:
 - Any Congregation or Consultation of a Majority of the Body
 - To Hear, Discuss, Decide, or Deliberate
 - Any Item Within the Jurisdiction of the Body
 - Prohibits Reaching or Seeking “Collective Concurrence” of a Majority
 - Prohibits Use of Third Parties or Indirect Means

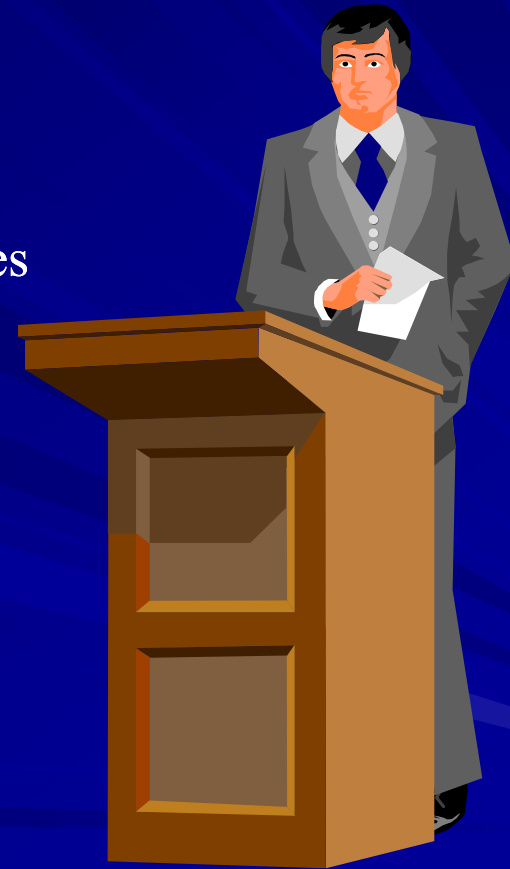
EXCEPTIONS

- Authorized Closed Sessions
- Individual Contact With Constituents
- Certain Public Meetings - Provided There is No Discussion Among the Members of the Body about the Agency's Business
 - Conferences
 - Community Meetings Organized by Others
 - Meetings of Another Governmental Agency
 - Purely Social or Ceremonial Events

PUBLIC PARTICIPATION

■ Public Comments

- Matters on the Agenda
 - Must be Heard Before Body Makes Decision
- Matters Not on Agenda
 - Anytime During Meeting
- “Brief” Responses Permitted
- May Set Reasonable Time Limits
- May Not Prohibit Criticism



DOCUMENTS AT PUBLIC MEETINGS

- If Documents are Part of the Packet, then Copies are to be Made Available at the Meeting, or if Requested, at the Time They are Distributed to a Majority of the Legislative Body
- If Documents are First Made Available to the Body at the Meeting, then Copies are to be Made Available at the Meeting



CLOSED SESSIONS

- Proper Closed Session Matters
 - License/Permit Determination
 - Conference With Real Property Negotiators
 - Conference With Legal Counsel
 - Existing Litigation
 - Anticipated Litigation



CLOSED SESSIONS

- Personnel Matters
 - Complaint Against Employee
 - Appointment, Hire, Evaluation, Discipline, or Discharge
- Conference With Labor Negotiators
- Threats to Security of Public Services or Facilities
- “Final Actions” Must Be Announced in Open Session

PENALTIES

- Invalidation of Any Action Taken (54960.1)
- Criminal Misdemeanor (54959) If Member Was:
 - In Attendance at Meeting
 - Action Was Taken (Whether or Not Member Participated)
- Civil Action for Injunction (54960)
- Court Ordered Taping of Closed Sessions (54960)
- Attorney's Fees and Court Costs (54960.5)

CONFLICT OF INTEREST LAWS

- Disqualification from Participation
- Contractual Conflicts of Interest
- Campaign Contributions
- Incompatible Offices
- Free or Discounted Travel

DISQUALIFICATION FROM PARTICIPATION

■ The Political Reform Act:

