

***REVISED AGENDA**

Revisions to Items 1 & 3 Staff Reports

**CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
CITY AS SUCCESSOR AGENCY FOR THE
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF
MORENO VALLEY
MORENO VALLEY HOUSING AUTHORITY**

March 5, 2013

STUDY SESSION – 6:00 P.M.

City Council Study Sessions

First & Third Tuesdays of each month – 6:00 p.m.

City Council Meetings

Second and Fourth Tuesdays – 6:00 p.m.

City Council Closed Session

Tuesdays of each month – 6:00 p.m.

*Immediately following Regular City Council Meetings
and Study Sessions, unless no Closed Session Items are scheduled*

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 951.413.3705 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.

Tom Owings, Mayor

Marcelo Co, Mayor Pro Tem
Jesse L. Molina, Council Member

Richard A. Stewart, Council Member
Victoria Baca, Council Member

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***THE CITY COUNCIL RECEIVES A SEPARATE STIPEND FOR CSD MEETINGS**

**STUDY SESSION - 6:00 PM
MARCH 5, 2013**

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. MVU OVERVIEW AND UPDATE AND UTILITIES COMMISSION DISCUSSION (Staff Report/PowerPoint) (PW/20 MIN) **Revision to Staff Report**
2. PRESENTATION OF LONG TERM FINANCIAL CHALLENGES – SLOW GROWTH IN MAJOR GENERAL FUND REVENUE SOURCES (Staff Report/PowerPoint) (FMS/20 MIN)
- *3. CODE ENFORCEMENT REMEDIES (Staff Report/PowerPoint) (CA/CEDD/15 MIN) **Revision to Staff Report**

AGENDA
March 5, 2013

4. 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/City as Successor Agency for the Community Redevelopment Agency/Housing Authority 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.**

*** Denotes Revisions**

ADJOURNMENT

CERTIFICATION

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, certify that the City Council Agenda was posted in the following places pursuant to City of Moreno Valley Resolution No. 2007-40:

City Hall, City of Moreno Valley
14177 Frederick Street

Moreno Valley Library
25480 Alessandro Boulevard

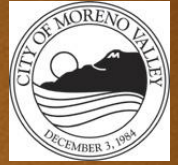
Moreno Valley Senior/Community Center
25075 Fir Avenue

Jane Halstead, CMC,
City Clerk

Date Posted:2/28/2013

AGENDA
March 5, 2013

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Moreno Valley Utility



Overview and Update
March 05, 2013

MVU Today



- ❧ 5,664 customers requiring 32,500 kW of peak demand.
 - ❧ 5,036 customers are residential
 - ❧ 596 customers are commercial/industrial.
- ❧ FY 11/12
 - ❧ Total kWh sales = 116,116,045 (\$15,147,864)
 - ❧ Commercial/Industrial sales = 79,264,416 (\$9,303,014)
 - ❧ Ross 2.34 MW
 - ❧ Skechers 2.32 MW
 - ❧ Harbor Freight 1.2 MW
 - ❧ USPS 1.08 MW
 - ❧ WalMart .680 MW
- ❧ Growth continues – FY 11/12, sales are 19% above same time previous year.

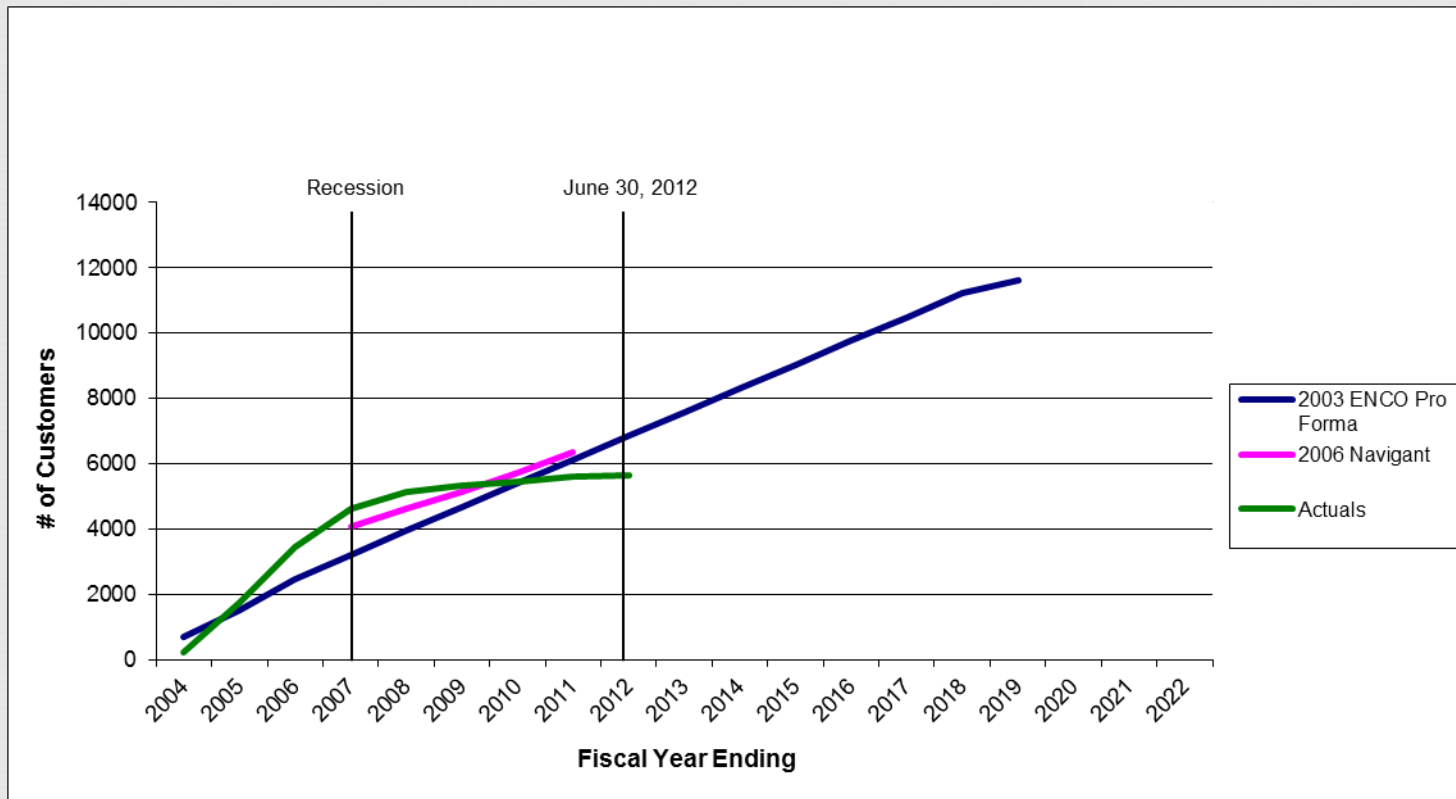
MVU is Largest of New Municipal Utilities

Since 2001, several cities formed utilities to serve new industrial and/or residential development. As of today, MVU is the largest.

2011 consumption (MWhrs)

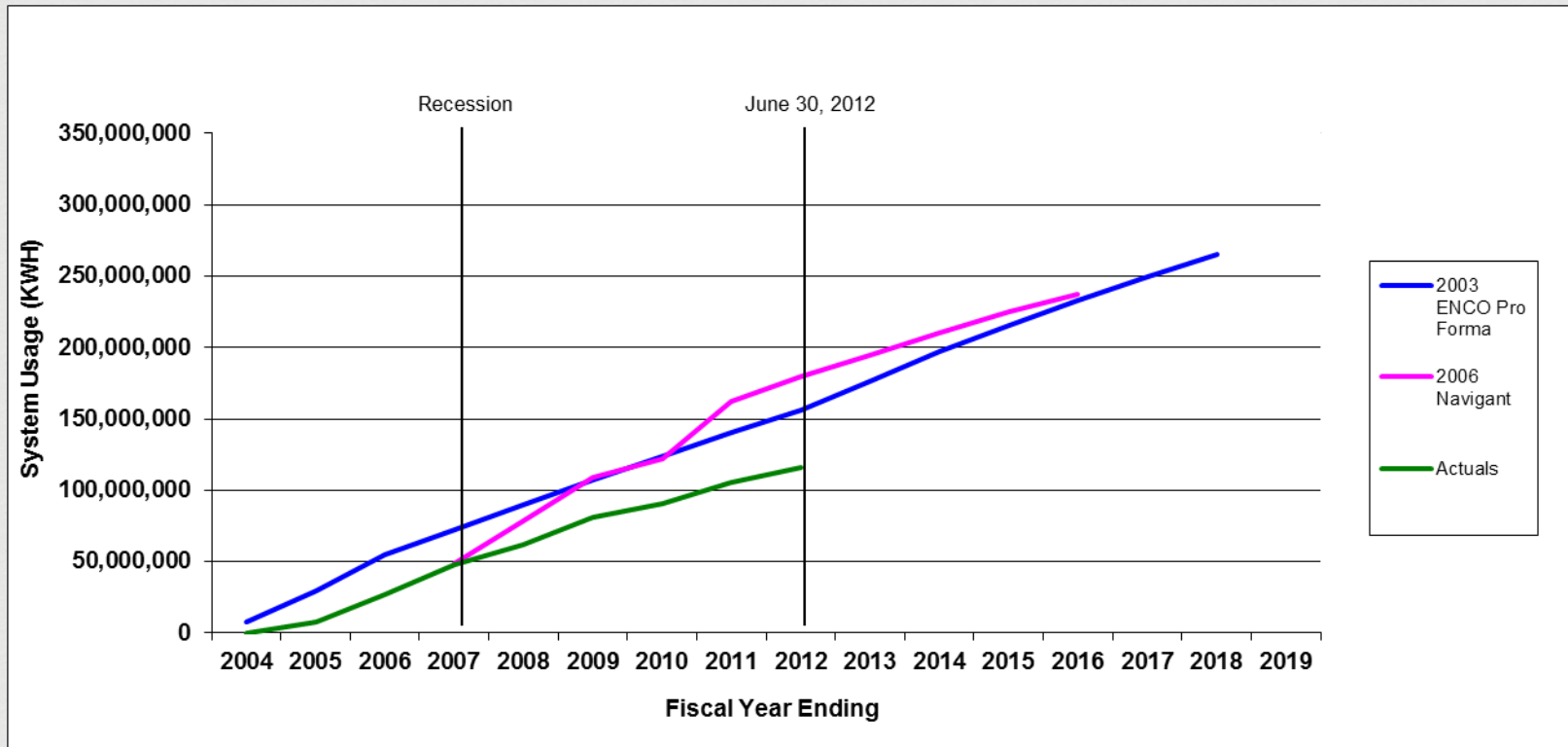
Corona	73.40
Hercules	15.84
Moreno Valley	104.09
Port of Stockton	13.62
Rancho Cucamonga	64.10
Victorville	72.71

Number of Customers



kWh Sales

Commercial use has kept sales in upward trend



Sales Revenue

Has increased since inception



MVU Net Income

(Potential Contribution to General Fund)



Item No. 1.

	FY 2011/2012 Actuals	FY 2012/2013 Amended Budget	Projected Year-end
Total operating revenues	\$16,764,420	\$17,242,100	\$18,574,263
Total operating expenditures	\$14,508,614	\$15,093,462	\$15,921,525
Operating Income	\$2,255,806	\$2,148,638	\$2,652,740
Debt Service	(\$2,195,741)	(\$2,153,221)	(\$2,147,760)
Net Balance	\$60,065	(\$4,583)	\$504,980

-11-

MVU Contributions to General Fund



	FY 2010/2011 Actuals	FY 2011/2012 Actuals	FY 2012/2013 Projected Year-end
Franchise Fees ¹	\$150,456	\$168,267	\$240,000
Utility User Tax ²	\$789,248	\$907,526	\$1,171,571
Administrative Charges ³	\$717,195	\$629,549	\$629,594
In-lieu Property Tax ⁴	\$0	\$0	\$0
Total	\$1,656,899	\$1,705,342	\$2,041,169

1. Franchise fee = "Rent" utility pays to use public right-of-way
2. Utility User Tax = Tax based on consumption of utilities
3. Administrative Charges = Costs allocated to pay for share of internal service funds and other costs
4. In-lieu property tax or accruing for MVU reserves

On the Horizon



- ❧ Develop plan to purchase power
 - ❧ 10-Year Resource Plan development underway – to Council in June 2013
 - ❧ Plan will create roadmap for purchases of energy to supply growing load while mitigating risk to utility and ratepayers
 - ❧ Will include renewable energy component and compliance with resource adequacy requirements
- ❧ Develop plan to ensure financial stability
 - ❧ Developing plans to achieve minimum reserve levels as recommended by rate study ~ \$4.4 million
 - ❧ Funding for capital projects needed to accommodate future growth
 - ❧ One time rate stabilization payment due to ENCO by January 31, 2014. Balance as of June 30, 2012 is \$1.9 million

On the Horizon



- ❧ Plan future Operations and Maintenance Options
 - ❧ ENCO contract expires December 31, 2020
 - ❧ Options:
 - ❧ Extend contract?
 - ❧ Bring functions in-house?
 - ❧ Contract with another company?
 - ❧ Contract with another public utility?