- No Public Official At Any Level Of State Or Local Government Shall Make, Participate In Making Or In Any Way Attempt To Use His Official Position To Influence A Governmental Decision In Which He Knows Or Has Reason To Know He Has A Financial Interest.
(Government Code 87100)

DISQUALIFICATION FROM PARTICIPATION

- A Public Official Has a Financial Interest In A Decision If It Is Reasonably Foreseeable That The Decision Will Have A Foreseeable And Material Financial Effect On The Official Or One Or More Of His Or Her Economic Interests. (Government Code 87103; 2 Cal. Code of Regs. 18700(a))

FINANCIAL INTEREST AND ECONOMIC INTEREST

- Financial Interest And Economic Interest Mean Different Things
- Financial Interest: A Public Official Has A Financial Interest If It is Reasonably Foreseeable That The Decision Will Have A Material Effect On The Official's Economic Stake
- Economic Interest: A Label Applied To The Particular Types Of Interests Recognized By Law As Potential Sources Of A Conflict Of Interest

ECONOMIC INTERESTS

■ There Are 6 Basic Types Of Economic Interests:

1. economic interest in a business entity in which the official has a direct or indirect investment worth \$2000 or more
2. economic interest in a business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management

ECONOMIC INTERESTS

3. economic interest in real property in which the official has a direct or indirect interest of \$2000 or more
4. economic interest in any source of income which aggregates to \$500 or more within 12 months prior to the decision

ECONOMIC INTERESTS

5. economic interest in any source of gifts to the official if the gifts aggregate to \$420 or more within 12 months prior to the decision
6. economic interest in official's own personal expenses, income, assets, or liabilities, as well as those of the official's immediate family

ANALYSIS FOR CONFLICT OF INTEREST

- Is A Public Official Involved?
- Is The Public Official Making, Participating In Making, Or Using Or Attempting To Use Official Position To Influence A Government Decision?
- Does The Official Have A Statutorily Defined Economic Interest?
- Is The Economic Interest Directly Or Indirectly Involved?

ANALYSIS FOR CONFLICT OF INTEREST

- Is The Economic Interest Material?
- Is It Reasonably Foreseeable That The Decision Will Have A Material Financial Effect On An Economic Interest?
- Will The Decision's Financial Effect On The Official's Economic Interest Differ From The Effect On The Public Generally?
- Is The Official Legally Required To Participate?

CONFLICT OF INTEREST

■ Disqualification

- General Rule:
Disqualification Should Occur if the Proposed Action Could Have:
 - A Material Effect
 - Directly or Indirectly
 - On an Economic Interest of the Official, Spouse, or Dependent



CONFLICT OF INTEREST

- Disqualified If Decision Could Effect:
 - Business Interest:
 - Investment in the Business Worth \$2000 or More
 - Director, Officer, Partner, Trustee, Employee, or Management Position - Whether Paid or Not
 - Real Property:
 - Interest in the Property Worth \$2000 or More
 - Mortgages, Options to Buy, and Leasehold Interests Are Considered to be Interests in Real Property
 - Official's Real Property is Located Within 500 Feet of the Affected Property

CONFLICT OF INTEREST

■ Income and Gifts:

- Gifts Aggregating \$420 or More in Past Twelve Months
- Also Includes Community Property Interest Income of Spouse

■ Indirect Interest in Business Entities and Real Property:

- Investments in Business Entities Worth \$2000 or More Owned by Spouse or Dependent Children
- Investments in Real Property Worth \$2000 or More Owned by Spouse or Dependent Children

CONFLICT OF INTEREST

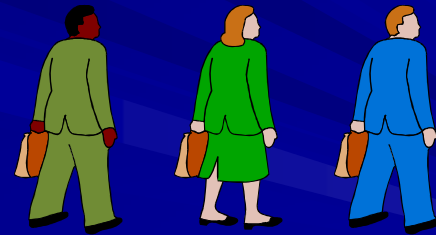
- Material Effect:
 - There are Different Rules for Directly and Indirectly Involved Economic Interests
 - Materiality Standards are Varied and Complex

CONFLICT OF INTEREST

■ If Disqualified:

- You May Not Participate In or Attempt to Influence Any Potential Decision maker or Advisor
- Public Meetings:

- Must Announce Conflict
- Must Retire From the Room



CONFLICT OF INTEREST

- Not Disqualified If the Effect On You Is the Same as the Effect on Public in General
- Penalties:
 - Violations of the Political Reform Act Can Result In Severe Penalties. These May Include Administrative Penalties, Civil Penalties Imposed by The FPPC, or Criminal Sanctions Including Monetary Fines or Imprisonment

CONFLICT OF INTEREST

■ Contractual Conflicts of Interest

- Government Code Section 1090 *et seq.* Deals With Public Contracts In Which a Public Official Has a Financial Interest. These Provisions Are In Addition to the Restrictions of the Political Reform Act

CONFLICT OF INTEREST

- General Rule:

- Public Officials Shall Not Have a Financial Interest In **Any Contract** Made by Them In Their Official Capacity, or By Any Board of Which They Are a Member

- Prohibits **Any** Financial Interest of Self or Spouse

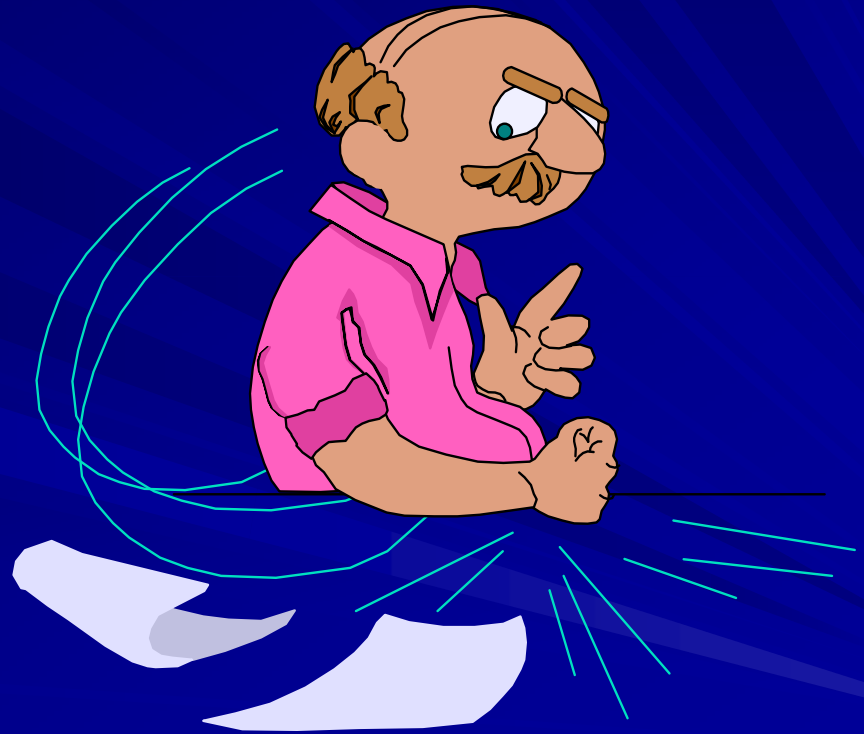
- “Opportunity to Influence” Illegal Even If Not Used

- Officials Appointed by City Council Are Deemed To Have an Opportunity to Influence

CONFLICT OF INTEREST

– Penalties:

- Public Agency Keeps Benefit of the Contract
- Official Repays All Benefits Received, Plus Interest
- Official May Be Banned for Life From Holding Public Office
- Official May Go to Prison