ENCO Utility Services



History

- Formed as Edison Utility Services in 1997 by Edison International
- Acquired by SRM-ENCO LLC in 2001
- Name changed to ENCO Utility Services in 2002

Management

- Robert de Korne, Sr VP of California Operations
- Ruby Irigoyen, Sr VP of Customer Services
- Anton Smeerdyk, VP Engineering and Planning

Utility Structure



MVU Staff (5 FTE)	ENCO (16 FTE)
Power resources	Field Operations
Finance/Administration	Meter Reading
Legislative/Regulatory Affairs	Customer Billing/Call Center
Strategic Planning	Technical Services
Public Purpose Programs	Outage Response
Capital Projects	

Proposed Utilities Commission



- ❧ 3 qualified members, appointed at-large
 - ❧ At least 2 members must be MVU customers
- ❧ Initial term
 - ❧ 1 member serves 1-year term
 - ❧ 1 member serves 2-year term
 - ❧ 1 member serves 3-year term
- ❧ Thereafter, all members serve 3-year term
- ❧ Function – Advisory body to City Council
 - ❧ Review MVU operating and capital improvement budget
 - ❧ Review MVU rates
 - ❧ Other utility related topics (water, sewer, gas, cable tv, etc.)
 - ❧ Other functions as directed by City Council

Value of Public Power



- ❧ Local Control
 - ❧ Fully accountable to the community
 - ❧ Success is measured by how much money stays in the community
 - ❧ Decisions about pricing services, purchasing power, setting policies are made by the community through the Council, and reflect the values and choices of the community
 - ❧ Operate publicly - subject to open meetings and public record laws
- ❧ Reliability
 - ❧ Public power has a strong record of reliability because of its focus on core operations
 - ❧ For 2012, the average number of outages per MVU customer was less than 1.
 - ❧ Power is purchased in the wholesale market to supply customers
- ❧ Economic Development
 - ❧ Public power is often used as a tool to attract and retain business
 - ❧ Can be component of “one-stop shopping” customer service offered by City
 - ❧ Ability to offer customer-defined and customer-focused programs
- ❧ Potential method of reducing UUT

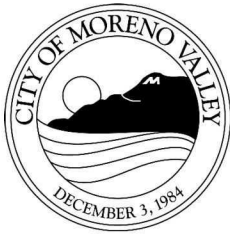
Deciding the Future of MVU



- ❧ Keep or sell?
 - ❧ Implications of sale
 - ❧ Loss of control over electric services and programs
 - ❧ Lost revenue to city – present and future
 - ❧ Ratepayer funds stay within the community to fund programs and other city services
 - ❧ Potential savings to police and fire services or UUT
 - ❧ Loss of economic development tool

Questions or Comments





APPROVALS	
BUDGET OFFICER	
CITY ATTORNEY	<i>SMB</i>
CITY MANAGER	<i>MS</i>

Report to City Council

TO: Mayor and City Council

FROM: Ahmad R. Ansari, P.E. Public Works Director/City Engineer

AGENDA DATE: March 05, 2013

TITLE: MVU OVERVIEW AND UPDATE AND UTILITIES COMMISSION DISCUSSION

RECOMMENDED ACTION

Recommendation:

1. No action required.

ADVISORY BOARD/COMMISSION RECOMMENDATION

Not applicable.

BACKGROUND

The information contained in the attached power point presentation is to provide an overview and update of Moreno Valley Utility (MVU), and also to present a draft ordinance for the creation of a Utilities Commission for the City Council to review.

DISCUSSION

Highlights from presentation:

- MVU currently has over 5,000 customers, and had a record peak of 32.5 MW last summer.
- Of the municipal utilities formed after 2001, MVU is the largest.

- MVU continues to grow; commercial use has kept sales in an upward trend. Retail sales measured in kWh topped 100,000,000 for fiscal year 2011/2012. Sales revenues have increased since inception. MVU is projecting net positive income for FY 2012/2013.
- MVU's contributions to the City continue to grow. Estimated year-end actual for this fiscal year is approximately \$2,041,169.
- Planning for the future
 - 10-Year Power Resource Plan to council for approval in June 2013
 - Renewable energy procurement plan to council for approval in June 2013
 - Plan to ensure financial stability
 - Building reserves
 - Funding for capital projects needed to accommodate future growth
 - ENCO's share of rate stabilization reserve payment due January 31, 2014. Balance is currently about \$1.9 million.
 - Options to analyze before the expiration of ENCO contract in 2020
 - Do we extend contract?
 - Do we bring functions in-house?
 - Do we contract with another vendor?
 - Do we contract with another public utility?
- MVU has a small staff of 5 employees. The city has a long term contract with ENCO Utility Services, who provide technical/engineering support, customer billing, meter reading, and field operation services.
- MVU provides a variety of programs for all classes of customers.
- Proposed Utilities Commission
 - 3 qualified members, at least 2 must be MVU customers
 - 3-year terms
 - Function as an advisory body to the City Council.
 - Review and make recommendations regarding operating budget, capital budget, and rates for MVU.

- Review other utility related topics (water, sewer, gas, cable tv, etc.)
- Perform other functions as directed by City Council.
- Value of public power
 - Provides community with local control
 - Funds stay within the community
 - Programs are designed with community in mind
 - Strong record of reliability
 - Provides opportunity to attract and retain businesses
 - Provides funding for other city services

ALTERNATIVES

Not applicable.

FISCAL IMPACT

Not applicable.

CITY COUNCIL GOALS

POSITIVE ENVIRONMENT:

The information provided helps to create a positive environment within the community.

ATTACHMENTS

Attachment 1: Draft Ordinance

Prepared By:
Jeannette Olko
Electric Utility Division Manager

Department Head Approval:
Ahmad R. Ansari, P.E.
Public Works Director/City Engineer

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

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 2.25 TO THE CITY OF MORENO VALLEY MUNICIPAL CODE ESTABLISHING A UTILITIES COMMISSION

The City Council of the City of Moreno Valley does ordain as follows:

SECTION 1: Chapter 2.25 of Title 2 of the Moreno Valley Municipal Code is hereby established as follows:

“Section 2.25.010 Created.

There is created a utilities commission for the city. It shall consist of three city council-appointed members serving without compensation, and appointed in the manner and for the terms prescribed in Sections 2.04.060 and 2.06.010, respectively, of this code, except that the terms of the members first appointed to the utilities commission shall be set by lot, with one member serving for one year after the effective date of their appointment, one other member serving for two years after the effective date of their appointment, and the one remaining member serving for three years after the effective date of their appointment. Thereafter, all terms shall be for three years and shall expire three years after the effective date of the appointment; provided, however, that the term of an appointment made to fill an unexpired term shall be for the unexpired balance of such term.

Section 2.25.020 Composition.

The utilities commission shall be composed of three public members, of which at least two members must be Moreno Valley Utility customers. All members shall each have the ability to evaluate utility issues.

Section 2.25.030 Powers and duties.

- A. The commission shall have the general power and duty to act in an advisory capacity to the city council, the city electric utility division manager, and other city staff in all matters pertaining to Moreno Valley Utility.
- B. The commission shall have the general power and duty to act in an advisory capacity to the city council and other city staff in all matters pertaining to other utility services such as water, sewer, gas, and the investor-owned electric utility serving parts of the city.
- C. In addition to the foregoing general power and duty, the commission shall have the following particular powers and duties:
 - a. Review the budget for the Moreno Valley Utility during the process of its preparation and make recommendations with respect thereto to the City Council.
 - b. Review and make recommendations on all capital improvements which require City Council approval.
 - c. Review and make recommendations to the City Council regarding rates for Moreno Valley Utility.

- d. Respond to requests and concerns of the public relating to utility issues.
- D. The utilities commission shall perform such other duties and functions as may be designated by the city council.

Section 2.25.040 Chair, committees and staff.

Designation of a chairperson and vice-chairperson for the commission shall be governed by Section 2.06.020 of this code. The commission may establish such standing and temporary subcommittees as it may deem expedient for the performance of its duties and the chairperson, with the consent of the commission, may fix and appoint the membership of such subcommittees. The electric utility division manager will be the primary staff support for this commission with support as needed being provided from the public works department and other staff as required and appointed by the city manager.

Section 2.25.050 Meetings and rules of procedure.

The commission shall hold, at least, one regular meeting per month and designate the times, dates and places therefor. If there is a lack of substantive agenda items for a regular meeting, and if there is no pending request from the public for the utilities' commission's action, such meeting may be cancelled by the chairperson or by a majority of the commission, provided that notice of such cancellation is given to the public at least forty-eight (48) hours prior to the time of the meeting. All meetings of the commission and each of its subcommittees shall be open to the public. Special meetings may be called by the chairperson or by a majority of the commission, provided that notice of such meetings is given to each member of the commission at least forty-eight (48) hours prior to the time of the meeting. Four or more voting members of the commission shall constitute a quorum for the conduct of business, and a majority of such quorum shall be necessary to approve or deny an issue. The commission shall adopt rules for the transaction of its business. The commission shall keep a public record of its actions. Promptly after approval thereof by the commission, the original minutes of commission meetings shall be filed with the city clerk's office."

SECTION 2: EFFECT OF ENACTMENT:

Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council which addresses the same subject addressed herein.

SECTION 3: NOTICE OF ADOPTION:

Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be posted in three public places within the city.

SECTION 4: EFFECTIVE DATE:

This ordinance shall take effect thirty days after the date of its adoption.

APPROVED AND ADOPTED this ____ day of _____, 2013.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

DRAFT

ORDINANCE JURAT

STATE OF CALIFORNIA)

COUNTY OF RIVERSIDE) ss.

CITY OF MORENO VALLEY)

I, _____, City Clerk of the City of Moreno Valley, California, do hereby certify that Ordinance No. _____ had its first reading on _____, _____ and had its second reading on _____, _____, and was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)

CITY OF MORENO VALLEY

LONG TERM FINANCIAL CHALLENGES:




SLOW GROWTH IN MAJOR GENERAL FUND REVENUE SOURCES

March 5, 2013

Long Term Financial Challenges

- | | |
|-----------------------|---|
| March 5, 2013 | Slow Growth in Major General Fund Revenue Sources |
| March 19, 2013 | Annual Increases in Public Safety Contracts |
| April 2, 2013 | Unfunded Liabilities – Public Employees Retirement System and Retiree Medical |
| April 16, 2013 | Employee Compensation Issues |
| June 4, 2013 | Increased Demands on General Fund Reserves |
| June 18, 2013 | Unfunded Liabilities– Compensated Absences and Others |

Slow Growth in Major General Fund Revenue Sources

-  **City's historically low tax base**
-  **Overview of the Major General Fund Revenue Sources**
-  **Review of each Major tax source, recent revenue experience, projections for FY 2013-14 and FY 2014-15**

Financial Background



City has had a historically low tax base

✓ Low Property Tax Base:

- ❖ Post Prop. 13 City – only receive 11% of the City's tax levy
- ❖ Still relatively new City – only 50% built-out
- ❖ Most development has been residential – 1% tax limit does not generate enough revenue to pay for services required (median home price \$153,000 = \$168 annual)

✓ Low Sales Tax Base due to:

- ❖ Bedroom Community – commuters spend where they work
- ❖ Low employment base - no draw of commuters into the City to generate sales tax
- ❖ High unemployment – affects spending within the City

General Fund Revenue Comparison to Similar Cities in the Region





City	Population	General Fund Per Capita	Percent of Average
Moreno Valley	196,495	\$414	74%
Corona	154,520	\$702	
Fontana	199,898	\$475	
Rancho Cucamonga	169,498	\$522	
Temecula	103,092	\$535	
Four City Average	156,752	\$559	

Sales Tax Comparison to Similar Cities in the Region

Third Quarter 2012 Comparison

	Population As of 1/1/2012	No. of Businesses	Sales Tax Generated	Avg. Sales Tax/Business	Businesses per 1,000 pop.	Sales Tax per 1,000 pop.
Moreno Valley	196,495	2,772	3,223,702	1,163	14.1	16,406
Percent of Average	125.4%	61.6%	51.0%	82.1%	47.4%	37.9%
Temecula	103,092	3,813	6,354,906	1,667	37.0	61,643
Corona	154,520	4,879	7,969,790	1,633	31.6	51,578
Rancho Cucamonga	169,498	4,393	5,362,449	1,221	25.9	31,637
Fontana	199,898	4,917	5,614,550	1,142	24.6	28,087
Total	627,008	18,002	25,301,695	5,663	119	172,945
Four City Average	156,752	4,501	6,325,424	1,416	30	43,236
Riverside	308,511	10,581	10,850,742	1,025	34.3	35,171
Perris	70,180	1,347	1,745,898	1,296	19.2	24,877

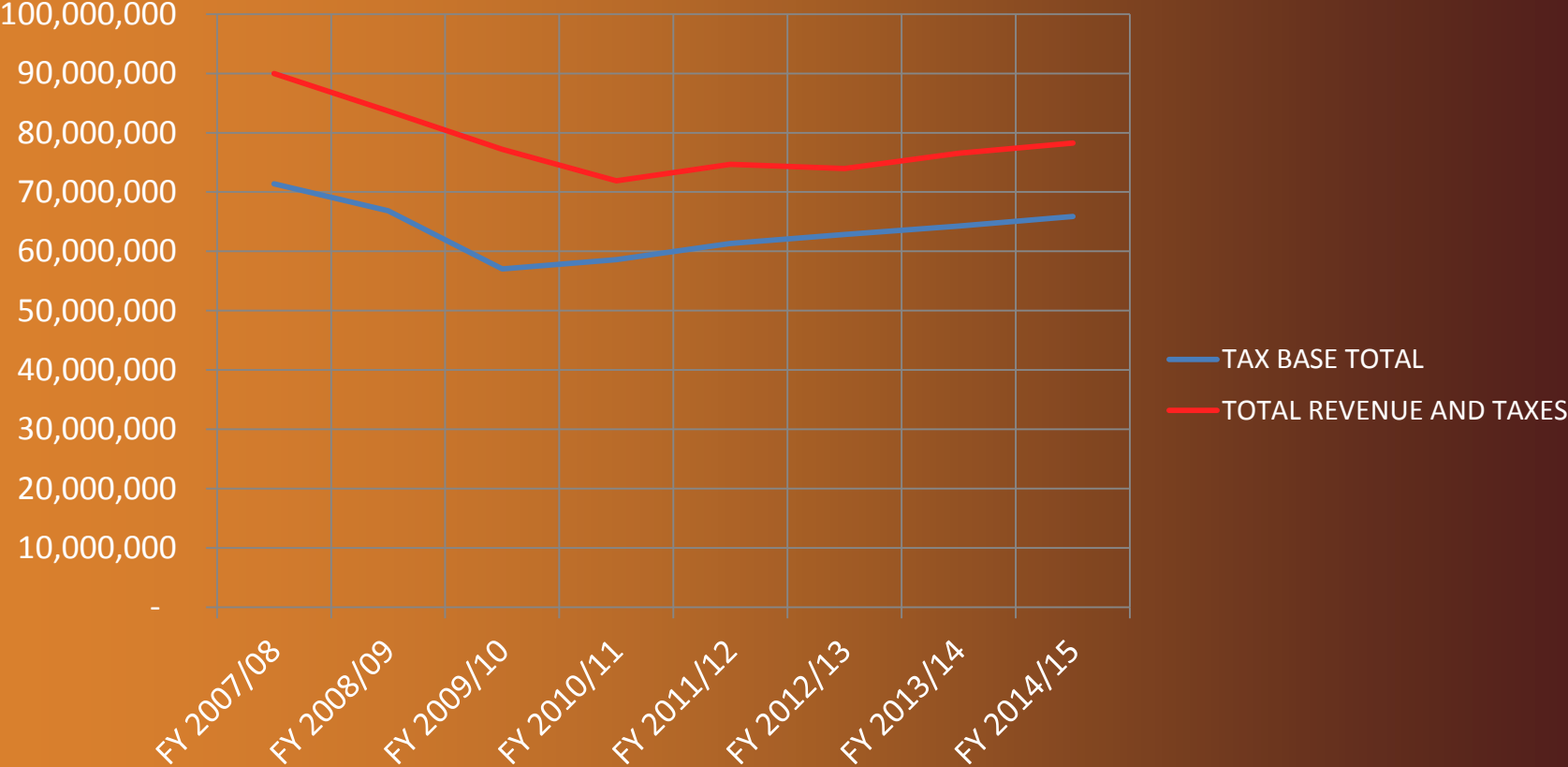
Major General Fund Revenue Sources

-  **Major Tax Revenues generate 85% of General Fund Revenue**
-  **The taxes are generally driven by the strength of the economy or sectors of the economy – results in volatility, not stability**
-  **Currently, the economy is recovering slowly from the Great Recession**
-  **Driven by this slow economic recovery, the City's major Tax Revenues are growing, but at a slow, gradual rate**

Summary of General Fund Tax Base

GF Tax Base:	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
Property Tax	31,089,853	29,581,274	22,999,280	22,486,641	22,568,337	23,200,000	23,287,100	23,693,900
Sales Tax	11,694,525	10,451,942	9,298,296	11,283,435	14,003,992	13,800,000	15,570,000	16,420,000
UUT	15,186,616	15,081,286	15,358,341	15,317,439	15,591,386	16,060,000	16,114,000	16,428,000
Franchise Fee	4,478,698	4,997,024	4,740,142	5,038,600	5,176,775	5,410,000	5,440,000	5,575,000
Gross Receipt Tax	1,111,021	1,051,701	961,303	1,053,145	1,175,104	1,140,000	1,225,000	1,250,000
Investment Income	7,810,625	5,691,596	3,682,482	3,441,802	2,818,052	3,243,500	2,630,000	2,530,000
TAX BASE TOTAL	71,371,338	66,854,823	57,039,844	58,621,062	61,333,646	62,853,500	64,266,100	65,896,900
		(4,516,515)	(9,814,979)	1,581,218	2,712,584	1,519,854	1,412,600	1,630,800
		-6.3%	-14.7%	2.8%	4.6%	2.5%	2.2%	2.5%
Other Fees and Revenues:								
Parking Fees	1,300,405	1,094,064	1,010,488	1,093,020	1,422,894	1,200,000	1,200,000	1,200,000
Development Services	8,757,084	5,521,267	2,657,379	2,613,130	3,792,643	3,124,900	3,468,300	3,494,600
Fines & Forfeitures	1,003,467	1,082,366	972,414	646,222	503,259	475,000	500,000	500,000
VLF	800,667	865,718	547,188	887,331	96,578	-	-	-
Other	6,756,336	8,233,554	14,995,418	8,055,884	7,508,345	6,322,000	7,104,000	7,194,000
TOTAL REVENUE AND TAXES	89,989,297	83,651,791	77,222,730	71,916,648	74,657,365	73,975,400	76,538,400	78,285,500

Summary of General Fund Tax Base



Property Tax



Property Tax Revenue is driven by Assessed Value determined by the County Assessor



Proposition 13 limits AV to 1% of the real estate value at the most recent sale, increase limited to CPI annually up to 2%



In declining value real estate markets, the Assessor is required to reassess properties downward (Prop8)



Median priced home in Moreno Valley is \$153,000

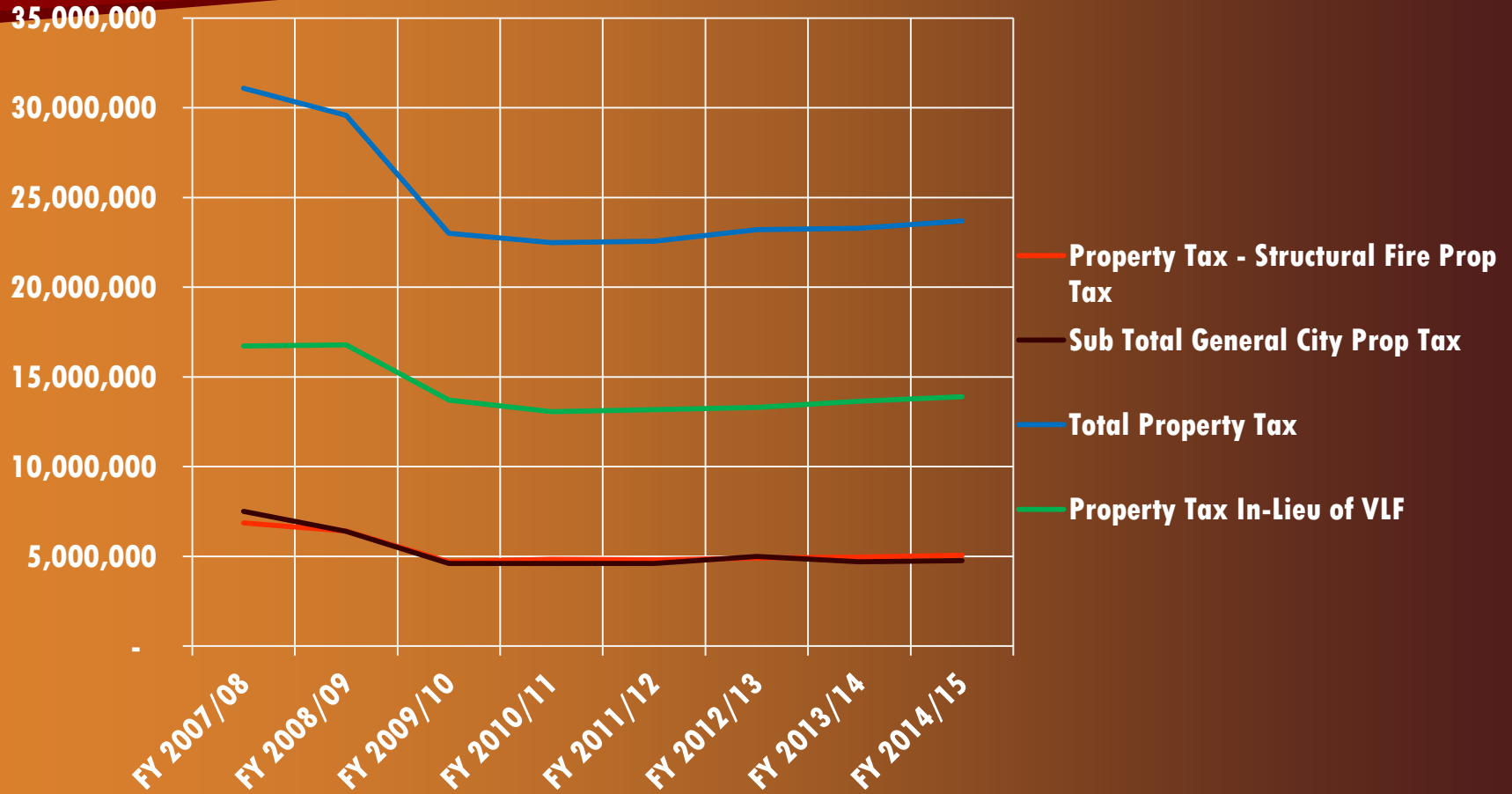
Property tax paid is \$1,530

City receives \$168

Property Tax

	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014
Property Tax								
Property Tax - Structural Fire Tax	6,858,622	6,401,783	4,701,647	4,836,034	4,797,159	4,900,000	4,960,000	5,050,000
Sub-Total General City Prop Tax	7,502,631	6,388,413	4,594,436	4,595,544	4,600,213	5,000,000	4,687,100	4,753,000
Property Tax In-Lieu of VLF	16,728,600	16,791,078	13,703,197	13,055,796	13,170,964	13,300,000	13,640,000	13,890,000
Total Property Tax	31,089,853	29,581,274	22,999,280	22,487,374	22,568,336	23,200,000	23,287,100	23,693,900
		(1,508,580)	(6,581,994)	(511,906)	80,962	631,664	87,100	406,800
		-4.9%	-22.3%	-2.2%	0.4%	2.8%	0.4%	1.7%

Property Tax



Sales Tax

 **Sales Tax of 8% is collected by the State Board of Equalization for each taxable sale in Moreno Valley**

The City receives 1% of taxable sale from BOE

 **The tax collection is site based, it applies to those businesses located within the City**

 **Purchases of taxable goods by consumers and businesses follow the strength of the economy**

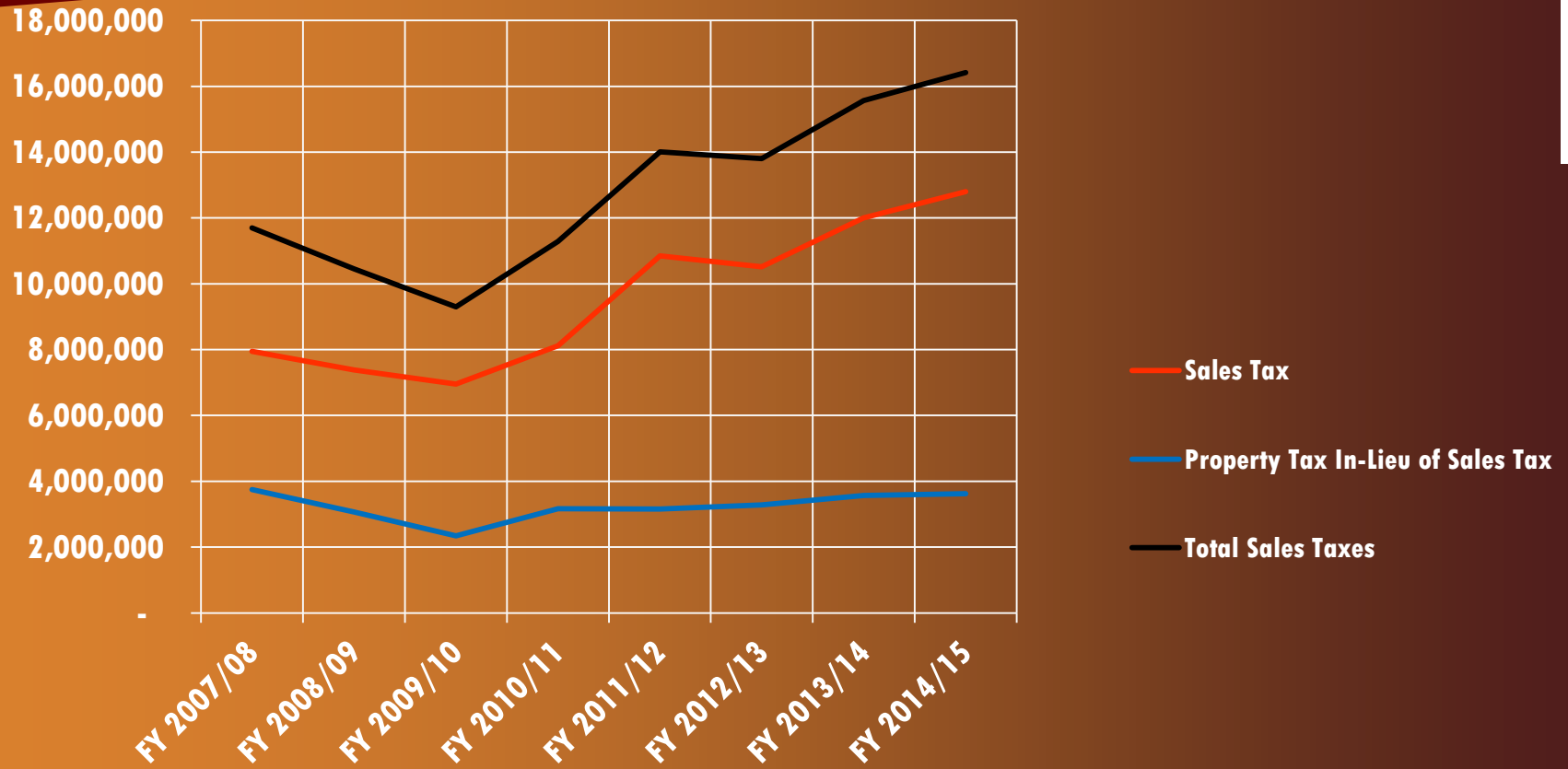
When people are employed and the economy is strong, they buy more taxable goods and products

In a weak economy, people buy less, the City's sales tax revenue declines

Sales Tax

	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
Sales Tax	7,942,982	7,384,804	6,952,123	8,113,635	10,848,030	10,520,000	12,000,000	12,800,000
Property Tax In-Lieu of Sales Tax	3,751,543	3,067,138	2,346,173	3,169,800	3,155,962	3,280,000	3,570,000	3,620,000
Total Sales Taxes	11,694,525	10,451,942	9,298,296	11,283,435	14,003,992	13,800,000	15,570,000	16,420,000
		(1,242,583)	(1,153,646)	1,985,139	2,720,557	(203,992)	1,770,000	850,000
		-10.6%	-11.0%	21.3%	24.1%	-1.5%	12.8%	5.5%
Number of businesses		2,556	2,545	2,611	2,772	2,922	3,077	3,160
			(11)	66	161	150	155	84
			-0.4%	2.6%	6.2%	5.4%	5.3%	2.7%

Sales Tax




Sales Tax Comparison to Similar Cities in the Region

Third Quarter 2012 Comparison

	Population As of 1/1/2012	No. of Businesses	Sales Tax Generated	Avg. Sales Tax/Business	Businesses per 1,000 pop.	Sales Tax per 1,000 pop.
Moreno Valley	196,495	2,772	3,223,702	1,163	14.1	16,406
Percent of Average	125.4%	61.6%	51.0%	82.1%	47.4%	37.9%
Temecula	103,092	3,813	6,354,906	1,667	37.0	61,643
Corona	154,520	4,879	7,969,790	1,633	31.6	51,578
Rancho Cucamonga	169,498	4,393	5,362,449	1,221	25.9	31,637
Fontana	199,898	4,917	5,614,550	1,142	24.6	28,087
Total	627,008	18,002	25,301,695	5,663	119	172,945
Four City Average	156,752	4,501	6,325,424	1,416	30	43,236
Riverside	308,511	10,581	10,850,742	1,025	34.3	35,171
Perris	70,180	1,347	1,745,898	1,296	19.2	24,877

Utility User's Tax (UUT)




The voters of Moreno Valley have supported a Utility User's Tax of 5.75% levied on the value of the cost of utility usage in Moreno Valley

- This tax began in 1991 at 6% of utility cost**
- The tax was modified in 2008, lowered to 5.75%, while adding wireless phone usage to the tax base**



The Tax applies to the following utilities:

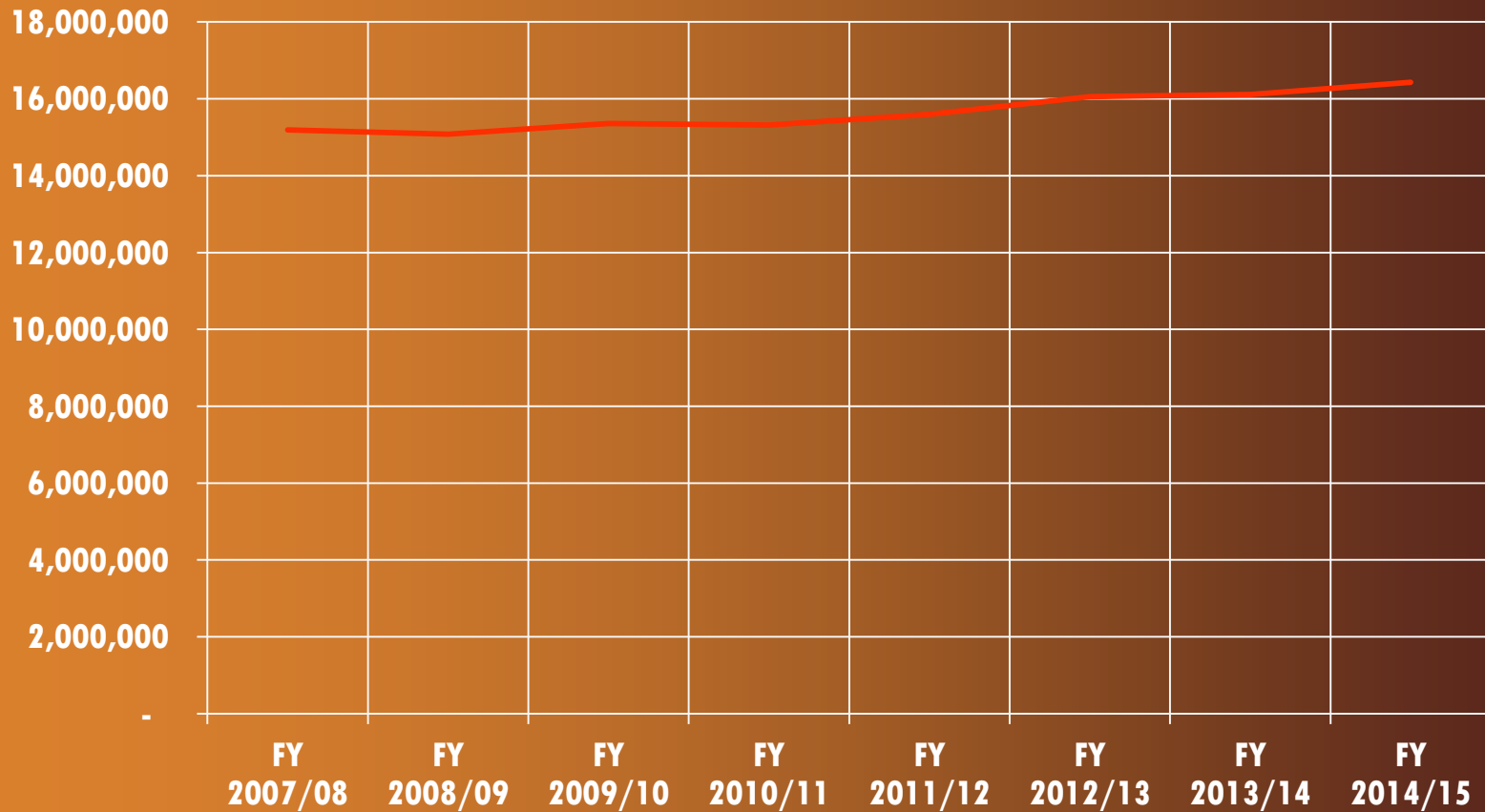
- Electricity**
- Gas**
- Water**
- Telephone**
- Wireless**
- Cable**






This tax has been a very stable large revenue source due to the broad base of the tax levy and the nature of the tax

Utility User's Tax (UUT)

UUT



Franchise Fees

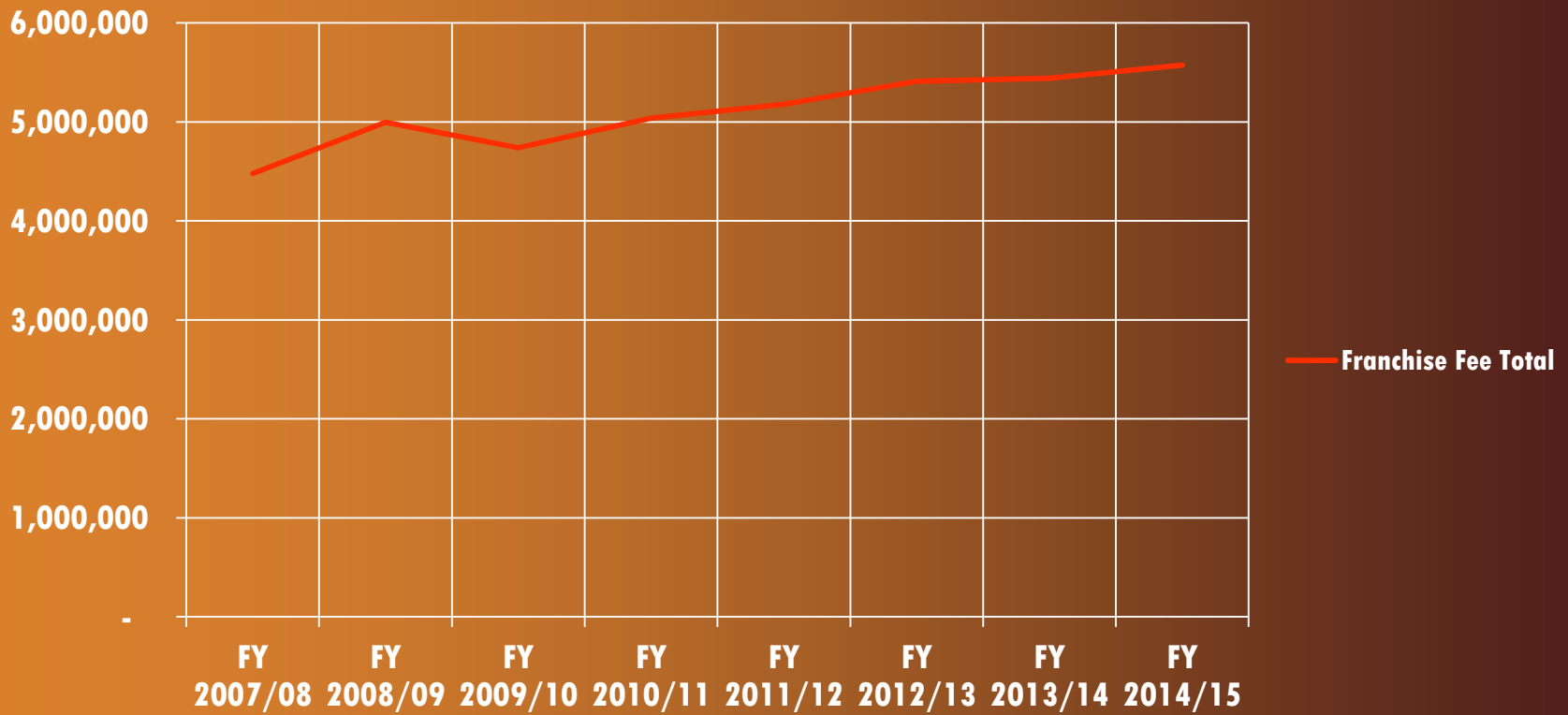
-  **Franchise fees are a form of rent for use of public streets, roads and right of way**
-  **The City has negotiated franchise agreements with various utilities for use of the public right of way**
-  **The Tax applies to the following utilities:**
 - Electricity**
 - Gas**
 - Cable**
 - Solid Waste/Trash**

Franchise Fees

	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
Franchise Fee	4,381,882	4,876,055	4,607,594	4,888,143	5,008,507	5,170,000	5,250,000	5,375,000
Franchise in lieu Fee	96,816	120,969	132,548	150,456	168,267	240,000	190,000	200,000
Franchise Fee Total	4,478,698	4,997,024	4,740,142	5,038,600	5,176,775	5,410,000	5,440,000	5,575,000
		518,326	(256,882)	298,457	138,175	233,225	30,000	135,000
		11.6%	-5.1%	6.3%	2.7%	4.5%	0.6%	2.5%

Franchise Fees

Franchise Fee Total



Investment Income



The City invests the City's funds and reserves to generate income until those funds are needed to pay for expenses and services



The City pools available money across all funds in an investment pool



An investment manager manages the pooled investments in fixed income instruments within the state law requirements







Investment yields have dropped dramatically over the past five years driven by the Federal Reserve Bank's efforts to energize the economy





Investment Income

	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
Investment Income	6,973,308	4,688,270	2,717,918	1,560,605	1,956,825	2,926,500	2,630,000	2,530,000
Interest Income - CRC Loan	273,182	281,377	289,819	298,513	-	317,000		
Interest Income - RDA Loan	564,135	721,949	457,378	348,672	-	-		
Investment Income Gains/Losses	-	-	217,368	1,234,012	861,227	-		
Investment Income Total	7,810,625	5,691,596	3,682,482	3,441,802	2,818,052	3,243,500	2,630,000	2,530,000
		(2,119,029)	(2,009,114)	(240,681)	(623,750)	425,448	(613,500)	(100,000)
		-27.1%	-35.3%	-6.5%	-18.1%	15.1%	-18.9%	-3.8%
Five-Year Treasury Bond Rate - July 1	4.43	2.8	2.2	1.93	1.52	0.65	0.8	0.8
		-1.63	-0.6	-0.27	-0.41	-0.87	0.15	0
		-36.8%	-21.4%	-12.3%	-21.2%	-57.2%	23.1%	0.0%





Business Gross Receipts Tax

-  **Cities may impose business license taxes on persons or entities doing business within the city.**
-  **Majority voter approval is necessary to impose or increase this tax.**
-  **Business license taxes are most commonly based on a business' overall revenues (a concept known as “gross receipts”).**
-  **Cities set their own tax rates.**

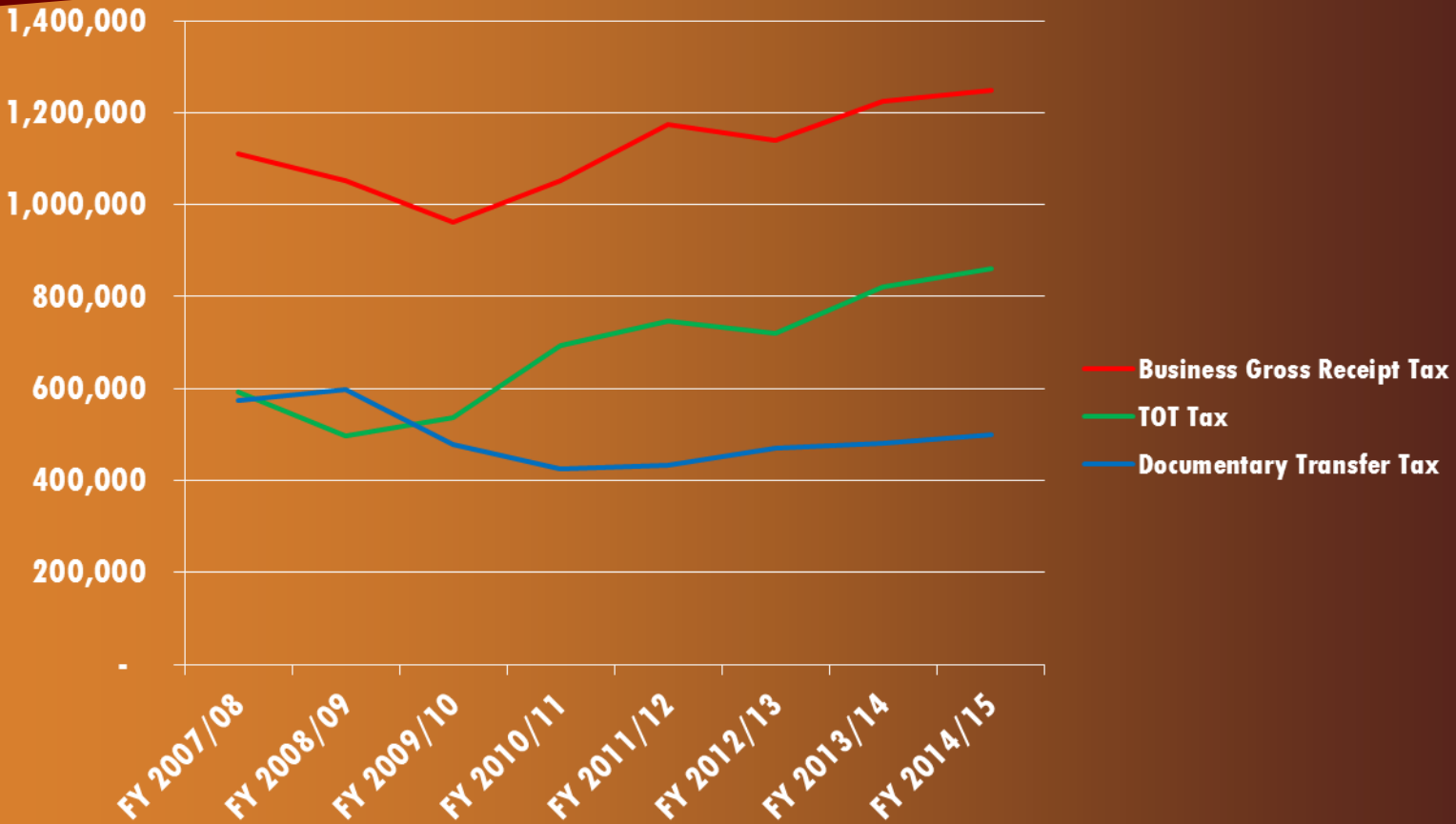
Transient Occupancy Tax (TOT) – Hotel Tax

-  A key form of visitor tax is called the transient occupancy tax – TOT or hotel bed tax.
-  Counties and cities may tax persons staying 30 days or less in hotels, motels and similar lodgings, including mobile homes.
-  The lodging provider collects the tax from guests and turns the funds over to the city.
-  Cities and counties may set their own TOT rates. Voter approval is necessary to impose or increase this tax.

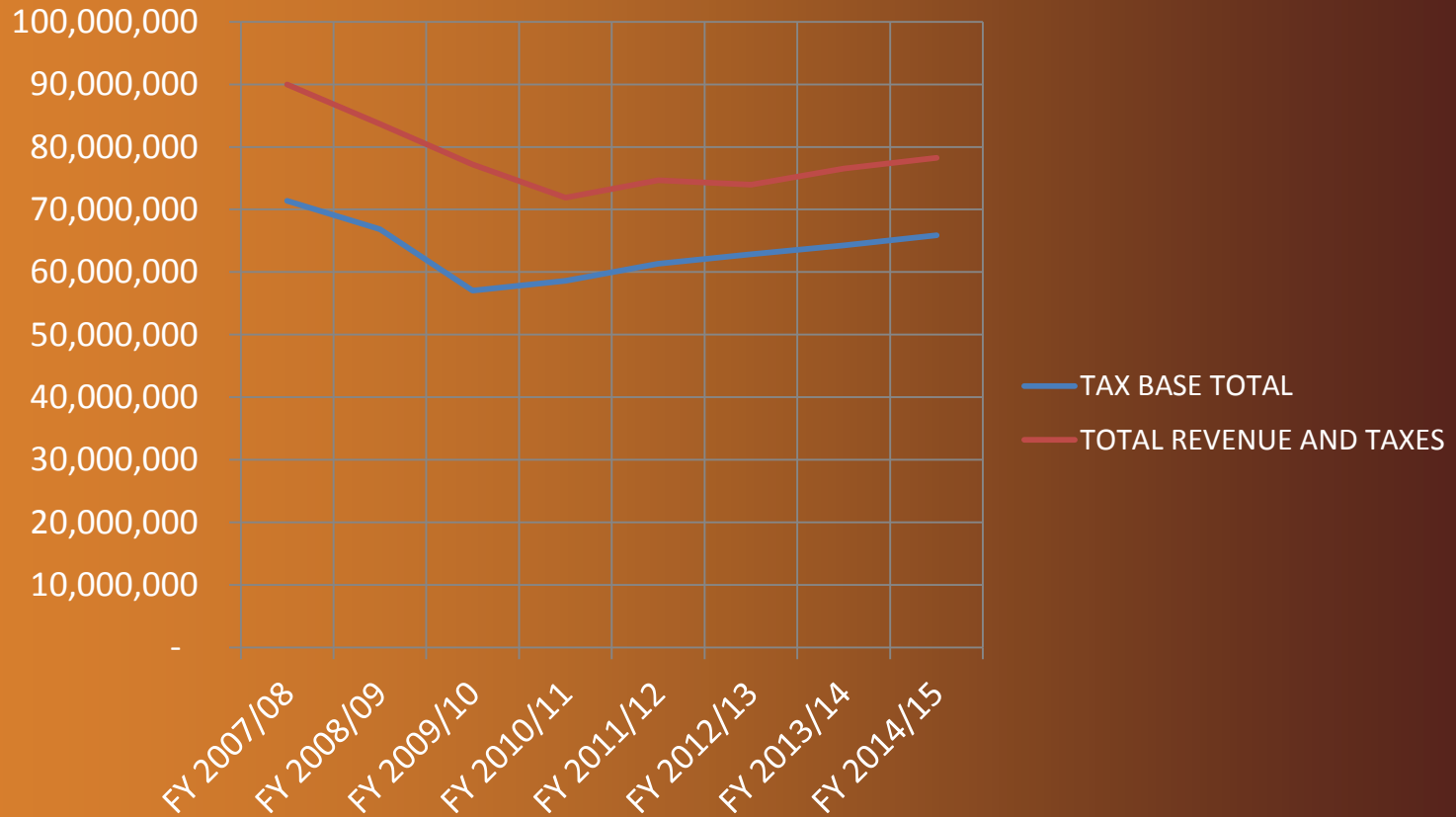
Documentary Transfer Tax

-  **A documentary transfer tax is a tax imposed on the transfer of interests in real estate.**
-  **Counties may tax at a rate of 55 cents per \$500 of the property value.**
-  **Cities may impose the tax at up to one half of that amount, which is credited to the payment of the county tax.**
-  **Majority voter approval is necessary to impose or increase this tax.**

Other Taxes



Summary of General Fund Tax Base



Upcoming Actions

March 5, 2013	Slow Growth in Major General Fund Revenue Sources
March 19, 2013	Annual Increases in Public Safety Contracts
April 2, 2013	Unfunded Liabilities— Public Employees Retirement System and Retiree Medical
April 16, 2013	Employee Compensation Issues
June 4, 2013	Increased Demands on General Fund Reserves
June 18, 2013	Unfunded Liabilities— Compensated Absences and Others

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THE CITY OF MORENO VALLEY

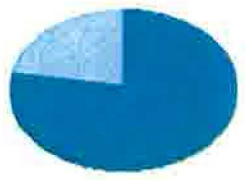
2012/13 PROPERTY TAX REVIEW

Tax Year	Total Taxable Value
2012/13	10,739,231,794
2011/12	10,597,395,532
	141,836,262 Total Value Change
	Dollar Change Change Event
	205,526,330 Net Value Change of CPI Growth (2.000%)
	-266,061,576 Net Change of Parcels with Negative Growth
	70,570,097 Unsecured Roll Change
	12,773,212 Transfer of Ownership Change
	97,951,370 Non Residential New Construction
	21,076,829 Other Net AV Change
	141,836,262

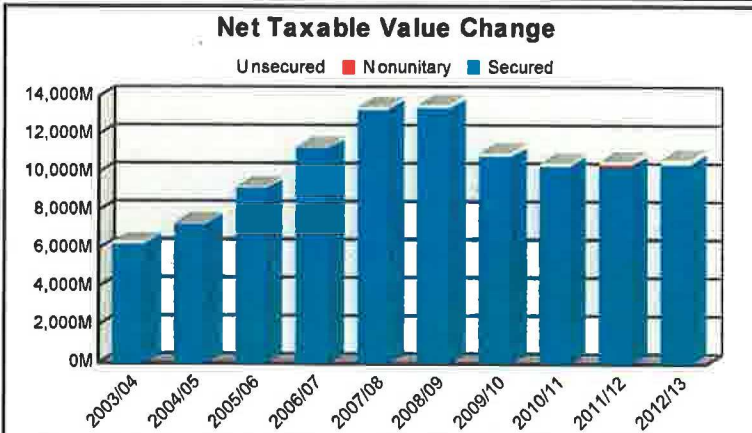
Year to Year Value Change by Use Category		
Category	\$ Change	% Change
Residential	-\$54,154,571	-0.69%
Commercial	\$11,294,911	0.99%
Industrial	\$148,291,199	21.29%
Dry Farm	\$246,432	1.58%
Govt. Owned	-\$1,128,446	-19.37%
Institutional	-\$8,036	-0.17%
Irrigated	\$562	2.00%
Miscellaneous	\$47,185	2.67%
Recreational	-\$903,445	-3.22%
Unknown	\$99,746	54.23%
Vacant	-\$27,930,492	-5.32%
SBE Nonunitary	-\$685,975	-96.67%
Cross Reference	-\$3,902,905	-14.99%
Unsecured	\$70,570,097	26.13%

Change by Component	Total	Personal Property
Entire City	1.34%	-4.40%
Moreno Valley General Fund	1.25%	4.60%
Successor Agency	-0.24%	-15.33%
Countywide	-0.47%	-3.20%

Percentage of Assessed Value



Moreno Valley General Fun (02-2490)	77.4%
Moreno Valley Redevelopment (02-2492)	22.6%
Total:	100.0%



Notes:

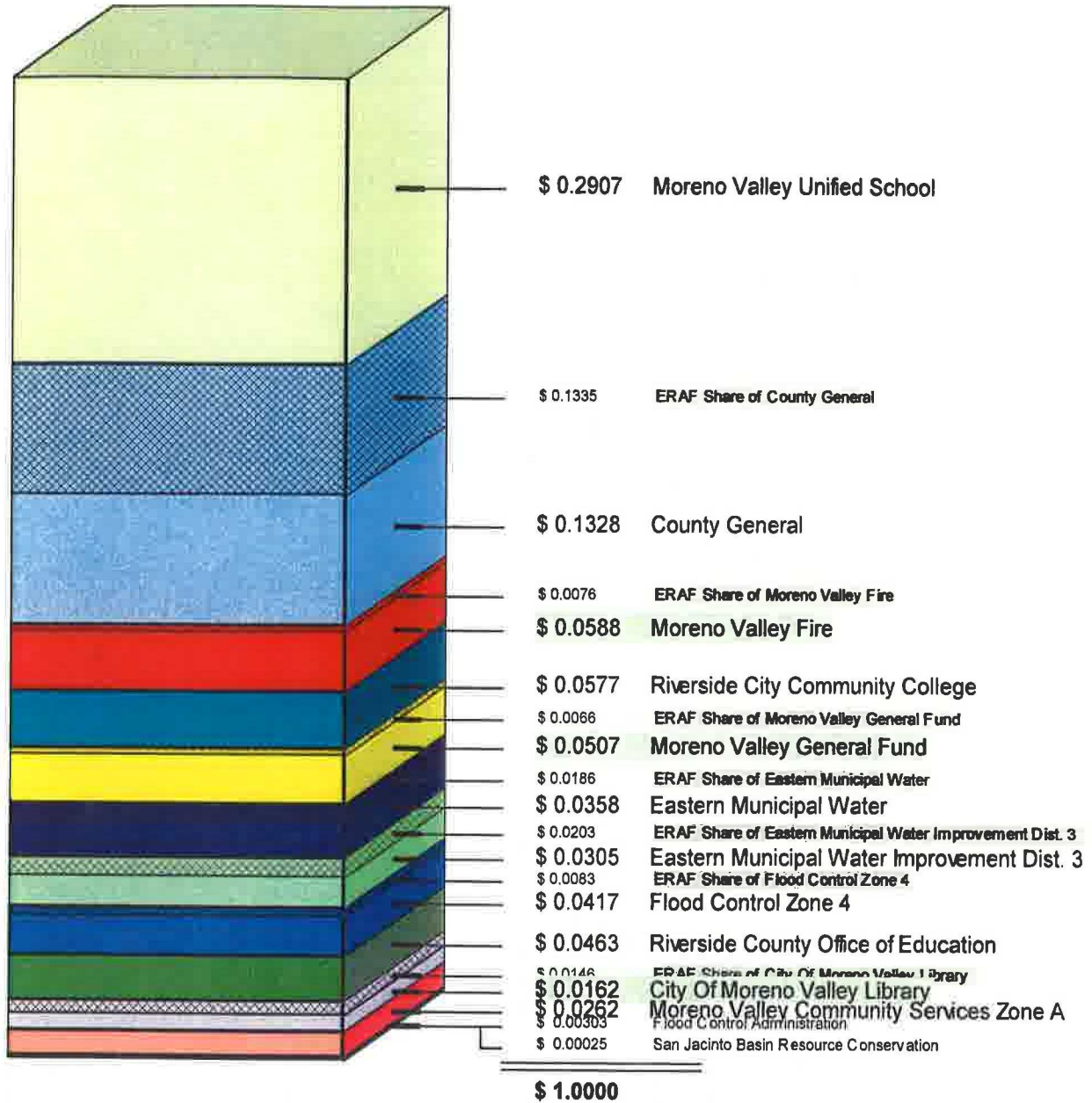
- Industrial uses grew 21.3% setting the trend for the city overall increase. The 2% CPI granted for 2012-13 was not enough to bring residential uses positive due to continuing Prop 8 reductions. Residential uses declined 0.7% or \$54 million.
- Industrial property owned by HF Logistics SKX T1 at 29800 Eucalyptus Avenue reported the addition of \$90 million in new improvement values between tax years. This is the Sketchers distribution center. Industrial property at 16850 Heacock Street owned by CLPF 16850 Heacock Street was purchased in 2011 for more than the prior assessor's enrolled value for an increase of \$21 million. This is the Lowed HIW regional distribution center.
- Unsecured values were up \$70 million
- Industrial property owned by Industrial North American Properties X at 24950 Grove View Road was purchased for less than the value enrolled by the previous owner for a reduction of \$11.8 million.
- The CPI adjustment for 2013-14 is tracking at 2%.

Top 10 Taxpayers Based on City Revenue 2012/13	Rank	Top 10 Taxpayers Based on City Revenue 2011/12
STONEGATE 552	1	RIDGE MORENO VALLEY sold to IIT Inland Empire Logistics
IIT INLAND EMPIRE LOGISTICS CENTER bought from Ridge MoVal	2	STONEGATE 552
BROADSTONE AT VALLEY VIEW	3	BROADSTONE AT VALLEY VIEW
2250 TOWN CIRCLE HOLDINGS	4	MORENO VALLEY DAY STREET APARTMENTS
MORENO VALLEY DAY STREET APARTMENTS	5	2250 TOWN CIRCLE HOLDINGS LLC
BUCKHEAD CACTUS COMMERCE	6	BUCKHEAD CACTUS COMMERCE
WFD TOWNGATE INVESTMENT VI formerly TSC transferred 11/2011	7	WEINGARTEN STONERIDGE
WEINGARTEN STONERIDGE	8	TSC sold to WFD Towngate Investment VI
TOWNGATE APARTMENTS purchased from BRE Properties	9	BRE PROPERTIES INC sold to Towngate Apartments
WALMART REAL ESTATE BUSINESS TRUST	10	WALMART REAL ESTATE BUSINESS TRUST

Data Source: Riverside County Assessor 2012/13 Secured and Unsecured Tax Rolls

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THE CITY OF MORENO VALLEY PROPERTY TAX DOLLAR BREAKDOWN



ATI (Annual Tax Increment) Ratios for Tax Rate Area 021-183, Excluding Redevelopment Factors & Additional Debt Service

Data Source: Riverside County Assessor 2012/13 Annual Tax Increment Tables

Prepared On 10/2/2012 By MV

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RIVERSIDE COUNTY - 2012/13

REPRESENTATIVE GENERAL LEVY SHARE ESTIMATE

Estimate of Average City Representative Share of the General Levy

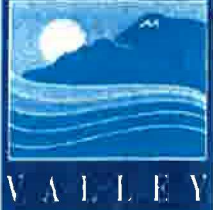
City	City Rate*	Other Rates*	Total
Blythe	0.3070		0.3070
Palm Springs	0.2751		0.2751
Perris	0.2544		0.2544
Hemet	0.2455		0.2455
Corona	0.2424		0.2424
Lake Elsinore	0.1742		0.1742
Banning	0.1691		0.1691
Beaumont	0.1165	0.0515	0.1680
Norco	0.1640		0.1640
Desert Hot Springs	0.1625		0.1625
Cathedral City	0.0940	0.0674	0.1614
Moreno Valley	0.0573	0.0973	0.1545
Riverside	0.1451		0.1451
Indio	0.1325		0.1325
Coachella	0.0769	0.0544	0.1313
San Jacinto	0.1288		0.1288
Menifee	0.0652	0.0634	0.1286
Murrieta	0.0780	0.0312	0.1091
Rancho Mirage	0.1049		0.1049
Indian Wells	0.1027		0.1027
Calimesa	0.1015		0.1015
Palm Desert	0.0840		0.0840
La Quinta	0.0760		0.0760
Wildomar	0.0580		0.0580
Canyon Lake	0.0565		0.0565
Temecula	0.0372	0.0192	0.0564
Eastvale	0.0248		0.0248
Jurupa Valley	0.0000		0.0000
County Average:	0.1262	0.0137	0.1399

*The City tax rate is based on the largest non-redevelopment Tax Rate Area in each city; other rates include city-governed overlaying districts such as lighting or maintenance districts.

Data Source: Riverside County Assessor 2012/13 Combined Tax Rolls

Prepared On 10/2/2012 By MV

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2012/13 PROPERTY TAX SUMMARY

The City of Moreno Valley experienced a net taxable value increase of 1.3% for the 2012/13 tax roll, which was slightly better than the decrease experienced countywide at -0.5%. The assessed value increase between 2011/12 and 2012/13 was \$142 million. The change attributed to the 2% Proposition 13 inflation adjustment was \$206 million, which was significantly offset by reductions caused by properties with declining values.

The largest assessed value increase was reported on an industrial property owned by HF Logistics SKX T1 at 29800 Eucalyptus Avenue. This is the Sketchers distribution center which reported an increase of \$90 million in improvement values. Industrial property at 16850 Heacock Street owned by CLPF 16850 Heacock Street was purchased in 2011 for more than the prior assessor's enrolled value for an increase of \$21 million. This is the location of the Lowes HIW regional distribution center. The iHerb distribution owned by Indian Street at 17825 Indian Street was purchased in 2011 for more than the previous value for an increase of \$5 million.

The largest decline was posted by Industrial North American Properties X at 24950 Grove View Road which was purchased for less than the value enrolled by the previous owner for a reduction of \$11.8 million. A multi-family residential site owned by Moreno Valley Day Street Apartments, at 13120 Day Street, successfully appealed their value after a purchase at the peak of the real estate bubble in 2009 for a decline of \$10.1 million.

The housing market began to rebound during the first half of 2012, as home buying increased due to low interest rates and affordable prices. Foreclosures are at their lowest levels in five years. Median prices and numbers of sale transactions are up statewide. The housing market is poised for recovery but the speed and magnitude of the recovery will depend on the overall economy. The median sale price of a single family home in Moreno Valley from January through August 2012 was \$153,000. This represents a \$3,000 (2.0%) increase in median sale price from 2011.

Year	SFR Sales	Median Price	% Change
2006	3,180	\$380,000	
2007	1,268	\$360,000	-5.26%
2008	3,560	\$190,000	-47.22%
2009	4,473	\$139,000	-26.84%
2010	3,376	\$155,000	11.51%
2011	2,876	\$150,000	-3.23%
2012	1,705	\$153,000	2.00%

2012/13 Tax Shift Summary

ERAF I & II	\$-585,516
VLFAA (est.)	\$13,357,346
Triple Flip	\$3,326,173
Triple Flip True up	\$193,843

Top 10 Property Taxpayers

Owner	Revenue	% of Total	Use Type
1. STONEGATE 552	\$614,514.43	2.22%	Residential
2. IIT INLAND EMPIRE LOGISTICS CENTER	\$588,498.97	2.13%	Industrial
3. BROADSTONE AT VALLEY VIEW	\$437,665.87	1.58%	Residential
4. 2250 TOWN CIRCLE HOLDINGS	\$352,647.79	1.27%	Commercial
5. MORENO VALLEY DAY STREET APARTMENTS	\$339,545.33	1.23%	Residential
6. BUCKHEAD CACTUS COMMERCE	\$279,649.17	1.01%	Industrial
7. WFD TOWNGATE INVESTMENT VI	\$257,367.79	0.93%	Commercial
8. WEINGARTEN STONERIDGE	\$238,809.48	0.86%	Commercial
9. TOWNGATE APARTMENTS	\$228,425.70	0.82%	Residential
10. WALMART REAL ESTATE BUSINESS TRUST	\$199,788.57	0.72%	Commercial
Top Ten Total	\$3,536,913.10	12.77%	

Real Estate Trends

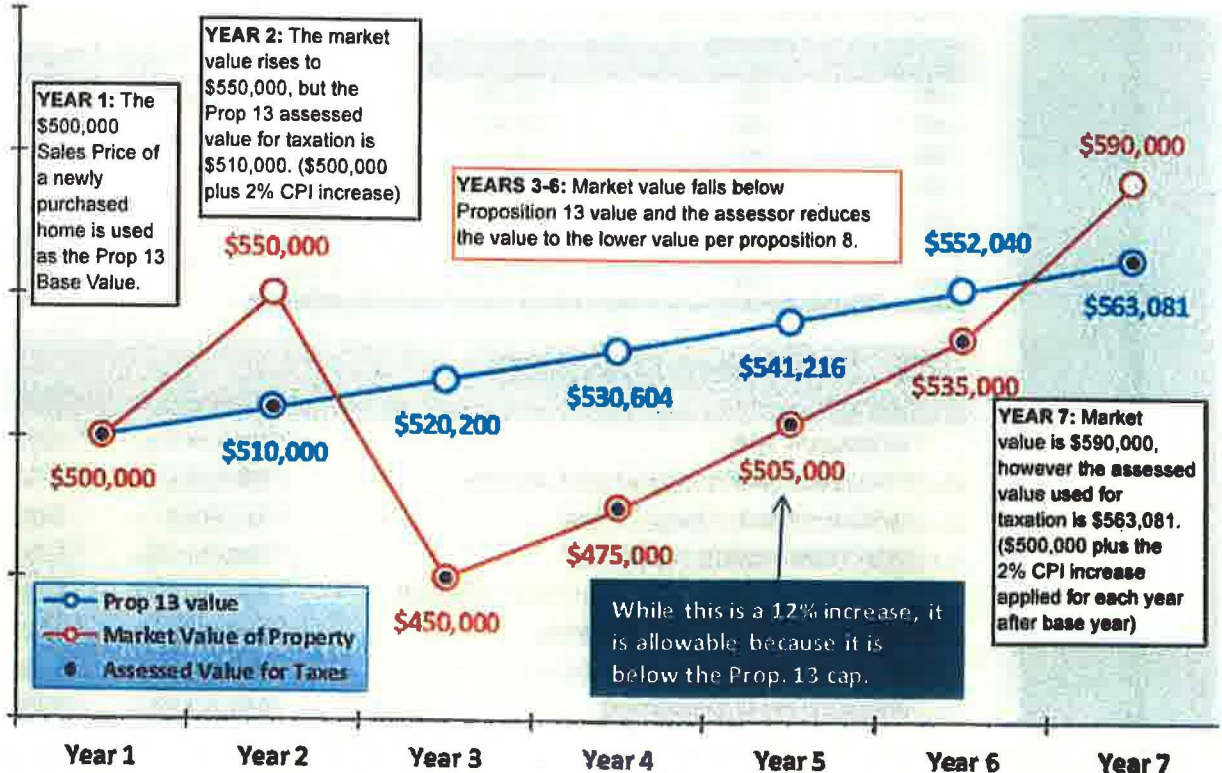
Home Sales

Home sales have begun to rebound in many parts of the State. The increased sales are due to less distressed homes on the market and buyers beginning to purchase in mid and high end areas. Low mortgage rates and affordable prices are proving attractive for buyers and finally convincing them to reenter the market. The reported median price of an existing, single family detached home in California during July 2012 was \$281,000. This was an 11.5 percent increase from \$252,000 in July 2011.

All Homes	Units Sold July-2011	Units Sold July-2012	% Change	Median Price July-2011	Median Price July-2012	% Change
Imperial County	158	44	-72.15%	\$126,050	\$126,500	0.36%
L. A. County	6,193	7,091	14.50%	\$320,000	\$330,000	3.13%
Orange County	2,455	3,087	25.74%	\$437,500	\$450,000	2.86%
Riverside County	3,288	3,546	7.85%	\$190,000	\$210,500	10.79%
San Bernardino County	2,378	2,434	2.35%	\$151,000	\$165,000	9.27%
San Diego County	3,041	3,565	17.23%	\$325,000	\$342,000	5.23%
Ventura County	735	865	17.69%	\$360,000	\$361,250	0.35%

Recapturing Proposition 8 Reductions

Proposition 13 caps the growth of a property's assessment at no more than 2% each year unless the market value of property falls lower. When property values decline Proposition 8 which was passed by the voters in 1978 allows the property to be temporarily assessed at the lower value. Once reduced, the assessed value and property taxes may increase by more than 2% a year as the property values rise during a real estate recovery. The "recaptured" values can be adjusted upward to the annually adjusted Proposition 13 cap (blue line below).



Q3 2012

Moreno Valley Sales Tax *Update*

Fourth Quarter Receipts for Third Quarter Sales (July - September 2012)

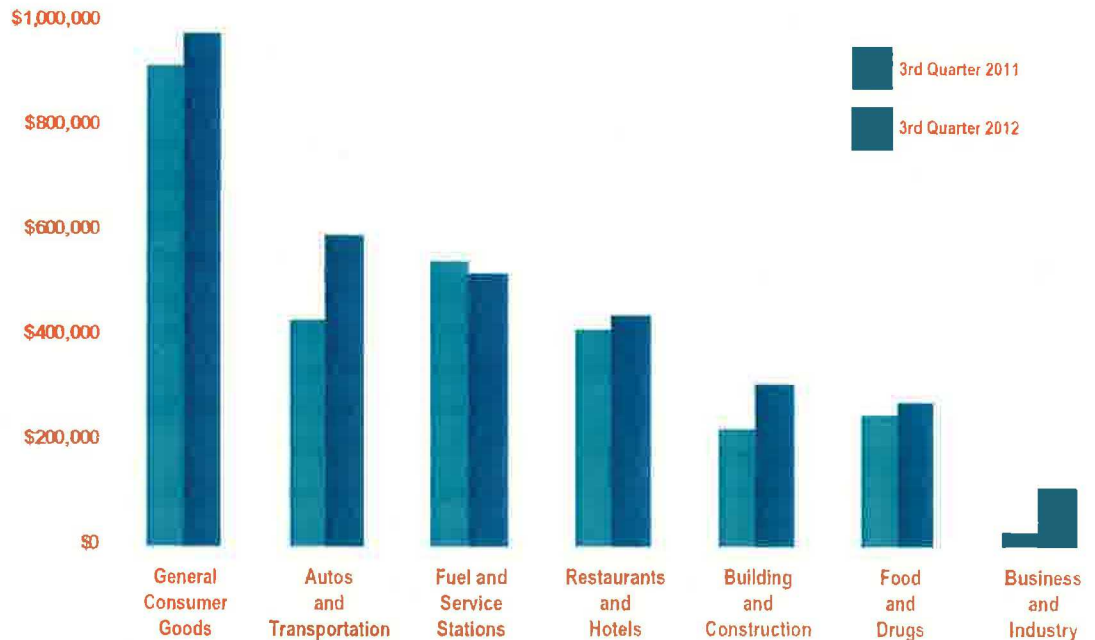
Moreno Valley In Brief

Receipts from third quarter sales were 14.5% above the comparable sales period one year earlier but onetime payment aberrations skewed the data. Excluding anomalies, actual sales were up 8%.

New motor vehicle sales generated most of the autos and transportation increase. A temporary reporting aberration inflated building and construction totals. The increase in the business and industry group comparison was largely due to a missing payment a year ago that has since been received and a negative payment adjustment that further cut year-ago receipts. New business additions boosted general consumer goods totals, whereas, amounts for sales in another quarter exaggerated food and drug results. Restaurant gains outpaced countywide and statewide trends.

With onetime accounting adjustments factored out, Riverside County as a whole was up 13.6%; state-side sales grew 6.6%.

SALES TAX BY MAJOR BUSINESS GROUP



TOP 25 PRODUCERS

In Alphabetical Order

Arco	Moss Bros
Arco AM PM	Chevrolet
Chevron	Moss Bros Chrysler
Chevron	Jeep Dodge
Circle K	Moss Bros Honda
Costco	Moss Bros Toyota
Food 4 Less	Ross
Home Depot	Sears
Iherb	Shell
JC Penney	Stater Bros
Lowe's	Target
Macys	Volkswagen of Moreno Valley
Moreno Gas Mart	Walmart
Moss Bros Buick	
GMC	

REVENUE COMPARISON

Two Quarters – Fiscal Year To Date

	2011-12	2012-13
Point-of-Sale	\$5,797,935	\$7,208,721
County Pool	610,901	814,503
State Pool	564	2,842
Gross Receipts	\$6,409,400	\$8,026,066
Less Triple Flip*	\$(1,602,350)	\$(2,006,516)

*Reimbursed from county compensation fund

Statewide Results

Gains in all seven of HdL's key economic groupings confirm that California's economy continues to mend. Statewide local sales and use tax revenues from transactions occurring July through September 2012 were 6.0% higher than the same quarter in 2011 after onetime accounting and reporting aberrations are factored out.

The continued strong demand for new autos exceeded analysts' expectations and generated about one-fourth of the adjusted statewide increase. Restaurant sales posted another strong quarter with receipts 6.6% higher than the same period one year ago. Use tax from the development of solar energy projects and a modest recovery in some categories of building and construction materials also contributed to the rise.

Overall sales growth was tempered by a leveling in fuel prices compared to the previous year's quarter and by a slowdown in business spending in the Silicon Valley.

The Year Ahead

Gains in sales and use tax receipts from the first half of 2013 are expected to be lower than previous quarters. Recovery from "fiscal cliff" uncertainties and its final outcome may take several months while Europe's financial woes and China's sluggish growth will temper California export activity. Fuel prices should stabilize and not generate the huge bubbles in tax revenues experienced in previous quarters.

The last half of the year is predicted to resume steady, moderate growth. In November, the state's unemployment rate had already dipped to 9.8 percent, the lowest since the recession began. The recent gains are becoming more widespread among job categories and

even include an increase in construction-related employment.

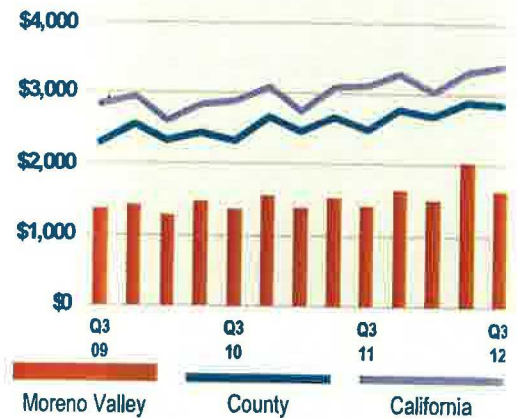
The state's housing market is strengthening with fewer distressed transactions and record low inventories. The median sales price of homes has increased for the last eight consecutive months of the year and building activity, particularly in the coastal areas, is expected to pick up steam in 2013. Elevated foreclosure rates in some inland regions may delay building recovery for another year or two.

Pent-up demand, record low interest rates and easing credit availability have led to robust sales of new automobiles. That demand is expected to continue for another few quarters as consumers replace older, less fuel efficient models and take advantage of lease and financing incentives being offered by manufacturers.

Wage gains from new hiring, combined with lower fuel prices and an improv-

ing housing market are incrementally boosting consumer confidence but much depends on government stewardship of the recovery. Tax increases and reduced benefits could shrink spending at the lower income levels while overly deep cutbacks in government contracts and infrastructure improvements could discourage new business investment.

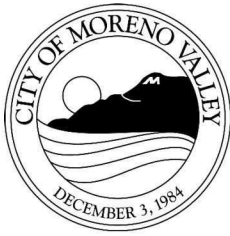
SALES PER CAPITA



MORENO VALLEY TOP 15 BUSINESS TYPES

Business Type	Moreno Valley		County	HdL State
	Q3 '12*	Change	Change	Change
Automotive Supply Stores	66.3	4.2%	3.6%	0.8%
Department Stores	128.4	-5.4%	-3.3%	-0.9%
Discount Dept Stores	421.4	8.4%	16.9%	15.5%
Drug Stores	43.9	2.0%	3.9%	0.4%
Electronics/Appliance Stores	44.6	-24.4%	4.2%	-1.1%
Family Apparel	131.5	28.7%	7.8%	9.9%
Food Mfg.	48.2	na	47.5%	11.2%
Grocery Stores Liquor	165.8	15.3%	12.4%	9.5%
Lumber/Building Materials	276.3	39.6%	33.1%	35.9%
New Motor Vehicle Dealers	448.3	43.2%	18.6%	19.2%
Restaurants Beer And Wine	44.9	0.2%	3.0%	2.2%
Restaurants Liquor	93.7	9.3%	7.7%	8.5%
Restaurants No Alcohol	294.5	8.1%	7.4%	8.1%
Service Stations	518.0	-4.5%	2.0%	1.6%
Variety Stores	41.4	31.1%	11.7%	4.5%
Total All Accounts	\$3,223.7	15.0%	15.5%	8.8%
County & State Pool Allocation	339.6	10.2%		
Gross Receipts	\$3,563.3	14.5%		

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APPROVALS	
BUDGET OFFICER	
CITY ATTORNEY	
CITY MANAGER	<i>[Handwritten initials]</i>

Report to City Council

TO: Mayor and City Council

FROM: Rick Teichert, Financial and Management Services Director

AGENDA DATE: March 5, 2013

TITLE: PRESENTATION OF LONG TERM FINANCIAL CHALLENGES – SLOW GROWTH IN MAJOR GENERAL FUND REVENUE SOURCES

RECOMMENDED ACTION

Recommendation: That the City Council:

1. Review and discuss a PowerPoint presentation regarding the slow, steady growth rate of the City's major General Fund revenue sources and tax base.

BACKGROUND

City Council has requested to discuss a series of topics related to long term financial issues impacting the City's General Fund. These presentations and related discussion will occur during City Council Study Sessions from March through June 2013.

DISCUSSION

Staff will present a PowerPoint presentation regarding the General Fund Revenue Growth for the next two fiscal years at the Study Session on March 5, 2013. The PowerPoint will be available on the evening of the Study Session.

The following discussion topics related to Long Term Financial Challenges have been scheduled to occur at City Council Study Sessions over the next several months. The intent is to review and discuss details and related impacts regarding each topic.

March 5, 2013 Slow Growth in Major General Fund Revenue Sources

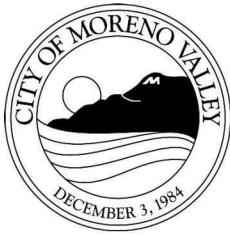
- March 19, 2013 Annual Increases in Public Safety Contracts
- April 2, 2013 Unfunded Liabilities – Public Employees Retirement System and Retiree Medical
- April 16, 2013 Employee Compensation Issues
- June 4, 2013 Increased Demands on General Fund Reserves
- June 18, 2013 Unfunded Liabilities – Compensated Absences and Others

ATTACHMENTS

To be provided under separate cover.

Prepared By:
Rick Teichert
Financial and Management Services Director

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



APPROVALS	
BUDGET OFFICER	
CITY ATTORNEY	<i>SMB</i>
CITY MANAGER	<i>[Signature]</i>

Report to City Council

TO: Mayor and City Council

FROM: Suzanne Bryant, Acting City Attorney

AGENDA DATE: March 5, 2013

TITLE: CODE ENFORCEMENT REMEDIES

RECOMMENDED ACTION

Staff recommends that the City Council consider the various code remedies available and provide policy direction on which remedies the City should utilize.

BACKGROUND

The City Council has asked for a review of the various legal and administrative options available when there is a code enforcement violation. The Inland Region has a large percentage of investor owned single family homes. Generally, compliance has been the goal of code enforcement and criminal prosecution has been used when a property owner has failed to comply with the City's orders. A combination of criminal and civil enforcement options can be used to formulate an effective code compliance strategy. This study session will provide an overview of the various enforcement options so that the Council can provide policy direction.

DISCUSSION

The three main categories of code enforcement remedies the City may use to resolve code violations are: 1) administrative enforcement; 2) criminal prosecution; and, 3) civil litigation. These remedies are not mutually exclusive.

1) Administrative Enforcement

Administrative enforcement includes all actions to correct a code violation taken by staff under the authority granted by the City's Municipal Code. Administrative actions typically do not involve the courts. Examples of administrative enforcement include:

- Notices and Orders
- Administrative Citations
- Civil Penalties and Assessments
- Summary Nuisance Abatement
- Liens

Administrative actions are typically the first method of enforcement used in most jurisdictions. Administrative actions are subject to Constitutional due process requirements. Accordingly, when the City takes any of the aforementioned administrative actions, it is required to give proper and reasonable notice and an opportunity to appeal any such determination to a neutral hearing officer.

Notices and Orders

Currently, Code Enforcement staff will first issue a Notice and Order to Abate a violation. The determination that a code violation exists may be appealed to a neutral hearing officer. The decision of the hearing officer may then be appealed to the court.

Administrative Citations

Administrative Citations (also known as Civil Citations or “Admin Cites”) are a form of citation authorized by state law whereby code enforcement officers (and other City Manager designees) may issue a citation to individuals who violate the Municipal Code. This means, for example, that if a tenant is maintaining a property violation, the City may administratively cite both the tenant and property owner. Admin Cites are issued by City staff, they do not go through the court system, and the City retains the entire fine amount.

Admin Cites are issued in amounts of \$100 for 1st offenses, \$200 for 2nd offenses and \$500 for 3rd or subsequent offenses in a one year period. For building, plumbing, electrical or other similar structural or zoning violations that do not create an immediate danger to health or safety, the administrative process allows individuals a period of time in which to remedy the violation before a fine is issued. The current practice is to issue Administrative Citations only after a Notice and Order to Abate has been ineffective at gaining compliance.

Because each day a violation continues constitutes a new and separate violation, administrative citations may be issued to the same individual frequently. Ideally, the multiple citations and escalating fines eventually provide enough incentive for the individual to abate the nuisance.

Administrative Citations are processed by a third party contractor. The City pays a small per citation cost associated with processing each citation; however, the remaining fine amount is retained by the City. Revenue collected via Administrative Citation fines may be used for any purpose. The company that processes the citations also handles collections. Collections letters are sent on delinquent accounts and the past due

amounts are reported to the California Franchise Tax Board. An individual's state income tax refund may be diverted to the City for these unpaid fine amounts.

Administratively cited individuals may contest the citation. The Municipal Code provides that any cited individual may request an administrative hearing to appeal the citation. The appeal may be based on three grounds, including: 1) a denial that the violation occurred; 2) a denial that the violation was not corrected in the requisite period; and, 3) a denial that the person cited was indeed the responsible person. At the hearing's conclusion, the hearing officer issues a written decision upholding or reversing the administrative citation. The hearing officer's decision is final, and a further appeal may only be made to the Superior Court.

In the event that the administrative citations fail to bring the individual into compliance, the existing processes (i.e., criminal and/or civil penalties in Superior Court) are still available to the City.

Civil Penalties and Assessments

In addition to fines imposed through an administrative citation process, some cities have adopted a civil assessment program whereby penalties are assessed against real property for violations of city codes. Civil Code section 2929.3 permits a city to impose an assessment of up to \$1,000.00 per day on properties that contain public nuisance violations and are owned by a person or entity that obtained that property by foreclosure. The City of Moreno Valley currently utilizes this assessment. Per state law all revenue must be placed in separate account to be used for public nuisance abatement programs.

Another example of a civil assessment is the process used by the City of Riverside assessing the fine against all properties. The City of Riverside has adopted their own administrative penalty ordinance to allow for these assessments. These penalties may be imposed as a lien on the real property.

Summary Nuisance Abatement

When Notices, Citations, and Assessments fail to gain compliance; the City may decide to make the corrections itself through summary abatement. This process requires either the consent of the property owner or a warrant issued by a judge to enter the property. The nuisance conditions are then corrected by contractors hired by the City. The costs of such abatement are then assessed against the property as a tax assessment and collected with future property tax payments. Because the city has to pay the upfront costs of summary abatement, this tool is reserved primarily for those cases where the nuisance creates an immediate public hazard or has been longstanding and other methods have been unsuccessful. Abatement is usually done to remove overgrown weeds, board-up vacant buildings, or to remove hazardous structures.

Liens

A lien can be placed on property for both informational purposes and as a means to collect a debt. Currently, the City places an informational lien called a “Notice of Substandard Property” that is intended to inform any potential purchaser or lender that code violations exist on the property. This informational lien does not directly authorize the payment of a debt but is often used as a tool in negotiating payment of outstanding fines and fees when a sale is pending. The City releases the lien upon payment of all outstanding debts and a written agreement from the prospective purchaser of the property to correct the violation within an agreed upon timetable.

When the City performs a summary abatement action, state law authorizes the City to assess the costs of conducting any such abatement as a lien on County tax rolls. It takes, on average, 3 years from the date of the abatement, to recover the City’s costs. As tax liens, these amounts take priority over traditional liens and are, therefore, almost always collected.

Some cities have adopted an ordinance allowing for the imposition of liens for unpaid assessments and fines directly on a parcel. There is a split of opinion on whether such liens are valid. Some argue that state law occupies the entire field with respect to real property liens and has only identified limited circumstances where such liens may be recorded (e.g., judgment liens, tax liens for nuisance abatement). However, some cities have enacted their own ordinance granting the authority to place a lien on property for a wider range of unpaid fines and fees.

2) Criminal Prosecution

Violating the Municipal Code is a misdemeanor criminal offense punishable by a fine of up to \$1,000 and up to six months in jail. The Municipal Code does allow offenses to be reduced to an infraction at the discretion of the citing officer or the City Attorney. An infraction is a penalty which is punishable by a fine only. Fines imposed under a conviction for either a misdemeanor or an infraction are shared with the courts and the City sees only a small percentage of these fine amounts.

There is no requirement that administrative or civil remedies be sought before a criminal case may be filed. The City’s current policy is to issue i) a Notice and Order to Abate, then ii) a series of three progressively higher administrative citations, and then iii) a final warning from the City Attorney before filing any criminal action.

The criminal process involves the filing of a complaint, an arraignment (where a public defender may be appointed), plea negotiations, and eventually a trial if no resolution has been reached. City policy has been to offer to dismiss all criminal charges if compliance is achieved and costs of prosecution are paid before trial.

In the event the filing of criminal charges is still not enough to compel a property owner to comply with local laws, the case proceeds to trial. Upon conviction, a defendant is

typically placed on a period of probation and ordered to correct the violations as a condition of probation. If a defendant fails to comply with the court Order, additional fines or jail time may be imposed. In this respect, the ultimate penalties for a violation of a civil court contempt Order and a criminal probation term are the same.

3) Civil Remedies

The City also has the option to bring an action in the state court system to try to achieve compliance. This section discusses options for filings within the Civil Division. In the code enforcement context, the civil courts are commonly used in the following types of actions:

- Lawsuits to recover money;
- Foreclosures;
- Injunctions;
- Receiverships.

Lawsuits to Recover Money

When an individual owes the City money, either from unpaid fines or from costs of enforcement (including inspection and attorney fees), the City has the option to file a lawsuit to obtain a judgment against that individual for the unpaid amounts. Once a judgment has been obtained, the City would then need to collect on that judgment through liens on property, wage garnishments or other collection efforts.

The City currently does not file lawsuits against individuals for these unpaid debts. Most individuals owing money to the City resulting from code violations have debts of less than \$10,000. Such cases could be handled in Small Claims Court or through Limited Civil Complaints.

Foreclosures

When assessments against a property have grown and compliance has not been obtained, the City may initiate an action to foreclose on those liens and assessments. The property would be put up for auction, the City would recover after priority lienholders have been paid and the new property owners would take the property subject to the requirements to bring the property into compliance. The City does not currently initiate foreclosures on real property.

Injunctions

An injunction is a court order requiring someone to take specific action or to refrain from taking certain action. Nuisance abatement injunction cases involve the filing of a complaint, a discovery and motion process, a hearing for a temporary order, a trial and (if successful) an Order from the court. A civil injunction in a code enforcement case

may result, for example, with a court order requiring an individual to remove an unpermitted structure.

If an individual fails to comply with a court order, the City can then bring the case back before the court in a contempt proceeding. If the court finds that the individual is not in compliance with the court Order, the court can assess a fine against the party or place the party into custody in the County jail until such time as the individual is willing to comply with the Court's orders. In this respect, the penalty for failing to obey a court Order is the same as in the misdemeanor criminal context.

Receiverships

An injunction is a case against an individual to compel compliance, and a receivership action is an action against a particular property. The City would act as Petitioner in the case and ask the court to appoint a Receiver, or trustee, to take over custody and control of the property to bring it into compliance. If the court finds that there are public nuisances on the property and that the present owner is unwilling or unable to correct them, a Receiver may then be appointed. The receiver then has the power to borrow against the property to make the necessary repairs or modifications.

Once appointed, a Receiver reports directly to the court and not to the City. The Receiver's duty is to ensure the best use and highest value of the property. Often Receivers will go beyond correction or abatement of nuisances to maximize the value of the property. Once complete, the costs of all remedial work, along with attorney fees and receiver fees are imposed by the court. Typically, a property owner is unable to pay these costs and the court authorizes sale of the property at auction. Unlike in a foreclosure case, these costs are primary and become first priority liens on the property, subordinating all existing liens. Accordingly, all contractors, attorneys and the Receiver are paid first.

OPTIONS

1. Direct staff to maintain current practices by using all administrative means available and thereafter have remaining violations prosecuted as misdemeanors by the City Attorney's Office.
2. Direct staff to use all administrative means available and thereafter have staff evaluate remaining violations for civil or criminal enforcement.
3. Direct staff to pursue an Administrative Civil Penalties program by presenting a Municipal Code amendment and an implementation program to the Council.
4. Direct staff to pursue an Administrative Civil Penalties program and use civil litigation instead of criminal prosecution.

Prepared by:
Suzanne Bryant
Acting City Attorney

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

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City of Moreno Valley

Administrative Civil Penalties

Background

- Administrative Civil Penalties Ordinances otherwise known as (ACP) programs are designed provide an additional tool to code compliance staff for the resolution of cases.
- Allow cities to assess penalties of \$1,000 per day per violation.
- ACP programs operate independently from Administrative Citation process.

Background (Con't)

- The Cities of Riverside, Ontario and San Bernardino have adopted ACP Ordinances.
- The City of San Bernardino's Code Enforcement Unit does not utilize the ACP program but a property enforcement unit under the direction of the elected City Attorney does use ACP.

City of Riverside

- ACP Program was established in 2005.
- Developed as another remedy to address various code issues including property maintenance violations and un-permitted construction.
- The program is used primarily after a formal notification and administrative process.
- Exception: cases with extreme health & safety violations and/or exigent circumstances.

City of Riverside (Con't)

- ACP order issued after the administrative citation process.
- Order grants a period of ten to thirty days for compliance. The case is closed if the responsible party complies timely.
- Cases that are not resolved within the grace period are scheduled for a hearing within 30 to 60 days.
- If the order is upheld by the hearing officer, fines are retroactive at \$1,000 per violation per day.

City of Riverside (Con't)

- The City has established \$100,000 limitation to the accumulation of fines.
- Once the fines have reached the limitation, the City proceeds with either a judicial foreclosure or receivership to recover the debt owed.
- Fines can be reduced by the Code Manager by 50% if the owner signs a rehabilitation agreement and/or an occupancy covenant.

City of Riverside (Con't)

- Occupancy Covenants span a period of 5 – 20 years.
- City Council can reduce the fines below the 50% threshold.
- Generated 3.9 Million dollars in revenue FY11/12.
- 560 ACP cases since inception including;
 - > 133 Rehab Agreements/Occupancy Covenants
 - > 20 Receiverships
 - > 8 Judicial Foreclosures

City Of Ontario

- Program was established in 2009.
- Developed exclusively to address vacant and distressed properties.
- The ACP order is the original notification. There are no notices or administrative citations issued prior to the order.
- Order grants 30 days for compliance. The case is closed if the responsible party complies timely.

City of Ontario (Con't)

- Hearings held only when requested by the owner. The order is upheld if an appeal is not requested within the grace period (30 days).
- Fines are retroactive to the date of the ACP order.
- Fines accrue daily as follows;
 - > Vacant Property Registration \$100
 - > Minor violation (property maintenance) \$250
 - > Major violation (building violation) \$500

City of Ontario (Con't)

- The City has established \$ 20,000 limitation to the accumulation of fines.
- Once the fines have reached the limitation, the City proceeds with a receivership and/or places a lien against the property for inclusion on the tax roll.
- They offer no fee reductions, Occupancy Covenants or Rehabilitation Agreements.
- Generated 3.1 Million dollars in revenue for FY11/12.
- Approximately 2,400 cases since inception resulting 6 receiverships.

Program Differences

	Riverside	Ontario
Code case types	Various	Abandoned, distressed
Notifications	Notices, Civil Citations	None
Grace period	10-30 days	30 days
Hearings	Every case	Only when requested
Fine Limitations	\$100,000	\$20,000
Fine amounts	\$1,000 per day per violation	Registration \$100, Minor \$250, Major \$500 per day
Fine reductions	50% minimum	None
Agreements	Rehab, Occupancy	None
Remedies	Judicial Foreclosure, Receiverships	Receiverships

Administrative Civil Penalties City Council Discussion