CONFLICT OF INTEREST

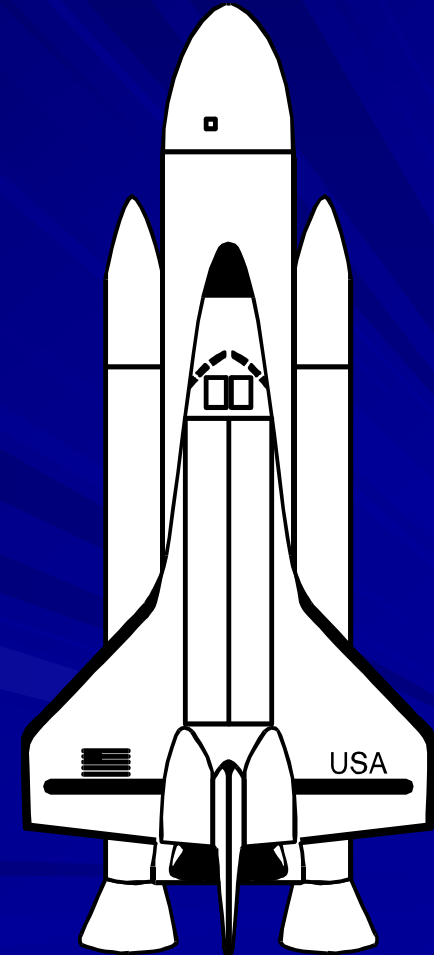
■ Incompatible Offices

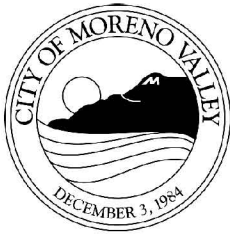
- May Not Hold Two “Public Offices” at The Same Time if There Is a Potential or Actual Conflict in the Duties
- Acceptance of Second Office Acts as a Resignation of the First Office



CONFLICT OF INTEREST

- Free or Discounted Travel
 - Constitutional Prohibition (Article 12, Section 7)
 - May Not Receive Free or Discounted Travel, or Free Upgrades from Any Transportation Company
 - Acceptance Shall Work a Forfeiture of Office
 - Does Not Apply to Travel Benefits Available to the General Public





APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>But</i>
CITY MANAGER	<i>ms</i>

Report to City Council

TO: Mayor and City Council

FROM: Barry Foster, Community & Economic Development Director

AGENDA DATE: June 21, 2011

TITLE: CHARITABLE CAR WASHES

RECOMMENDED ACTION

Staff recommends City Council review, discuss and provide direction to staff regarding future policy as it relates to charitable car wash events.

BACKGROUND

Commercial car wash business owners state that charitable car wash events are occurring every weekend and sometimes during the workweek at several business locations within the City. Complaints from car wash owners focus on unfair business practices (including failure to obtain a City Business License or Temporary Use Permit) as well as excessive water usage and non-compliance with waste water drainage requirements.

In response to these concerns, City Council discussed possible regulation of charitable car wash operations at the March 15, 2011, study session. City Council directed staff to conduct a survey of local jurisdictions policies as they relate to charitable car wash events. In addition, City Council asked staff to monitor all car wash activities between study sessions and provide a report for City Council review.

It should be noted, the City has historically not regulated charitable car wash events. Generally, these events have been occasional only, and have not—until recently—generated concern or complaint from the business community or public at large.

DISCUSSION

Staff conducted a survey of charitable car wash regulations at seven local jurisdictions including the cities of Murrieta, Temecula, Riverside, Ontario, Rancho Cucamonga, Perris and San Jacinto. The results of the survey are as follows;

- All jurisdictions polled treat charitable car wash events as a temporary use and regulate such activities through their existing Zoning Code.
- Four cities require charitable organizations to obtain a Temporary Use Permit (TUP) prior to conducting an event. Of these jurisdictions, three provide the TUP for free with the exception of the City of Perris which charges \$108 per TUP.
- Three jurisdictions polled opt not to regulate charitable car wash events even though their code provides for regulation.

As previously stated, City Council requested staff monitor charitable car wash activity citywide during the ten week time period between study sessions from mid March through May 31, 2011. Staff observed thirteen car wash events including twelve conducted by charitable organizations from Moreno Valley and one out of town non-profit organization.

Prepared By:
Albert Brady
Code & Neighborhood Services Official

Department Head Approval:
Barry Foster
Community & Economic Development Director

Council Action	
Approved as requested:	Referred to:
Approved as amended:	For:
Denied:	Continued until:
Other:	Hearing set for: