

**AGENDA  
REGULAR MEETING  
CITY OF BANNING  
BANNING, CALIFORNIA**

April 8, 2008  
Council Chambers  
**6:30 p.m.**

Banning Civic Center  
99 E. Ramsey St.

The following information comprises the agenda for a regular meeting of the City Council and a Joint Meeting of the City Council and the Banning Utility Authority.

*Per City Council Resolution No. 1997-33 matters taken up by the Council before 10:00 p.m. may be concluded, but no new matters shall be taken up after 10:00 p.m. except upon a unanimous vote of the councilmembers present and voting.*

**I. CALL TO ORDER**

- . Pledge of Allegiance
- . Invocation
- . Roll Call – Councilmembers Botts, Franklin, Hanna, Machisic, Mayor Salas

**II. CLOSED SESSION**

1. The City Council will meet in closed session pursuant to the provisions of Government Code Section 54956.8 to confer with its real property negotiator Brian Nakamura on the price and terms of the acquisition of .95 acres of property located north and east of Mountain Avenue identified as APN 531-080-010-8.

**III. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS  
ANNOUNCEMENTS/APPOINTMENTS**

Report by City Attorney

PUBLIC COMMENTS – On Items Not on the Agenda

*Our Mission as a City is to provide a safe, pleasant and prosperous community in which to live, work and play. We will achieve this in a cost effective, citizen friendly and open manner.*

*A three-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to "share" his/her three minutes with any other member of the public. (Usually, any items received under this heading are referred to staff for future study, research, completion and/or future Council Action.) See last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.*

**CORRESPONDENCE:** Items received under this category may be received and filed or referred to staff for future research or a future Agenda

**ANNOUNCEMENTS/COUNCIL REPORTS:**  
*(Upcoming Events/Other Items and Reports if any) (ORAL)*

**IV. A. CONSENT ITEMS**

*(The following items have been recommended for approval and will be acted upon simultaneously, unless any member of the City Council wishes to remove an item for separate consideration.)*

**Motion: That the City Council approve Consent Item 1 through 7**

Items to be pulled \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ for discussion.

*(Resolutions require a recorded majority vote of the total membership of the City Council)*

1.	Approval of Minutes – Joint Meeting – 01/22/08. ....	1
2.	Approval of Minutes – Regular Meeting – 03/25/08. ....	3
3.	Ordinance No. 1384 – 2 <sup>nd</sup> Reading: An Ordinance of the City Council of the City of Banning Amending Various Provisions of Title 16 Subdivisions of the Banning Municipal Code. ....	30
4.	Notice of Completion for Emergency Rainstorm Repairs and Cleanup Performed by Merlin Johnson Construction, Inc. ....	42
5.	Approve the Release of a Partial Payment to the Beaumont Cherry Valley Water District for Installation of Well No. 25. ....	48
6.	Accept the Right-of-Way Dedication from Don Ranney for Street Improvements at Assessor's Parcel Number 535-101-019. ....	55
7.	Resolution No. 2008-41, approving a Purchase and Sale Agreement with Joint Escrow Instructions for APN 531-080-008 for the Purchase of .95 acres of land from Barbara L. Brinton in the amount of \$210,000 for the Sunset Substation Project and Appropriate the Necessary Funds for the Purchase. ....	59

- Open for Public Comments
- Make Motion

**V. ORDINANCES - INTRODUCTION**

1. Ordinance No. 1386, Allowing the Fire Chief to declare certain wildland/urban interface areas of the city closed during period of high fire danger.	
Staff Report .....	63
Recommendation: That the City Council adopt Ordinance No. 1386.	

***Mayor asks the City Clerk to read the title of Ordinance No. 1386***

*“An Ordinance of the City Council of the City of Banning, California, Allowing the Fire Chief to Declare Certain Wildland/Urban Interface Areas of the City Closed During Periods of High fire Danger.*

**Motion: I move to waive further reading of Ordinance No. 1386.**

(Requires a majority vote of Council)

**Motion: I move that Ordinance No. 1386 pass its first reading.**

(A minimum of three votes required)

**VI. REPORTS OF OFFICERS**

1. Duane Burk, Public Works Director	
A. Union Pacific Railroad Track Renew Project – Presentation ..	68
B. Resolution No. 2008-40, Declaring the Intention to Levy and Collect Assessments, Approving the Engineer’s Report and Setting the Date for the Public Hearing for Landscape Maintenance District No. 1 .....	69

Recommendations:

1. **That the City Council adopt Resolution No. 2008-40, declaring the intention to levy and collect assessments within Landscape Maintenance District No. 1 (LMD No. 1) during the Fiscal year 2008-09, pursuant to the “Landscaping and Lighting Act of 1972”; approving the Engineer’s report; and giving notice of a public hearing for renewal of said maintenance district.**

**VII. PUBLIC HEARINGS**

*(The Mayor will ask for the staff report from the appropriate staff member. The City Council will comment, if necessary on the item. The Mayor will open the public hearing for comments from the public. The Mayor will close the public hearing. The matter will then be discussed by members of the City Council prior to taking action on the item.)*

1. City Taxi Permit for Express Transportation Systems, Inc.	
Staff Report .....	78
Recommendation: That the City Council approve a City Taxi Permit for Express Transportation Systems, Inc. permitting the company to provide taxi services within the City Limits of Banning.	

2. Resolution No. 2008-08, Adopting the Airport Master Plan Update for the Banning Municipal Airport. **81**  
 Staff Report . . . . .  
**Recommendation: That the City Council adopt Resolution No. 2008-08.**

3. Request for Extension of Time Tentative Parcel Map (TPM) 33326 (Sun Lakes Commercial): The subdivision of 47.1 –acre site into 14 commercial parcels ranging in size from 1.3 to 5.5 acres. The proposed project site is located generally, north of Sun Lakes Boulevard, east of Highland Springs Ave. APN: 419-140-057  
 Staff Report . . . . . **94**  
**Recommendation: That the City Council adopt Resolution No. 2008-38, granting a one-Year extension of time for Tentative Parcel Map No. 33326.**

**Alternatives:**

Continuance: I move the City Council continue the public hearing for Resolution No. 2008-38, to its April 22, 2008 meeting.

Denial: I move the City Council deny Resolution No. 2008-08, on the following basis: (the Council will need to make its findings).

4. Amendment to certain provisions of the Municipal Code Adding Chapter 2.45 Establishing a Design Review Board. Also, Amending table 17.12.020 Permitted, Conditionally Permitted and Prohibited Uses in Commercial and Industrial zones; and Amending certain provisions in Title 17 pertaining to walls and fences.  
 Staff Report . . . . . **127**  
 Recommendation: That the City Council adopt Ordinance No. 1387.

***Mayor asks the City Clerk to read the title of Ordinance No. 1387***  
***“An Ordinance of the City Council of the City of Banning, California, Amending the Municipal Code by Adding Chapter 2.45 Establishing A Design Review Board; Amending Table 17.12.020 Permitted, Conditionally Permitted and Prohibited Uses in Commercial and Industrial Zones, and Amending Certain Provisions in title 17 Pertaining to Walls and Fences.***

**Motion: I move to waive further reading of Ordinance No. 1387.**

(Requires a majority vote of Council)

**Motion: I move that Ordinance No. 1387 pass its first reading.**

(A minimum of three votes required)

**Alternatives:**

Continuance: I move the City Council continue the public hearing to its April 22, 2008 meeting.

Denial: I move the City Council deny Zone Text Amendment on the following basis: (the Council will need to make its findings).

**VIII. RECESS CITY COUNCIL MEETING TO A JOINT MEETING OF THE CITY COUNCIL, and the BANNING UTILITY AUTHORITY.**

**Call to Order Joint Meeting**

**A. CONSENT ITEMS**

A-1. Funding of the Bond Reserve Requirement Related to the Outstanding Water Bonds Issued by the Banning Utility Authority.

- 1) That the Banning City Council approve the funding of the bond reserve requirement for the 2005 Water Bonds from operating reserves.
- 2) The Banning Utility Authority approve the funding of the bond reserve requirement for the 2005 Water Bonds from operating reserves.

Staff Report ..... 156

**B. Open for Public Comments**

**C. Make Motion**

Adjourn Joint Meeting

**IX. ITEMS FOR FUTURE AGENDAS**

New Items –

Pending Items –

1. Review of “Green Plan” in All Departments (*Machisic-10/9/07*) (*Earhart*) (*ETA 4/08*)
2. Annual Review of General Plan (*Hanna- 10/9/07*) (*Comm. Dev.*) (*ETA 4/08*)
3. Review of Lease with Armory by end of the year. (*Franklin- 10/9/07*) (*City Atty.*)
4. Schedule Meeting with the Beaumont City Council (*Salas- 11/27/07*) (*City Mgr.*)
5. Schedule Special Jt. Meeting the Banning United School District Board – (*Botts – 11/27/07*) (*City Mgr.*)
6. Schedule Special Jt. Meetings with the City’s Various Committees (Planning Commission, Economic Development Committee, Parks & Recreation) – (*Franklin – 11/27/07*)

7. Review of Development Fees (*Hanna – 12/11/07*) (*Johnson*) (*ETA 3/08*)
8. Ordinances in Regards to Group Homes (*Botts – 12/11/07*) (*City Atty. & Purvis*) (*ETA 4/22/08*)
9. Need to Set Date for Meeting with Morongo Band of Mission Indians regarding The Banning Municipal Airport (*Hanna -2/12/08*) (*City Mgr.*)
10. Update on Warehouse Moratorium (*Salas/Franklin – 03/25/08*) (*City Mgr.*) (*ETA 5/13/08*)
11. Discussion on Districting Proposal (*Hanna -3/25/08*)

## **X. CLOSED SESSION**

1. The City Council will meet in Closed Session pursuant to Government Code Section 54957 with regard to City Manager evaluation.
  - A. Opportunity for Public to address closed session items.
  - B. Convene to Closed Session

## **XI. ADJOURNMENT**

**NOTICE:** Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor and Council. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda, but is of interest to the general public and is an item upon which the Mayor and Council may act. A three-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor and Council. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to “share” his/her three minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and Council on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of Section 54954.2 of the Government Code.

**In compliance with the Americans with Disabilities Act**, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (909) 922-3102. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II].

**MINUTES**  
**SAN GORGONIO PASS WATER AGENCY BOARD OF DIRECTORS,**  
**BANNING CITY COUNCIL,**  
**BANNING HEIGHTS MUTUAL WATER COMPANY BOARD OF DIRECTORS**  
**JOINT MEETING 1/17/08**

A joint meeting of the San Gorgonio Pass Water Agency Board of Directors, Banning City Council and the Banning Heights Mutual Water Company Board of Directors was called to order by Chairman Salas on January 17, 2008 at 9:07 a.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

<b>COUNCIL MEMBERS PRESENT:</b>	Councilmember Botts Councilmember Franklin Councilmember Hanna Councilmember Machisic Mayor Salas
<b>COUNCIL MEMBERS ABSENT:</b>	None
<b>SGPWA DIRECTORS PRESENT:</b>	President Jeter Vice President Morris Director Larsen Director Mann Director Snyder Director Voigt
<b>SGPWA DIRECTORS ABSENT:</b>	Treasurer Andersen
<b>BANNING HEIGHTS MUTUAL WATER COMPANY DIRECTORS PRESENT:</b>	Director Benfield Director Parker Director Perkins Director Hamdorf Director Romberg Director Clark
<b>OTHERS PRESENT:</b>	Eric Vail, Deputy City Attorney Jim Earhart, Electric Utility Director Randy Anstine, City Manager Jeff Davis, Secretary to the SGPWA Board Peggy Noble, Admin. Assistant Terri Escalante, Recording Secretary

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS  
ANNOUNCEMENTS/APPOINTMENTS

There were no members of the public present who wished to address the Council and the Boards on items not on the agenda.

REPORTS

Discussion and approval of the Agreement for transfer of the San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities: City of Banning's legal counsel Eric Vail addressed the Council and the Boards. He stated that he had not been involved in writing the agreement presented at this meeting until a short time ago but that the agreement is substantially the same as the agreement reviewed by the Council and the Boards about a year ago. This Agreement is an Agreement with Southern California Edison Company to transfer the San Gorgonio Hydroelectric Project No. 344 Water Conveyance facilities to the participating entities (San Gorgonio Pass Water Agency, City of Banning and Banning Heights Mutual Water Company) and defines the conditions of the transfer. It was noted that the agreement does not specify how the participating entities will eventually take title of address the responsibility for operations and maintenance of the diversions and flume system after the transfer. After discussion it was the consensus of the council and Boards that those matters are separate from this agreement and will be mutually agreed upon by the City of Banning and Banning Heights Mutual Water Company in time after acceptance of this agreement.

Mayor Salas called for public comment on the approval of the Agreement for Transfer of the San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities. John Benfield of Banning Heights Mutual Water Company spoke regarding his appreciation for the work done by the San Gorgonio Pass Water Agency over the past seven years and specifically thanked General Manager Davis for his efforts towards reaching the Agreement.

Mayor Salas asked for further discussion from the Council and the Boards. Hearing no further discussion, the following motion was made:

**Motion Franklin/Machisic that the Agreement for the Transfer of the San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities be accepted by the Council as presented. Motion carried, all in favor.**

ADJOURNMENT

By common consent the meeting adjourned at 10:07 a.m.

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Terri Escalante  
Recording Secretary

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

03/25/08  
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Salas on March 25, 2008 at 6:45 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

BOARD MEMBERS PRESENT: Councilmember Botts  
Councilmember Franklin  
Councilmember Hanna  
Councilmember Machisic  
Mayor Salas

BOARD MEMBERS ABSENT: None

OTHERS PRESENT: Brian Nakamura, City Manager  
Julie Hayward Biggs, Agency Counsel  
Bonnie Johnson, Finance Director  
Duane Burk, Public Works Director  
Leonard Purvis, Police Chief  
Ted Yarbrough, Fire Marshal/Fire Prevention Officer  
Chris Paxton, Human Resources Director  
Heidi Meraz, Recreation Director  
Marie A. Calderon, City Clerk

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS  
ANNOUNCEMENTS/APPOINTMENTS

Report by City Attorney - Nothing to report at this time.

PRESENTATIONS

1. A. Presentation of Certificate of Appreciation to the City of Banning from Arc Riverside.

Jim Stream, Executive Director for Arc Riverside addressed the Council stating that they provide day services and advocacy for individuals with intellectual disabilities. Part of their advocacy is prevention and part of it has to do with helping people with developmental disabilities and negotiate the criminal justice system when they become involved as victims or in other ways. Tonight they are here to acknowledge a lot of activity from the citizens of the city of Banning and the Council for their support of Arc Riverside. They have a facility in the Pass Area called Pass Resource Center and their

supervisor out here Marion Ashley and some other elected officials have really helped push some renovation activities out there that have been very intensive or the last six months. The community has rallied behind them and they wanted to acknowledge that effort. He said that Jeannie Ramirez is also in attendance and about two years ago he was in front of the Council and Jeannie's husband Frank who worked for them at that time and they have been very fortunate after the untimely death of Frank Ramirez to have Jeannie join Arc Riverside. He presented the Certificate of Appreciation to the Council at this time for their continued support.

B. Presentation of Proclamation to Arc Riverside Proclaiming March as National Development Disabilities Awareness Month

Mayor Salas read the proclamation for the benefit of the audience and presented it to Mr. Stream and Mrs. Ramirez.

Mrs. Ramirez thanked the Council and stated that each of the Council has a packet introducing the Nine Zero Games which will include golf, tennis, a walk, bicycling throughout the Pass Area on that weekend. They hope everyone will consider participating. She also invited all of the citizens to join them at the Pass Resource Center for the dedication of the new center and completion of the Frank Ramirez Project.

Mr. Stream also introduced key staff person Rita Norton and her mother and they are integral to the operation.

Mayor Salas presented a proclamation to Pass Area Performing Arts group who will be presenting Our Town. She read the proclamation for the benefit of the audience and presented it to Beverly Rashidd. There will be performances on March 30<sup>th</sup> at 4 p.m., April 4 at 7:30 p.m. and April 5 at 7:30 p.m. and April 6<sup>th</sup> at 4:00 p.m. These performances will take place at Nicolet Middle School.

Chief Purvis presented awards for "Outstanding Service to the City of Banning" while performing their duties to Sgt Mike Nava, Officer Mike Nolan, Officer Erich Oertel, Officer Nissa Tammany and Officer Mike Loader. On Feb. 18, 2008, Patrol Team One was involved in a vehicle pursuit of a wrong way driver in the 5000 block of Ramsey Street. The suspected DUI driver drove his vehicle into a street sign and dirt embankment on Lunar Lane. The driver was also able to free his vehicle from the embankment and attempted to flee the area again. This patrol team was able to remove the driver from his vehicle and take him into custody without further incident. This patrol team displayed a tremendous amount of strength despite the danger to the public and fellow patrol team members. All of their actions brought great credit upon the Banning Police Department and the City of Banning and he is very proud of their commitment to protect and serve all members of the community with honor and distinction. They will all receive a Unit Citation Award.

PUBLIC COMMENTS - *On Items Not on the Agenda*

Charlie Strang, 4175 Hillside addressed the Council stating that he came to talk about Precious Blood School. Precious Blood has been providing quality education for students of all faiths in the Pass Area for over 50 years. Their fall registration open house will start at 6:30 p.m. on Wed., April 9<sup>th</sup> and will take place at the school located at 117 W. Nicolet Street. They will have two preschool classes this fall, as well as, classes for students from kindergarten through 8<sup>th</sup> grade. They have extended care provided from 6:30 a.m. to 6:00 p.m. This is a great school and they have small classes and offer financial assistance for people who are in need. Ann Peace is their principal and is retired from Banning Unified School District as a principal. They invite anyone and everyone to consider joining the school.

Fred Sakurai, 43000 Dillon Road addressed the Council stating that they are on the Banning Bench and are voting members of the City of Banning and it is his understanding that there is a petition going around about dividing Banning into districts and he would like to get more information on that issue.

Charlene Sakurai, 43000 Dillon Road addressed the Council on behalf of the Alliance and four other organizations which would be the Library, Boys and Girls Club, PBAL and the Recreation Department. They will be having an upcoming event called "Spring Fling for Kids!" to be held on April 9, 10<sup>th</sup>, and 11<sup>th</sup> which is during Spring Break and is for students grades 1 through 6 and will take place from 9 a.m. to Noon at the Banning Women's Club, 175 W. Hays. It is \$1.00 a day for students and if a student cannot afford that but would like to attend, they need to make that known wherever they are registering. Registrations will take place at the Boys and Girls Club, at the intermediate schools and at the Library. They can also register at the door. There will be a limited number of students. There will be cooking, games, stories, arts and crafts, dancing with the theme the first day being Asian, second day being African and the third day being Scandinavian.

Councilmember Machisic said that when we talk about Arts and Cultural Alliances and other functions such as the Boys and Girls Club one of the things that we have always talked about is getting the young people in our community involved when they are young. If you feel strongly about having children involved in cultural events such as this he would recommend that you give Charlene a donation that will cover the admission of a child for \$1.00 a day and encourage kids to come to this function. We need to encourage that in this community.

Jack Bullock, west Ramsey addressed the Council stating that because of the City of Banning's incessant need to grow and its approval of massive development and therefore needs for infrastructure a person has died today near of his home. Growth isn't always good.

Jeff Gordon, President of Messenger Investment Company, 215 Newport Center Drive, Newport Beach, addressed the Council stating that his firm owns approximately 60 acres of property out by the airport. He is here tonight to tell the Council about his continued frustration with the action or inactions as the case may be of the City continuing to damage his company. He feels the only way to get anything accomplished is to appeal to

the Council in this form. He said that they are not a flash in the pan developer. They have been around for 30 years and have developed thousands of acres of land. Built over 4 million square feet of industrial and office products in 22 jurisdictions in 25 states. They bought in early 2005 the 60 acres and they have been embroiled in the process for three years and it has been a nightmare and he would concur that the property is not an easy piece and has access and infrastructure issues but they knew that going in. They sat with the then City Manager, the then Planning Director, the then Redevelopment Director; the then Public Works Director and a few other people from other departments and they all agreed it was a tough site but they wanted to see something happen over there. The infrastructure that they were going to bring would open up the north airport property and bring other things over there, extend John Street which was on the General Plan and planned to be done for a number of years and it was a good thing. In October of 2007 they received finally an approved tentative map and in his experience that should have taken six to eight months. They finished that and low and behold there is a moratorium against warehouse. He doesn't know what is going to be on that site. It could be some warehouses and that is why they bought it and that is what it is zoned for and re-zoned for tighter controls in 2006. He said he asked Mr. Orci in Nov.-Dec., last time they had a meeting with Mr. Botts, Oscar and himself on December 12<sup>th</sup> and he previously ask Oscar how they could get out of this moratorium. You have placed basically all of your acreage in this moratorium and his contention was at the end of the day there are certain properties that are not going to end up being warehouses. Mr. Orci told him to write a letter of reasons or findings to the City Attorney and perhaps they could be exempt from those findings. Mr. Gordon said he wrote that letter along with another letter to the Redevelopment Director about getting into a development agreement with the City and delivered both of those letters to Mr. Orci on December 20<sup>th</sup>. The last time he ever heard from Oscar was on January 4, 2008 when he told him that he delivered those to the City Attorney and they should be getting back to you soon and he will take a look at your letter and mark it up and send it back. None of that ever happened and obviously he is gone now. He doesn't know what else to do. He has been in contact with Brian Nakamura and he has only been on the job seven weeks and there are three years of history preceding that and he doesn't expect him to jump in and solve their ills. He still doesn't know what is going to be on that property. He commented on the study that is been done by Kossmost. Mr. Gordon said the only thing that he would like to come away with tonight, if it is even possible and proper, he would really like to know if Mr. Orci was lying to him the whole time or did he in fact work with the City Attorney and for some reason he hasn't received anything

City Manager said he just consulted with the City Attorney and she personally hasn't seen the letter and he is not sure if Mr. Orci worked with another individual in the firm but now that it is before you he would be glad to work with the City Attorney and at least have some dialog.

City Attorney said that she did have a conversation with John Ramirez who she believes represents his company with Ruttan and Tucker. Mr. Gordon said he didn't know who that was and he has worked with them on another venue. City Attorney said this is really the first she has heard of it. She did have an inquiry about the warehouse moratorium

from him and she thought that related to the project. That doesn't mean that either Tom Jex or Eric Vail other attorneys from their firm may have not been contacted.

Mayor Salas asked staff to look into this and also bring to the Council what the potential options could be to working with the property owner. City Manager said that they will do their best to bring it back since it is a time sensitive issue to the next meeting for an update. He knows that there are some nexus issues and Mr. Kossmott is working on the study. He will work with the City Attorney to provide an update to the Council by April 8<sup>th</sup>.

Inge Schuler, 1030 W. Westward wanted clarification about the moratorium. She believes the moratorium was about storage facilities and not warehouses and would like clarification on that.

City Attorney clarified that it was both storage facilities and warehouses.

CORRESPONDENCE: None

APPOINTMENTS

1. Appointment to the Planning Commission.

Councilmember Botts thanked and commended all the applicants and they were very fine applicants and he is always excited when citizens are willing to step forward and serve on various commissions.

The following nominations were made for appointment of the Planning Commissioner:

Councilmember Botts nominated Joe Formino

Mayor Pro Tem Franklin nominated Neil McLean.

Councilmember Hanna nominated Kevin Siva and it was seconded by Mayor Salas.

Vote was taken for the following nominations:

Councilmembers Botts and Machisic voted for Mr. Formino.

Councilmember Hanna and Mayor Salas voted for Mr. Siva.

Councilmember Franklin voted for Mr. McLean.

Mayor Salas called for the vote for Mr. Formino. Councilmembers Botts and Machisic voted for Mr. Formino.

Mayor Salas called for the vote for Mr. Siva. Councilmembers Hanna, Franklin and Mayor Salas voted for Mr. Siva.

**Mr. Kevin Siva was appointed to the Planning Commission.**

ANNOUNCEMENTS/COUNCIL REPORTS:

*(Upcoming Events/Other Items and Reports if any) (ORAL)*

Councilmember Hanna –

- Commented that the Banning Rotary Club had a wonderful event that was supported by Downy Savings Bank to benefit foster children from the Happy Faces Foster Agency. They asked people to donate Easter Baskets and there were approximately 145 baskets. It was a wonderful event.

Councilmember Machisic –

- Reported on the Legacy Christian Church 8<sup>th</sup> Annual Easter Egg Hunt that was held at Repplier Park – there were about 3500 people in attendance. It was a great occasion. Cindy Watson of the Record Gazette wrote a great article that talked about a young man who was very nice to a little girl who fell down. He was given a bike for helping out this little girl and when the raffle came for bikes he won another bike and he gave it away to someone else. This is a nice story and if we want to offer a proclamation it would be great.
- He complimented the speaker system in the Council Chambers.
- He said he received an email about the Union Pacific Railroad replacing some their ties with concrete ties and some of the railroad crossings are going to be closed and he asked Mr. Burk to comment. Mr. Burk said that the Union Pacific is in the process of replacing old ties with new concrete and it is quite an extensive process and will encompass about a 5 to 6 mile train application and about 250 personnel to replace the rails and ties. At the next Council meeting he will have a presentation explaining what they will be doing. They will be starting this project on April 16<sup>th</sup>.

Mayor Pro Tem Franklin –

- She asked Mr. Burk to give a brief update on what has happening on Ramsey Street where it is closed on Sunset. Mr. Burk said that there was an accident today and he is sure that the Police Department and Fire Department will have a more complete report.
- Also reported that she attended an Easter Egg Hunt that was held on Saturday at Roosevelt Williams Park that was put on by local residents. There were many families that attended the event and they were very much involved.
- She commended staff on the demolition of the apartments on Sunset and Ramsey.
- Attended a Pandemic Seminar a couple of weeks ago put on by Ministerial Association but was presented by Loma Linda Public Health Dept. and the information was what would happen if an event were to occur and didn't say if but rather when it would occur. They talked about how quickly it could travel from Europe to U.S. and once it travels it could be as short as a period of 10 days when a whole area could be infected. The information has been passed on to staff.
- She and Councilmember Hanna attended a Community Action Partnership Meeting with the Board of Supervisors last week and they talked about several things having to do with the Community Action Partnership but one thing that was very much part of the discussion was the issues with the soft skills and what our young people lack in terms of being about to get jobs especially with the job market and how it is changing in our area and what industries will be coming out. That same discussion was echoed today at a Workforce Development Strategic Plan meeting that she

attended and the number one issued talked about was skilled development and we need to close the gap between what the skill level is and the jobs that are going to be available.

- Disaster Preparedness Expo will be held on April 26 at the Community Center from 10 to 2 p.m. There is no charge and there will be lots of raffle prizes.

Mayor Salas –

- Reported that the City hosted a League of California Cities dinner for all the local elected officials in our county and there was a report from one of the League Directors in Sacramento and basically his message was that it is bleak and they don't know what kind of cuts will be made and if they are made a lot of it will be shifted to the counties and then passed on to the cities. So we definitely need to continue to brace ourselves and watch our finances as well as we can.

#### CONSENT ITEMS

Councilmember Hanna pulled Consent Item No. 7 and Councilmember Botts pulled Consent Item No. 8 for discussion.

Councilmember Hanna said that in regards to Consent Item No. 4 she thinks that the public should be aware and she loves the idea that we are submitting a grant application to Caltrans to do a traffic light synchronizing from Hargrave to Sunset Avenue. If you drive the right speed and traffic is not too intense you can drive without stopping at a red light. In regards to Consent Item No.6 we are making a \$5,000 donation to the American Cancer Society in sponsorship of the Fifth Annual Relay for Life in the Pass.

1. Approval of Minutes – Regular Meeting – 02/12/08

Recommendation: That the minutes of the Regular Meeting of February 12, 2008 be approved.

2. Resolution No. 2008-36, Amending the Ormat Geothermal Energy Projects Power Sales Agreement between Southern California Public Power Authority (SCPPA) and the City of Banning.

Recommendation: That the City Council adopt Resolution NO. 2008-36, approving the amendments to the Ormat Geothermal Energy Projects Power Sales Agreement between the Southern California Public Power Authority ("SCAPPA") and the City of Banning as attached Exhibit A.

3. Letter Agreement with California Parties regarding California's Energy Market Participants.

Recommendation: That the City Council accept this report on steps the City has taken to end its involvement in litigation between the California Parties and California's energy market participants.

4. Resolution No. 2008-37, Authorizing the City Engineer to Submit a Grant Application to the California Department of Transportation (Caltrans) Traffic Light Synchronization Program for Traffic Signal Synchronization along Ramsey Street, from Hargrave Street to Sunset Avenue.

Recommendation: That the City Council adopt Resolution No. 2007-37, Authorizing the City Engineer to Submit a Grant Application to the California Department of Transportation (Caltrans) Traffic Light Synchronization Program for Traffic Signal Synchronization along Ramsey Street from Hargrave Street to Sunset Avenue and Authorize the City Engineer to execute the application that Engineering Division staff will submit to Caltrans.

5. Public Improvements Acceptance and Performance/Labor and Material Bond Release for Tract No. 31748.

Recommendation: Accept the public improvements and release portion (90%) of the Performance/Labor and Material Bond for Tract No. 31748.

6. \$5,000 Donation to the American Cancer Society in Sponsorship of the Fifth Annual Relay for Live Event.

Recommendation: That the City Council approve a \$5,000 donation to the American Cancer Society in sponsorship of the Fifth Annual Relay for Life Event.

**Motion Machisic/Franklin to approve Consent Items 1 through 6.** Mayor Salas opened the item for public comments. **There were none. Motion carried, all in favor.**

7. Adoption of One Year Goals for City Council

Councilmember Hanna said that this item is adoption of one year goals for the City Council and we have been working on this for a year and she would like to share this with the city.

City Manager said that on March 1st we had a goal setting session with the Council and specifically identified the six goals in the document which he read:

1) developer water resources – research a new urban water management plan. As you know water is critical for our area and region, as well as, city and to insure that we have continuous water, portable water, for the community, the residents, the businesses and also those we are trying to attract and retain.

2) develop a comprehensive green sustainable program. Meaning we take advantage of solar and wind power that we have available to us in the Southern California area, as well as, throughout the region and participate and coordinate with other jurisdictions and their regional entities to make sure we are in fact going green which is not just a “catch phrase” anymore but very much reality that we need to focus on especially when you look at the fuel prices.

3) focus on retail commercial development and that is the 47 acre parcel that the Council wanted to focus on as not only to retain our businesses but attract new businesses and promote Banning as "Build a Better Banning" and that is part of the tag line issues that we are dealing with right now.

4) complete the Foreign Trade Zone

5) have a fixed based operator in place for the airport. Another very important area in our community. The airport is a tremendous opportunity for us to attract businesses whether it be industrial properties or manufacturing warehousing and that is a core area and it also has a direct relation to the Morongo Tribe and benefits that we will share together as was indicated last night at the League of California Cities meeting.

6) have a developer agreement in place for the San Gorgonio Inn Plaza, a mixed use development. This goes back to what was presented by Mr. Ogburn about the Paseo San Gorgonio trying to create a certain theme for our city that is unique and highlights all the attributes of our wonderful community whether it be for residential or for retail/commercial or industrial uses.

City Manager said that clearly we have some great goals that are achievable and attainable and important to setting Banning in the direction that the City Council wishes to go and staff will do its best to pursue that and secure the policy directives set forth by the Council.

Councilmember Hanna said the other part that they need to determine is how to proceed in developing a tag line for Banning and it was Councilmember Franklin's idea to develop a tag line of some sort and we have a list of them in our Council packet of ideas that came after the March 1st session.

There was Council discussion on how to proceed.

There was Council consensus that each Councilmember select 4 and submit them to the City Manager by April 2<sup>nd</sup> and he will give the Council a status report and then come back to the April 8<sup>th</sup> agenda to figure out a strategy to get public input and response.

**Motion Hanna/Machisic to approve Consent Item No.7 to approve the attached year one 2008 goals, which also provides clear direction to staff regarding administrative objectives. Mayor Salas opened the item for public comments. There were none. Motion carried, all in favor.**

#### 8. Approval of Accounts Payable and Payroll Warrants for Month of February 2008

Councilmember Botts when this shows a check and all the numbers and it is dated February 14<sup>th</sup> can we assume that is the date the check is cut and then sent or mailed.

Finance Director said that was correct. At the top of the vendor list there is something that says check date and that is the actual date the checks were issued. Then there is a listing that says check last due date and that is the actual due date of the invoice and that is why those dates will vary sometimes.

Councilmember Botts said he has had several people ask about the facts that the City Attorney back in October was working on a petition for changing the City government to a City Council district system and just recently learned that someone is passing petitions for that and the question was it went back and forth between the petitioner and our City Attorney and they are asking what involvement does the City Attorney have in that and how much did it cost us.

City Attorney said the only involvement that they had in that is the involvement they always have when the City Clerk has a legal question. The City Clerk received a petition and looked at it and was concerned that it was inadequate but didn't know what her obligation was because the City Clerk has a ministerial duty to in fact take the petition and refer it to the City Attorney for the preparation of a ballot title and summary. And the City Attorney has a ministerial duty to prepare a ballot title and summary. When you get documents that don't comply exactly with the law the Clerk actually doesn't have a choice, she has to pass it on. The City at that point has a choice of going to court and getting a declaratory judgment to demonstrate that the document is inadequate at which point the petitioner can of course redo it and resubmit it and add a significant cost to the City or you can advise the individual as to what is inadequate about what has been submitted and let them go and seek their own Counsel if they choose to and prepare a new document and that is the course of action we took that it was a less expensive approach then going to court over something that would only be fixed down the line and come back to the City. She did advise the City Clerk as to what was wrong with the matter and she prepared a letter to the proponent of the petition itemizing the things that needed to be changed and it came back in and then according to law submitted to the City Attorney to prepare the ballot title and summary which she is required by law to do. The City Clerk then returned it to the proponent and she doesn't know what has happened since that time. Apparently the petition is being circulated and when it comes in we will have some idea as to whether it is done properly, etc. That is the standard requirement for the Clerk and City Attorney to handle and that is what occurred.

Mayor Pro Tem Franklin said that she wanted to make sure there was a clarification because since this matter has come up there was an article in the paper about this issue and her name was linked to it and she has nothing to do with it and she is not related to the person that is circulating it.

**Motion Botts/Machisic to approve Consent Item No. 8 reviewing and ratifying the following reports per the California Government Code.** Mayor Salas opened the item for public comments. There were none. **Motion carried, all in favor.**

#### REPORTS OF OFFICERS

1. A City of Banning License to Use and Maintain Premises Agreement granted to Banning Chamber of Commerce for use of the facilities described as bus shelters and bus benches with signs located throughout the city of Banning.  
(Staff Report – Brian Nakamura, City Manager)

City Manager said there was discussion about the Chamber having a desire to take over the City's bus shelters and benches for the purpose of maintaining and advertising and the advertising would set the cost for maintaining the bus shelters. City Manager said the recommendation is two-fold and the first is that if the City Council desires to pursue this agreement then the second recommendation is to allow the City staff to work with RTA and set a baseline standard for the quality of the bus shelter such as lighting and to make sure there is adequate shelter and the panels are in place and get them to a certain standard by which then the City would hold the Chamber accountable for in their maintenance and operation agreement and we would insure on a daily basis that these shelters and bus benches be maintained accordingly because one of the key issues would be serving the public better and serving them through whether it be the City or the Chamber or some other entity in a manner that the Council believes is appropriate. This agreement would not be entered into until staff came back to the Council from a fiduciary perspective and informed the Council and received authorization to extend funds to either bring the bus shelters up to a certain standard and the bus benches. That cost they don't have at this point but again that would be the direction the staff would take from the Council and that would also include if the Council so desired the installation of solar panels to complete the lighting and then the negotiations for example on that matter would become something that the Chamber and the City would negotiate on because clearly our Utility Department has the ability to install solar fixtures but again if there were to be broken then what would be the cost of replacing them and who would bear those costs and that would have to be worked out definitively.

Councilmember Botts asked if we were to move forward and hand it over would we be looking at adding some bus stops or shelters or whatever combination in areas that are willfully inadequate.

City Manager said that would be a consideration. Again we are part of the Pass Transit and have specific bus stops and have specific bus stops in conjunction with RTA to insure that we provide adequate mobility and transfer.

Councilmember Botts said that his only point would be not new routes but for a long time and have neglected large parts of this community for years and we need to address that before we turn it over to somebody.

Councilmember Hanna agreed. It seems to her that we would be doing kind of accounting as it says of all the bus stops and indicate perhaps on a map where the bus stops are and where the bus shelters are, etc. so that we could see a clear demonstration of that if there is an infusion of money necessary to expand the shelters we could always look for grants and pursue that and this would be very helpful to the Council.

Mayor Salas said we might want to take a look at what they look like and what other shelters look like in other cities and maybe even making it uniform at some point. If we are going be putting up new ones as they get old or repairing them as we move forward and do beautification in the city we might have one concept or design. We may not be able to do them across the city but one at a time as we replace them and raise the standard so it doesn't look like blight.

Councilmember Machisic said that the City Manager has expressed his view about the bus stops and shelters pretty well and he has expressed it prior. As we talk about expanding don't forget that the Chamber has indicated that they use this as a source of revenue and one of the things that is missing from this whole formula is how much money are we talking about. For instance, are all of the benches and all of the bus stops shelters going to have advertising and that is where expertise comes in from these companies that do these kinds of things and he assumes the Chamber will not be doing them. Also if you look at page 145 under No. 5, they will take over the custodial and maintenance services and that is going to cost a couple of dollars. Because if there are broken panels they are expected to replace them so the important ingredient that he sees missing whether you are talking about expansion or upgrading as he has mentioned and solar panels you need to talk about how much money will this generate; how much advertising.

There was some further discussion regarding limitations on commercial speech and rules that may be applicable, bringing dignity back to the shelters, keeping the shelters simple, and working with Mr. Ogburn on their plans in the design scheme.

Mayor Salas opened the item for public comments.

Jack Holden, Executive Dir. Banning Chamber addressed the Council stating that they are going to be as concerned about the appearance as the Council and they are not going to be able to sell a product unless it really looks good. They have already hired a combination janitor and handyman for the Chamber and he will have a truck with a portable washing machine and they will all be washed on a regular basis and he will do regular handyman repair work to keep them up to snuff. They are also concerned with the messages on there because they are concerned about the community. They will also allocate a certain amount of that space back to the community for public service. They have developed a business model that they think will work and will be able to pay for the maintenance and keep it up to date and make a small profit for the Chamber but get rid of this problem that we have been looking at for a number of years. They appreciate the opportunity to do this and do their best.

**Motion Hanna/Machisic that the City Council wishes to pursue a License to Use and Maintain Premises Agreement with the Banning Chamber of Commerce, direct staff to provide an accurate cost accounting before final approval of Agreement of all repairs necessary to bring all facilities listed in Agreement Exhibit "A" to an acceptable baseline standard for transfer to the Banning Chamber of Commerce. Acceptable baseline standard as defined and agreed to by and between the Riverside Transportation Agency (RTA) and City of Banning. Motion carried, all in favor.**

2. A. Transit Management Services  
(Staff Report –Bonnie Johnson, Finance Director)

Finance Director gave the staff report as contained in the agenda packet. A technical advisory committee (TAC) was formed to begin looking at ways to improve and expand

transit services in the Pass area. In August 2007 the cities of Banning and Beaumont issued a joint Request for Proposal for Transit Management Services. The intent was to hire one professional transit management company that would manage both the transit operation and in doing so identify ways to further merge the two separate operations as well as work with RTA and RCTC in developing a more regional approach to transit services in the Pass area. The City of Beaumont selected one company and since hired that company to manage their transit services. Banning staff and its two TAC members were not comfortable moving forward with either company that submitted a proposal. As a result, Banning solicited a proposal from a third company, Professional Transit Management (PTM) and staff is very confident that PTM will be a good fit for the City. PTM will supply an on-site operations manager as well as support from their corporate office as needed. The on-site manager will attend Council meetings and other regional meetings as necessary. All current transit staff will remain employed by the City but report to the contract transit manager. The transit manager and customer service/dispatch will have an office at the Community Center. The contract will cost in the first year approximately \$120,000 and will increase by approximately 3.6% in each of the next two years. The City's transit operation is funded approximately 10% by fair box revenue and 90% through grants from RCTC. Staff has confirmed with RCTC that this contract is an eligible expenditure under the grant. There are funds available in the current grant to pay for the 2007-2008 portion of the contract. Staff will request funds on an annual basis from RCTC. The City can immediately terminate the contract if future funding is not approved.

Mayor Pro Tem Franklin added that staff worked very hard on this and had several meetings through the committee and several conversations going around and around. She personally had an opportunity to meet also with the City's bus drivers to find out what their concerns were. This was a very difficult task and was very frustrating because they were not able to find a professional service company that was able to do what they wanted to originally and even though we are not necessarily using the same company Beaumont is she wanted to remind the Council that Pass Transit was put together by two different people with one person from Beaumont and one from Banning. They were not working for the same company as much as they were working for individual cities and she thinks that is something that can happen again. Our main focus was always to have the program seamless between the cities as well as how can we expand services to make it more attractive to the people who utilize the buses. She commended staff for all the work and patience.

Councilman Botts said he was really surprised when he looked at the agenda item because he thought the last time it had come to the Council we said we need to really figure out how to work with our neighbors and what he gets here for some reason we didn't like the direction we were going so we decided not to combine and he thought the Council direction let's see how we put together a more efficient system. If we move forward with this each city will have its own manager/leader so in a sense that is duplication. If we had as the direction the Council was going to say let's work together with Beaumont, we would have hired one manager/leader.

Mayor Salas said that we do want to work with Beaumont but after looking into it and further research and asking more questions of different agencies who have done that we

came to the conclusion that may not be the most cost effective for Banning especially if there may be a difference of opinion or values from the Councils depending on how those change in the cities.

Councilmember Botts said he thinks his disappointment is coming through and he can't help but think this is going to cost us a significant amount compared to if there was a way to work with Beaumont and come together on the issue. He would like to think that we're not going to forestall to continue to talk to each other and work on the issue. He just sees by going this direction we hire somebody separate we are separate for the next how many years at the taxpayers expense. Someone said to him it doesn't cost Banning anything; it's all grants from RCTC and his point is they have nothing. It is all tax money and someone is subsidizing this. All taxpayers are paying for all of this so I guess we are lucky that Banning residents don't have to pay for it but there is a taxpayer paying this \$120,000.

Mayor Pro Tem Franklin said that when they met together they talked and Beaumont was involved in the conversations and we talked about business practices in general. They talked about what kind of service is going to be provided. What they were very much concerned about was how are we going to be able to provide the kind of service that we wanted to provide here in Banning without it costing anybody more money and also how could we increase the quality of the service that we offer throughout the Pass area. There are some very specific differences between what we offer and what Beaumont offers. Right now Banning actually offers more service than Beaumont does. They talked about what was going to be needed in terms of staffing and to say yes we do have different dispatchers and yes we do have different people that would be at the helm does not mean that it is costing more money because both operations are full time operations. Yes, it does seem that if we were able to combine them there would be a cost savings but we were looking at not only cost saving but the quality of service that we are offering. And that was the main driver as they went through all these conversations. They do think there is going to be an improvement and one of the things they talked about was if that did not happen we are not bound to continue. The contact is for a year to start. They really want to make sure that we are able to bring Pass Transit throughout the Pass area up to and surpassing the level that it was when there were two different people and two different cities running the program.

Mayor Salas said a third option was also explored where both cities could contract with Riverside Transit Agency and have them take over our complete operations. That would be a cost savings but it would also take away services from our residents and constituents here in the both cities because what would happen is that they would potentially do away with a lot of the routes because we don't have the rider ship that RTA needs that happens in Moreno Valley or Riverside with the larger population.

Councilmember Hanna said she is sure that the funding for transit is diverse but the primary funding she would think is from the half cent sales tax, Measure A, that is required to spend a certain proportion of that sales tax to fund transit and that is where the taxpayers are paying.

Councilmember Machisic said when he first came to the Council six years ago he looked at the City's transit and if you were going from Banning to Beaumont you had to get off at Highland Springs and cross the street physically and then wait for a Beaumont bus to take you somewhere else and the reverse was also true. We have come a long way and one of things that he is always concerned about is that our staff who ran that line meant that the time they put into transportation was not put into parks and recreation for instance, when Chris Millen, etc. Maybe this is the first step. Maybe in the next step we will agree to one company to run the transit services. He thinks this is a good solution. Maybe this is not the ultimate that we want but maybe the ultimate may come in a year or two or three. Our needs are different and certain things we want in our bus service and Beaumont doesn't want it and they decided to go their own way.

Mayor Salas opened the item for public comments. There were none.

**Motion Hanna/Machisic that the City Council approve the attached contract with Professional Transit Management, Ltd. (PTM) to operate and manage the City's Transit System. Motion carried, all in favor with Councilmember Botts voting no.**

2. B Discussion and possible action regarding amending the scope of services for the professional services contract with Godbe Research to incorporate the public education and pre-electoral planning elements related to a possible revenue generating ballot measure.

Finance Director gave the staff report as contained in the agenda packet. She said that tonight they are here to consider whether or not to move into Phase II the public education and pre-electoral planning phase. At the juncture it is not required that the City make a commitment to put a measure on any upcoming ballot or even select a specific measure on which to pursue. The question tonight is whether or not to continue into the fact-finding and public education process. Ideally the process would be somewhat streamlined if the Council narrowed down the measures it would like to further explore. However, it is not required at this time in order to move forward. If the Council should choose to move into Phase II of the process an additional appropriation from the General Fund reserves in the amount of \$47,500 will be necessary to fund Phase II of the professional services agreement with the team of Godbe Research and Tramutola for ballot measure consulting services.

Mayor Salas opened the item for public comments. There were none.

Councilmember Botts said he disagrees with staff a little bit. At the last meeting we said we really don't need to make a decision this evening and staff just said the same thing but we ought to decide what we are going to do as a Council. If you want to wait a month or two, we ought to decide yea or nay or nothing at all or tell staff if you want to move forward on something that here are our choices. That would be his first opinion and again no reflection on staff. He is just saying you give us that caveat and he appreciates it but why are we going on and on. Lets as a Council decide what we think we ought to do and then just do it whatever that decision is.

Councilmember Machisic said for instance we are potentially considering three options. If you take one is the price \$47,000. If you do two is the price is \$47,000. If you take three the price is \$47,000. He agrees with Councilmember Botts. The first thing we have to decide is which of these proposals we are interested in. In other words, he doesn't think there is any reason to continue the discussion with all three if the unanimous Council does not agree. We have three proposals; are we all interested in all three or two or one. He thinks we need to make that determination first and then everything else will come after.

Councilmember Hanna said she doesn't disagree with either of the comments but a fundamental question is should we have this community education, community outreach portion of whatever end result might be. We have a structural imbalance as we know. We know that while our reserves right now are 32% of our General Fund that by 2010 they will have dropped probably below 10% which is our basic guideline for the City. We want at least a 10% reserve of the General Fund. She thinks that anything we can do to educate our community as to here are the services we are offering, that the City provides, this is what we do and this is what it costs, we are spending more than what we are bringing in and that is a problem. We need to either cut services or increase revenues or some combination of both and we have directed staff and they are just starting a two-year budget cycle process where they will be looking at it very carefully and finding any way we can cut the expenses that are possible. She thinks that whatever we decide in terms of the particular revenue generating sources that we are interested in that it would be a good thing for the city of Banning to get as many people educated and informed and aware and have interaction about this issue as possible because right now there is a lot of misunderstanding. In terms of the additional sources of revenue she is happy weigh in on that if the Council wants to.

Councilmember Botts said from the very beginning he has simply said he couldn't ask taxpayers to tax themselves unless he could look them in the eye and say we have absolutely cut our budget, we've reduced expenses, we increased our productivity, we are efficient and this is a well run City but we have a structural deficit and so we are going to come to you and ask you to tax yourself. And he said he can't do that unless he could look them in the eye and say we've done that and we haven't done that. He guesses that maybe the process is going to be through the budgeting process and for him that is too late. He said for example, Redlands didn't wait for budget time they were headed for bankruptcy and they spent 24 hours a day, seven days a week looking for money here and there and immediately said we've got to deal with this problem and in his mind he thought that is what we were going to do. As of tonight his feeling is that he cannot ask an individual taxpayer in the city of Banning to tax themselves. And that means sales tax, a quarter, a half, utility tax, parcel tax, property tax, he just simply can't do that. He is open on two other issues which is the TOT (transient occupancy tax) and the warehouse tax.

Councilmember Machisic said he disagrees with Councilmember Botts in one way in that Redlands is on the verge of bankruptcy now. And what we are looking at and Councilmember Hanna mention 2010 and what we are doing is looking at it from a very conservative point of view. We are not in fiscal trouble today or next year or maybe the following year but we are trying to be fiscal conservatives and say it looks, and it may not develop, but it looks like there may be a problem in 2010 or 2011 based on the things that

the Finance Director has presented to us ten times. He thinks we are good guardians of the money and we are fiscally conservative and he thinks the people in this community would appreciate that. We are not saying tonight we got to cut a million bucks; we are not in that position. He thinks that members of the community who really look at this would really say they are looking out for us not only for me but maybe for our kids who might live in this town. That is the point he thinks that we are different than Redlands. It is not an emergency, its not we are going to meet here until we cut so much money. He doesn't think we are in that position but if we wait until 2010 we might be in that position.

Mayor Salas said that Councilmember Machisic made great points and she would concur. We are trying to think ahead. The great thing about this Council is that we are trying to be fiscally conservative and watch what we have. She would like to see us take an even better look at our spending, where we are spending it, why we are spending it and tonight some good points were made. So she would really like to see the City move ahead and take a good look at our budgeting process, where we are spending and she knows that we have cut several departments back by 10% or so but again it is not always cut across the board and that solves the problem. We have to take a better look. She said that she would not support raising a tax on our residents and that means sales tax until we have done that and even then she would have a hard time with it. But when it comes to providing services sometimes you have to buckle down and do what you have to do but that is not saying she supports making a tax but at the same time if we have to make sure that water gets to residents, electric, fire and safety we will figure it out. But until then she doesn't think enough homework has been done to completely support moving forward with several different taxes. If she would support something tonight it would be in the measure of take a look at the types that don't impact the residents who live here.

Mayor Pro Tem Franklin said that one thing we haven't added and she has listened to all the comments and some she agrees with and some she does not but she thinks that we've talked earlier about what our goals are and we talked a little bit about what we are trying to do such as developing the 47 acres. So she thinks we need to look at not only where we are but we are doing other things to increase the revenue to the City and that should help us. She does agree with the part about not taxing residents. She thinks that would put our City at a disadvantage to say this is the only City in the whole County that might have a higher sales tax. What that would do is actually drive people away from doing any shopping here. But we should keep in mind that we are looking at other ways to increase revenue besides just talking about what is going on in the budget. We are talking about being very proactive and bringing in the kinds of businesses that we want and it may take a couple of years to get them developed.

Councilmember Hanna said that she has not been in support of an increase in sales tax either. Are two biggest generators historically have been auto sales, RV sales and she can imagine that a quarter cent increase in sales tax would drive those sales away and she doesn't think it is a good idea at all. It sounds like we have agreement at least on the transient occupancy tax and that is a tax that visitors pay when they come to our hotels and would be a good source to begin with. As she recalls with the Godbe/Tramutola presentation last time it would be an uphill fight to convince our voters that this is what they

should support. But we also heard that our voters were open to information in either direction. She thinks that we should proceed with exploring and educating folks about our economic condition and what a transient occupancy tax would do for us.

Councilmember Machisic said he thinks from what he hears he doesn't think that anyone wants to go directly to our residents and tax them. He said the sales tax appears to be not popular amongst the Council. Maybe we need to stop talking about that and we need to stop talking about the warehouse tax and let's start talking about if we are interested in the TOT. One thing he mentioned to Tramutola is that they said in their study when they talked about the quarter percent sales tax it was very popular among the people who were interviewed. But when they talked about the TOT tax going from 6% to 12% it was discouraging; it was less than 50%. His position is that it is like adding up apples and oranges because you are talking about a quarter of a penny and here you are talking about 6% and people understand percents and when you say you are going from 6% to 12% it is a bunch of money. He thinks there are some other things involved and one of the suggestions he made was that this TOT tax could be over three years or six years like 2% a year and 2% two years later or some number such as that; some staggered kind of number. He thinks in the campaign, and if this is the position the Council takes, they need to emphasize who is going to pay the tax. That is the important ingredient as he sees it.

Mayor Pro Tem Franklin said she agrees with what Councilmember Machisic said just to add to that when we are talking about going from 6% to 12% it is to bring us up to where everybody else already is. She agrees with Councilmember Hanna that a lot of it is education.

Councilmember Botts said that he has been discussing a lot of these issues with different people and he thinks it is important to put the view on the table that deals with warehouse square foot tax. If you compare what warehousing brings to a community, if you are looking about a return, compared with our number one goal in this city which is retail sales and sales tax and then our second priority is industrial manufacturing and jobs and the multiplier affected jobs and then you take warehousing the market may be strong for that but generally there is not a sales tax component. If Jeff Gordon said could say he would bring a 500,000 sq. ft. warehouse with a point of sale we would probably jump on it tomorrow because that means a huge amount of sales tax. Warehousing does not bring sales tax. And compared if you took 500,000 square foot building or a million square foot all you have to do is took at Ontario in lots a million square foot. Warehousing may be a couple hundred jobs. Redlands just had a 600,000 or 700,000 square foot warehouse by Nike where they were going to store equipment and truck it in and out and they were excited to have 80 jobs. The point of the matters is that you use a huge, huge amount of land and that is probably our bottom line. The issue becomes tied also with the moratorium. When the moratorium is over next month where are we? What have we done? What is the policy, what's the strategy? As he sees it there are a couple of alternatives and one of them as what Kossmost did in the desert and what he thinks this City asked him to do was to say here is the land, and what's the inventory for various usages and then arbitrarily decide how much warehousing we are going to do and how much industrial/manufacturing and so forth. The alternative is to say we want warehousing but it needs to pay a little more of its way. Mr. Gordon will tell

you and he would agree that if we said let's bring a per square foot fee up where it would match retail or match a million square feet of manufacturing which would bring us a million jobs there is no way we could do that and he wouldn't suggest that because Mr. Gordon would leave right now and sell his property because we've priced it out of the market. But at the right amount and we can debate that a nickel or ten cents on the square foot, if we were to set that and then say that is the policy and marketplace go do whatever you want. If you want to do warehousing you have to pay a little more. So what he is proposing is a model that he is trying to talk to economist about that says we don't end up with this moratorium and it is just wasted our time and wasted Mr. Gordon's time and the others. His concern is that it isn't just Mr. Gordon, we have on the books right now another 3 million square feet planned for the north side of the freeway. They want to go in right now and they are pushing us; 4 million square feet of commercial warehousing. The point is huge amounts of land and limited number of jobs and he would agree with Mr. Gordon that they are better paying jobs than they used to be but a limited number of jobs and no sales tax. So the picture is much bigger than just the Messenger Property by the airport. The plans are working through the process or at least they are waiting to see what happens with the moratorium for 4 million square feet which would take most of the north side of the freeway, the Fields property and the other property there. He thinks that maybe there is a way we can satisfy everyone. Now the developers are not going to like it and they are going to say a nickel or a dime may kill the deal and he would argue that if you look at Ontario, San Bernardino, Redlands and Orange County, it is wall to wall warehouses. Most of them without point of sale and they make a lot of money and they should. And his argument here is less raising money for the City although we would do that but to have some kind of alternative answer for what happens when we get out of the moratorium.

Councilmember Hanna said it is a little premature to have the complete discussion that his remarks could invoke. She would really want to see the report first and be able to consider that. But the bottom line is that once you have a million square foot warehouses that land is used that way and there is no alternative for years and years to come and it is very definitive and we have such limited space. Personally her recall is that it would be difficult to get that approved as well. It wasn't any more popular than TOT tax.

Councilmember Botts said he can tell you that we hired the best firms but we were all shocked with the data that came back when 64% said that they would tax themselves a quarter of a half percent sales tax. He is not suggesting that is not good data but that really surprises him. The other piece was if they understood the TOT that they don't pay it, nobody pays it here and he thinks that is very saleable. But your right, the other was at 29% on the warehouse tax. TOT was at 23% so they were low numbers. He said he has been in business his entire life and involved in politics, government and taxation and when there is an opportunity, and if the need is presented, the average voter does not hesitate to tax business. It was really a surprising number. If they understood that this was going to maintain fire, paramedics on the trucks and those kinds of things and here is how we will do it, you don't have to pay it. To him it is an important enough issue if there is some agreement that it is a way to fix a number of things not the least of which is the moratorium. Clearly when you get down into the detail you would say that mom and pop shops that have warehouse in the back that is not what we are looking at. We are looking at 100,000 to a

million square feet of warehousing, distribution, logistics that don't have sales tax and jobs are limited in comparison to manufacturing. It is important to point out that all of these will raise our property tax. Warehousing, retail it doesn't matter what it is we would have an increase in property tax. If it is in a redevelopment area we would have an increase in tax increment but that is all equal across the board but when you get to the sales tax and the jobs there is a real disparity and it is a debatable subject. The market is for warehousing and he is trying to level the playing field.

Councilmember Machisic said that potentially the subject that you're discussing about is going to take a lot more analysis and detail. For instance, I have a granddaughter who lives in Mira Loma and they have warehouses by the tons and one of the problems they have there are some breathing problems because you have a large number of trucks coming in and out. When we talked about warehouses we never talked about that. There are some environmental factors that you need to consider. He thinks that we need to stick to the subject here about where we are going this year in this potential election. You are right we need to explore ideas but it is going to take a long time to explore the thing about warehouses.

**Councilmember Hanna said it is pretty clear from what we have been told by the consultants that this public education process will be easier, more successful if we focus on one and we are not required to focus on one. But her recommendation is that we proceed with the hotel bed tax (TOT) and proceed to the Phase II.**

**Councilmember Franklin seconded the recommendation.**

**Councilmember Botts moved to amend that to add the warehouse tax.**

City Manager said for clarification what they are pursuing now is the information dissemination and citizen knowledge base expansion of where we are proceeding. Essentially Councilmember Hanna said that she would like to pursue that so then we would go out to the community and say this is what a TOT is and how it applies to the general public and what money it could generate and how it generates that money and this is why we need it. Councilmember Botts' amendment then added, if the Council chooses, it would then say would we inform at the same level the citizenry on a warehouse tax or per square foot fee. So at this point all we are doing with the existing funds is to go out and give the information to the public and get another reading of the public of what their sense of approval would be. Would they be willing to support the TOT, would they be willing to support warehouse tax if that is included in the amended motion.

Mayor Salas asked how much revenue are we talking that could potentially be brought by the warehouse.

City Manager said in one of the summaries it indicated on the existing warehousing it could be \$18,000 to \$37,000. But depending on what the fee was it could be anywhere from \$238,000 for warehousing and \$477,000 for all new approved warehousing and that is

assuming we take the areas that we have and build warehousing. The TOT would generate roughly \$520,000 going of 6% to 12%.

There was some further Council discussion on warehousing and transient occupancy tax fees.

City Manager said we're not saying we have to make the November ballot there are special elections that we can attach ourselves too specifically in different election cycles in 2009. He thinks the key will be informing the community, educating the community to a point where they truly understand what we are trying to accomplish. That we are trying to address a structural deficit in the future. We want to continue to provide the level of service that we currently provide and again it goes back to our budget issue and even if we hold the budget status quo we continue to use these terms called providing the same level of service that we did the years prior but we are really not because we are adding community members and we are adding more statistics so we are really at a declining level even if we were to hold the budget where we are today and that is what we are really trying to address three to four years out.

Councilmember Botts said two things and he will let the warehouse tax go but Redlands just passed one. It is very simple and not a mom and pop warehouses; it is giant facilities. But if the Council decides you don't want to do this, he is going to go away smiling. He said he argues intensely sometimes. The issue here is so much bigger than just the taxes. Next month we are going to take the moratorium off and what's going to happen. We could without a plan or policy in 30-days we could have probably near 5 million square feet of warehousing that is ready to go and it is zoned and we can't say no we don't want that. That is his only argument that it is a separate issue dealing with a moratorium and how we deal with that. If we don't want to combine them, then he will understand.

Mayor Salas said she would support the amendment but the only question is does it muddy up the waters when we are trying to move forward with something else. It may be too confusing for the public to digest also.

Finance Director said she spoke with the Tramutola representative this afternoon and that was one of the items they spoke about. You have options with moving forward as she said earlier in the staff report. We don't have to nail it down and certainly that streamlines it. If you want to leave it with two, that's feasible. They feel like going forward with the public education process those types of things will kind of ferret themselves out after they explain what the warehouse tax is and what its purpose is and what TOT is and what its purpose is. That they will be able to really gage after that process and will be able to tell you first of all the community understands or doesn't understand those concepts but she thinks they are in the business of simplifying those concepts to help the community understand and held educate the community. And they will be able to come back to us and tell us again where they see the support and what they feel is feasible. It is very feasible to go forward with two if the Council would like to do that with the public education process. She reiterated that we were originally targeting November 2008 as a general election and that gave you options of

doing a general tax or doing a special tax. But even if we don't go forward in 2008 there is going to be several opportunities as the City Manager said in 2009.

**Mayor Pro Tem Franklin said that given all the discussion and knowing that the next level is mainly for information and education she would amend the second that she made for the second phase to include warehousing because we are doing just information basically and education. It is not saying that we are supporting it or not and it is going to cost us the same amount of money either way. Let's go ahead and find out what the public says.**

There was some further discussion on warehousing and possible types of revenue.

Mayor Salas opened the item for public comments.

Jeff Gordon, said he doesn't know what is going to be on their property. It could be ten buildings or a one million square foot building or it could be all kinds of stuff. He has drawn a million square foot building on there and a 50 million square foot building on there in any event it is worth somewhere between 60 million and 100 million dollars of value in your town if he was allowed to build it. You have to start somewhere. You're trying to force something. He told them the numbers and Kossmott is going to back them up and they have lost 275,000 jobs in Southern California in the last five years and it is probably 350,000 yet you keep hanging out that you want jobs. It is not here. Why are they going to come here, it doesn't exist. Retail wise you are trying to put retail some place where it doesn't belong. He understands that you want sales tax and everyone wants sales tax but there is a lot of bad land use decisions out here that are made to drive sales tax. If a retailer wanted to be here tomorrow they would be in your face. You would rezone a piece of property maybe his property if they liked it to fit that particular store but to hope by rezoning that all of sudden people are going to come, it is not going to happen. He said that ICSC said yesterday that there is going to be 5,700 stores closed in 2008. Don't think that even the 47 acres out there that you are going to work on that you are going to get all these users to come in. He said he is just being a realist with today's economy. He is not a warehouse advocate; that is what the market said there should be. He can take you to Irvine right now where warehouses built 25 years ago and today they have been turned in to a Sam's Club or an office building; it's a national progression over time. If you hold out and wait for something that doesn't exist like jobs and if nothing is going to happen in town you are going to be right back in the same spot where you are right now. You make some of these decisions in a vacuum and you don't include the develop community to sit down and talk about it. Why does the warehouse tax have to be a tax? Why can't it just be a fee and you don't have to go to the public. He would pay \$3 million in fees to build that million square foot building including \$1.3 million in TUMF fees for the pleasure of doing business. He has a huge investment in this town and he wants the town to succeed. When you go and do these things and moratoriums and nothing happens it gets very frustrating.

Mayor Salas asked if there were any more public comments. There were none.

Councilmember Botts said the amendment should be voted on first.

Councilmember Machisic said the one of the important things is that the consultants have told us that any tax you put on the ballot has to be unanimous with the Council and everybody has to agree. He thinks that they need to approach this subject that very way.

Councilmember Botts said that they are not voting tonight that this is going on the ballot we are just saying one or two of these ought to move forward and have additional discussion. But he would agree that if something were to go on the ballot you can't have one or two Council people opposing it and three supporting it.

Councilmember Hanna said that we may have the votes for including the warehouse but she is just concerned because it is an uphill battle on getting approval for the hotel bed tax that if we add a second one neither would be successful and we do have opportunities to do something latter for the warehouse or other strategies to increase revenue.

Councilmember Botts said he would love Jeff to come sit with the Council and any other developers also to see if there are other alternatives without taking it to a vote of the people.

**Motion Botts/Franklin to amend the motion to include looking at a warehouse tax. Motion carried call in favor with Councilmember Hanna voted no.**

**Motion Hanna/Franklin to adopt Resolution No. 2008-29, amending the scope of services for the professional services contract with Godbe Research to incorporate the public education and pre-electoral planning elements of the project (Phase II) and approve an additional appropriation in the amount of \$47,500 to fund the contract. And, to direct staff to work with the City's ballot measure consultants regarding public education and pre-electoral planning for the following ballot measures a warehouse tax, which they just voted to include, and a Transient Occupancy Tax Rate (TOT). Motion carried, all in favor.**

## **V. ITEMS FOR FUTURE AGENDAS**

### **New Items –**

Councilmember Franklin would like something to come back to the Council regarding the warehouse moratorium at the next meeting.

City Manager said that it is his understanding that Mr. Kossmott was to bring back to staff a preliminary draft on April 11<sup>th</sup> which would mean that we wouldn't have this discussion until the last meeting in April. However, he does understand that Councilmember Botts will be out of town and he would probably want to be part of the discussion so then it would then be the first meeting in May unless the Council chooses to have a special meeting.

Councilmember Franklin asked when the moratorium was up because she thought it was May 1st. City Manager said that the City Attorney said that we have to have the

discussion ten days in advance of the moratorium expiration and he will try to get that information to the Council as soon as possible.

Councilmember Botts asked if the moratorium could be extended a couple of weeks or thirty days. City Attorney said that there has to be a report from staff indicating the actions that have been taken during the moratorium period. It may not be that we have to have the study at that time but there has to be a report prepared by staff saying what has been done and then you could basically extend the moratorium for the full following year but you can repeal it at any time. You can extend it for a period less than a year or you can extend it for up to a year's time. But we will have to make sure that the staff report indicates what has been done and it is done and complete and on file ten days in advance of the hearing.

Councilmember Hanna said that she has four items for Council consideration. 1) the districting proposal that is being circulated needs to be before the Council and we should indicate our thoughts and pros and cons of this approach and at least share out thoughts with the community. Do you want to wait until it qualifies in June to do it.

City Clerk said that the proponent has to have it by a certain date in May 2<sup>nd</sup> and then has to go to the County Registrar of Voters to verify the signatures.

Mayor Salas said that perhaps before that the Council might want to discuss it because they have been receiving a lot of calls on that issue and it might behoove us to discuss the issue to see what is going on. People have been asking her how she feels about it and she can tell them how she personally feels about it but she cannot tell them as a group what they have discussed.

City Attorney said the procedure is as the City Clerk was trying to say in that the petitions have to come in and they have to be certified by the Registrar of Voters then the matter would come to the Council for setting of an election if there are sufficient signatures and at that time you would have the choice of either setting the election or adopting the ordinance that is proposed as written. But prior to that you can agendaize it and to discuss it if you choose to.

Mayor Salas asked if there was Council consensus to have it has a discussion item There was consensus to have this come back,

Councilmember Hanna said that a member of the Beaumont Cherry Valley Water District asked if the Council would consider having a joint meeting and she knows that is the intention of the Council to have meetings with various bodies both Banning Unified School District, etc. She is just throwing this out if we want to put it on our schedule to arrange for a joint meeting with the Beaumont Cherry Valley Water District. We share three wells with them now and there are issues and interests of mutual concern.

There was some discussion on this topic.

City Manager said he would like to draw on some of Councilmember Hanna's request and the Council's concurrence in that he has been trying like Councilmember Franklin mentioned let's try to get some of these that have been on here for a while done. One of the logistics and he just wants to get some direction from the Council in setting up these meetings of course there would need to be joint notices one board meeting with another is there a preference on a day prior to a Council meeting and how early could the Council meet or is an alternative day better.

Mayor Salas said maybe on a Tuesday night when there is no Council meeting. Councilmember Hanna said maybe the third Thursday could be used to schedule one of these meetings.

City Manager said that is a great thought and maybe if the Council is willing to reserve the Third Tuesday of every month for either a workshop, not that we would have one every Tuesday, but have an extra day or for an extended Redevelopment calendar. There would be plenty of notice given to the Council if there was going to be a meeting on the third Tuesday of the month. **There was Council consensus for the third Tuesday to schedule some meetings.**

Councilmember Hanna said that she would like to schedule for the Third Tuesday in April, which would be April 15<sup>th</sup>, for a meeting with the City Attorney to discuss the City of Banning's legal fees. An analysis, etc. and an opportunity for the Council and public to interact with that issue from their perspective so that the Council could be better informed.

Councilmember Botts said that he would be out of the Country on that date. Mayor Pro Tem Franklin said that the Council has already discussed what they wanted to do and she doesn't know that a workshop is going to help in that area.

Councilmember Hanna said that she is not going to do anything personally until she has a better understanding of what the issues are and we don't have that at this point. She has never seen any analysis whatsoever and the City Attorney's office has developed that analysis with power-point already prepared. But we don't have to do it that Tuesday.

Councilmember Machisic asked if they have every asked for an analysis? City Attorney said the Council has not asked for analysis but they have prepared such an analysis that they are not charging the City for and she would be happy to give that to the Council in writing if they would like to see it rather than have a presentation. But given the questions that were asked and ascertains that were made and the direction that was given they definitely thought that it was time to show to the Council how your legal dollars are spent. They ordinarily do that through the budget process in all of their cities and she has offered before but the previous City Manager didn't really think that the Council needed the time to do that. It does take awhile and it is an unfolding process to know what you are talking about and to actually see the dollars and what is reimbursable and what is not and that kind of thing.

Mayor Pro Tem Franklin would like to get the written document first and then from there they can decide if they would like to have a presentation. She would like to read it and see what it there.

Councilmember Hanna said that the Council directed Heidi Meraz to develop a non-profit for Stagecoach Days and her understanding is that they have determined that A. C. Dysart Park Association Non-Profit is available for use. The State will allow that to go forward as a non-profit and we change the article of incorporation or bylaws whatever can be changed if necessary to proceed forward. She asked the Council if this was something they wanted to participate in for example in appointing the first board of directors. Should we follow the process as we do, for example, like the Planning Commission of preparing applications, making applications available to the community, promoting the possibility that people could apply for the board, interviewing board members and then appointing that first board for Stagecoach Days. Or, do you want Heidi and the committee that is working right now for Stagecoach Days to just proceed and develop it on their own.

Councilmember Machisic said it was his understanding that they wanted to have an independent body be able to organize, fund, do the whole thing without the Council's involvement essentially. Councilmember Botts concurred with what was said. Mayor Salas agreed.

Mayor Salas said in regards to the expansions on the south side and the correctional facility she would ask that staff follow-up with the County of Riverside and also our Engineering Department is going to do speed bumps, etc. but she just wanted to see that it was taken care of and kept in communication with the residents on the south side.

Mayor Salas said that she will get the date to the Council when they will be meeting with the Morongo Band of Mission Indians.

City Manager addressed the Council stating that he doesn't know what the process is and it involves the Public Works Department and Engineering but there has been some discussion about some of the streets and specifically the naming. As you know one of the key economic development engines is the new Hampton Inn that will be having a ribbon cutting this Thursday at 10:00 a.m. and one of the suggestions that came out is that currently we have Joshua Palmer exits on to Apex Way and one of the suggestions was to rename Apex to Hampton Inn Way because of the first hotel there. He didn't know if the Council would be interested in entertaining that.

Councilmember Botts said that when you get into naming and naming rights he has seen more arguments and battles over naming of parks, cemeteries, etc. and no reflection on the Hampton Inn. He asked if we had a naming policy. Normally cities and organizations have a naming policy.

City Manager said this was a thought and maybe we do need to come up with an ordinance that deals with naming of streets and parks, etc.

There was Council consensus to extend the meeting past the 10:00 p.m. curfew.

Pending Items –

1. Review of “Green Plan” in All Departments (*Machisic-10/9/07*) (*Earhart*) (*ETA 4/08*)
2. Annual Review of General Plan (*Hanna- 10/9/07*) (*Comm. Dev.*) (*ETA 4/08*)
3. Review of Lease with Armory by end of the year. (*Franklin- 10/9/07*) (*City Atty.*)
4. Schedule Meeting with the Beaumont City Council (*Salas- 11/27/07*) (*City Mgr.*)
5. Schedule Special Jt. Meeting the Banning United School District Board – (*Botts – 11/27/07*) (*City Mgr.*)
6. Schedule Special Jt. Meetings with the City’s Various Committees (Planning Commission, Economic Development Committee, Parks & Recreation) – (*Franklin – 11/27/07*)
7. Review of Development Fees (*Hanna – 12/11/07*) (*Johnson*) (*ETA 3/08*)
8. Ordinances in Regards to Group Homes (*Botts – 12/11/07*) (*City Atty. & Purvis*) (*ETA 4/22/08*)
9. Need to Set Date for Meeting with Morongo Band of Mission Indians regarding The Banning Municipal Airport (*Hanna -2/12/08*) (*City Mgr.*)

CLOSED SESSION

City Attorney said that the City Council will meet in closed session to confer with legal counsel pursuant to the provisions of Government Code Section 54956.9(a) with regard to the following matters of pending litigation: 1) Highland Springs Conference and Training Center v. City of Banning - (RIC 460950), 2) Center for Biological Diversity v. City of Banning – (RIC 460967), 3) Cherry Valley Pass Acres and Neighbors, and Cherry Valley Environmental Planning Group v. City of Banning – (RIC 461035), and 4) Banning Bench Community of Interest Association, Inc. v. City of Banning – (RIC 461069).

The City Council will also meet in closed session pursuant to Government Code Section 54957 with regard to City Manager evaluation.

**Meeting went into closed session at 10:05 p.m. and returned to regular session at 11:03 p.m.**

ADJOURNMENT

By common consent the meeting adjourned at 11:03 p.m.

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Marie A. Calderon, City Clerk

**THE ACTION MINUTES ARE A SUMMARY OF ACTIONS TAKEN BY THE CITY COUNCIL.  
AUDIOTAPES OF THE ACTUAL MEETING ARE AVAILABLE FOR LISTENING IN THE  
OFFICE OF THE CITY CLERK OR A COPY OF THE MEETING CAN BE REQUESTED IN  
WRITING**

*2nd Read*

**ORDINANCE NO. 1384**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF BANNING AMENDING VARIOUS  
PROVISIONS OF TITLE 16 SUBDIVISIONS OF THE  
BANNING MUNICIPAL CODE**

**WHEREAS**, the City Council adopted a comprehensive General Plan and Zoning Ordinance update on January 31, 2006; and

**WHEREAS**, it is necessary to update Title 16 (Subdivisions) of the Municipal Code to be consistent with the goals and policies of the Zoning Code; and

**WHEREAS**, on the 22<sup>nd</sup> day of February 2008, the City gave public notice as required under Zoning Code Section 17.68.020 by advertising in the Press Enterprise newspaper of the holding of a public hearing at which the amendments would be considered; and

**WHEREAS**, on the 5<sup>th</sup> day of March 2008, the City Council held a noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the amendment of the Subdivisions Ordinance; and

**WHEREAS**, at this public hearing on the 5<sup>th</sup> day of March 2008, the City Council considered and heard public comments on the amendments to the Subdivisions Ordinance; and

**WHEREAS**, the City has analyzed the proposed amendments and determined that they are exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

**NOW THEREFORE**, the City Council of the City of Banning does hereby find, determine, and ordain as follows:

**SECTION 1. ENVIRONMENTAL FINDINGS.**

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the Staff Report dated March 5, 2008, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. **CEQA:** The City has analyzed the proposed amendments and has determined that they are exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only

applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Municipal Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this ordinance will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

## SECTION 2. FINDINGS

Finding No. 1. The proposed amendments to the Subdivisions Code are consistent with the goals and policies of the General Plan.

Fact: The amendments to the Subdivisions Code are consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Policy 2 states: "*The Planning, Public Works and Economic Development staffs shall be closely coordinated to assure efficient and cost effective processing of applications.*" Furthermore, the Housing Element Program 18 Efficient Processing states: "*The evaluation and review process required by the City procedures contributes to the housing costs incurred by developers and are ultimately reflected in the unit's selling price. In order to minimize project holding costs, jurisdictions should streamline their review procedures to the greatest extent possible and without compromising adequate review.*"

This amendment will better clarify the responsibilities of the City Engineer and Community Development Director, and expedite the processing of applications by integrating the Subdivisions review procedures with the Zoning Code procedures and therefore shorten the time-line of review.

Finding No. 2. The proposed amendments are internally consistent with the Zoning Ordinance.

Fact: The amendments to the Subdivisions Code are consistent with the existing provisions of the Zoning Ordinance. The amendments will implement the Zoning Code provisions for such things as lot line adjustments, parcel maps, and certificates of compliance processing.

Finding No. 3. That the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Fact: The City has analyzed the proposed amendments and has determined that they are exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Municipal Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this ordinance will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

### SECTION 3. CITY COUNCIL ACTIONS

The City Council hereby takes the following actions:

A) Chapter 16.04 General Provisions of the Subdivisions Ordinance of the Banning Municipal Code is amended to read as follows:

#### **“16.04.010 Supplemental to State Act—Applicability of title.**

Pursuant to the Subdivision Map Act, the provisions of the Banning Municipal Code are supplemental to those of said Act, and shall apply to all subdivisions of land hereafter made when such land is entirely or partially within the city.

A. **Lot Line Adjustment.** This code does not apply to a lot line adjustment provided that:

1. No additional parcels are created and the adjustment is limited to four or fewer existing adjoining parcels; and,
2. The resulting parcels conform to the Banning Zoning Code, California Building Code, and the City’s General Plan; and,
3. The resulting parcels do not interfere with existing utilities infrastructure or easements; and,
4. The resulting parcels conform to the California Fire Code as determined by the Fire Department; and,
5. Real property taxes have been prepaid; and,
6. The owner, or owners, cause to be prepared a legal description and plat map, and any deeds if so required. However, if a record of survey is required under Business and Professions Code §8762 the owner shall cause to be prepared a record of survey;
7. If the parcels are not legal subdivisions in accordance with Subdivision Map Act §66499.34, the City approves a Certificate of Compliance.

An application and plot plan shall be required to determine conformance with these requirements.

**B. Waiver of Tentative Parcel Map.** The Community Development Director may waive the requirements for a tentative parcel map for the following:

1. A division of real property or interests therein created by probate, eminent domain procedures, partition or other civil judgments or decrees;
2. A division of property resulting from conveyance of land or interest therein to or from a public entity or public utility for a public purpose such as school sites, public building sites, rights-of-ways, or easements for streets, sewers, utilities, and drainage. Land conveyed to or from a governmental agency includes a fee, interest, a leasehold interest, an easement, or a license;
3. A division of property which has been merged under the Subdivisions Code, the Subdivision Map Act, or any prior ordinance of the City;
4. Where existing public improvements meet the minimum requirements of this Code.

To waive the tentative parcel map requirements the Community Development Director upon the recommendation of the City Engineer shall find that the proposed division of land complies with requirements of the Banning Zoning Code, Banning development standards, and the Subdivision Map Act.

A waiver of the tentative parcel map requirement may be conditioned to require payment by the subdivider of park land dedication, drainage, transportation, and other applicable fees by a method approved by the Community Development Director.

Whenever a tentative parcel map is waived under this section, an application and parcel map shall be submitted and approved in accordance with the Subdivisions Code. The City Clerk shall transmit the map to the County Recorder. If the County Recorder rejects that map for filing, the City shall rescind its approval of the map per the requirements of Government Code §66466.

#### **16.04.020 Advisory agency designated--Powers and duties generally.**

The Planning Commission is hereby designated as the "advisory agency" referred to in the Subdivision Map Act and is charged with the duty of making investigations and reports on the design and improvement of proposed subdivisions; and, is hereby authorized to recommend the approval, conditional approval, or disapproval of tentative maps for subdivisions of five lots or more prepared and filed according with this Code and the Subdivision Map Act; to recommend the kinds, nature and extent of the improvements required to be installed in subdivisions and to report to the City Council the action taken on tentative maps for subdivisions of five lots or more.

The Community Development Director is hereby designated as the "advisory agency" referred to in the Subdivision Map Act and is charged with the duty of making

investigations and reports on the design and improvement of proposed subdivisions; and, is hereby authorized to recommend the approval, conditional approval, or disapproval of tentative maps for subdivisions of four lots or less prepared and filed according to this Code and the Subdivision Map Act; to recommend the kinds, nature and extent of the improvements required to be installed in subdivisions and to report to the City Council the action taken on tentative maps for subdivisions of four lots or less.

**16.04.030 Record of survey map--Generally.**

[§16.04.030 Record of survey map--Generally, of the Banning Municipal Code is repealed]

**16.04.040 Record of survey map--Certificates.**

[§16.04.040 Record of survey map--Certificates, of the Banning Municipal Code is repealed]

**16.04.050 Map fees.**

- A. Fees shall be paid to the City to cover the costs of checking tentative and final maps and parcel maps and for construction inspection as well as any other related items identified in the Subdivision Code requiring the submittal of an application. These fees shall be adopted by resolution.
- B. The Finance Director shall issue a receipt for fees received in behalf of the City, identifying the same as related to the description for which such fee was tendered."

B) Chapter 16.08 TENTATIVE MAP--FOUR LOTS OR LESS of the Subdivisions Ordinance of the Banning Municipal Code is amended to read as follows:

**“16.08.010 Filing of copies.**

Five copies of the tentative map of proposed subdivision of land into four or less lots shall be filed with the Community Development Department.

**16.08.020 Contents.**

The tentative map shall be in the form of a parcel map, as described in Government Code §66444 et seq., unless waived by the Community Development Director.

**16.08.030 Action by Community Development Director.**

The Community Development Director shall determine whether the proposed subdivision of land into four or less lots is in conformity with law and the Subdivisions Code, and whether the size of the proposed lots is in conformance with the provisions of the Zoning Code, and whether all the proposed lots will have adequate access to public streets, sanitary sewer lines, water mains, fire hydrants, drainage structures and utilities. The

Community Development Director shall approve such tentative map by noting approval thereof by endorsement on the map.

#### **16.08.040 Disposition of copies.**

One copy of the tentative map for the subdivision of land into four or less lots shall be retained in the files of the Community Development Department and one copy shall be retained in the files of the City Engineer. The third copy shall be returned to the subdivider with proper notations thereon indicating the actions taken.

#### **16.08.050 Effect of approval.**

[§16.08.050 Effect of approval, of the Banning Municipal Code is repealed]"

C) Chapter 16.12 TENTATIVE MAP—FIVE OR MORE LOTS of the Subdivisions Ordinance of the Banning Municipal Code is amended to read as follows:

#### **“16.12.070 Preparation in accord with state law—Time of filing.**

The tentative map shall be prepared in accordance with the Subdivision Map Act and the provisions of the Subdivisions Code, and shall be filed with the Community Development Director. Such filing shall be prior to the completion of final surveys of streets and lots and before grading or any construction work within the proposed subdivision that might be affected by changes in the tentative map. The Planning Commission shall act upon such tentative maps in accordance with times set forth in the Subdivision Map Act.

#### **16.12.080 Report of City Engineer.**

Prior to the consideration by the Planning Commission or Community Development Director of a tentative map, the City Engineer shall make a report in writing to the Planning Commission or Community Development Director as to any recommendations in connection with the tentative map and its bearing on particular functions. Failure to so report shall be deemed approval."

D) Chapter 16.16 FINAL MAP of the Subdivisions Ordinance of the Banning Municipal Code is amended to read as follows:

#### **“16.16 FINAL OR PARCEL MAP**

#### **16.16.010 Preparation generally.**

After approval of the tentative map of a subdivision by the Planning Commission or the Community Development Director and approval of the final map or parcel map by the

City Council, the subdivider may cause a final map or parcel map to be prepared in accordance with a completed survey of the subdivision and in substantial compliance with the approved tentative map, and in full compliance with the Subdivision Map Act and the Subdivisions Code.

#### **16.16.020 Information to be shown generally.**

The final map or parcel map of a subdivision shall give the following information:

- A. The title, date, north arrow, and scale.
- B. The legal description of the land included in the subdivision.
- C. The location and names, without abbreviations, of all
  - 1. Proposed streets and alleys;
  - 2. Proposed public areas and easements;
  - 3. Adjoining streets;
  - 4. Street names.
- D. The dimensions in feet and decimals of a foot, or as required by state law.
- E. The dimensions of all lots.
- F. Each lot shall be numbered. Each block may be lettered or numbered. Each lot shall be shown entirely on one sheet.
- G. The center line data of streets, alleys, and easements, including bearings and distances.
- H. If any portion of the land within the boundaries shown on any final map or parcel map is subject to inundation or flood hazard by storm waters, such fact, and an identification of the affected portion, shall be clearly shown on the final map or parcel map by a prominent note on each sheet of such map whereon any such portion shall be shown.
- I. In the event that a dedication of right-of-way for storm drainage purposes is not required, the City Engineer may require that the location of any watercourse or channel be shown on the final map or parcel map.

#### **16.16.040 Easements.**

- A. The final map or parcel map of a subdivision shall show the center line data, width and side lines of all easements to which the lots are subject. If the easement cannot be definitely located by the recorded documents, a statement as to the easement shall appear on the title sheet.
- B. Easements from storm drains, sewers and other purposes shall be denoted by broken lines.
- C. The easement shall be clearly labeled and identified, and if already of record proper reference to the records shall be given.
- D. Easements being dedicated shall be so indicated in the certificate of dedication.

#### **16.16.050 Surveying data generally.**

Each final map or parcel map of a subdivision shall have indicated thereon the following:

- A. The radius, tangent, arc, and central angle of curves.
- B. Suitable primary survey control points including section corners, and monuments existing outside of subdivision.

- C. The location of all permanent monuments within the subdivision.
- D. Ties to and identification of adjacent subdivisions.
- E. Ties to any city boundary lines involved.
- F. All required certificates.

**16.16.060 Polyester film and ink to be used; size of sheets.**

The final map or parcel map of a subdivision shall be clearly and legibly delineated upon polyester film of good quality. All lines, letters, figures, certificates, acknowledgments and signatures shall be made in black waterproof ink, except that affidavits, certificates and acknowledgments may be legibly stamped or printed upon the map with black opaque ink. The size of each sheet of the map shall be eighteen by twenty-six inches.

**16.16.070 Marginal line.**

A marginal line shall be drawn completely around each sheet of the final map or parcel map of a subdivision, leaving an entirely blank margin of one inch.

**16.16.140 Title report.**

Each subdivision shall be accompanied by a title report showing the names of all persons or parties having any record title interest in the real property proposed to be subdivided.

**16.16.220 When to be filed.**

After receipt of the report of the City Council approving or conditionally approving the final map or parcel map of a subdivision the subdivider may, within one year from the date of such approval, proceed to prepare and file with the county recorder a final map or parcel map as provided for in the Subdivisions Code. If such final map or parcel map is not submitted to the City Engineer within one year from the date of the approval of the final map, or parcel map, such map shall be considered abandoned.

**16.16.240 Polyester film copy to be furnished to City Engineer.**

After the final map or parcel map of a subdivision has been recorded in the County Recorder's office, one polyester film print of such map shall be furnished to the City Engineer by the subdivider.

**16.16.280 Dedications for public use.**

All streets, highways, and parcels of land shown on the final map or parcel map of the subdivision and intended for any public use shall be offered for dedication for public use. Streets or portions of streets may be offered for future dedication where the immediate opening and improvement is not required, but where it is necessary to insure that the City can later accept dedication when such streets are needed for the further development of the area or adjacent areas."

E) Chapter 16.33 Tentative Map Extensions of the Subdivisions Ordinance of the Banning Municipal Code is added as follows:

**“Chapter 16.33 Tentative Map Extensions**

**16.33.010 General**

Upon formal application by the subdivider submitted prior to the expiration of the tentative map, the City Council may approve an extension to the tentative map for a period, or periods, as stipulated in the Subdivision Map Act. A public hearing shall be required.

**16.33.020 Pending Litigation**

If a lawsuit involving an approved or conditionally approved tentative map is pending, the City Council may upon request of the subdivider by formal application stay the approval period of the tentative map for up to five years in accordance with Government Code § 66452.6(c). A public hearing shall be required.

**16.33.030 City right to condition or deny approval**

- A. This chapter does not enlarge or diminish the types of conditions which the City may impose on a development or diminish or alter the City power to protect against a condition dangerous to the public health or safety (Government Code § 66498.6).
- B. The City may condition or deny a permit approval extension or entitlement relating to a vesting tentative map if it determines that either the failure to do so would place the residents of the subdivision or the community in a condition dangerous to their health, or safety or the condition or denial is required to comply with state or federal law (Government Code § 66498.1(c)).”

F) Chapter 16.34 City Engineer review and approval final and parcel maps of the Subdivisions Ordinance of the Banning Municipal Code is added as follows:

**“Chapter 16.34 City Engineer review and approval of final and parcel maps**

A. **Final maps.** The City Engineer in consultation with the Community Development Department shall review the final map to determine if it conforms to the approved tentative map conditions, the Subdivision Map Act, and this Code. The subdivider shall make corrections and additions until the map is acceptable to the City Engineer. The City Engineer shall apply the development standards of the City, the provisions of the Subdivision Map Act and the Subdivisions Code in order to determine what is acceptable, or not, for final maps.

B. **Parcel maps.** The City Engineer in consultation with the Community Development Director shall review the parcel map to determine if it conforms to the approved tentative map conditions, the Subdivision Map Act, and the Subdivisions Code. The subdivider shall make corrections and additions until the map is acceptable to the City Engineer.

The City Engineer shall apply the development standards of the City, the provisions of the Subdivision Map Act and this Code in order to determine what is acceptable, or not, for parcel maps.

**C. Amendments.** After a final or parcel map is filed in the office of the county recorder it may be amended by a certificate of correction or an amending map in accordance with Article 7 of the Subdivision Map Act.”

G) Chapter 16.35 Certificate of Compliance of the Subdivisions Ordinance of the Banning Municipal Code is added as follows:

**“Chapter 16.35 Certificate of compliance**

A. A person owning real property or a vendee of such person under a contract of sale may request the Community Development Department to determine whether the real property complies with the provision of the Subdivision Map Act and the Subdivisions Code. A written application for a certificate of compliance shall be accompanied by a current title report showing the names of all persons or parties having any record title interest in the real property.

B. If the Community Development Director determines that the real property complies with the provision of the Subdivision Map Act and the Subdivisions Code, the City shall file a certificate of compliance for recordation with the County Recorder. The certificate of compliance shall identify the real property and shall state that the division of the real property complies with the provisions of the Subdivision Map Act and the Subdivisions Code.

C. If the Community Development Director determines that the real property does not comply with the provisions of the Subdivision Map Act or the Subdivisions Code, the Community Development Director may as a condition to granting a conditional certificate of compliance impose conditions in accordance with Government Code §66499.35, except that where the applicant was the owner of record at the time of the initial violation and the current owner of record of one or more parcels which were created as a result of the violation then the City may impose any conditions that would be applicable to a current division of the property. Upon the Community Development Director making such a determination and establishing such conditions, the City shall file a conditional certificate of compliance for recordation with the County Recorder. The certificate shall serve as notice to the property owner and any successor that the fulfillment and implementation of such conditions shall be required before subsequent issuance of a permit or other grant of approval for development of the property. Compliance with such conditions is not required until the City issues a permit or other grant of approval for development of the property.”

#### SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

#### SECTION 5. NON-EXCLUSIVITY.

Nothing in this Ordinance shall limit or preclude the enforcement of other applicable laws.

#### SECTION 6. EFFECTIVE.

This Ordinance shall take effect thirty (30) days after its enactment in accord with California law.

#### SECTION 7. PUBLICATION.

The City Clerk is directed to cause a summary of this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

**PASSED, APPROVED AND ADOPTED** this 5<sup>th</sup> day of March, 2008.

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Brenda Salas, Mayor  
City of Banning

**APPROVED AS TO FORM AND  
LEGAL CONTENT:**

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Burke, Williams & Sorensen LLP  
City Attorney  
City of Banning, California

**ATTEST:**

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Marie A. Calderon, City Clerk

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1384 was duly introduced at a special meeting of the City Council of the City of Banning, held on the 5<sup>th</sup> day of March, 2008, and was duly adopted at a regular meeting of said City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSEN:**

**ABSTAIN:**

---

Marie A. Calderon, City Clerk  
City of Banning  
Banning, California

**CITY COUNCIL AGENDA**  
**CONSENT ITEM**

**DATE:** April 8, 2008

**TO:** Honorable Mayor and City Council

**FROM:** Duane Burk, Director of Public Works

**SUBJECT:** Notice of Completion for "Emergency Rainstorm Repairs and Cleanup"  
Performed by Merlin Johnson Construction, Inc.

**RECOMMENDATION:** That the City Council accept the "Emergency Storm Repairs and Cleanup" as complete and direct the City Clerk to record the Notice of Completion.

**JUSTIFICATION:** The contractor has completed the assigned work.

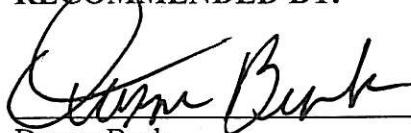
**BACKGROUND:** On February 12, 2008, the City Council adopted Resolution No. 2008-23, "Declaring an Emergency Condition Existed Related to Severe Rainstorms, and Awarding an Emergency Repair and Cleanup Contract to Merlin Johnson Construction, Inc. in an amount 'Not to Exceed' \$167,692.58."

The scope of work under this emergency contract included the following:

- **Westward Avenue, between Highland Home Road & Sunset Avenue**  
The scope of services for emergency storm repair included removing erosion buildup along two creek crossings, re-grading the existing creek to provide positive flow into culverts and to prevent ponding, extending the existing 48" CMP by installing new sections of pipe, placing and grouting rip-rap to protect the crossing, and paving Westward Avenue at the crossings.
- **Wilson Street, between Sunrise Avenue and Stargaze Way**  
The scope of services included emergency storm cleanup of dirt eroded away from the existing development at the northwest corner of Sunrise Avenue and Wilson Street. The cleanup also consisted of placing sand bag chevrons along Wilson Street to settle out any future sediment caused by expected rainfall.
- **2253 Silver Star Drive**  
The scope of services included the unplugging, cleaning, and repair of an inlet and a storm drain. Storm drain repair was necessary as runoff from the hill behind the property clogged the drainage pipe and inlet to the storm drain with mud and debris.
- **Emergency Storm Cleanup and Mitigation at Various Locations**  
As a result of the first major storm of the rainy season, a contractor was needed to clean up debris and settlement on City streets. The contractor also prepared for future storms by placing sand bags on the edge of streets, gutters, and around storm drain inlets.

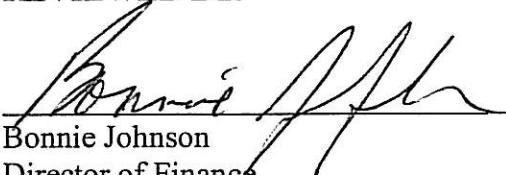
**FISCAL DATA:** This project was completed at the original contract amount of \$167,692.58. This emergency contract was funded through the Water Department, Account No. 660-6300-471.95-10, in the amount of \$58,000.00, and by the Wastewater Department, Account No. 680-8000-454.95-14, in the amount of \$57,297.06. Additionally, an appropriation and transfer of funds from the General Fund to the Gas Tax Fund in the amount of \$52,395.52 was necessary in order to cover a portion of the total expense.

**RECOMMENDED BY:**



Duane Burk  
Director of Public Works

**REVIEWED BY:**



Bonnie Johnson  
Director of Finance

**APPROVED BY:**



Brian Nakamura  
City Manager

1 WHEN RECORDED MAIL TO:

2  
3 City Clerk's Office  
4 City of Banning  
5 P.O. Box 998  
6 Banning, California 92220  
7

8 FREE RECORDING:

9 Exempt Pursuant to  
10 Government Code §6103

12  
13 NOTICE OF COMPLETION

14 EMERGENCY RAINSTORM REPAIRS AND CLEANUP  
15 IN THE CITY OF BANNING

16  
17 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning,  
18 a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of  
19 the State of California, and is hereby accepted by the City of Banning pursuant to  
20 authority conferred by the City Council this April 8, 2008, and the grantees consent to  
21 recordation thereof by its duly authorized agent.

22  
23 (1) That the City of Banning and Merlin Johnson Construction, Inc. of  
24 Mentone, Calif., the vendee, under the February, 2008 contract, for the furnishing of  
25 labor, materials, tools, equipment and other services necessary for "Emergency  
26 Rainstorm Repairs and Cleanup" within the City of Banning. The scope of work under  
27 this project included following items, in accordance with the City of Banning Standard  
28 Specifications:

29  
30 • Westward Avenue, between Highland Home Road & Sunset Avenue

31 The scope of services for emergency storm repair included removing erosion  
32 buildup along two creek crossings, re-grading the existing creek to provide  
33 positive flow into culverts and to prevent ponding, extending the existing 48"  
34 CMP by installing new sections of pipe, placing and grouting rip-rap to protect  
35 the crossing, and paving Westward Avenue at the crossings.

36     • Wilson Street, between Sunrise Avenue and Stargaze Way

37     The scope of services included emergency storm cleanup of dirt eroded away  
38     from the existing development at the northwest corner of Sunrise Avenue and  
39     Wilson Street. The cleanup also consisted of placing sand bag chevrons along  
40     Wilson Street to settle out any future sediment caused by expected rainfall. This  
41     precaution was taken in order to prevent buildup of sediment in the City storm  
42     drains.

43  
44     • 2253 Silver Star Drive

45     The scope of services included the unplugging, cleaning, and repair of an inlet  
46     and a storm drain. Storm drain repair was necessary as runoff from the hill  
47     behind the property clogged the drainage pipe and inlet to the storm drain with  
48     mud and debris. The scope of services included the unplugging, cleaning, and  
49     repair of an inlet and storm drain.

50  
51     • Emergency Storm Cleanup and Mitigation at Various Locations

52     As a result of the first major storm of the rainy season, Merlin Johnson  
53     Construction, Inc. was called out to clean up debris and settlement on City streets.  
54     The contractor also prepared for expected storms by placing sand bags on the  
55     edge of streets, gutters, and around storm drain inlets.

56  
57       (2) That the work of improvement was completed on January 28, 2008, and  
58       the Nature of Interest was to clean up and repair citywide damage caused throughout the  
59       City of Banning by a severe rainstorm.

60       (3) That the City of Banning, a municipal corporation, whose address is  
61       Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is completing work  
62       of improvement.

63       (4) That the said work of improvement was performed on Westward Avenue,  
64       between Highland Home Road and Sunset Avenue; on Wilson Street, between Sunrise  
65       Avenue and Stargaze Way; in front of 2253 Silver Star Drive; and at various other  
66       locations in Banning, California, 92220.

45

67 (5) That the original contractor for said improvements was Merlin Johnson  
68 Construction, Inc., State Contractor's License No. 467306.

69

70 Dated: April 8, 2008

71

72 CITY OF BANNING  
73 A Municipal Corporation

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By

  
Duane Burk  
Director of Public Works

79

APPROVED AS TO FORM:

80

81

82

83 Burke, Williams & Sorensen, LLP  
84 City Attorney

85

46

1 STATE OF CALIFORNIA)

2 ) ss

3 COUNTY OF RIVERSIDE)

4

5

6 MARIE A. CALDERON, being duly sworn, deposes and says:

7

8 That she is the City Clerk of the City of Banning, which City caused the work to  
9 be performed on the real property hereinabove described, and is authorized to execute  
10 this Notice of Completion on behalf of said City; that she has read the foregoing Notice  
11 and knows the contents thereof, and that the facts stated therein are true based upon  
12 information available to the City of Banning, and that she makes this verification on  
13 behalf of said City of Banning.

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City Clerk of the City of Banning

47

**CITY COUNCIL MEETING  
CONSENT ITEM**

**Date:** **April 8, 2008**

**TO:** **City Council**

**FROM:** **George Thacker, Assistant Public Utilities Director**

**SUBJECT:** **Approve the Release of a Partial Payment to the Beaumont Cherry Valley Water District for Installation of Well No. 25**

**RECOMMENDATION:** Approve the Release of a Partial Payment to the BCVWD for Installation of Well No. 25" in the amount of Not to Exceed \$1,135,634.20.

**JUSTIFICATION:** The construction of the BCVWD Well No.s 24, 25, and 26 in the Beaumont Groundwater Subbasin is essential to augment the future water supply to serve the City's Water Utility customers. The City of Banning is participating in the well construction of Well No.s 24, 25, and 26 pursuant to the joint Agreement between the BCVWD and the City of Banning (attached herewith as Exhibit "A").

**BACKGROUND:** The City of Banning entered into an Agreement with Beaumont Cherry Valley Water District (BCVWD) to construct three new water wells jointly at a 50%-50% cost sharing within the Beaumont Groundwater Subbasin. Being the lead agency, BCVWD has completed Well No.s 24 & 26 and these wells are in service. Well No. 25 is substantially complete at this time.

BCVWD has submitted a progress invoice for designing, drilling, and equipping of Well No. 25 in the amount of \$1,135,634.20. As future invoices are received from BCVWD, staff will continue to make the necessary payments for the completion of Well No. 25.

**STRATEGIC PLAN INTERGRATION:** Well No.s 24, 25, and 26 are essential for the City to meet its over all future water supply demand from the various existing sources available to the Water Utility.

**FISCAL DATA:** The total estimated cost of the project for this well is \$2,500,000.00. This amount is to be shared equally by the City of Banning and the BCVWD. Funding is available in

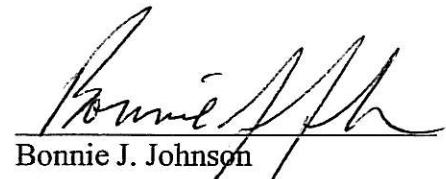
the FY 07-08 Water Division Operations Budget, Account No.s 661-6300-471-9078 and 661-6300-471-9508.

**RECOMMENDED BY:**



Jim Earhart  
Electric Utility Director

**REVIEWED BY:**



Bonnie J. Johnson  
Finance Director

**APPROVED BY:**



Brian Nakamura  
City Manager

AGREEMENT

THIS AGREEMENT is by and between the City of Banning ("City") and the Beaumont-Cherry Valley Water District ("District"), sometimes jointly referred to as the "Parties."

RECITALS

WHEREAS, the Parties are the agencies serving the largest number of domestic water users in the San Gorgonio Pass area and collectively rely in substantial part on the Beaumont Basin ("Basin") as a source of water; and

WHEREAS, the Parties desire to promote conjunctive use of the Basin and desire to jointly address issues concerning the long-term reliability of the Basin as a source of potable water, including the use of water recycling and the treatment and use of imported water.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. PRODUCTION FACILITIES.

The Parties shall share the cost of constructing and operating three new production wells as follows:

A. Description.

The production wells shall be located west of Highland Springs Road at mutually agreed locations; shall be at least 1,500 feet deep' shall have minimum diameters of 18"; and each shall be capable of producing a minimum of 2,000 gallons per minute ("gpm").

B. Construction Costs.

The costs of constructing the production wells shall be shared equally between the Parties. The costs of constructing facilities to connect a Party's distribution system to any or all of said wells shall be borne by that Party.

C. Ownership.

The District and the City shall own and operate the wells jointly, on a 50-50 basis. District shall function as the lead operating agency with primary responsibility for the operation and maintenance of the joint facilities.

D. Operation, Maintenance, Repair and Replacement Costs.

(1). Operating and maintenance costs for each well shall be assessed to each Party on a per well basis. "Operating and maintenance costs" are defined as direct labor costs, electric costs, and costs of routine maintenance of the pumping facilities. "Repair and Replacement Cost: are defined as necessary costs of required repair or replacement of equipment and facilities. The District shall deliver the water to a tie-in point with City's water system at Highland Springs Avenue from the joint facilities at the Operating and maintenance costs of the water and without any wheeling cost.

50 WWS

(2). The cost shall be assessed based on the ratio of water supplied to that Party from a well/wells to the total water produced from that source.

(3). Each Party shall bear as its separate obligation those costs related to operation of facilities that it owns and that are used to deliver water to its distribution system.

(4). The District will submit the actual operation costs to operate the joint well/wells along with the necessary back up information on quarterly basis to the City. City will reimburse the District the said operation costs on quarterly basis subject to verification of such actual costs.

#### E. Production & Supply Pending Construction of Wells.

With respect to each production well, commencing on the date hereof and pending construction and development of the well to the point where total production from the well reaches 2,000 gpm, the District shall supply up to 1,000 gpm during Southern California Edison ("SCE") off peak hours to the City on an as-needed basis, at the District's cost of production. "Costs of production" are hereby defined as costs of electricity and direct labor costs required to bring the water to the surface and make it available to the City at the tie-in point.

#### F. Production & Supply Following Construction of Wells

(1). When the combined, total production from the three production wells reaches 6,000 gpm on a continuous basis, City shall be entitled to receive the greater of 3,000 gpm or 50% of the production at the District's Operating and Maintenance costs as defined above.

(2). The quantity of water delivered to City from the wells shall be charged to the City's total entitlement water from the Beaumont Basin set forth on Exhibit "Appropriators and Their Rights and Shares of Safe Yield and Operating Yield" of (Column number 6, "Operating Yield") the Stipulated Judgment in the Riverside County Superior Court case, San Timoteo Watershed Management Authority, etc. v. City of Banning, et al., Riverside County Superior Court case No. RIC 389197.

### II. WATER TREATMENT PLANT.

#### A. Development of Joint Water Treatment Facilities.

The District has plans to build a water treatment facility for the treatment of state water project water on the District property located in Cherry Valley adjacent to District's Taylor reservoir. The Parties hereby express their intent to share the cost for design and construction of proposed treatment facilities. However, such agreement shall not prevent any party from unilaterally commencing the construction of the treatment plant. Should a Party elect to proceed with the design and construction of the treatment plant, it will not preclude the second party from constructing additions to the plant at a later date at the discretion of that Party. If construction on such water treatment plant has not commenced within 10 years of date hereof, Section II of this agreement "Water Treatment Plant" shall become void and of no further effect, unless otherwise mutually agreed by the Parties.

SLH/KB

(1) Construction Costs.

Costs shall be shared based on percentage of participation in the total capacity of the plant: the City's percentage participation shall be determined by City, but shall not exceed 50% of rated plant capacity.

(2) Operation and Maintenance, Repair and Replacement Costs.

Operations and Maintenance shall be assessed on each Party according to its percentage of participation in the cost of operating and maintaining said water treatment facilities. "Repair and Replacement Cost" repair and replacement costs shall be assessed on each party according to its percentage of participation in the operation of the plant.

B. Treated Water Allocation.

Each party will be entitled to its prorata share of State Water Project water treated by the water treatment plant, based on its percentage of financial participation in the construction of the plant.

III. INTERCONNECTION OF SYSTEMS.

A. Connections.

City's and District's existing potable water distribution systems and recycled water systems (as the same are developed) shall be interconnected in order that each system will serve as a backup to the other. Connections will be at mutually agreed upon points between compatible pressure zones. Each connection shall be metered. Interconnection shall be established at such times and such places as are mutually agreed by the Parties in writing.

B. Cost Sharing.

(1) Construction Costs.

The costs of constructing/installing connections, meters and related facilities shall be borne equally by the Parties unless otherwise agreed in writing.

(2) Operation, Maintenance, Repair and Replacement

Each Party shall be responsible for operation, maintenance, repair and replacement of connections, meters, and related interconnection facilities assigned to it, as shown on Exhibit "A," attached hereto. Said exhibit may be amended from time to time. Each agency shall annually invoice the other for one-half of the total costs incurred for the operation and maintenance of said connections, etc.

C. Excess Deliveries Charges.

Water delivered to City by District shall be charged to City's entitlement to production from the wells as set forth in Paragraph 1(E) and 1(F) above. Deliveries by District to City in excess of said quantities shall be charged to City at District's lowest domestic water rate. Conversely, deliveries

524119

by City to District shall be charged to District at City's lowest domestic water rate.

**IV. RECYCLED WATER AND IN-LIEU WATER.**

The District shall give the City first-take on any excess recycled water of the District. The decision to accept the water made available under this section shall be at the sole discretion of the City. The District and the City will work together to develop a system for deliveries to be made to the City under this subsection.

**V. 1960, 1966 MEMORANDA OF UNDERSTANDING.**

The 1960 and 1966 Memoranda of Understanding between the Parties are hereby modified to the extent necessary to allow for the construction and operation of the wells described in Paragraph 1 above, for the benefit of both parties. Consistent with those Memoranda of Understanding, either Party may, without consulting the other, develop additional water supplies within its boundaries, provided that it observes the one-half mile setback or buffer zone on each side of Highland Springs Road as created by said MOU's.

**VI. Effective Date.**

This MOU shall become effective when both Parties have executed this MOU and have executed the Stipulation for Judgment in the adjudication action, San Timoteo Watershed Management Authority v. City of Banning, et al., Riverside County Superior Court, Case No. RIC 389197.

**VII. TERMINATION.**

This Agreement may be terminated by written consent of both parties.

**VIII. JOINT FUNDING EFFORT.**

The Parties agree to work together to obtain Federal and State funding for projects that will jointly benefit both Parties, including the development of Supplemental Water Master Plans to include importation of State Water Project water, the capture and recharge of urban and storm runoff, recycled water systems, interconnection of domestic water systems, and State Water Project water treatment facilities. In addition, the Parties hereby agree to work with the California Department of Water Resources, the San Gorgonio Pass Water Agency ("Pass") and others, to develop supplemental water and recycled water supplies and will work closely with Pass to obtain access to and storage and distribution of State Water Project water.

**IX. AMENDMENT.**

This Agreement may be amended only by written amendment signed by the Parties.

**X. SEVERABILITY.**

In the event a portion of this Agreement is illegal or unenforceable, the remaining provisions will be given effect in order to preserve the original intent of the Parties.

53  
1/10/03

XI. NOTICES.

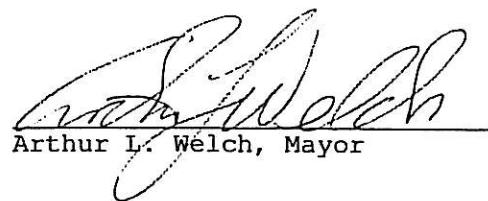
Notices shall be sent as follows:

City of Banning:

Beaumont-Cherry Valley Water District:

DATED, 12/23 2003 CITY OF BANNING

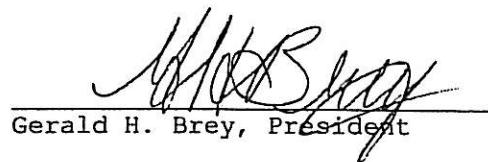
By



Arthur L. Welch, Mayor

DATED, 2003 BEAUMONT-CHERRY VALLEY WATER DISTRICT

By



Gerald H. Brey, President

54

**CITY COUNCIL MEETING  
CONSENT ITEM**

**DATE:** April 8, 2008

**TO:** City Council

**FROM:** Kahono Oei, City Engineer 

**SUBJECT:** Accept the Right-of-Way dedication from Don Ranney for Street Improvements at Assessor's Parcel Number 535-101-019

**RECOMMENDATION:** Accept the Right-of-Way dedication from Don Ranney for Street Improvements at Assessor's Parcel Number 535-101-019, as described in Exhibit "A" and Exhibit "B", and direct the City Clerk to accept and record said dedication.

**JUSTIFICATION:** It is essential to obtain the right-of-way in order to construct the street improvements and meet the proposed right-of-way width requirement set forth by the adopted Circulation Element.

**BACKGROUND:** The property owner has submitted an application to build a new single family dwelling on Assessor's Parcel Number 535-101-019, also known as 347 Victor Street. As part of the Conditions of Approval, the owner is required to dedicate the necessary right-of-way fronting his property in order to be able to build the street improvements at the proper location, per the City's general plan.

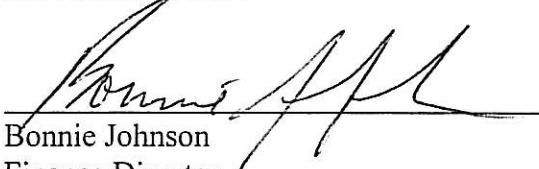
**FISCAL DATA:** Not applicable.

**RECOMMENDED BY:**

  
Duane Burk

Director of Public Works

**REVIEWED BY:**

  
Bonnie Johnson

Finance Director

**APPROVED BY:**

  
Brian Nakamura

City Manager

55

EXEMPT RECORDING  
REQUESTED BY  
City of Banning  
PER GOV'T CODE 6103  
AND WHEN RECORDED  
MAIL TO:

City of Banning – City Clerk  
P.O. Box 998  
Banning, CA 92220

MAIL TAX STATEMENTS  
TO:

City of Banning – City Clerk  
P.O. Box 998  
Banning, CA 92220

### OFFER OF DEDICATION – ROAD PURPOSES

The undersigned, being the present title owner(s) of record of the herein described parcel of land, do hereby make an irrevocable offer of dedication to the City of Banning, a political subdivision of the State of California, and its successors or assigns, for public road, street, highway and utility purposes, the real property situated in the City of Banning, County of Riverside, State of California, described in Exhibit "A" (legal description) and shown on Exhibit "B" (plat map) attached hereto and incorporated herein by this reference as though set forth in full.

It is understood and agreed that the City of Banning and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council, or of the local governing bodies or its successors or assigns.

The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS THEREOF, these presents have executed this instrument this 13 day of MARCH, 2008.

\_\_\_\_\_  
Signature

Donald F. Ranney  
Signature

\_\_\_\_\_  
Name and Title (Type)

DONALD F. RANNEY, CEO  
Name and Title (Type)

STATE OF CALIFORNIA } SS.  
COUNTY OF RIVERSIDE }

On MARCH 13, 2008, before me, VIRGINIA L. SORENSEN, a Notary Public in and for the State of CALIFORNIA, personally appeared DONALD F. RANNEY, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Virginia L. Sorenson

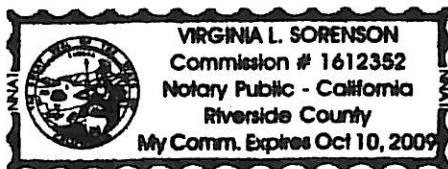


EXHIBIT "A"

LEGAL DESCRIPTION

THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 17232, LOCATED IN THE CITY OF BANNING, AS PER PLAT RECORDED IN BOOK NO. 97 OF PARCEL MAPS, PAGE 60 AND 61, RECORDS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTER LINES OF JENNIFER WAY, 14.00 FEET WIDE ON EACH SIDE AND VICTOR STREET, OF VARIOUS WIDTHS;

THENCE SOUTH  $10^{\circ}24'04''$  EAST 16.86 FEET ALONG THE SAID CENTER LINE OF VICTOR STREET TO AN ANGLE POINT IN SAID CENTER LINE;

THENCE CONTINUING ALONG SAID CENTER LINE SOUTH  $14^{\circ}54'00''$  EAST 36.00 FEET;

THENCE LEAVING SAID CENTER LINE SOUTH  $89^{\circ}48'00''$  EAST 25.00 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 1, SAID SOUTHEAST CORNER BEING A POINT ON THE WESTERLY RIGHT-OF-WAY LINE ON SAID VICTOR STREET AND THE TRUE POINT OF BEGINNING;

THENCE NORTH  $70^{\circ}09'00''$  WEST 8.28 FEET ALONG THE SOUTH LINE OF SAID PARCEL 1;

THENCE LEAVING SAID SOUTH LINE NORTH  $20^{\circ}31'56''$  WEST 15.59 FEET TO THE BEGINNING OF A CURVE CONCAVE NORtheASTERLY AND HAVING A RADIUS OF 44.00 FEET;

THENCE NORtherLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF  $27^{\circ}36'36''$  A DISTANCE OF 21.20 FEET TO A POINT ON SAID WESTERLY RIGHT-OF-WAY LINE;

THENCE SOUTH  $49^{\circ}11'04''$  EAST 11.59 FEET TO AN ANGLE POINT IN SAID WESTERLY RIGHT-OF-WAY LINE;

THENCE CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE SOUTH  $12^{\circ}45'04''$  EAST 31.47 FEET TO SAID SOUTH EAST CORNER, AND THE TRUE POINT OF BEGINNING.

SAID DESCRIPTION CONTAINS 292.15 SQUARE FEET (0.01 ACRE), MORE OR LESS.

SAID DESCRIPTION AFFECTS APN 535-101-19.

  
CARSON L. STORER P.L.S. 3913  
EXPIRATION DATE: JUNE 30, 2008

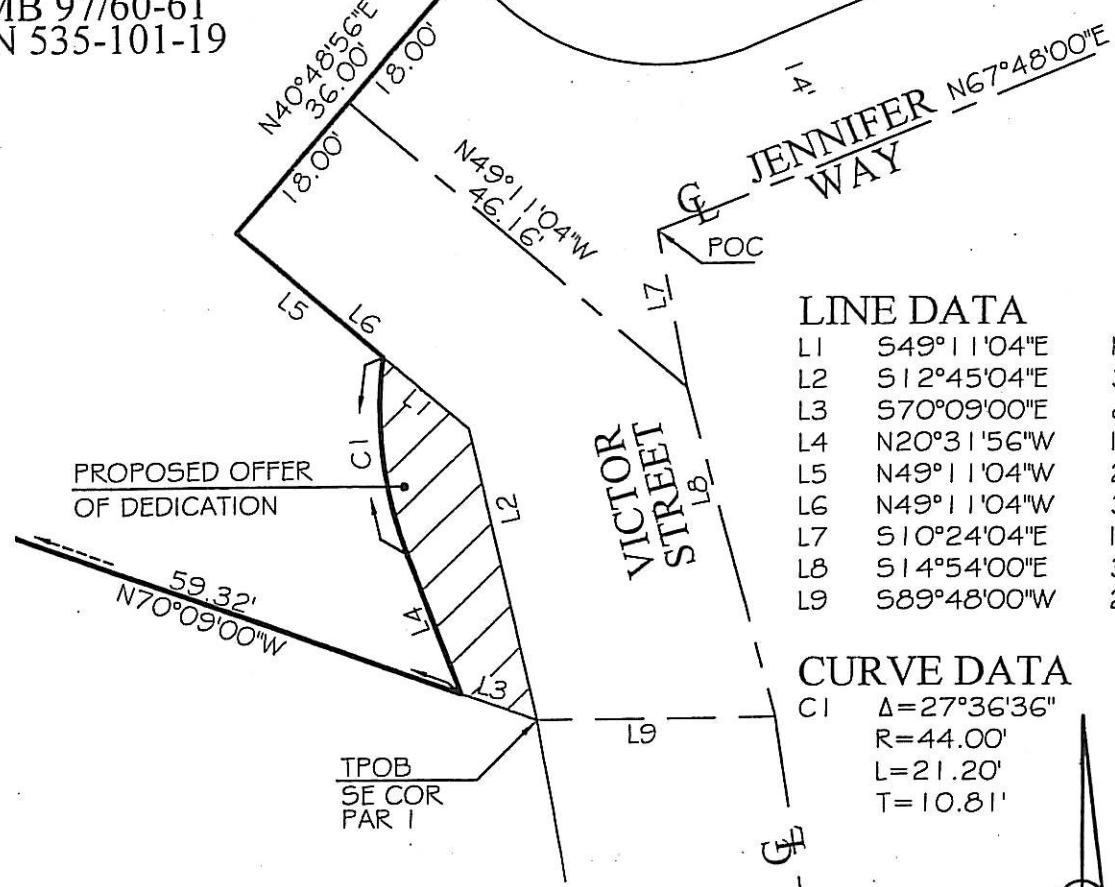
DATE: 2/26/08



# EXHIBIT 'B'

PARCEL 1  
P.M. NO. 17232  
PMB 97/60-61  
APN 535-101-19

PARCEL 2



CARSON L. STORER P.L.S. 3913  
EXPIRATION DATE: JUNE 30, 2008  
DATE: 2/26/08



PREPARED FOR:  
DON RANNEY  
43741 CITRUS VIEW DRIVE  
HEMET, CA 92544

AREA OF DEDICATION: 292.15 SF (0.01 AC)

DATE OF DRAWING: 2/14/08

58

**CITY COUNCIL MEETING  
CONSENT ITEM**

**DATE:** April 8, 2008

**TO:** City Council

**FROM:** Bonnie Johnson, Finance Director  
James Earhart, Electric Utility Director

**SUBJECT:** Adopt Resolution No. 2008-41 approving a Purchase and Sale Agreement with Joint Escrow Instructions for APN 531-080-008 for the Purchase of .95 acres of land from Barbara L. Brinton in the amount of \$210,000 for the Sunset Substation Project and Appropriate the Necessary Funds for the Purchase

**RECOMMENDATION:** That the City Council adopt Resolution 2007-147 approving a Purchase and Sale Agreement with Joint Escrow Instructions for APN 531-080-010-8 for the Purchase of .95 acres of land from Barbara L. Brinton in the amount of \$210,000 for the Sunset Substation Project and Appropriate the necessary funds for the Purchase

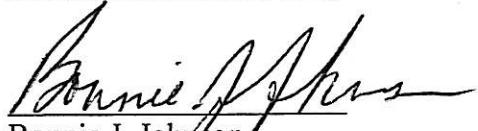
**JUSTIFICATION:** Purchase of this property will allow the Electric Department to move forward with the Sunset Substation project as recommended in the City of Banning adopted 10 year comprehensive electrical system master plan.

**BACKGROUND:** At the City Council meeting of January 11, 2005 the Council accepted the City of Banning Electrical Systems Master Plan. This master plan included the study of projected growth in the City of Banning and evaluated the current electrical infrastructure. Upon completion of the master plan it was found that the City's current infrastructure is not adequate to carry the current maximum load and the additional electrical load the City will incur. The adopted master plan recommends the construction of two additional electric substations, one on the West side of Banning and one on the East side of Banning, to relieve the current overloading on the existing substations and to meet the demand of new customers. It was recommended that the City move immediately forward with the plan to build the first of two substations, Sunset Substation.

Staff has been spent a significant amount of time over the last two years evaluating property that would meet the City's needs for the substation. The Brinton property was best suited to serve the City's goals and objectives for the substation project. Staff and the City Attorney's office negotiated with Mrs. Brinton regarding price and the terms of the Purchase and Sale Agreement for the substation property and related easements. The Purchase and Sale Agreement is the result of these negotiations.

**FISCAL DATA:** An appropriation of funds is being requested from the Electric Department 2007 Bond Proceeds to account number 673-7000-473.96-18 in the amount of \$210,000. The current un-appropriated balance of the bond proceeds is \$17,914,875.

**RECOMMENDED BY:**

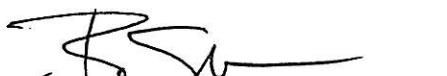


Bonnie J. Johnson  
Finance Director



James Earhart  
Electric Utility Director

**APPROVED BY:**



Brian Nakamura  
City Manager

**RESOLUTION NO. 2008-41**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING A PURCHASE AND SALE AGREEMENT WITH JOINT ESCROW INSTRUCTIONS FOR APN 531-080-008 FOR THE PURCHASE OF .95 ACRES AND LAND FROM BARBARA L. BRINTON IN THE AMOUNT OF \$210,000 FOR THE SUNSET SUBSTATION PROJECT AND AUTHORIZING AMENDMENT OF THE FISCAL YEAR 2007-2008 BUDGET TO INCLUDE THE RECOMMENDED ADJUSTMENT**

**WHEREAS**, the two year budget cycle for the City of Banning for the Fiscal Year commencing July 1, 2007 and ending June 30, 2008 was approved and adopted on June 27, 2006; and

**WHEREAS**, the approved Budget is in accordance with all applicable ordinances of the City and all applicable statutes of the State; and

**WHEREAS**, The Reallocation of appropriations between departmental activities may be made by the City Manager, however Amendments (increases/decreases) to the Budget shall be by approval and Resolution of the City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Banning, California that the Electric Department Capital Improvement Account Numbers 673-7000-473.96-18 budget for the fiscal year ending June 30, 2008, is hereby amended to include an appropriation for \$210,000.00 purchase of .95 acres of land from Barbara L. Brinton, for the Sunset Substation Electric Department Project No. 2008-EUPC-01-P.

**PASSED, APPROVED AND ADOPTED** this 8th day of April , 2008.

---

Brenda Salas, Mayor  
City of Banning

APPROVED AS TO FORM AND  
LEGAL CONTENT:

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Burke, Williams and Sorenson, LLP  
City Attorney

ATTEST:

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Marie A. Calderon, City Clerk  
City of Banning



CERTIFICATION

I, MARIE A. CALDERON, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-41 was duly adopted by the City Council of the City of Banning, California at a regular meeting thereof held on the 8th day of April, 2008 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Marie A. Calderon, City Clerk  
City of Banning, California

**CITY COUNCIL MEETING  
ORDINANCES - INTRODUCTION**

**DATE:** April 8, 2008

**TO:** Mayor and City Council Members

**FROM:** Ted Yarbrough, Fire Marshal/Emergency Services Coordinator

**SUBJECT:** Ordinance 1386: An Ordinance of the City Council of the City of Banning, California allowing the Fire Chief to declare certain wildland/urban interface areas of the City closed during periods of high fire danger.

**RECOMMENDATIONS:** Adopt Ordinance 1386 allowing the Fire Chief to declare certain wildland/urban interface areas of the City closed during periods of high fire danger.

**JUSTIFICATION:** Certain areas of the City, as shown on the attached map, need to be closed to public use during periods of high fire danger to help protect public and private property, City residents and individuals who may be in those areas from the dangers of wildfire. The Fire Chief needs to have the authority to designate the areas to be closed based on the fire danger present. Law enforcement officers need to have the authority to cite violators and to remove them from those areas when those areas are closed.

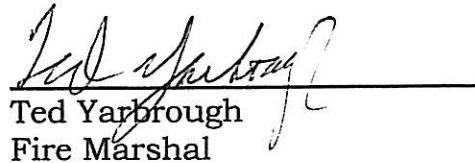
**BACKGROUND:** The open areas north of the highly developed areas in Banning have, over the years, experienced wildfires that had the potential to be damaging to developed properties and deadly to residents and anyone else who may have been in those areas when the fires occurred.

The City Fire Department has, for many years, designated certain areas of the City as having a potential to support dangerous wildland fires that would threaten life and property. Those designated areas were closed to the public. Keeping unauthorized people out of those areas will lessen the chances of a wildfire starting and reduce the chances of someone being injured or killed by a wildfire.

In the past, the authority to close those areas was designated in the California Fire Code as adopted by the City. However, the new California Fire Code did not include provisions to enforce closures of wildland areas. This ordinance will reestablish that authority.

**FISCAL DATA:** There will be some negative fiscal impact to the City for employee time required to post and remove signs and to enforce the closure and for purchasing signs. Because new signs will have to be printed the estimated cost for the new signs is \$200. There may also be some positive fiscal impact for the City should enforcement result in fines payable to the City.

**RECOMMENDED BY:**

  
\_\_\_\_\_  
Ted Yarbrough  
Fire Marshal

**REVIEWED BY:**

  
\_\_\_\_\_  
Bonnie Johnson  
Finance Director

**APPROVED BY:**

  
\_\_\_\_\_  
Brian Nakamura  
City Manager

## **ORDINANCE NO. 1386**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ALLOWING THE FIRE CHIEF TO DECLARE CERTAIN WILDLAND/URBAN INTERFACE AREAS OF THE CITY CLOSED DURING PERIODS OF HIGH FIRE DANGER.**

#### **Section 1. Definitions**

**Fire Chief** – The person designated as the Chief Officer of the Riverside County Fire Department or their authorized designee.

**Wildland/Urban Interface Areas** – Open areas, covered with natural vegetation, that are adjacent to, or combined with, developed areas.

**Hazardous Fire Areas** – Open areas where, due to weather and vegetative conditions, wildfires can easily start and are difficult to contain.

**High Fire Danger Periods** – Periods of time when the Fire Chief determines that the weather and vegetative conditions create the potential for hazardous fires.

#### **Section 2. Prohibition**

The Fire Chief shall determine and publicly announce when hazardous fire areas shall be closed to entry and when such areas shall again be opened to entry. The areas to be closed shall be determined by the Fire Chief and displayed on maps that are available for public viewing. Entry onto and occupation of hazardous fire areas, except public roads and inhabited areas, are prohibited.

#### **EXCEPTIONS:**

1. Residents and owners of private property in hazardous fire areas and their invitees and guests going into or being upon their lands. Invitees and guests must be accompanied by the property owner or resident or must have, in their possession, written permission to be on the property signed by the property owner or resident.
2. Persons in possession of written permission from the Fire Chief.
3. Entry, in the course of duty, by peace or police officers, and other duly authorized public officers, members of a fire department and members of the United States Forest Service.

#### **Section 3.**

The Mayor shall sign this ordinance and the City Clerk shall attest thereto and shall within fifteen days of its adoption cause it, or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the City. Thereupon this ordinance shall take effect 30 days after adoption and be in force and effect according to law.

**PASSED, APPROVED AND ADOPTED** this 8<sup>th</sup> day of April, 2008.

---

Brenda Salas, Mayor

**APPROVED AS TO FORM  
AND LEGAL CONTENT:**

---

Burke, Williams & Sorensen, LLP  
City Attorney

**ATTEST:**

---

Marie A. Calderon, City Clerk

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1386 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 8th day of April, 2008, and was duly adopted at a regular meeting of said City Council on the 22<sup>nd</sup> day of April, 2008, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

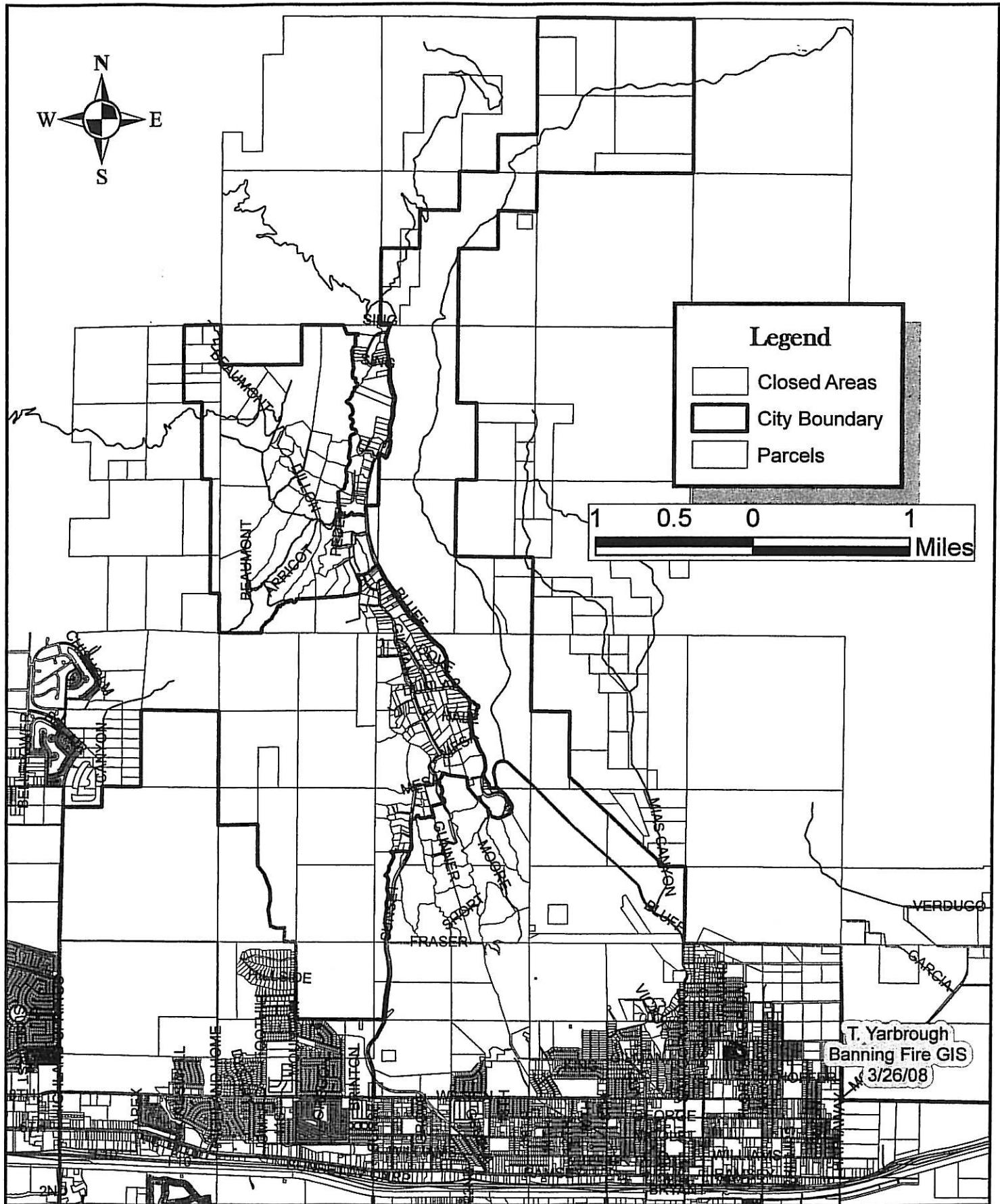
**ABSTAIN:**

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Marie A. Calderon, City Clerk  
City of Banning  
Banning, California



# Proposed Fire Closures



**CITY COUNCIL AGENDA  
REPORT OF OFFICERS**

**DATE:** April 8, 2008

**TO:** Marie Calderon, City Clerk

**FROM:** Duane Burk, Director of Public Works

**SUBJECT:** Union Pacific Railroad Track Renewal Project - Presentation

The Union Pacific plans to commence work on Saturday, April 19th, 2008. The following is the proposed schedule for the crossing closures during this project:

Sunset Avenue/R.R.: April 19th through April 20th

22nd Avenue/R.R.: April 19th through April 22nd

San Gorgonio Avenue/R.R.: April 19th through April 23rd

Hargrave Street/R.R.: April 20th through April 24th

On March 20th, 2008 City Staff met with the Union Pacific to discuss the schedule and precautions that would need to be taken in order to maintain safety levels for pedestrians and motorists. Ted Yarbrough and Lt. Caldwell both attended the meeting and expressed their concerns and requirements. The Union Pacific guaranteed that all requirements would be met.

**CITY COUNCIL AGENDA  
REPORTS OF OFFICERS**

**DATE:** **April 8, 2008**

**TO:** **Honorable Mayor and City Council**

**FROM:** **Kahono Oei, City Engineer** 

**SUBJECT:** **Resolution No. 2008-40, "Declaring the Intention to Levy and Collect Assessments, Approving the Engineer's Report and Setting the Date for the Public Hearing for Landscape Maintenance District No. 1"**

**RECOMMENDATION:** The City Council adopt Resolution No. 2008-40, declaring the intention to levy and collect assessments within Landscape Maintenance District No. 1 (LMD No. 1) during the Fiscal Year 2008/09, pursuant to the "Landscaping and Lighting Act of 1972"; approving the Engineer's Report; and giving notice of the public hearing for renewal of said maintenance District.

**JUSTIFICATION:** It is essential to assess the property owners located within LMD No. 1 to provide for the funding required to maintain landscape areas located within the public right-of-way directly benefiting said property owners.

**BACKGROUND:** The City Council authorized the formation of LMD No. 1 with the adoption of Resolution No. 1990-59 on August 14, 1990. An additional five tracts and three tentative tracts were annexed (Annexation No. 1) into LMD No. 1 when the City Council approved Resolution No. 2005-36 on May 10, 2005. A map displaying the District is attached herewith as Exhibit "A." Additionally, the City Council approved Resolution No. 2008-11, initiating proceedings for the fiscal year update of the District on January 22, 2008.

The proposed resolution basically accomplishes three goals for the fiscal year update and renewal of LMD No. 1. First, it provides the resolution of intention to levy and collect assessments; second, it permits the City Council to review and approve the Engineer's Report; and third, it sets the date and time for a public hearing. Subsequent to the approval of Resolution No. 2008-40, the City Council will be requested to confirm the assessments for Fiscal Year 2008/09. Since the proposed assessments do not generate enough revenue to pay for the required maintenance for the District, the remaining portion of the costs would come from the General Fund/Gas Tax Fund.

The Engineer's Report, reflecting the detail of proposed assessments, was forwarded to the City Council under a separate cover. Upon approval of this resolution, the public hearing will be held at the regularly scheduled City Council meeting on May 20, 2008, at 6:30 p.m., as shown in attached Exhibit "B."

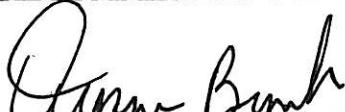
A detailed list of tracts in LMD No. 1 and their respective assessments is shown as attached Exhibit "C."

The Engineer's Report reflects an increase of 3.4% on the assessments based upon the average Consumer Price Index (CPI) over the last fiscal year for the Los Angeles-Riverside-Orange County area, as reported by the U.S. Department of Labor.

When the City Council authorized the formation of LMD No. 1 with the adoption of Resolution No. 1990-59 on August 14, 1990, the cost for each Assessment Unit (A.U.) within LMD No. 1 was calculated based upon the cost of City of Banning personnel that would be required to maintain the landscaping in each tract. In the late 1990s, City staff opted to utilize a landscaping contractor to better maintain the district. However, the original A.U. could not be increased to pay for the additional contractor costs beyond the average annual CPI, as stipulated in the Engineer's Report due to the requirements of Proposition 218. Therefore, the additional monies required for the deficit in funds and needed to pay for landscape maintenance are being funded by the General Fund/Gas Tax Fund.

**FISCAL DATA:** Based on the proposed assessments, the estimated revenues for Fiscal Year 2008/09 for Landscape Maintenance District No. 1 will be approximately \$124,682.00. If approved, the annual assessment for a single-family dwelling would now range from \$90.30 to \$183.01. The estimated budget for LMD No. 1, including utilities, contractor services, repairs, etc. for Fiscal Year 2008/09, is approximately \$211,000.00. The one-year developer landscape maintenance period for Tract Nos. 30906 (Fiesta Collection, which has a large retention basin) and 32109 (Sunset Ridge) will expire sometime in Fiscal Year 2008/09, and the increased costs for FY 2008/09, as compared with Fiscal Year 2007/08, are due to these tracts being added to the contractor's scope of services. The maintenance costs are expected to exceed assessments by \$86,318 in 2008-09.

**RECOMMENDED BY:**



---

Duane Burk  
Director of Public Works

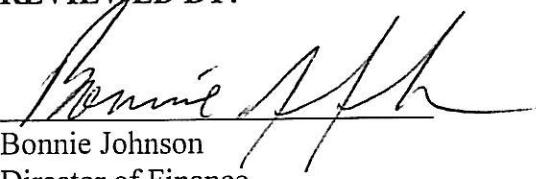
**APPROVED BY:**



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Brian Nakamura  
City Manager

**REVIEWED BY:**



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Bonnie Johnson  
Director of Finance

**RESOLUTION NO. 2008-40**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,  
CALIFORNIA, DECLARING THE INTENTION TO LEVY AND COLLECT  
ASSESSMENTS WITHIN LANDSCAPE MAINTENANCE DISTRICT NO. 1,  
DURING THE FISCAL YEAR 2008/2009, PURSUANT TO THE  
LANDSCAPING AND LIGHTING ACT OF 1972 FOR THE MAINTENANCE  
AND SERVICING OF LANDSCAPING, APPROVING THE ENGINEER'S  
REPORT, AND SETTING THE DATE FOR THE PUBLIC HEARING FOR  
THE LEVY OF SAID ASSESSMENT**

**WHEREAS**, at its regularly scheduled meeting on August 14, 1990, the City Council adopted Resolution No. 1990-59, authorizing the formation of Landscape Maintenance District No. 1 (LMD No. 1); and

**WHEREAS**, at its regularly scheduled meeting on May 10, 2005, the City Council of the City of Banning adopted Resolution No. 2005-36, ordering the annexation of an additional five tracts and three tentative tract maps to the City's LMD No. 1; and

**WHEREAS**, at its regularly scheduled meeting on January 22, 2008, the City Council of the City of Banning adopted Resolution No. 2008-11, initiating proceedings for the fiscal year renewal of Landscape Maintenance District No. 1 pursuant to the "Landscaping and Lighting Act of 1972," Part 2 (commencing with Sec. 22500) of Division 15 of the Streets and Highways code, for the maintenance and servicing of landscape medians, parkways, perimeter strips and slopes adjacent to sidewalks, flood detention or retention basins, and the irrigation of the above facilities; and

**WHEREAS**, by said Resolution the City Council ordered the City Engineer to prepare and file a report with the City Clerk in accordance with Article 4 (commencing with Sec. 22565) of Chapter 1 of Part 2 of Division 15 of the Streets and Highways code; and

**WHEREAS**, the City Engineer has filed such report with the City Clerk, and such report has been presented to and considered by the City Council; and

**WHEREAS**, it is essential that the City Council adopt Resolution No. 2008-40, so that the City may assess and collect assessments from the property owners located within LMD No. 1; and

**WHEREAS**, the City Council hereby finds that the funding for LMD No. 1 is available through a special assessment of property owners located within the District and the remaining expenditure shall be made up with a transfer of funds from the General Fund/Gas Tax Fund.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Banning as follows:

**Section 1.** That the City Council hereby declares its intention to levy and collect assessments within Landscape Maintenance District No. 1 for the Fiscal Year 2008/09 pursuant to the "Landscaping and Lighting Act of 1972." The area to be assessed is located in the City of Banning, Riverside County. The boundaries of Landscape Maintenance District No. 1 are described in Exhibit "A," and are on file in the Office of the City Clerk.

**Section 2.** That the purpose of Landscape Maintenance District No. 1 is for the maintenance and servicing of landscape medians and parkways, perimeter strips and backup walls, landscaped hillsides with high visibility, side slopes adjacent to sidewalks, flood detention or retention basins, and the irrigation of the above facilities.

**Section 3.** That the Engineer's Report, which is on file with the City Clerk and considered by the City Council at the meeting at which this Resolution has been adopted, is hereby approved. All interested persons are referred to that report for a full and detailed description of the work, the boundaries of the proposed assessment district, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance District No. 1.

**Section 4.** That the City Clerk shall give notice of the time and place of said hearing by advertising a copy of the resolution once in the Record Gazette local newspaper and provide a posted notice not less than ten (10) days before the date of the hearing.

**Section 5.** That on Tuesday, May 20, 2008, at the hour of 6:30 p.m., during the course of its regularly scheduled meeting, the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at Banning City Hall, 99 E. Ramsey Street, Banning, California.

**PASSED, ADOPTED AND APPROVED** this 8th day of April, 2008.

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Brenda Salas, Mayor

**ATTEST:**

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Marie A. Calderon,  
City Clerk of the City of Banning

**APPROVED AS TO FORM  
AND LEGAL CONTENT:**

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Burke, Williams & Sorensen, LLP  
City Attorney

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-40 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 8<sup>th</sup> day of April, 2008.

AYES:

NOES:

ABSENT:

ABSTAIN:

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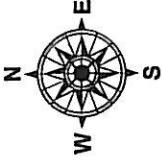
Marie A. Calderon, City Clerk  
City of Banning  
Banning, California

**EXHIBIT "A"**

**LANDSCAPE MAINTENANCE DISTRICT NO. 1  
FOR  
FISCAL YEAR 2008/09**

74

MAP OF LANDSCAPE MAINTENANCE DISTRICT No. 1  
JANUARY 2008



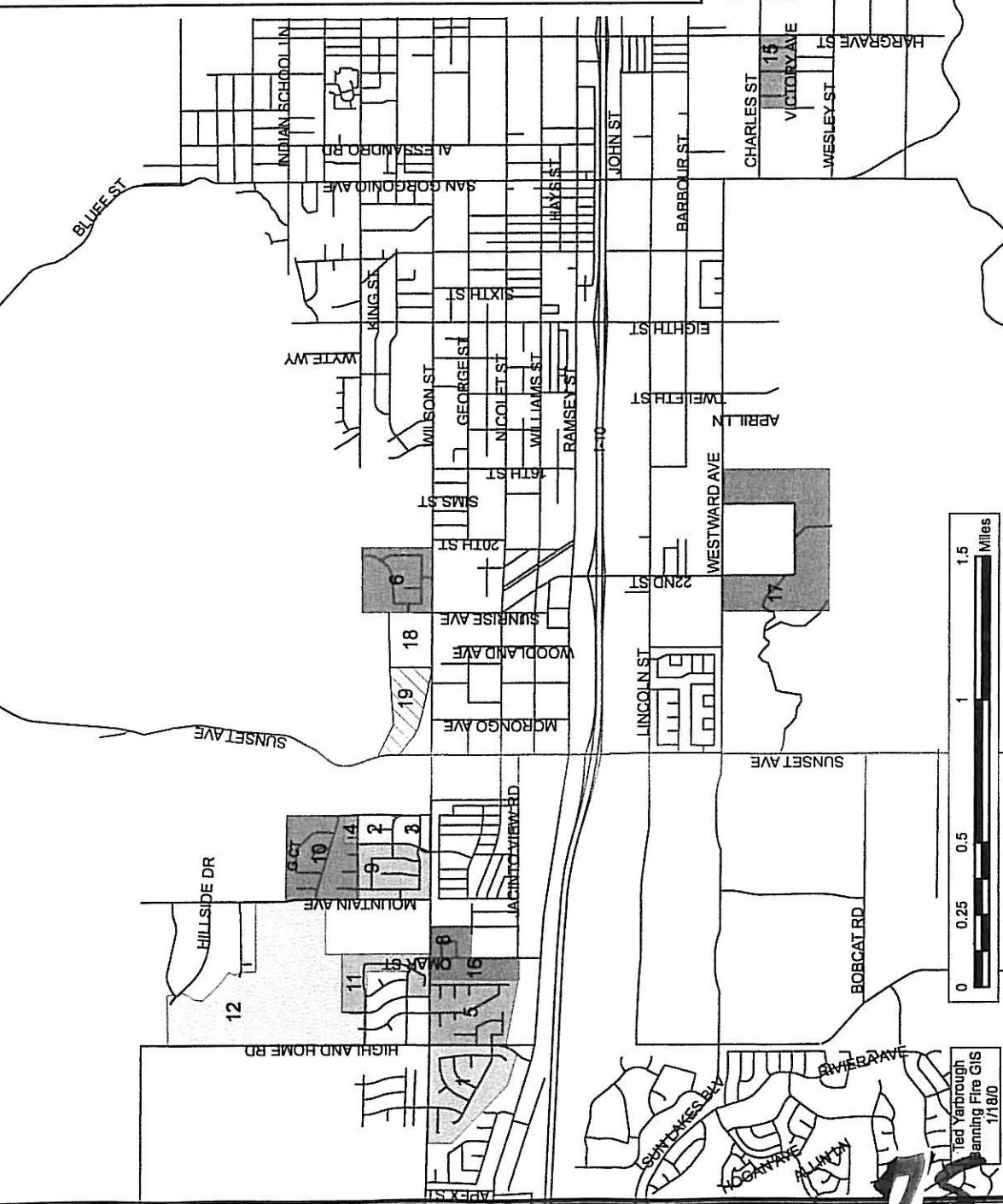
### Legend

## Existing Tracts

- 5. 23446 Highland Estates
- 6. 23598 Snow Creek II
- 7. 28252 Fair Oaks
- 8. 29721 The Pines
- 9. 30186 Wilson Homes
- 10. 30222 Wilson Homes
- 11. 30793 Fiesta Collection
- 12. 30906 Evergreen Estates
- 13. 31833 Fair Oaks
- 14. 31834 Fair Oaks
- 15. 31835 Fair Oaks
- 16. 32109 Sunset Ridge
- 17. 30774 Stallion, LLC
- 18. 30642 Raul Madrid

## Tentative Tract Maps

19. 32429 Raul Madrid



**EXHIBIT "B"**

**TENTATIVE SCHEDULE  
UPDATING LANDSCAPE MAINTENANCE DISTRICT NO. 1**

<u>Item</u>	<u>Council Meeting</u>
Resolution Initiating Update	January 22, 2008
Resolution of Intention (Approve Engineer's Report)	April 8, 2008
Public Hearing and Resolution Confirming Assessment	May 20, 2008

## EXHIBIT "C"

### LANDSCAPE MAINTENANCE DISTRICT NO. 1 TRACTS AND ASSESSMENTS FISCAL YEAR 2008/09

Tract No.	No. of AU	Zone	Proposed Cost/AU (FY 2008/09)
22810	43	A	\$99.43
22811	39	A	\$99.43
22913	9	A	\$99.43
23446	138	B	\$103.45
29721	21	B	\$103.45
30186	107	B	\$103.45
30222	121	B	\$103.45
32109	38	B	\$103.45
21882	134	B	\$103.45
23598	97	C	\$90.30
30642	(53)	C	\$90.30
32429	(44)	C	\$90.30
30793	43	D	\$183.01
28252	70	D	\$183.01
31833	17	D	\$183.01
31834	18	D	\$183.01
31835	33	D	\$183.01
30906*	87	D	\$183.01
30774	(213)	D	\$183.01
<b>Total</b>	<b>1015</b>		<b>\$124,682.46</b>

(#) = Tracts not yet completed or that will not be accepted into the Landscape Maintenance District during the next Fiscal Year

\*Tract No. 30906 has a total of 303 Assessment Units; therefore, a total of 216 remain.

**CITY COUNCIL AGENDA  
PUBLIC HEARING**

**DATE:** April 8, 2008

**TO:** City Council

**FROM:** Phil Holder, Lieutenant

**SUBJECT:** City Taxi Permit for Express Transportation Systems Inc.

**RECOMMENDATION:** "The City Council approve a City Taxi Permit for Express Transportation Systems Inc. permitting the company to provide taxi services within the City Limits of Banning."

**JUSTIFICATION:** The City of Banning stands to benefit from another source of transportation that will be available to the citizens of this community.

**BACKGROUND / ANALYSIS:**

Mr. Charles Brady is the General Manager of Express Transportation Systems Inc. and is requesting to provide taxi and transportation services for residents of the City of Banning. Sergeant Ray Arretche spoke directly with Mr. Brady and the following information was relayed. Express Transportation Systems Inc. is a full service 24 hours a day, seven days a week "door-to-door" taxi service that will provide five matching vehicles painted white over blue to the residents of the City of Banning. The name "AA Inland Empire Taxi" is displayed on each of the vehicles. The vehicles will be clearly marked with the taxi service logo. In addition to providing distinguish marked taxis, Express Transportation Systems Inc. also provides unmarked black sedans for those requiring more discrete transportation needs. They also have vans equipped to handle the transportation needs of disabled citizens.

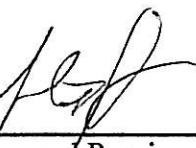
Mr. Brady informed Sergeant Arretche that each of the taxis that will be designated to the City of Banning, as with all of Express Transportation Systems Inc. vehicles, are registered with the California Department of Motor Vehicles as required by law. Each of the vehicles carries the required level of insurance for the vehicles and business, as required by law. The vehicles will undergo a safety inspection as required in Chapter 5.64 of the Banning Municipal Code.

Mr. Brady informed Sergeant Arretche that every new employee with Express Transportation Systems Inc. undergoes a background check through the Department of Justice, the Federal Bureau of Investigations and are drug tested prior to being hired.

In addition, Express Transportation Systems currently holds approximately 13 city permits from various Riverside County cities and a Riverside County permit allowing them to provide transportation services throughout the county of Riverside.

**FISCAL IMPACT:** None

**RECOMMENDED BY:**



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Leonard Purvis  
Chief of Police

**APPROVED BY:**



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Brian Nakamura  
City Manager

79

## NOTICE OF PUBLIC HEARING

PURSUANT TO LAW, NOTICE IS HEREBY GIVEN of a Public Hearing before the City Council of the City of Banning, to be held at a regular City Council Meeting on Tuesday, April 8, 2008 at 6:30 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California regarding the following:

Express Transportation Systems Inc. "AA Inland Empire Taxi"  
located at 3000 Date Street, Riverside, CA

Information regarding the foregoing can be obtained by contacting the Banning Police Department (909) 922-3170 or by visiting the Police Department located at 125 E. Ramsey Street, Banning.

ALL INTERESTED PARTIES are invited to attend said hearing and present oral or written testimony on the matter or send their written comments to the City Clerk, P. O. Box 998, Banning, California 92220.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, if a public hearing is held on the proposal, you or someone else must have raised those issues at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009).

BY ORDER OF THE CITY CLERK of the City of Banning, California

/s/ Marie A. Calderon, City Clerk  
City of Banning, California

DATED: March 17, 2008  
PUBLISH: March 21, 2008

80

**CITY COUNCIL MEETING  
PUBLIC HEARING**

**DATE:** April 8, 2008

**TO:** Honorable Mayor and City Council

**FROM:** Duane Burk, Director of Public Works

**SUBJECT:** Resolution No. 2008-08, "Adopting the Airport Master Plan Update for the Banning Municipal Airport"

**RECOMMENDATION:** Adopt Resolution No. 2008-08, "Adopting the Airport Master Plan Update for the Banning Municipal Airport."

**JUSTIFICATION:** It is essential to adopt the Airport Master Plan Update for the Banning Municipal Airport in order to comply with Federal Aviation Administration (FAA) guidelines. Additionally, this update will provide direction for future airport development and help to ensure that the necessary facilities are improved or made available to meet the forecasted demand for services at the airport.

**BACKGROUND:** The Banning Municipal Airport is comprised of a runway with one taxiway, an administrative building, fuel pumps, and 72 hangars. The existing Airport Master Plan was prepared in December of 1990. In order to comply with the current FAA requirements and to develop projects for FAA Airport Improvement Program (AIP) grants, it was recommended that the Airport Master Plan be updated.

On June 27, 2005, the recommendation to hire a consultant, C&S Engineers, Inc., to update the Airport Master Plan, was presented to and accepted by the Public Works Advisory Committee. On June 28, 2005, Resolution No. 2005-63, "Approving the Professional Services Agreement for Project No. 2004-49, 'Updating the Airport Master Plan for Banning Municipal Airport'" was approved by City Council.

In addition to the need to remain in compliance with FAA requirements, the main objective of the Airport Master Plan Update was to determine the extent, type, and schedule of development needed to accommodate existing needs and future aviation demand at the airport. The Scope of Work for the project included the review of existing facilities and the preparation of an Airport Layout Plan, environmental documents per California Environmental Quality Act (CEQA) guidelines, and the Banning Municipal Airport Master Plan update (which included an inventory of the socioeconomic data and historical activity, local land use regulations, current conditions, economic analysis, financial plan and airport development, recommendations, and alternatives for airside and landside facilities and improvements at the airport to develop AIP projects), along with public participation and meetings to discuss and review comments by the City of Banning, the Airport Land Use Commission, the FAA, and other affected agencies.

In April of 2007, the Airport Master Plan Update was completed by C&S Engineers, Inc. and submitted to the FAA for review. FAA approval was obtained in May of 2007. Consequently, the Airport Master Plan Update was submitted to the County of Riverside Airport Land Use Commission (ALUC) in June of 2007. ALUC found this update to be consistent with the 2004 Banning Airport Land Use Compatibility

81

Plan and therefore approved the new Airport Master Plan in August of 2007. Copies of the Master Plan were forwarded under separate cover to City Council members in June of 2007 in order to allow sufficient time for review and comments.

On October 23, 2007, a public hearing was held for the adoption of the Airport Master Plan Update, which was advertised in two local newspapers on October 2 and October 5, 2007, as shown as attached Exhibit "A". At this hearing, City Council directed staff to hold a workshop to discuss the Airport Master Plan Update and to notify and request input/attendance from all pilots currently renting hangars at the Banning Municipal Airport. As directed, staff sent out letters via U.S. Postal Certified Mail requesting the attendance and/or comments from pilots.

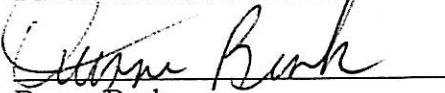
The workshop was held on January 8, 2008, where a representative from C & S Engineers, Inc. provided a brief overview of the Airport Master Plan and Fixed Based Operator Study. Additionally, the representative was available for questions and answers. Upon completion of the workshop, City Council directed staff to proceed with the Airport Master Plan Update and Fixed Based Operator Study.

The Notice of Public Hearing for the second hearing, scheduled for January 22, 2008, was then advertised in two newspapers on January 4, 2008, respectively, as shown as attached Exhibit "B". Copies of the update were made available for public review at the Office of the City Clerk, Engineering Division, Banning Municipal Airport, and the Banning Public Library. This public hearing was temporarily suspended, in response to a request from the Morongo Band of Mission Indians for more time to review the Airport Master Plan. A letter from Morongo acknowledging this time extension is attached as Exhibit "C".

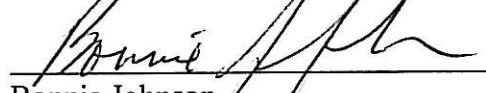
Based on Morongo's request, the Public Hearing was then rescheduled for April 8, 2008. The Notice of Public Hearing for this third hearing was advertised in one newspaper on March 24, 2008, also included as Exhibit "B". Copies of the update were again made for public review at the locations listed above.

**FISCAL DATA:** The Airport Master Plan Update was completed by C&S Engineers, Inc. for the original "Not to Exceed" contract amount of \$174,560.00 and was funded by Account No. 856-9500-490.33-11.

**RECOMMENDED BY:**

  
Duane Burk  
Director of Public Works

**REVIEWED BY:**

  
Bonnie Johnson  
Finance Director

**APPROVED BY:**

  
Brian Nakamura  
City Manager

82

**RESOLUTION NO. 2008-08**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,  
CALIFORNIA, ADOPTING THE AIRPORT MASTER PLAN UPDATE FOR THE  
BANNING MUNICIPAL AIRPORT**

**WHEREAS**, the City of Banning's existing Airport Master Plan was prepared in December of 1990; and

**WHEREAS**, the update of the Airport Master Plan is necessary in order to comply with current Federal Aviation Administration (FAA) requirements, will provide direction for future airport development, and will help to ensure that the necessary facilities are improved or made available to meet forecasted demand for services at the airport; and

**WHEREAS**, on June 27, 2005, the recommendation to hire a consultant to update the Airport Master Plan was presented to and accepted by the Public Works Advisory Committee; and

**WHEREAS**, on June 28, 2005, the City Council approved an agreement with a Consultant, C&S Engineers, Inc., for Project No. 2004-49, "Updating the Airport Master Plan for Banning Municipal Airport"; and

**WHEREAS**, the proposed Airport Master Plan Update was approved by the FAA in May of 2007 and by the County of Riverside Airport Land Use Commission (ALUC) in August of 2007; and

**WHEREAS**, the Notice of Public Hearing was advertised in two local newspapers on October 2 and October 5, 2007; and

**WHEREAS**, at the October 23, 2007 public hearing, City Council directed staff to hold a workshop to discuss the Airport Master Plan Update; and

**WHEREAS**, the workshop was held on January 8, 2008, where C&S Engineers, Inc. provided a brief overview of the Airport Master Plan and Fixed Based Operator Study, and City Council directed staff to continue working on the Airport Master Plan Update and Fixed Based Operator Study; and

**WHEREAS**, the Public Hearing that was rescheduled for January 22, 2008, was temporarily suspended in response to a request from the Morongo Band of Mission Indians for more time to review the Airport Master Plan; and

**WHEREAS**, the Notice of Public Hearing for the second and third hearings were advertised in two local newspapers on January 4, 2008 and March 24, 2008, respectively, and copies of the Airport Master Plan Update have been made available for public review prior to both scheduled hearings, at the Office of the City Clerk, Engineering Division, Banning Municipal Airport, and the Banning Public Library.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Banning as follows:

**Section I.** Following notice duly given by publication, the City Council has held a full and fair public hearing regarding the adoption of the Airport Master Plan Update for the Banning Municipal Airport. All interested persons were offered the opportunity to hear and be heard regarding protests and objections to the adoption of the Airport Master Plan Update. All protests and objections to the acceptance of the Airport Master Plan Update are hereby overruled by the City Council.

**Section II.** The City Council hereby adopts the Airport Master Plan Update for the Banning Municipal Airport as prepared in 2007 by a Consultant, C&S Engineers, Inc.

**Section III.** A certified copy of the Airport Master Plan Update for the Banning Municipal Airport shall be filed in the Office of the City Clerk, with a duplicate copy on file in the office of the Director of Public Works and open for public review.

**PASSED, APPROVED AND ADOPTED** this 8<sup>th</sup> day of April, 2008.

---

Brenda Salas, Mayor

**ATTEST:**

---

Marie A. Calderon, City Clerk

**APPROVED AS TO FORM AND  
LEGAL CONTENT:**

---

Burke, Williams & Sorensen, LLP  
City Attorney

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-08, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 8<sup>th</sup> day of April, 2008, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

Marie A. Calderon  
City Clerk of the City of Banning

84

**EXHIBIT "A"**  
**NOTICES OF PUBLIC HEARING**  
**FOR**  
**RESOLUTION NO 2007-118,**  
**"ADOPTING THE AIRPORT MASTER PLAN UPDATE FOR THE**  
**BANNING MUNICIPAL AIRPORT"**

F2 TUESDAY, OCTOBER 2, 2007

# PUBLIC NOTICES

THE PRESS-ENTERPRISE PE.com

**NOTICE OF PUBLIC  
HEARING**

PURSUANT TO LAW, no-  
tice is hereby given of a Public  
Hearing before the City Coun-  
cil of the City of Banning, In he

held October 23, 2007 at 6:30  
p.m. at the Banning Civic Cen-  
ter Council Chambers, 99 E.  
Ramsey St., Banning, Califor-  
nia, to consider Resolution No.  
2007-118, "Adoption of the Air-  
port Master Plan Update for  
the Banning Municipal  
Airport."

ALL INTERESTED PAR-  
TIES are invited to attend said  
hearing and present oral or  
written testimony on the mat-  
ter or to send written com-  
ments to the City Clerk, P.O.  
Box 998, Banning, CA 92220.  
The Airport Master Plan Up-  
date for Banning Municipal  
Airport is available for public  
review at the following loca-  
tions: Office of the City Clerk  
and Engineering Division lo-  
cated at 99 E. Ramsey Street,  
the Banning Municipal Airport  
located at 200 South Hatha-  
way Street, and the Banning  
Public Library located at 21  
West Nicolet Street.

If you challenge any decli-  
sion regarding the above pro-  
posal in court, you may be lim-  
ited to raising only those  
issues you or someone else  
raised in written correspon-  
dence delivered to the City  
Clerk at, or prior to, the time it  
makes its decision on the pro-  
posed action; or if a public  
hearing is held on the pro-  
posed resolution, you or some-  
one else must have raised  
those issues at the public  
hearing or in written corre-  
spondence delivered to the  
City Clerk at, or prior to, the  
hearing (California Govern-  
ment Code Sub-Section  
65009).

BY ORDER OF THE CITY  
CLERK of the City of Banning,  
California.  
Date: September 27, 2007  
Publish: The Press Enterprise  
October 2, 2007  
S/ Marie A. Calderon  
City Clerk  
By: Lelia Lopez  
Deputy City Clerk

10/2

86

**PUBLIC NOTICES**

**NOTICE OF  
PUBLIC HEARING**  
PURSUANT TO LAW,  
notice is hereby given of a  
Public Hearing before the  
City Council of the City of  
Banning, to be heard  
October 23, 2007 at 6:30  
p.m. at the Banning Civic  
Center Council Chambers,  
99 E. Ramsey St.,  
Banning, California, to  
consider Resolution No.  
2007-118, "Adoption of the  
Airport Master Plan  
Update for the Banning  
Municipal Airport."

ALL INTERESTED PARTIES are invited to attend  
said hearing and present  
oral or written testimony  
on the matter or to send  
written comments to the  
City Clerk, P.O. Box 998,  
Banning, CA 92220. The  
Airport Master Plan  
Update for the Banning  
Municipal Airport is available  
for public review at  
the following locations:  
Office of the City Clerk and  
Engineering Division located  
at 99 E. Ramsey  
Street, the Banning  
Municipal Airport located  
at 200 South Hathaway  
Street, and the Banning  
Public Library located at  
21 West Nicolet Street.

If you challenge any decision  
regarding the above  
proposal in court, you may  
be limited to raising only  
those issues you or someone  
else raised in written  
correspondence delivered  
to the City Clerk at, or prior  
to, the time it makes its  
decision on the proposed  
action; or if a public hearing  
is held on the proposed  
resolution, you or  
someone else must have  
raised those issues at the  
public hearing or in written  
correspondence delivered  
to the City Clerk at, or prior  
to, the hearing (California  
Government Code Sub-  
Section 65009).

BY ORDER OF THE  
CITY CLERK of the City  
of Banning, California.  
DATE: September 27,  
2007

PUBLISH: Record  
Gazette  
October 5, 2007  
Marie A. Calderon  
City Clerk  
Publish the Record  
Gazette  
No. 751

**EXHIBIT "B"**  
**NOTICES OF PUBLIC HEARING**  
**FOR**  
**RESOLUTION NO 2008-08,**  
**"ADOPTING THE AIRPORT MASTER PLAN UPDATE FOR THE**  
**BANNING MUNICIPAL AIRPORT"**

**PUBLIC NOTICES**

**NOTICE OF  
PUBLIC HEARING**

PURSUANT TO LAW, notice is hereby given of a Public Hearing before the City Council of the City of Banning, to be heard January 22, 2008 at 6:30 p.m., at the Banning Civic Center Council Chambers, 99 E. Ramsey St., Banning, California, to consider Resolution No. 2008-08, Adoption of the Airport Master Plan Update for the Banning Municipal Airport."

ALL INTERESTED PARTIES are invited to attend said hearing and present oral or written testimony on the matter or send their

written comments to the City Clerk, P.O. Box 998, Banning, California 92220. The Airport Master Plan Update for the Banning Municipal Airport located at 200 South Hathaway Street, and the Banning Public Library located at 21 West Nicolet Street.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the city Clerk at, or prior to, the time it makes its decision on the proposed action; or if a public hearing is held on the proposed resolution, you or someone else must have raised those issues at the public hearing or in written correspondence delivered to the City Clerk at, or prior to, the hearing (California Government Code Sub-Section 65009).

BY ORDER OF THE CITY CLERK of the City of Banning, California.

DATE: December 28, 2007.

-s- Marie A. Calderon  
Marie A. Calderon  
City Clerk, City of  
Banning, California

Publish The Record  
Gazette  
No. 1103

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# PUBLIC NOTICES

THE PRESS-ENTERPRISE [PE.com](http://PE.com)

FRIDAY, JANUARY 4, 2008 **A9**

**NOTICE OF  
PUBLIC HEARING**

PURSUANT TO LAW, no-  
tice is hereby given of a Public  
Hearing before the City Coun-  
cil of the City of Banning, to be  
heard January 22, 2008 at 6:30  
p.m. at the Banning Civic Cen-  
ter Council Chambers, 99 E.  
Ramsey St., Banning, Califor-  
nia, to consider Resolution No.  
2008-08, "Adoption of the Air-  
port Master Plan Update for  
the Banning Municipal  
Airport".

ALL INTERESTED PAR-  
TIES are invited to attend said  
hearing and present oral or  
written testimony on the mat-  
ter or to send written com-  
ments to the City Clerk, P.O.  
Box 998, Banning, CA 92220.  
The Airport Master Plan Up-  
date for the Banning Municipal  
Airport is available for  
public review at the following  
locations: Office of the City  
Clerk and Engineering Divi-  
sion located at 99 E. Ramsey  
Street, the Banning Municipal  
Airport located at 200 South  
Hathaway Street, and the  
Banning Public Library lo-  
cated at 21 West Nicolet  
Street.

If you challenge any deci-  
sion regarding the above pro-  
posal in court, you may be lim-  
ited to raising only those  
issues you or someone else  
raised in written correspon-  
dence delivered to the City  
Clerk at, or prior to, the time it  
makes its decision on the pro-  
posed action; or if a public  
hearing is held on the pro-  
posed resolution, you or some-  
one else must have raised  
those issues at the public  
hearing or in written corre-  
spondence delivered to the  
City Clerk at, or prior to, the  
hearing (California Govern-  
ment Code Sub-Section  
65009).

BY ORDER OF THE CITY  
CLERK of the City of Banning,  
California.

Date: December 28, 2007

Publish: Press Enterprise

January 4, 2008

S/ Marie A. Calderon

City Clerk

1/4

90

**NOTICE OF PUBLIC HEARING  
“ADOPTION OF THE MASTER PLAN UPDATE  
FOR THE BANNING MUNICIPAL AIRPORT”**

**PRESS-ENTERPRISE  
MARCH 24, 2008**

**E3 MONDAY, MARCH 24, 2008**

**PUBLIC NOTICES**  
**THE PRESS-ENTERPRISE PE.com**

**NOTICE OF  
PUBLIC HEARING**

PURSUANT TO LAW, notice is hereby given of a Public Hearing before the City Council of the City of Banning, to be heard April 8, 2008 at 6:30 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey St., Banning, California, to consider Resolution No. 2008-08, "Adoption of the Airport Master Plan Update for the Banning Municipal Airport".

ALL INTERESTED PARTIES are invited to attend said hearing and present oral or written testimony on the matter or to send written comments to the City Clerk, P.O. Box 998, Banning, CA 92220. The Airport Master Plan Update for the Banning Municipal Airport is available for public review at the following locations: Office of the City Clerk and at the Engineering Division located at 99 E. Ramsey Street, at the Banning Municipal Airport located at 200 South Hathaway Street, and the Banning Public Library located at 21 W. Nicolet St. Street.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at or prior to the time it makes its decision on the proposed action, or if a public hearing is held on the proposed resolution, you or someone else must have raised those issues at the public hearing or in written correspondence delivered to the City Clerk at or prior to the hearing (California Government Code Sub-Section 65009).

BY ORDER OF THE CITY CLERK of the City of Banning, California.  
Date: March 19, 2008  
Publish: Press Enterprise  
March 24, 2008  
S/ Marie A. Calderon  
City Clerk

3/24

91

**EXHIBIT "C"**

**LETTER TO THE CITY OF BANNING  
FROM MORONGO BAND OF MISSION INDIANS**

92

# CITY OF BANNING

MAR 25 2008

Honorable Brenda Salas  
City of Banning  
99 East Ramsey  
Banning, CA 92220

PUBLIC WORKS DEPT.

MORONGO  
BAND OF  
MISSION  
INDIANS



Dear Mayor Salas,

Thank you for allowing the Morongo Band of Mission Indians time to more closely study the Airport Master Plan Update.

As you know, the Tribe had been heavily engaged in a campaign to defend its new compact. The campaign succeeded in no small part due to support and encouragement from valued friends and neighbors such as those we so highly value in the City of Banning. Thank you for your help.

Now that the election has been settled, we would like to schedule a meeting regarding the airport plan with you and other appropriate City representatives. We understand that the Banning City Council will soon have a meeting, taking action to approve the proposed Airport Master Plan Update.

We do not wish to further delay your consideration of the Airport Master Plan Update, but we would appreciate the opportunity to discuss any potential contracts for airport development and/or fixed base operations management with you, since we feel this open dialogue will benefit both the City of Banning and the Tribe.

Therefore, we would appreciate suggestions about when we might meet to discuss Banning Airport opportunities.

Thank you for your consideration.

Sincerely,

G. Michael Milhiser  
Chief Administrative Officer

Cc: Robert Martin, Chairman  
Tribal Council of Morongo Band of Mission Indians  
Brian S. Nakamura, City Manager

93

**CITY COUNCIL  
PUBLIC HEARING**

**DATE:** April 8, 2008

**TO:** City Council

**FROM:** Kim Clinton, Senior Planner

**SUBJECT:** Request for Extension of Time TPM 33326 (Sun Lakes Commercial):  
The subdivision of a 47.1-acre site into 14 commercial parcels ranging  
in size from 1.3 to 5.5 acres. The proposed project site is located  
generally, north of Sun Lakes Boulevard, east of Highland Springs  
Avenue. APN: 419-140-057

**RECOMMENDATION:** "That the City Council adopt Resolution No. 2008-38, granting  
a one-year extension of time for Tentative Parcel Map No. 33326."

**ALTERNATIVES:**

**Continuance:**

"I move the City Council continue the public hearing for Resolution No. 2008-38  
granting a one-year extension of time for Tentative Parcel Map No. 33326 to its April 22,  
2008 meeting".

**Denial:**

"I move the City Council deny Resolution No. 2008-38 granting a one-year extension of  
time for Tentative Parcel Map No. 33326 on the following basis: (the City Council will  
need to make findings).

**JUSTIFICATION:** A tentative map expires 24 months after its initial approval unless  
extensions are granted by the legislative body. The City Council approved Tentative  
Parcel Map 33326 on March 28, 2006, by adoption of Resolution No. 2006-37. On  
February 18, 2008, the subdivider submitted an application for an extension of time in  
accordance with Section 66452.6(e) of the Subdivision Map Act.

**BACKGROUND:**

**Project Location:**

The site is approximately 47.1 acres in size and is within the Sun Lakes Specific Plan  
area. Specifically, the site is located on the north side of Sun Lakes Boulevard,  
approximately 750 feet from Highland Springs Avenue, east of the existing commercial  
shopping center, north and west of Sun Lake's residences, west of an existing congregate

94

care facility and south of HWY 10 and the railroad tracks. The site is flat and rectangular in shape and vacant with the exception of a sign for the Sun Lakes area.

### Project History

In 1983 the City of Banning approved the Sun Lakes Specific Plan that established the development standards and design guidelines for approximately 964 acres. The Specific Plan also approved a variety of residential, commercial, office and industrial land uses. Additional amendments to the Specific Plan have been approved by the City since 1983; these changes modified, deleted or added numerous provisions to the Plan including changes to residential density, land uses, parking standards requirements, etc.

A modification to the Specific Plan occurred in 2000. This amendment made changes to the properties on the north side of Sun Lakes Boulevard and included changes to the development standards and design guidelines of the subject site. The changes included the lowering of the required number of parking spaces, reducing the amount of open space required, and an option of providing senior apartments (adjacent to the existing congregate care facility). Overall, this amendment established the ability to construct 56.4 acres of retail/commercial land uses, 9.9 acres of congregate care facilities, 13.3 acres of mixed uses, 109.9 acres of residential/executive golf course land uses, and 4.2 acres of recreational vehicle storage. To date, the congregate care facility, golf course, homes, recreational vehicles storage facility, and some of the retail development have been constructed.

### Specific Plan Amendment

Part of the project reviewed and approved by City Council on March 28, 2006, included a request to amend the Specific Plan for the 47.1 acres (Specific Plan Planning Areas B, D, and E) of subject vacant commercial property. More specifically, the applicant proposed the following:

1. Modifications to certain land uses, including conditionally allowing land uses in Planning Areas B and E to include auto dealers;
2. Amendments to planning area boundaries for Planning Areas B, D and E;
3. Relocation of Street C easterly to allow adequate street spacing with the adjacent assisted living facility;
4. Change to cross-section of Streets A, B and C from 72 feet of right-of-way to 80 feet of right-of-way;
5. Increases in the allowable signs by allowing two additional electronic reader signs 70 feet in height and 41 feet in width, one on parcel 1 and one on parcel 5;
6. Changes to the landscaping design guidelines, modifying the landscaping standards for auto dealerships exhibit area within the project site.

The City Council approved the specific plan amendment request by adoption of Ordinance No. 1343.

### Tentative Parcel Map Analysis

The City Council reviewed and approved the subdivision on March 28, 2006, by adoption of Resolution No. 2006-37. The proposed subdivision is consistent with the goals and objectives of the General Plan, and also conforms to the development standards of the Zoning and the Subdivision Code. Based on these provisions, the following analysis of the project is provided:

The General Plan land use designation is General Commercial (with a Specific Plan designation) which allows a variety of commercial land uses. The General Plan Land Use Element's Commercial Goal prescribes: "Complementary commercial uses which meet the needs of the City's residents, increase the City's revenues, and provide a range of employment opportunities." The division of this property will not deter the development of this site with a variety of commercial land uses.

A two and one-half (2.5) foot street dedication will be required for Sun Lakes Boulevard to comply with the General Plan Circulation Element's 110 foot-wide street designations. The interior streets have been designed to comply with the General Plan and engineering standards. Additional Conditions of Approval have been included to ensure that the project is developed according to the City's requirements.

The subdivision meets or exceeds the City's development standards for parcels in the General Commercial zone. The lots will range in size from 1.3 acres to 5.5 acres in size, which meet the 6,000 square foot minimum lot size required by the Code. The lots comply with the Specific Plan and Zoning Code (when applicable) in terms of lot area, shape, and use (commercial).

The design or improvement of the proposed subdivision will be consistent with the City of Banning Subdivision Ordinance in terms of lot and street designs. Access to the site will be provided from an existing street (Sun Lakes Boulevard) in the immediate area. All required public easements will provide access to the site or support necessary infrastructure improvements for the proposed project.

On March 28, 2006, the City Council adopted Resolution No. 2006-35 certifying a Mitigated Negative Declaration and approving a Mitigation Monitoring Program in accordance with the California Environmental Quality Act (CEQA). Section 15162 of the California Environmental Quality Act Guidelines states that once a Negative Declaration has been adopted for a project, no subsequent EIR or Mitigated Negative Declaration shall be prepared unless: 1) substantial changes are proposed to the project, 2) substantial changes occur with respect to the circumstances under which the project is undertaken, or 3) new information of substantial importance is presented which was not known and could not have been known at the time the previous Mitigated Negative Declaration was adopted. This request for an extension of time does not propose changes to the approved project, nor is there evidence of the circumstances noted in conditions 2 or 3 above. Therefore, a subsequent/supplemental environmental document is not required.

.92

The Planning Commission reviewed this project and adopted Resolution No. 2006-08, 2006-09 and 2006-10 recommending approval to the City Council. A copy of the original City Council Resolution No. 2006-37 (refer to Exhibit 2 and Exhibit 3 respectively) documenting conditions imposed on the project by the City Council along with the corresponding findings is attached for reference.

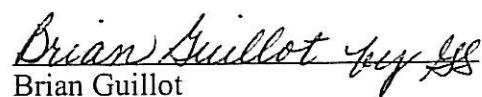
The applicant states that the time extension is necessary in order to comply with the conditions of approval for the subdivision and complete the construction, engineering, and design for the project.

The request for time extension was routed to the same agencies and departments that previously reviewed the tentative parcel map. The reviewing agencies did not identify any change in circumstances and did not express concerns with the proposed request for extension of time. Therefore, staff believes the first one-year time extension for the tentative parcel map should be approved, based on the factors cited herein. Approval of this time extension will extend the expiration date to March 28, 2009.

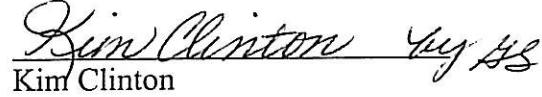
Section 66463.5(c) of the Subdivision Map Act provides for an automatic 60-day extension of the tentative map when an application to extend the map is submitted by the subdivider. Therefore, the subject map will expire on May 27, 2008, if the request for extension of time is not approved by the legislative body. The Subdivision Map Act allows the map to be extended for a period or periods not exceeding a total of five years; this will be the first extension. If the City Council denies the request for a time extension, or continues the matter until after the 60 day automatic extension lapses, the tentative map will expire and the applicant would be required to resubmit the project for tentative map approval.

**FISCAL DATA:** The construction of the proposed subdivision will generate revenues to the City in the form of one-time building permit fees as well as annual property taxes.

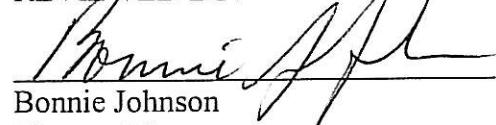
RECOMMENDED BY:

  
Brian Guillot  
Associate Engineer-Planning

REVIEWED BY:

  
Kim Clinton  
Senior Planner

REVIEWED BY:

  
Bonnie Johnson  
Finance Director

APPROVED BY:

  
Brian Nakamura  
City Manager

Exhibits:

1. Resolution No. 2008-38
2. Copy of Resolution No. 2006-37 originally approving TPM 33326
3. Map TPM 33326

*REQUEST FOR EXTENSION*  
*TTM 33326*

*RESOLUTION*  
*NO. 2008-38*

**EXHIBIT “1”**

*.98*

## RESOLUTION NO. 2008-38

**A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF BANNING, CALIFORNIA APPROVING A  
ONE-YEAR EXTENSION OF TIME FOR TENTATIVE  
PARCEL MAP 33326 (TPM 33326) PREVIOUSLY  
APPROVED BY CITY COUNCIL ON MARCH 28, 2006,  
BY RESOLUTION NO. 2006-37**

**WHEREAS**, an application for time extension for Tentative Parcel Map No. 33326 has been duly filed by:

Applicant / Owner:	<b>Sun Lakes Commercial, L.P.</b>
Authorized Agent:	<b>John Guell</b>
Project Location:	<b>Generally, north of Sun Lakes Boulevard, east of Highland Springs Avenue.</b>
APN Number:	<b>419-140-057</b>
Project Area:	<b>47.1 Acres</b>
Application Complete:	<b>February 18, 2008</b>

**WHEREAS**, the City Council of the City of Banning, on March 28, 2006, approved Tentative Parcel Map 33326, to allow the subdivision of approximately 47.1-acre site into 14 commercial parcels ranging in size from 1.3 to 5.5 acres; and,

**WHEREAS**, a tentative map expires 24 months after its initial approval unless extensions are granted by the legislative body; and,

**WHEREAS**, John Guell, agent for Sun Lakes Commercial, L.P. submitted a request for a time extension for Tentative Parcel Map 33326 in accordance with Section 66452.6(e) of the Subdivision Map Act; and,

**WHEREAS**, On March 28, 2006, a Mitigated Negative Declaration and a Mitigation Monitoring Program prepared for the project was approved in accordance with the California Environmental Quality Act (CEQA) when the project was approved by City Council by adoption of Resolution No. 2006-35; therefore, a subsequent/supplemental environmental document is not required; and,

**WHEREAS**, on March 28, 2008, the City gave public notice as required under Government Code Section 66451.3 by mailing to property owners within 300 feet of the site and advertising in the Record Gazette newspaper of the holding of a public hearing at which the request for an Extension of Time would be considered; and

**WHEREAS**, in accordance with Government Code Section 66452.3, the City has provided the applicant with a copy of the Planning Department's report and recommendation to the City Council at least three (3) days prior to the below referenced noticed public hearing; and,

**WHEREAS**, on April 8, 2008, the City Council of the City of Banning held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Tentative Parcel Map Extension of Time and at which the City Council considered said Extension of Time; and,

**WHEREAS**, at this public hearing on April 8, 2008, the City Council of the City of Banning considered and heard public comments on approval of Extension of Time for TPM 33326;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Banning hereby approves a one-year time extension for Tentative Parcel Map No. 33326 in accordance with Government Code Section 66452.6(e). Therefore, said tentative map shall expire on March 28, 2009, unless said map has been recorded, or a request has been filed with the City for an extension of time in accordance with law.

The above action is final unless an appeal is filed pursuant to Section 9117.10 of the Banning Municipal Code within fifteen (15) calendar days following City Council action.

**PASSED, APPROVED AND ADOPTED** this 8<sup>th</sup> day of April, 2008.

---

Brenda Salas, Mayor  
City of Banning

**APPROVED AS TO FORM  
AND LEGAL CONTENT:**

---

Burke, Williams & Sorensen, LLP  
City Attorney

**ATTEST:**

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Marie A. Calderon, City Clerk

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2008-38, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8<sup>th</sup> day of April 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Marie A. Calderon, City Clerk  
City of Banning  
Banning, California

*REQUEST FOR EXTENSION*  
*TTM 33326*

*COPY OF*  
*RESOLUTION*  
*NO. 2006-37*

**EXHIBIT “2”**

*102*

**RESOLUTION NO. 2006-37**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING TENTATIVE PARCEL MAP NO. 33326 PERTAINING TO APPROXIMATELY 47.1 ACRES INTO 14 COMMERCIAL PARCELS AND THREE LETTERED LOTS FOR STREETS GENERALLY LOCATED ON SUN LAKES BOULEVARD, APPROXIMATELY 750 FEET EAST OF HIGHLAND SPRINGS AVENUE. APN: 419-140-057.**

**WHEREAS**, an application for Lot Split 05-401 for TPM 33326, for a 14 lot subdivision in the Sun Lakes Specific Plan area has been duly filed by:

Applicant / Owner:	Silverstone Development
Authorized Agent:	Tim Hamilton
Project Location:	North of Sun Lakes Boulevard, east of Highland Springs Avenue
APN Number:	419-140-057
Lot Area:	47.1 Acres

**WHEREAS**, the Municipal Code allows for the subdivision of approximately 47.1 acres within the Sun Lakes Specific Plan area into 14 Commercial Parcels ranging in size from 1.3 to 5.5 acres in size subject to the approval of a Lot Split application; and

**WHEREAS**, on March 17, 2006, the City gave public notice as required under Government Code Section 66451.3 by mailing to property owners within 300 feet of the site and advertising in the Record Gazette newspaper of the holding of a public hearing at which the project would be considered; and

**WHEREAS**, in accordance with Government Code Section 66452.3, the City has provided the applicant with a copy of the Planning Department's report and recommendation to the City Council at least three (3) days prior to the below referenced noticed public hearing; and

**WHEREAS**, on March 28, 2006, the City Council of the City of Banning held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Tentative Parcel Map and at which the City Council considered the Tentative Parcel Map;

**WHEREAS**, at this public hearing on March 28, 2006, the City Council of the City of Banning considered and heard public comments on approval of a Mitigated Negative Declaration and Monitoring Program for the project by Resolution No. 2006-08.

**NOW THEREFORE**, the City Council of the City of Banning does hereby resolve, determine and order as follows:

**SECTION 1: ENVIRONMENTAL FINDINGS.**

The City Council, in light of the whole record before it, including, but not limited to, the City's local CEQA Guidelines, the recommendation of the Community Development Director, as provided in the Staff Report Dated March 28, 2006 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. **CEQA:** The approval of Tentative Parcel Map 33326 is in compliance with the requirements of the California Environmental Quality Act ("CEQA"), in that on March 28, 2006, at a duly noticed public hearing, the City Council of the City of Banning approved and adopted a Mitigated Negative Declaration and Mitigation monitoring Program reflecting its independent judgment and analysis and documenting that there was no substantial evidence, in light of the whole record, from which it could be fairly argued that the project may have a significant effect on the environment. The documents comprising the City's environmental review for the project are on file and available for public review at Banning City Hall, 99 E. Ramsey Street, Banning, California 92220.
2. **Wildlife Resources:** Pursuant to Title 14, California Code of Regulations Section 753.5(c), the City Council has determined, based on consideration of the whole record before it, that there is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources or the habitat upon which wildlife depends. Furthermore, on the basis of substantial evidence, the City Council hereby finds that any presumption of adverse impact has adequately been rebutted.
3. **Multiple Species Habitat Conservation Plan (MSHCP):** The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.

**SECTION 2: MAP ACT FINDINGS.**

In accordance with Banning Municipal Code §2-9 and Government Code §66473.1, §66473.5 and §66474, the City Council, in light of the whole record before it, including but not limited to the Planning Department's staff report and all documents incorporated by reference therein, the City's General Plan, Subdivision Ordinance, Zoning Ordinance, standards for public streets and facilities and any other evidence within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

Finding 1:

Tentative Parcel Map 33326 is consistent and compatible with the objectives, policies, general land uses, and programs specified the City's General Plan in that:

Fact:

The General Plan land use designation for the site is General Commercial (Specific Plan). General Commercial allows a variety of commercial land uses. Specifically, General Plan Commercial Goal indicates the commercial uses increase the City's revenues, and provide a range of employment opportunities. The proposed map will result in the development of 14 commercial parcels, which will eventually accommodate various commercial land uses. Although the applicant is not proposing to develop the lots, the Specific Plan land use designations will ensure that the development of the parcels is consistent with the General Plan's land use designation.

Finding 2:

The proposed subdivision has been designed to meet City standards which provide satisfactory pedestrian and vehicular circulation, including emergency vehicle access and on site improvements, such as streets, utilities, and drainage facilities have been designed and are conditioned to be constructed in conformance with City standards.

Fact:

The design and improvement of the subdivision proposed under Tentative Parcel Map 33326 is consistent with the City's General Plan in that the proposed subdivision has been designed to meet City standards which provide satisfactory pedestrian and vehicular circulation, including emergency vehicle access and on site improvements, such as streets, utilities, and drainage facilities which have been designed and are conditioned to be constructed in conformance with City standards.

Finding 3:

The site is physically suitable for the type of development proposed under Tentative Parcel Map 33326, in that:

Fact:

The site is generally flat and rectangular in shape and 47.1 acres in size and suitable for development. The site is not located within a flood plain and no major geologic hazards have been reported on the site or other limited conditions that would render it unsuitable for commercial development. There is a commercial development immediately adjacent to the project site.

Finding 4:

The site is physically suitable for the density of development proposed under Tentative Parcel Map 33326, in that:

Fact:

The site is generally rectangular and flat in shape and consists of 47.1 acres in size and suitable for commercial development. The subdivision has been designed to accommodate the development of a variety of commercial parcels ranging in size from 1.3 to 5.5 acres in size. There are no density ranges provided in the Land Use Element of the City's General Plan.

Finding 5:

The design of the subdivision and improvements proposed under Tentative Parcel Map 33326 is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat in that:

Fact:

The site is currently vacant and does not contain any significant vegetation or habitat for wildlife. There is no evidence that any endangered, threatened or listed species of plant or animal, or its habitat, is located on the site. There is no evidence that vernal pool complex; similar bodies of water or conditions suitable for forming such bodies of water exist on site. This determination is based on information contained in the Initial Study/Environmental Checklist and Mitigated Negative Declaration. In addition, this project has been conditioned to comply with the environmental policies and regulations of the City of Banning and those of all local and regional governmental agencies having jurisdiction over the site.

Finding 6:

The design of the subdivision and improvements proposed under Tentative Parcel Map 33326, is not likely to cause serious public health problems in that:

Fact:

The design of the subdivision is in conformance with the City's General Plan, Zoning Ordinance, and Subdivision Ordinance, the construction of all units on the site has been conditioned to comply with all applicable City of Banning ordinances, codes and standards including, but not limited to, the California Uniform Building Code, the City's Ordinances relating to stormwater runoff management and controls. In addition, the design and construction of all improvements for the subdivision have been conditioned to be in conformance with adopted City Street and public works standards. The city's ordinances, codes, and standards have been created based on currently accepted standards and practices for the preservation of the public health, safety and

welfare. Finally, the proposed street through the subdivision will improve emergency vehicular access in the immediate area.

Finding 7:

The design of the subdivision and improvements proposed under Tentative Parcel Map 33326, will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision in that:

Fact:

No easement of record or easements established by judgment of a court of competent jurisdiction for public access across the site have been disclosed in a search of the title records for the site and the City does not otherwise have any constructive or actual knowledge or any such easements.

Finding 8:

The design of the subdivision proposed for Tentative Parcel Map 33326 adequately provides for future passive or natural heating and cooling opportunities in the subdivision in that:

Fact:

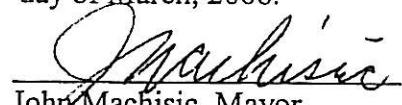
The proposed layout has taken into consideration the local climate and the existing contours and its surroundings because the size and configuration of lots within the proposed subdivision have been arranged, to the greatest extent feasible, to permit the future orientation of structures in an east-west alignment for southern exposure, or to take advantage of prevailing breezes.

### SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. **Approval of Tentative Parcel Map.** Recommends approval of Tentative Parcel Map 33326 subject to the Conditions of Approval attached hereto and incorporated herein by reference as Exhibit "1".

PASSED, APPROVED AND ADOPTED this 28<sup>th</sup> day of March, 2006.



John Machisic, Mayor  
City of Banning City Council

APPROVED AS TO FORM AND  
LEGAL CONTENT:

*Tom J.*  
Julie Hayward Biggs, Thomas D. J.  
D. City Attorney

ATTEST:

*Marie A. Calderon*  
Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2006-37, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28<sup>th</sup> day of March 2006, by the following vote, to wit:

AYES: Councilmembers Hanna, Palmer, Welch, Mayor Machisic

NOES: Councilmember Salas

ABSENT: None

ABSTAIN: None

*Marie A. Calderon*  
Marie A. Calderon, City Clerk  
City of Banning  
Banning, California

CONDITIONS OF APPROVAL  
TENTATIVE PARCEL MAP 33326

PLANNING DEPARTMENT:

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
2. The Approval of Tentative Parcel Map 33326 shall be for a period of two (2) years from the date of City Council Approval; the expiration date is . All Conditions of Approval must be met on or before the expiration date or the applicant must request an extension of time at least thirty (30) days prior to the expiration date; otherwise, the approval shall expire and become null and void.
3. The development of the property shall provide for no more than 17 lots as illustrated by Tentative Parcel map 33326. The design of all lots within the subdivision shall meet the minimum property development requirements of the Very Low Density Residential Zone District outlined in the City's Municipal Code.

EXHIBIT " / "

3/28/06

EXHIBIT " 3 "

109

4. Prior to the issuance of any building permits, "typical" building elevations shall be submitted to the Planning Department for design review and approval, in accordance with the provisions and requirements of the Specific Plan and Article 16E of the Banning Ordinance code or Ordinance in effect at the time of the submittal. All dwellings shall have the front, side and rear elevations upgraded with architectural treatment, detailing and increased delineation of surface treatment. Submittal and approval of Design Review application and related materials is required prior to the issuance of building permits.
5. A detailed landscape and irrigation plan shall be prepared by a licensed landscape architect and submitted to the Planning Department. Landscaping and irrigation shall be designed in accordance with the Specific Plan to conserve water through the principles of Xeriscape.
6. Prior to the issuance of a Certificate of Occupancy within TTM 33326 the applicant shall submit to the City for review and approval a detailed landscape and irrigation plan (comprised of xeriscape plant material) indicating type, species and location of the following minimum number of drought tolerant, multi-branched trees on each lot adjacent to the street right-of-way (all trees shall be planted with root barriers).
7. The plan shall be forwarded to a Landscape Architect for review and the applicant shall pay all fees associated with the review process. The approved landscape plan shall be implemented/installed prior to the issuance of a Certificates of Occupancy for any building constructed within TTM 33326. (Submit landscape and irrigation plans as soon as possible to allow sufficient time for a Landscape Architect to review.)
8. The site shall be developed and maintained in accordance with the approved Specific plan, which include site plans, architectural elevations, exterior materials and colors, landscaping, sign program, and grading on file in the Planning Division, the conditions contained herein, and Development Code regulations.
9. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Community Development Director.
10. Occupancy of the facilities shall not commence until such time as all Uniform Building Code and State Fire Marshal regulations have been complied with. Prior to occupancy, plans shall be submitted to the City of Banning Fire Marshal and the Building and Safety Division to show compliance. The buildings shall be inspected for compliance prior to occupancy.

EXHIBIT " / "

3/28/06

EXHIBIT " 3 "

110

11. Approval of this request shall not waive compliance with all sections of the Development Code, all other applicable City Ordinances, and applicable Community or Specific Plans in effect at the time of building permit issuance.
12. All ground-mounted utility appurtenances such as transformers, AC condensers, etc., shall be located out of public view and adequately screened through the use of a combination of concrete or masonry walls, berthing, and/or landscaping to the satisfaction of the Community Development Director.
13. All building numbers and individual units shall be identified in a clear and concise manner, including proper illumination.
14. A six (6) foot chain link fence must be maintained around the perimeter of the site during all phases of construction.
15. Applicant shall pay all development fees adopted by the City in effect at the time of issuance of any building permits, which shall include but not be limited to: police and fire safety developer fees, water and sewer fees, park land dedication fees, and electric meter installation fees. Project proponent shall provide to the City that school mitigation fees have been paid or other arrangements acceptable to the Banning Unified School District have been met.
16. Prior to the issuance of any Building Permits, the project proponent may be required to submit to the City's Building Department completed hydrology and seismic study conducted by a registered Engineering Geologist.
17. Developer shall meet all requirements of responsible agencies, including but not limited to: Southern California Gas Company, and Southern California Edison Company.

#### **Engineering Conditions**

##### **General:**

1. A Public Works Permit shall be required prior to commencement of any work within the public right-of-way. The contractor working within the public right-of-way shall submit proof of a Class "A" State Contractor's License, City of Banning Business License, and Liability Insurance. Any existing public improvements, or public improvements not accepted by the City that are damaged during construction shall be removed and replaced as determined by the City Engineer or his/her representative.

**EXHIBIT " / "**

2. Prior to the issuance of any grading, construction, or public works permit by the City, the applicant shall obtain any necessary clearances and/or permits from the following agencies:

- Fire Marshal
- Public Works Department (Grading Permit, Improvement Permit)
- Community Development Department
- Riverside County Environmental Health Department
- Banning Unified School District
- California Regional Water Quality Control Board Colorado River Basin (RWQCB)
- South Coast Air Quality Management District (SCAQMD)

The applicant is responsible for meeting all requirements of permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting improvements plans to the City.

3. The following improvement plans shall be prepared by a civil engineer or architect licensed by the State of California as allowed and submitted to the Engineering Division for review and approval. A separate set of plans shall be prepared for each line item listed below. Unless otherwise authorized by the City Engineer in writing, the plans shall utilize the minimum scale specified and shall be drawn on 24" x 36" Mylar. Plans may be prepared at a larger scale if additional detail or plan clarity is desired (Note: the applicant may be required to prepare other improvement plans not listed here pursuant to improvements required by other agencies and utility purveyors).

A. On-Site Rough Grading Plan 1" = 40' Horizontal

B. SWPPP 1" = 40' Horizontal

Note: A & B shall be processed concurrently.

C. Storm Drain Plan 1" = 40' Horizontal

D. Off-Site Street Improvement Plan 1" = 40' Horizontal  
1" = 4' Vertical

E. Off-Site Landscaping Plan 1"=20' Horizontal

F. Off-Site Signing & Striping Plan 1" = 40' Horizontal

G. On-Site Street Improvement/ Signing & Striping Plan 1" = 40' Horizontal  
1"= 4' Vertical

H. On-Site Precise Grading Plan 1" = 30' Horizontal

I. Traffic Signal Plan(s) 1"= 20' Horizontal

EXHIBIT " 1 "

3/28/06

112

## J. Traffic Signal Interconnect Plan

1" = 40" Horizontal

Other engineered improvement plans prepared for City approval that are not listed herein shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.

All off-site plan and profile street improvement plans and signing & striping plans shall show all existing improvements for a distance of at least 200-feet beyond the project limits, or at a distance sufficient to show any required design transitions.

All on-site signing and striping plans shall show the following at a minimum: stop signs, limit lines and legends, no parking signs, raised pavement markers (including blue raised pavement markers at fire hydrants) and street name signs per Public Works standard plans and/or as approved by the City Engineer.

A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.

4. Upon completion of construction, the applicant shall furnish the City with reproducible record drawings on Mylar of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD or raster-image files submitted to the City, revised to reflect the "As-Built" conditions.
5. All utility systems including gas, electric, telephone, water, sewer, and cable TV shall be provided for underground, with easements provided as required, and designed and constructed in accordance with City Codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired in the residence.

### Rights of Way:

6. Prior to issuance of any permit(s), the applicant shall acquire or confer property rights necessary for the construction or proper functioning of the proposed development. Conferred rights shall include right-of-way dedications, irrevocable offers to dedicate or grant of easements to the City for emergency services, maintenance, utilities, storm drain facilities, or temporary construction purposes including the reconstruction of essential improvements.
7. Offer to dedicate for public purposes an additional 2.5 feet of right-of-way for Sun Lakes Boulevard a designated arterial highway; 110 foot width per Proposed General Plan Street System. Offers of dedication shall include corner cut-off at intersections.

EXHIBIT "J" 13

8. Offer to dedicate for public purposes the right-of-way for "A" Street, "B" Street, and "C" Street as specific plan designed streets; 80 foot width. The geometrics for the cul-de-sac(s) shall be special design 64 foot radius minimum. Offers of dedication shall include corner cut-off at intersections.
9. Access rights shall be restricted along Sun Lakes Boulevard with the exception of two right-in right-out only access points, one between Parcel No. 10 and Parcel No. 11, and the other between Parcel No. 12 and Parcel No. 13. This restriction shall be delineated on the final map.
10. Further, the applicant shall offer for dedication on the Final Map all public street right-of-ways in conformance with the City's General Plan or approved Specific Plan, Municipal Code, standard plans, and/or as required by the City Engineer.

**Public Improvements:**

11. Construct half street improvements in accordance with City standards and approved Specific Plan Design Guidelines fronting **Sun Lakes Boulevard** including street lighting, curb and gutter, access ramps, sidewalk, and asphalt concrete paving, street name signs, traffic signs and striping, and any transitions. Curb returns shall have a 35 foot radius minimum on Sun Lakes Boulevard. Street lights on Sun Lakes Boulevard shall be installed offset of any existing street lights. Where the transverse slope of the existing pavement exceeds 3%, the applicant shall remove pavement and join the existing pavement surface. Applicants' geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method.
12. Construct full street improvements for "A" Street, "B" Street, and "C" Street in accordance with City Standards and approved Specific Plan Design Guidelines including street lighting, curb and gutter, cross gutters and spandrels, access ramps, drive approaches, sidewalk, and asphalt concrete paving, street name signs, traffic signs and striping, and any transitions. Applicants' geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method.
13. Construct a median island for eastbound left turn pocket on Sun Lakes Boulevard at Country Club Drive West. The pocket shall be minimum 250 feet in length or per approved traffic study.
14. Construct a median island for eastbound left turn pocket on Sun Lakes Boulevard at "C" Street. The pocket shall be 150 feet in length or per approved traffic study, and accommodate access to the private drive to the east.
15. All required public improvements for each parcel shall be completed, tested, and approved by the Engineering Division prior to issuance of any Certificate of Occupancy.

**EXHIBIT " / "**

## Grading and Drainage:

16. Submit a Drainage Study with hydrologic and hydraulic analysis for developed and undeveloped (existing) conditions to the Engineering Division for review and approval. The study and analysis must be prepared by a civil engineer licensed by the State of California. Drainage design shall be in accordance with Banning Master Drainage Plan adopted by Riverside County Flood Control and Water Conservation District (RCFC), RCFC Hydrology Manual, and standard plans and specifications. The 10-year storm flow shall be contained within the street curbs, and the 100-year storm shall be contained within the street right-of-way; when this criteria is exceeded, additional drainage facilities shall be designed and constructed.
17. The design of the development shall not cause any increase in flood boundaries, levels or frequencies in any area outside the development.
18. Construct off-site drainage facilities in accordance with approved drainage study and approved Specific Plan.
19. Construct junction structures for existing exposed drainage pipes at south-east corner of site and south-west corner of site. All structures shall be designed in accordance with Riverside County Flood Control and Water Conservation District standards and specifications.
20. The project grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions. Otherwise, a drainage easement shall be obtained for the release of concentrated or diverted storm flows. The project shall accept and convey storm flows from the adjacent property to the north.
21. The applicant shall comply with Chapter 34 "*Stormwater Management and Discharge Controls*" of the Banning Municipal Code (BMC); California Building Code Appendix Chapter 33 "*Excavation and Grading*"; and the State Water Resources Control Board's Order No. 99-08-DWQ.
  - a. For construction activities including clearing, grading or excavation of land that disturbs one (1) acre or more of land, or that disturbs less than one (1) acre of land, but which is a part of a construction project that encompasses more than one (1) acre of land, the applicant shall be required to submit a Storm Water Pollution Protection Plan (SWPPP) and file a Notice of Intent (NOI) with the Regional Water Quality Control Board.
  - b. The applicant's SWPPP shall be reviewed and approved by the City Engineer prior to any on-site or off-site grading being done in relation to this project.
  - c. The applicant shall ensure that the required SWPPP is available for inspection

EXHIBIT " / "

at the project site at all times through, and including acceptance of all improvements by the City.

- d. The applicant's SWPPP shall include provisions for all of the following Best Management Practices ("BMPs"):
  - i. Temporary Soil Stabilization (erosion control).
  - ii. Temporary Sediment Control.
  - iii. Wind Erosion Control.
  - iv. Tracking Control.
  - v. Non-Storm Water Management.
  - vi. Waste Management and Materials Pollution Control.

All erosion and sediment control BMPs proposed by the applicant shall be approved by the City Engineer prior to any onsite or offsite grading, pursuant to this project.

The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City.

22. Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California.
23. A rough grading plan and a precise grading plan shall be submitted to the City Engineer for review and approval. A grading permit shall be obtained prior to commencement of any grading activity. Rough grading plans shall include perimeter walls with top of wall and top of footing elevations shown. All footings shall have a minimum of 1-foot of cover, and/or sufficient cover to clear any obstructions.
24. Prior to the issuance of a building permit for any building lot, the applicant shall provide a lot pad certification stamped and signed by a qualified civil engineer or land surveyor. Each pad certification shall list the pad elevation as shown on the approved grading plan, the actual pad elevation and the difference between the two, if any. Such pad certification shall also list the relative compaction of the pad soil. The data shall be organized by lot number, and listed cumulatively if submitted at different times.
25. All lot drainage shall be directed to the driveway by side lot drainage swales independent of any other lot.

EXHIBIT " / "

3/28/06

EXHIBIT " 3 "

116

**Public Landscaping:**

26. Prior to recordation of the subdivision map, the subdivider shall enter into an agreement and post financial security guaranteeing installation and maintenance of public landscape improvements.
27. Prior to the issuance of any building permit(s), the applicant shall submit a landscape plan showing detailed planting and irrigation designs to the City Engineer and Community Development Director for review and approval. The plan shall take into account the previously approved landscape plan for the Sun Lakes development, the City standard plans for landscape areas, adopted plant palette guides, applicable scenic and specific plan requirements, and water conservation measures contained in the Banning Municipal Code. The irrigation system shall include a landscape controller, a separate water meter, and electric meter.
28. Prior to the issuance of certificates of occupancy and the release of financial security guaranteeing the landscape improvements, said improvements shall be installed and shall be certified by a licensed landscape architect or licensed landscape contractor, as having been installed in accordance with the approved detailed plans. The applicant shall furnish said certification, including an irrigation management report for each landscape irrigation system, and any other required implementation report determined applicable, to the Manager, Construction, and the Manager, Building Inspection Services, prior to the issuance of any certificates of occupancy.
29. A property owner's association shall be formed, and Conditions, Covenants, and Restrictions (CC&Rs) shall be recorded. Prior to recordation a copy of the CC&Rs shall be submitted to the Planning Division for review and approval. The CC&Rs shall include:
  - a. The Conditions of Approval of the Specific Plan Development (design guidelines and any other applicable standards).
  - b. Provisions for short and long term maintenance of landscaping, parking, driveways, and utility connections.
  - c. Posting of no parking signage in shared driveways.
  - d. Provisions for a property owners association.
  - e. Membership in and support of a property owners association shall be mandatory for all property owners within the development. The property owners association shall control all common facilities and shall obtain approval from the Director of Community Development prior to any modifications to the CC&Rs pertaining to or specifying the City or City requirements.

**EXHIBIT 1**

**Traffic:**

30. Street name signs and traffic control devices including traffic legends and traffic striping shall be installed, or relocated in accordance with Caltrans Standards and as shown on the approved plans, and/or as directed by the City Engineer.
31. Construct a traffic signal at the intersection of Sun Lakes Boulevard and Country Club Drive/"A" Street. The traffic signal shall be placed into operation prior to issuance of building permit(s).
32. Construct a traffic signal at the intersection Sun Lakes Boulevard and Sun Lakes Village Drive. The traffic signal operation shall be interconnected with the traffic signal at Sun Lakes Boulevard and Country Club Drive/"A" Street. The traffic signal shall be placed into operation including interconnect prior to issuance of any certificate of occupancy.
33. Design and construct golf cart crossing(s) at "A" Street/ Country Club Drive in accordance with state and local regulations. The crossing shall connect the existing residential development to the south with the proposed development. Additionally, golf cart access shall be provided to the retail center to the west. Any golf cart paths along parkways shall be designed and constructed separately from any pedestrian paths.

**Final Map:**

34. Prior to approval of any Final Map, the applicant shall construct all on-site and off-site improvements in accordance with the approved plans and satisfy its obligations for same, or shall furnish a fully secured and executed Agreement for Construction of Public Improvements guaranteeing the construction of such improvements and the satisfaction of its obligations for same, or shall agree to any combination thereof, as may be required by the City.
35. Security for the construction of public improvements in accordance with Government Code Section 66499 shall be as follows:

Faithful Performance Bond 100% of estimated cost  
Labor and Material Bond 100% of estimated cost  
Monumentation Bond \$5,000.00

*Securities for the public improvements shall be on file with the City Clerk prior to scheduling the final map for approval by City Council. Unit prices for bonding estimates shall be those specified or approved by the City Engineer.*

**EXHIBIT** / **1**

36. Prior to approval of the Final Map, the applicant shall submit a list of street names and addresses in Microsoft Excel spread sheet format for review and approval. The house number system shall be in accordance with Section 21-17 & 21-18 of the Banning Municipal Code. A reduced copy of the subdivision map shall be included with the submittal.
37. Revisions to the tentative map during plan check including, but not limited to, lot line alignments, easements, improvement plan revisions, and similar minor changes which do not alter the design (property rights, number of lots, environmental impact, etc.) may be administratively approved through the plan check process with the mutual consent and approval of the Community Development Director and City Engineer. Final maps shall be amended in accordance with the Subdivision Map Act.
38. Prior to approval of any final map the applicant shall identify and include in its improvement plans those routine structural and non-structural Best Management Practices (BMP's) as outlined in Supplement A to the Riverside County Drainage Area Management Plans and any attachments.
39. A record of all street centerline monument ties shall be submitted to the Engineering Division upon completion of improvements or prior to release of Monumentation Bond.
40. Submit a copy of the title report, closure calculations, and any separate instruments or necessary right-of-way documents to the Engineering Division prior to final map approval.
41. A map of the proposed subdivision drawn at 1"=200' showing the outline of the streets including street names shall be submitted to the City to update the city atlas map.
42. An original Mylar of the final map (after recordation) shall be provided to the City for the record files.

**Trash/Recycling:**

43. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City's franchised solid waste hauler for disposal of construction debris.
44. The developer shall participate in the City's recycling program by providing two trash receptacles, one for regular trash and one for recycling, within the trash enclosure for each parcel. The trash enclosure shall be designed and constructed in such a manner to accommodate a recycling bin as well as the necessary solid waste containers.

**EXHIBIT "1"**

**Fees:**

45. Plan check fees for final map review, professional report review (geotechnical, drainage, etc.), and all improvement plans review, shall be paid prior to submittal of said documents for review and approval in accordance with the Fee Schedule in effect at the time of submittal.
46. Pay fair-share contribution for the construction of public improvements at the intersections of Highland Springs Avenue at: Ramsey Street, I-10 Freeway west bound ramps, I-10 Freeway east bound ramps, 2<sup>nd</sup> Street, Sun Lakes Boulevard/1<sup>st</sup> Street in accordance with approved traffic impact analysis. The City Engineer shall review and approve fair share estimates.
47. Pay fair-share contribution for the construction of public improvements at the intersection of Sun Lakes Boulevard at: "C" Street, Country Club Drive East in accordance with approved traffic impact analysis. The City Engineer shall review and approve fair share estimates.
48. Public Works Inspection fees shall be paid prior to the scheduling the final map for approval by City Council in accordance with the Fee Schedule in effect at time of time of scheduling.
49. Water and sewer connection fees including frontage fees and water meter installation charges shall be paid on a per lot basis at the time of building permit issuance in accordance with the Fee Schedule in effect at that time.
50. A plan storage fee shall be paid prior to approval of the final map and improvement plans in accordance with the Fee Schedule in effect at the time the fee is paid.
51. A Traffic Signal Mitigation fee shall be paid on a per lot basis prior to issuance of building permits for each lot within the subdivision.
52. A fee shall be paid to Riverside County Flood Control and Water Conservation District in the amount specified by them to perform plan checking for drainage purposes for the proposed subdivision.

**Trash/Recycling:**

53. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City's franchised solid waste hauler for disposal of construction debris.

**EXHIBIT " / "**

**Fees:**

54. Plan check fees for final map review, professional report review (geotechnical, drainage, etc.), and all improvement plans review, shall be paid prior to submittal of said documents for review and approval in accordance with the Fee Schedule in effect at the time of submittal.
55. Public Works Inspection fees shall be paid prior to the scheduling the final map for approval by City Council in accordance with the Fee Schedule in effect at time of time of scheduling.
56. Water and sewer connection fees including frontage fees and water meter installation charges shall be paid on a per lot basis at the time of building permit issuance in accordance with the Fee Schedule in effect at that time.
57. A plan storage fee shall be paid prior to approval of the final map and improvement plans in accordance with the Fee Schedule in effect at the time the fee is paid.
58. A Traffic Signal Mitigation fee shall be paid on a per lot basis prior to issuance of building permits for each lot within the subdivision.
59. A fee shall be paid to Riverside County Flood Control and Water Conservation District in the amount specified by them to perform plan checking for drainage purposes for the proposed subdivision.

**FIRE DEPARTMENT:**

Requirements specific to this Project are highlighted in bold and italics.

The following are the minimum Fire Department requirements. There may be additional requirements when the project specifics are defined and the final proposal is submitted for approval.

***1. FIRE DEPARTMENT DEVELOPER FEES:***

*Fees are increased annually and may be different at the time of construction. The fee schedule at the time of plan submittal shall apply.*

*Residential Dwelling Units - \$543.00 per unit +  
\$ 5.00 per unit Disaster Planning*  
Apartments - Condominiums - \$543.00 per unit  
Mobile Home Parks - \$543.00 per unit  
Recreational Vehicle Units - \$274.00 per unit  
*Plan Check & Inspection - \$ 42.00 per unit*  
**Commercial, Industrial and/or Office Complex –**  
*\$ .275 per square foot +*

**EXHIBIT** \*\* / \*\*

\$ 25.00 per unit Disaster Planning  
Plan Check and Inspection - \$ 42.00 per hour

**2. CITY OF BANNING BUSINESS LICENSE AND PROOF OF INSURANCE:**

*All contractors, subcontractors etc. are required to obtain a City of Banning Business license prior to submitting plans or starting construction.*

**3. CODE COMPLIANCE:**

*All Plans, Specifications and Construction shall comply with and conform to the current edition of the California Fire Code (CFC), California Building Code (CBC), and other state and local laws as applicable.*

**4. PLAN SUBMITTAL:**

*Five (5) sets of Plans and Specifications shall be submitted for review prior to obtaining a permit. This requirement applies to all work regardless of the size of the job; new construction or remodel.*

**5. FIRE HYDRANTS:**

*Prior to construction or renovation, fire hydrants shall be provided when any portion of any structure exceeds 150 feet from a water supply on a public street.*

*All hydrants must be installed, working and inspected by the public works department before any combustible materials can be placed at the worksite.*

*Spacing of fire hydrants shall comply with UFC Appendix III B and the City of Banning Public Works Standards. (maximum 300 feet between hydrants)*

*Minimum 6-inch riser, street valve, approved shear valve and blue dot identification marker shall be provided for each fire hydrant.*

*The City standard fire hydrant is the Commercial, James Jones #J3765, Residential, James Jones #J3700, or an equivalent approved by the Fire Marshal.*

*Fire Hydrants are to be painted by the developer, conParcelor, etc., prior to the final inspection. (EOS Standard W714) Rustoleum Red, damp proof #769 and two (2) coats of Rustoleum semi-gloss yellow #659, or an approved equivalent.*

**6. WATER SUPPLY:**

*Fire flow shall be established by the Fire Department using the information provided in the UFC Appendix III A. Fire Flow may be adjusted upward where*

EXHIBIT " / "

3/28/06

122

EXHIBIT " 3 "

*conditions indicate an unusual susceptibility to fire. (1000 gallons/minute for 2 hours)*

**7. FIRE DEPARTMENT ACCESS:**

*Shall be required when any portion of the first story of any structure is more than 150 feet from Fire Department apparatus access.*

*Minimum clearances or widths may be increased when the minimum standards are not adequate for Fire Department access.*

*Surfaces shall be designed and maintained to support the imposed loads of fire apparatus (65,000gvw). Surfaces shall have all-weather driving capabilities, including bridges. All roads must be place and meet the above standard before any combustible materials can be delivered to the site.*

*Minimum unobstructed width shall be 20 feet.*

*Minimum unobstructed vertical clearance shall not be less than 13 feet 6 inches.*

*Minimum turning radius shall be 42 feet.*

*All dead-end access roads in excess of 150 feet shall have approved provisions for turning around of fire apparatus.*

*Maximum grade shall be established by the Fire Department.*

*Vehicles shall not be parked or otherwise obstruct the required width of any fire apparatus access.*

*Two means of ingress/egress shall be provided for emergency vehicles and fire apparatus.*

*The requirements for this segment are covered in UFC Article 9.*

*Maximum allowed cul-de-sac length is 600 feet.*

*A. A "knox" box will be required for fire department access*

**8. PREMISES IDENTIFICATION:**

*Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background.*

EXHIBIT " / "

3/28/06

EXHIBIT " 3 "

123

**Commercial - 6" mm. Size**

*Residential - 3-1/2" mm. Size*

**9. SPARK ARRESTORS:**

*Chimneys used in conjunction with fireplaces or heating appliances in which solid or liquid fuel is used shall be maintained with an approved spark arrestor.*

**10. A GREENBELT OR FUEL MODIFICATION ZONES MAY BE REQUIRED.**

**11. OTHER REQUIREMENTS:**

**EXHIBIT " / "**

3/28/06

**EXHIBIT " 3 "**

**124**

*REQUEST FOR EXTENSION*  
*TTM 33326*

*MAP 33326*

**EXHIBIT “3”**

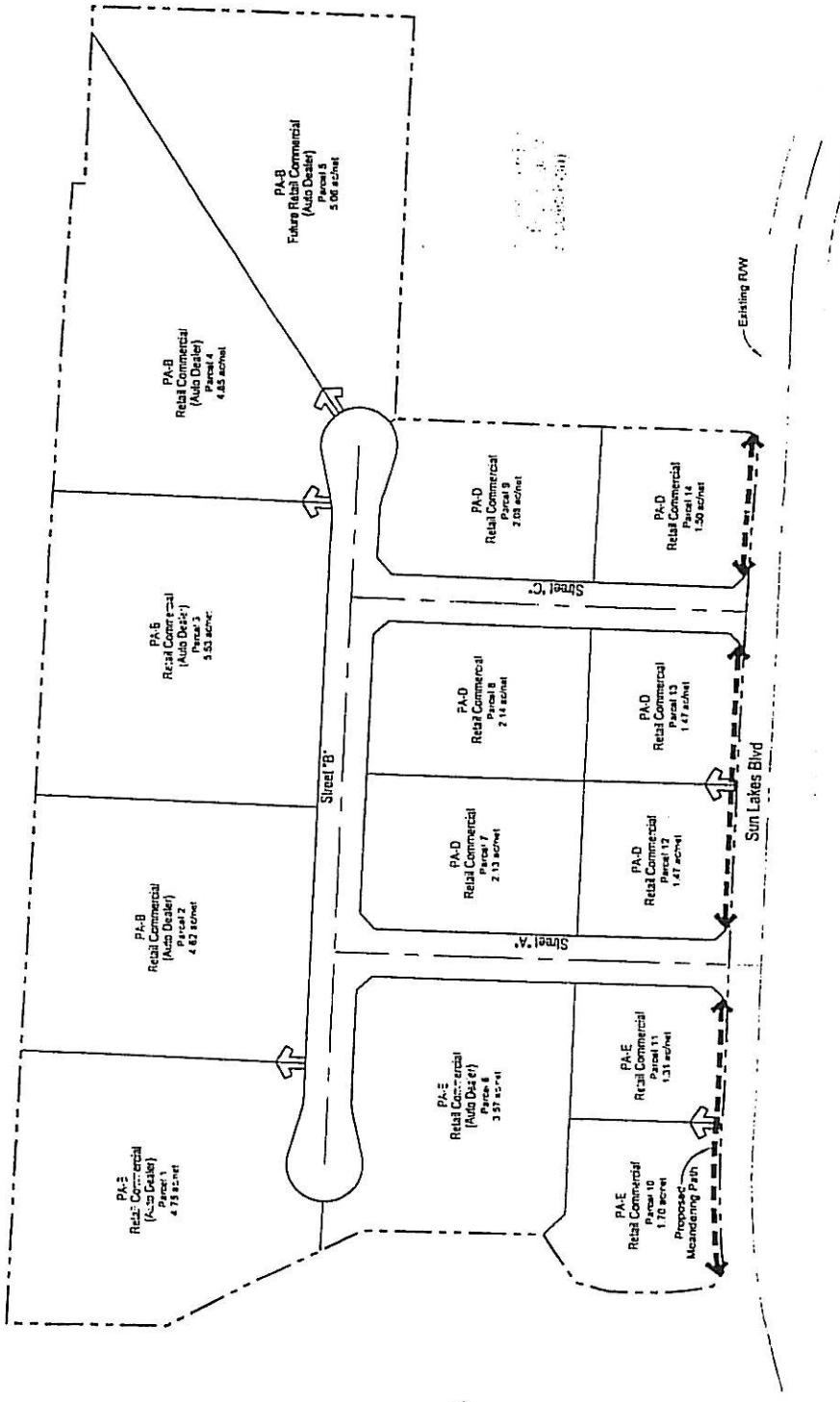
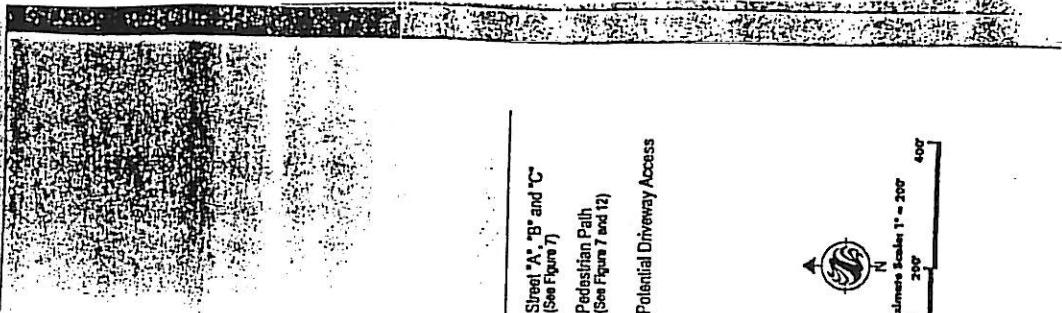


EXHIBIT 4



**CITY COUNCIL  
PUBLIC HEARING**

**Date:** April 8, 2008

**TO:** City Council

**FROM:** Kim Clinton, Senior Planner

**SUBJECT:** Amendment to certain provisions of the Municipal Code. Adding Chapter 2.45 Establishing a Design Review Board. Also amending Table 17.12.020 Permitted, Conditionally Permitted and Prohibited Uses in Commercial and Industrial Zones; and amending certain provisions in Title 17 pertaining to walls and fences.

**RECOMMENDATION:** "I move the City Council:

That the City Council approve Ordinance No. 1387, approving Zone Text Amendment #08-97501.

Mayor Salas asks the City Clerk to read the Title of Ordinance No. 1387.

Motion: I move to waive further reading of Ordinance No. 1387 (Requires a majority vote of Council)

Motion: I move that Ordinance No. 1387 pass its first reading and be adopted (a minimum of three votes required).

**ALTERNATIVES:**

**Continuance:**

"I move the City Council continue the public hearing to its April 22, 2008 meeting".

**Denial:**

"I move the City Council deny the Zone Text Amendment #08-97501 on the following basis (the City Council will need to make its findings)."

**JUSTIFICATION:** The proposed Zone Text Amendment is consistent with the General Plan. The Planning Commission has reviewed these amendments and after taking testimony in a noticed public hearing on March 4, 2008, adopted Resolution 2008-06 recommending approval of Zone Text Amendment #08-97501.

**BACKGROUND/ANALYSIS:** The Planning Commission and City Council reviewed and approved the General Plan and the Zoning Ordinance at the January 31, 2006 meeting. The General Plan and Zoning Ordinance have been in effect since March of that year. Since then, the City has requested additional modifications, and Staff continues to identify code provisions that need to be improved or clarified. Therefore, the purpose of this report is to provide certain code changes as prescribed by both the Planning Commission and City Council as well as provide modification to the Code for clarification/cleanup purposes.

### **Design Review Board**

Attached you will find Ordinance 1387 that includes, among other things, the creation of Chapter 2.45, which will establish and specify the procedural rules for the Design Review Board (DRB). The DRB will consist of a three-member board, which requires that each member have expertise in the areas of architecture or landscape architecture. Recruitment for the members can occur outside the city limits. The DRB will meet at a predetermined time (third Wednesday of the month) to review structures and/or landscape designs that will be considered by the Planning Commission. The DRB will make recommendations as to design issues to be included in the staff report to the Planning Commission. The DRB will meet only one time on a given project. The recommendations of the DRB shall be advisory only and not binding on the Planning Commission. The DRB will consider both residential (tracts only, not individual homes or remodels) and commercial property improvement. The terms of the members of the DRB are proposed to be for two years, with the initial appointments to be two members having two-year terms and one member having a one-year term.

### **Table 17.12.020**

Staff proposes to make the following modification to the Table 17.12.020

**Table 17.12.020  
Permitted, Conditional and Prohibited Commercial and Industrial Uses**

	DC	GC	HS C	PO	I	AI	BP	IMR
<b>Resource and Open Space Uses</b>								
Plant nurseries, with on-site sales	X	P	X	X	X	X	C	C
Plant nurseries, without on-site sales	X	C	X	X	X	X	X	C

Surface Mining <sup>1</sup>	X	X	X	X	C	X	X	D
Cargo/Storage Containers <sup>2</sup>	X	T	T	X	C	C	C	C
<b>Recreation, Education and Public Assembly</b>								
Adult entertainment	X	X	X	X	C	X	X	X
Adult day care facilities	X	C	C	C	X	X	C	X
Automobile race track	X	X	X	X	C	C	X	X
Billiard parlors/pool halls	C	C	C	X	X	C	C	X
Churches	X	X	X	C	C	X	C	X
Community centers	P	P	C	C	X	X	X	X
Convention facilities	P	P	P	X	X	P	X	X
Day Care Centers	C	C	C	C	X	X	C	X
Health/fitness facilities	C	P	P	P	X	X	C	X
Indoor recreation centers	C	P	P	X	X	C	X	X
Libraries	P	P	P	P	X	P	X	X
Membership organization facilities	X	X	X	C	C	P	C	X
Museums	P	P	P	P	X	P	X	X
Outdoor commercial recreation	P	P	P	C	X	C	C	X
Public parks and playgrounds	P	P	P	P	X	P	P	X
Recreational vehicle (RV) parks	X	X	C	X	X	X	X	X
Recreational vehicle (RV) storage	X	X	X	X	C	X	C	X
Schools	X	X	X	C	X	P	X	X

Sport facilities and outdoor public assembly	C	C	C	C	X	C	C	X
Studios for dance, art, music, photography, etc.	P	P	P	P	C	X	C	X
Theatres and meeting halls	P	P	X	C	X	C	X	X
<b>Retail Uses</b>								
Accessory retail uses	P	P	P	P	P	P	P	X
Alcoholic Beverage Sales, on- or off-site	X	C	C	C	X	X	X	X
Antique stores	P	P	P	X	X	X	P	X
Art Galleries	P	P	C	C	X	P	P	X
Auto, mobile home, and motor vehicle sales, and part sales, new	X	P	P	X	C	X	C	X
Auto, mobile home, and motor vehicle sales, and part sales, new and used <sup>3</sup>	X	P	P	X	C	X	C	X
Bakeries, retail	P	P	P	C	X	X	P	X
Bars and drinking establishments	C	C	C	X	X	C	X	X
Building material stores	X	P	P	X	X	X	P	X
Certified farmers' markets	P	P	P	X	X	X	X	X
Convenience Stores	C	P	P	C	X	C	X	X
Convenience Stores, no liquor sales	P	P	P	X	X	X	P	X
Department stores	P	P	P	X	X	X	P	X

Drive-in and drive-through sales	X	P	P	C	X	X	C	X
Drug stores	P	P	P	C	X	X	C	X
Factory outlet centers	X	P	P	X	X	X	C	X
Farm and ranch supply stores	X	P	P	X	X	X	X	X
Furniture, furnishings, home equipment stores	P	P	P	X	X	X	P	X
Gift shops	P	P	P	C	X	P	P	X
Grocery stores, retail butchers and green grocers	P	P	P	X	X	X	C	X
Hardware/lumber stores	X	P	C	X	X	X	P	X
Liquor stores (off-site consumption)	X	C	C	C	X	X	X	X
Outdoor retail merchandise display & activities	P	C	C	C	X	X	C	X
Outdoor retail sales, temporary	T	T	T	T	X	T	T	X
Pawn shops	X	P	P	X	X	X	C	X
Pet stores and grooming	P	P	C	X	X	X	C	X
Restaurants, no beer, wine or liquor sales	P	P	P	C	X	P	P	X
Restaurants, serving beer, wine or liquor <sup>4</sup>	C	C	C	C	X	P	C	X
Restaurants, drive-in, take-out, fast food	C	P	P	C	X	X	C	X
Retail stores, general merchandise	P	P	P	X	X	X	P	X
Second hand/thrift stores	X	C	C	X	X	X	X	X

Shopping centers, 15,000 square feet or more	C	P	P	X	X	X	C	X
Video rental stores	P	P	P	X	X	X	P	X
Warehouse or club stores (i.e. "Big box stores")	X	P	P	X	X	X	P	X
<b>Services</b>								
Automatic teller machine (ATM), not at a bank	P	P	P	P	X	P	P	X
Banks and financial establishments/services	P	P	P	P	X	X	P	X
Barber Shops and Beauty Shops	P	P	P	X	X	X	P	X
Bed and breakfast establishments	P	C	C	X	X	X	X	X
Business support/secretarial services	P	P	P	P	X	P	P	X
Car wash	X	P	P	X	X	X	C	X
Columbariums and mortuaries	X	C	C	X	X	X	C	X
Construction storage (indoor and/or outdoor)	X	X	X	X	P	X	C	C
Drive-in and drive-through services	X	P	P	C	X	X	C	X
Dry cleaning, retail	C	P	P	C	X	X	P	X
Equipment rental yards	X	X	C	X	P	C	C	X
Government offices <sup>5</sup>	<u>X</u> <u>C</u>	C	C	P	X	P	X	X
Hotels and motels	P	P	P	X	X	X	C	X
Laundry, coin operated	C	P	P	X	X	X	X	X

Massage Parlors	C	C	C	C	X	X	X	X
Medical services, clinics and labs	C	C	C	P	X	X	C	X
Vehicle fueling/service stations	X	P	P	X	X	P	X	X
Professional offices	P	P	C	P	X	C	P	X
Public parking	P	P	P	P	P	P	P	X
Public utility and safety facilities	P	P	P	P	P	P	P	P
Real estate offices	P	P	C	P	X	X	C	X
Repair and maintenance of consumer products	X	P	P	C	X	X	P	X
Repair and maintenance of motor vehicles, including auto body	X	C	P	X	P	P	P	X
Research and development facilities	X	X	X	C	C	C	P	X
Storage, accessory, including self-storage	X	X	X	X	C	X	C	X
Veterinary clinics, animal hospitals, grooming	C	P	C	C	X	X	X	X
<b>Manufacturing and Processing Uses</b>								
Assembly from prefabricated parts or products	X	C <sup>6</sup>	X	X	P	P	P	X
Auto wrecking/parts salvaging	X	X	X	X	C	X	X	X
Bakeries, wholesale	X	X	X	X	P	X	P	X
Breweries and distilleries	C	C	C	X	C	X	C	X

Breweries and distilleries, ancillary to a bar or restaurant	C	C	C	X	X	P	C	X
Cabinet shops, carpentry, furniture manufacturing & assembly	X	X	X	X	P	X	P	X
Ceramics manufacturing & assembly	X	X	X	X	P	X	P	X
Cleaning and dyeing plants	X	X	X	X	P	X	X	X
Contractor's storage yards	X	X	X	X	P	C	P	P
Creameries and dairies	X	X	X	X	C	X	X	X
Distribution	X	X	X	X	P	P	P	X
Food products manufacturing	X	X	X	X	P	X	C	X
Furniture and fixtures	X	X	X	X	P	X	P	X
Garment and shoe manufacturing	X	X	X	X	P	X	P	X
Ice and cold storage	X	X	X	X	P	P	P	X
Laundries and dry cleaning plants	X	C	C	X	P	X	X	X
Lumber yards	X	X	X	X	P	X	C	X
Machining, welding and blacksmithing	X	X	X	X	P	P	C	C
Manufacturing facilities, Light	X	X	X	X	P	C	P	X
Manufacturing facilities, Heavy	X	X	X	X	P	C	X	X
Metal Plating shops	X	X	X	X	C	X	X	X
Mixed use office/industrial	X	X	X	X	P	C	P	C

Mixed use industrial/commercial	X	X	X	X	P	X	C	X
Packing plant	X	X	X	X	P	X	P	X
Printing/publishing	C	C	C	C	P	X	P	X
Recycling facilities	X	X	X	X	P	X	C	X
Recycling - reverse vending machines	P	P	P	X	P	X	P	X
Sheet metal shops	X	X	X	X	P	P	C	C
Stone and granite storage and sales	X	X	X	X	P	X	C	P
Storage Yard	X	X	X	X	P	C	C	P
Tire recapping, retreading and storage	X	X	X	X	C	C	C	X
Truck (commercial) repair, towing, storage and service	X	X	X	X	P	P	C	C
Trucking yard or terminal	X	X	X	X	C	C	C	X
Warehousing	X	X	X	X	P	P	P	C
Wholesaling	X	X	X	X	P	C	P	X
<b>Residential Uses</b>								
Caretaker/watchperson's dwelling	C	X	X	X	C	C	C	C
Group homes	X	X	X	X	X	X	C	X
Guest house	X	X	X	X	X	X	X	X
Home occupations	P	X	X	X	X	X	X	X
Mixed Use, residential/commercial	P	P	C	C	X	X	C	X
Organizational and boarding houses	X	X	C	X	X	X	X	X

Residential accessory uses and structures	C	X	X	X	X	X	X	X
Senior Citizen/Congregate Care Housing	C	X	X	C	X	X	C	X
Single room occupancy facilities	C	X	C	X	X	X	X	X
Single family dwellings, existing	C	X	X	X	X	X	X	X
Single family dwellings, new	X	X	X	X	X	X	X	X
<b>Other Uses</b>								
Commercial or Telecommunications Antennae	X	C	C	C	C	C	C	C
Public utility facilities	X	P	P	P	P	P	P	P

<sup>1</sup> Surface Mining Permit required. See Chapter 17.100.

<sup>2</sup> Cargo and storage containers in the commercial zones are only to be used for temporary (seasonal) storage, and require a Temporary Use Permit.

<sup>3</sup> Must include a minimum of 50% new product sales.

<sup>4</sup> Refer to Section 17.12.050 (B) for Conditional Use Permit requirements

<sup>5</sup> A government office shall include administrative functions as well as those activities that will involve on-site customer patronage. A government office that is only administrative in nature, involving no customer patronage, can be considered a professional office

<sup>6</sup> When undertaken in conjunction with on-site retail as a primary use.

The purposes of the above-listed changes are as follows:

1. The proposed footnote No. 4 will clarify the need for a Conditional Use Permit. Section 17.12.050 (B) does not require a Conditional Use Permit for “*sit-down restaurants where the on-site sale of alcoholic beverages is secondary to the primary function of the service of food*”. This footnote will make the Table 17.12.020 consistent with the intent of Section 17.12.050 (B).
2. The City is soliciting the State and the County to develop certain businesses around City Hall. The modification to the Code for “government offices” will facilitate that recruitment of the state and county facilities as well as allow their development. Note that the City will have the authority to review the architectural design of any government office via the Design Review application and operational characteristics of these uses subject to the Conditional Use Permit provisions.
3. The proposed footnote (No. 5) will allow government offices to be considered professional offices (and subject to professional office standards) if they are only administrative in nature. In other words, no walk-up services (customer patronage) would be allowed.

#### Section 17.08.240 (Single-family site planning)

Banning Code Section 17.08.240(L) indicates:

*“L. Walls. Walls and fences are an important part of the streetscape and should be designed thoughtfully. Walls and fences should have the following characteristics:*

1. *Both sides of all perimeter walls or fences should be architecturally treated.*
2. *Walls should be of smooth stucco finish, or of plaster or of other approved masonry or stonework. They should be designed in a style, materials and color to complement the adjacent dwelling units.*
3. *Additional materials may include tile insets, grillwork and wrought iron. The preferred choice for wrought iron is one inch pickets, at a maximum of six inches on center.*
4. *Decorative block can be used, but should complement the adjacent dwelling unit.*

Staff proposes to add the following to Section 17.08.240(L):

5. Chain link fences and barbed wire are not acceptable materials.
6. Wood, masonry, vinyl and adobe are acceptable fence/wall materials.

7. Decorative masonry walls, including, but not limited to, slump stone and split-face block can be used without a stucco or plaster finish, but must be architecturally treated and complement the adjacent dwelling units.

8. All property fencing must be compatible in design and of similar materials.

The above-listed provisions will clarify acceptable fence material for homes.

#### **Section 17.08.270 (Multi-family Architecture)**

This Section governs multi-family dwelling designs, and it does not have provisions for walls. Therefore, staff proposes to include the same provisions found for single-family dwellings. Staff proposes the following be added (17.08.270(L)):

L. Walls. Walls and fences are an important part of the streetscape and should be designed thoughtfully. Walls and fences should have the following characteristics:

1. Both sides of all perimeter walls or fences should be architecturally treated.
2. Walls should be of smooth stucco finish, or of plaster or of other approved masonry or stonework. They should be designed in a style, materials and color to complement the adjacent dwelling units.
3. Chain link fences and barbed wire are not acceptable materials.
4. Wood, masonry, vinyl and adobe are acceptable fence/wall materials.
5. Decorative masonry walls, including, but not limited to, slump stone and split-face block can be used without a stucco or plaster finish, but must be architecturally treated and complement the adjacent dwelling units.
6. All property fencing must be compatible in design and of similar materials.

#### **Section 17.24.080 (Fences, walls and hedges)**

This section sets forth general standards for fences. In order to make this provision consistent with the provisions for single-family and multi-family dwelling units' staff proposes the following modifications (existing Code is italicized):

*The following standards shall apply to the installation of all fences, walls and hedges:*

*A. Only decorative block or stucco walls shall be permitted around the perimeter of subdivisions or planned communities. Wood fencing is prohibited.*

B. Fences, walls, and hedges shall not exceed 6 feet in height, unless required by any law or regulation of the City, the State of California, Federal Government, or agency thereof.

C. Fences, walls and hedges located in the front yard setback shall not exceed 48 inches in height in any District.

D. On a corner lot, no fence, wall, hedge, sign or other structure, shrubbery, mounds of earth, or other visual obstruction over 36 inches in height above the nearest street curb elevation shall be erected, placed, planted, or allowed to grow within a Traffic Safety Sight Area. The foregoing provision shall not apply to public utility poles; trees trimmed (to the trunk) to a line at least 6 feet above the level of the intersection; saplings or plant species of open growth habits and not planted in the form of a hedge, which are so planted and trimmed as to leave at all seasons a clear and unobstructed cross view; supporting members of appurtenances to permanent structures existing on the date this Zoning Ordinance becomes effective; and official warning signs or signals.

E. Barbed wire, electrified fences or razor wire fences are prohibited in any district unless required by any law or regulation of the City, the State of California, Federal Government, or agency thereof. Chain link fences are prohibited in all districts except the R/A, R/A/H, RR, RR/H ~~if approved by the Director and Industrial and Public Facilities—Airport districts.~~ Agricultural and equestrian uses may use electrical fences if approved by the Director. (Zoning Ord. dated 1/31/06, § 9106.03(5).)

F. Decorative masonry walls, including, but not limited to, slump stone and split-face block can be used without a stucco or plaster finish, but must be architecturally treated and complement the adjacent dwelling units.

G. All property fencing must be compatible in design and of similar materials.

PLANNING COMMISSION RECOMMENDATION: On March 4, 2008, the Planning Commission approved Resolution No. 2008-06, recommending to the City Council approval of Zone Text Amendment #08-97501. The Resolution indicates that the proposed Design Review Board Bylaws are Categorically Exempt from the California Environmental Quality Act ("CEQA") as stipulated under Section 15320 "Changes in Organization of Local Agencies"; also, the proposed changes to the Zoning Code are not a project as stipulated under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

FISCAL DATA: These amendments will have no fiscal impact.

RECOMMENDED BY:

*Kim Clinton* *4/2/08*  
Kim Clinton, AICP  
Senior Planner

REVIEWED BY:

*Bonnie Johnson*  
Bonnie Johnson  
Finance Director

APPROVED BY:

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Brian Nakamura  
City Manager

Exhibits:

1. Ordinance No.1387

ZTA #08-97501

*ORDINANCE*  
*NO. 1387*

**EXHIBIT “1”**

141

ORDINANCE NO. 1387

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING THE MUNICIPAL CODE BY ADDING CHAPTER 2.45 ESTABLISHING A DESIGN REVIEW BOARD; AMENDING TABLE 17.12.020 PERMITTED, CONDITIONALLY PERMITTED AND PROHIBITED USES IN COMMERCIAL AND INDUSTRIAL ZONES, AND AMENDING CERTAIN PROVISIONS IN TITLE 17 PERTAINING TO WALLS AND FENCES.**

THE CITY COUNCIL OF THE CITY OF BANNING DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1. Findings.** The City Council hereby finds and determines that:

1. This ordinance is consistent with the goals and policies of the City's General Plan. The City's General Plan contains land use policies requiring that development be of a high quality and that the zoning ordinance shall include design standards and guidelines to facilitate high quality development. This ordinance furthers these policies by establishing a Design Review Board whose specific purpose is to make recommendations on design related issues. This ordinance also furthers these policies by further regulating the types of fencing that are allowed in the city to promote the aesthetics of the City.

2. This ordinance is internally consistent with the City's zoning ordinance. The current zoning ordinance has been in effect since March of 2006. This purpose of this ordinance is to clarify and clean up the zoning ordinance.

3. The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act ("CEQA"), and has determined that the zoning text amendments contained in Section Two of this ordinance are categorically exempt from CEQA per Section 15320 of the CEQA Guidelines ("Changes in Organization of Local Agencies") and that the remainder of the zoning text amendments contained in this ordinance is not a "project" as that term is defined in Section 15061(b)(3) of the CEQA Guidelines because these zoning text amendments do not have the potential for causing a significant effect on the environment.

**SECTION 2. Addition of Chapter 2.45 to the Banning Municipal Code.** A new Chapter 2.45 is hereby added to the Banning Municipal Code, and shall read as follows:

**Chapter 2.45 Design Review Board**

**Sections:**

- 2.45.010 Membership Requirements
- 2.45.020 Term and Vacancies
- 2.45.030 Compensation
- 2.45.040 Rules of Procedure
- 2.45.050 Duties and Responsibilities
- 2.45.060 Conflict of Interest Requirements

- 2.45.070 Staff Liaison
- 2.45.080 Meeting Times and Places
- 2.45.090 Adoption

### **Section 2.45.010 Membership Requirements**

- A. Members of the Design Review Board shall have expertise in the areas of architecture or landscape architecture.
- B. Recruitment for the members may occur outside the city limits.
- C. Members may not be employees of the City.

### **Section 2.45.020 Term and Vacancies**

- A. Members of the Design Review Board shall consist of three (3) members.
- B. Members of the Design Review Board shall serve two (2) year terms. The initial appointments shall have two members with two-year terms and one member with a one-year term.
- C. Appointments shall be made by the City Council.
- D. Applications shall be made available and the closing date announced at least two months prior to the expiration of the Member's term to be filled.
- E. Members shall serve at the pleasure of the Council and may be removed at any time by a majority vote of the entire Council.
- F. Any member who is unexcused for two consecutive regular meetings of the Board or six meetings within a 12 month period, whether the six meetings are excused or not, will be deemed to have resigned their office and the City Council shall appoint a new member to serve in the resigned board member's place for the remainder of their term.
- G. To be excused from any such meeting, a member shall notify the Planning Department, at least 48 hours prior to any such meeting. If a member is unable to attend due to illness, injury or family matters, a statement by the member at the next regular meeting of the Board shall constitute an excused absence.

### **Section 2.45.030 Compensation**

- A. Members of the Design Review Board shall not receive compensation; reasonable traveling expenses to and from conferences and/or special field trips and training sessions shall be reimbursed.
- B. Upon authorization by the City Manager, the Design Review Board and members of its staff may attend conferences or meetings, or hearings on relevant legislation, or matters affecting the development of the City. The reasonable expenses of such attendance shall be charged upon the funds allocated to the Board.

C. All funding shall be established through the City of Banning budget, which shall be approved by the City Council.

#### **Section 2.45.040. Rules of Procedure**

A. A quorum of the Design Review Board shall consist of a majority of the members (including any vacancies). A quorum must be present in order for the Design Review Board to hold a meeting.

B. The Design Review Board shall adopt rules for the transaction of business and shall keep a record of its transactions, findings, and determinations. The Brown Act and "Robert's Rules in Plain English" by Doris P. Zimmerman (Harper Perennial) shall be incorporated into such rules.

C. The Board shall follow all applicable City fiscal and administrative policies and procedures.

#### **Section 2.45.050 Duties and Responsibilities**

A. The Design Review Board shall make recommendations as to design issues to be included in the staff report to the Planning Commission in accordance with the applicable provisions of the General Plan and Zoning Code.

B. At the regular February meeting, the Design Review Board shall select a Chairman and a Vice-Chairman from among its members. The Chairman and Vice-Chairman shall serve for a one term. Both positions shall rotate every one year. All members must be present to conduct this business.

1. The Chairman shall preside at all regular and special meetings and rule on all points of order and procedure during the meetings.

2. The Vice-Chairman shall assume all duties of the Chairman in their absence.

C. The Design Review Board's scope of responsibility is:

1. The Design Review Board shall make recommendations as to design issues to be included in the staff report to the Planning Commission;

2. The Design Review Board will meet only one time on a given project;

3. The recommendations of the Design Review Board shall be advisory only and not binding on the Planning Commission.

4. The Design Review Board will consider both residential (tracts only, not individual homes or remodels) and commercial property improvement in accordance with the applicable provisions of the General Plan and Zoning Code.

D. The Design Review Board is an important function within the City of Banning, and as such, certain expectations are held by the City Council in making the appointment of individuals to the Board. These expectations include the following:

1. Members will attend all regular meetings and special meetings as they arise;

2. Members will communicate expected and unexpected absences to the Planning Department, in a timely manner;
3. Members will communicate any potential conflicts of interest on agenda items to the Planning Department in advance of the hearing to allow confirmation of a quorum;
4. Members will arrive on time to each meeting, fully participate, and remain in attendance until the end of each meeting;
5. Members will prepare themselves for each meeting by reading the agenda, reports and other materials, and visiting the site, as necessary, and communicate any questions to the secretary in advance of the hearing.
6. Pursuant to Resolution 2000-41, if a Board Member visits the site prior to a hearing on the matter, the Board Member shall disclose at the hearing such evidence and observation gathered during the site visit;
7. Members are encouraged to attend the annual conference, if any or an equivalent planning training program given by a University of California Campus (or approved equivalent) and may attend other conferences and or training classes as the need and opportunities arise. The City will also provide regular in-service training and make-up training where attendance is required;
8. New members are expected to become familiar with the City's General Plan and relevant Municipal Code sections particularly those relevant to zoning.
9. Applicants to the Design Review Board will be expected to attend a brief orientation session explaining the role of Board Member, the development process, and the expectations of members that are appointed; and
10. New members will attend an expanded orientation session with the liaison to the Design Review Board and other staff as deemed necessary, to provide new appointees with a solid understanding immediately upon appointment. The orientation will include an overview of the development process, policies and bylaws, a summary of available documents and resources, and a review of the member's relationship with citizens, staff, developers, and the governing body.

F. The Design Review Board may serve on regional boards or commissions as directed by the City Council.

#### **Section 2.45.060 Conflict of Interest Requirements**

- A. The State of California Political Reform Act requires Design Review Board members to disclose interests in investments, real property, and income derived within the City of Banning or from sources doing business within the City of Banning. Filings are required within 10 days of assuming office and on an annual basis.
- B. Members shall not work for the "Pass" Cities, which include Beaumont, Calimesa, and Riverside County in roles such as Economic Development, Planning, or Redevelopment.
- C. If an apparent conflict of interest arises, the member shall inquire of the City Attorney or staff

prior to the meeting. Because the nature of some potential conflicts of interest may require legal research, please advise the City Attorney several days prior to the meeting if possible. If a member has a conflict, the member shall state the nature of the conflict of interest when an agenda item comes before them and shall leave the meeting room.

### **Section 2.45.070 Staff Liaison**

A. The staff liaison to the Design Review Board shall be the Community Development Director.

B. The Design Review Board Liaison, supported by the Secretary to the Design Review Board (a staff position), shall be responsible for:

1. Confirming that a quorum will be present prior to each meeting;
2. Receiving and recording all exhibits, petitions, documents, or other material presented to the Design Review Board in support of, or in opposition to, any issue before the Design Review Board;
3. Signing all meeting minutes and resolutions upon approval;
4. Preparing and distributing agendas and agenda packets;
5. Facilitating the tape recording of meetings and preparation of minutes; and
6. Responding to all questions from Design Review Board members regarding agenda items in advance of meetings.

### **Section 2.45.080 Meeting Times and Places**

A. The Design Review Board shall meet the third Wednesday of each month at 11:30 a.m. at the City Council Chambers located at 99 E. Ramsey Street.

B. Members will attend special meetings as they arise.

### **Section 2.45.090 Adoption**

This document, as adopted and amended by Council resolution, shall serve as the Bylaws for the Design Review Board.

**SECTION 3. Amendment of Table 17.12.** Table 17.12 in the Banning Municipal Code is hereby amended to read as follows:

**Table 17.12.020**  
**Permitted, Conditional and Prohibited Commercial and Industrial Uses**

	DC	GC	HSC	PO	I	AI	BP	IMR
<b>Resource and Open Space Uses</b>								
Plant nurseries, with on-site sales	X	P	X	X	X	X	C	C

Plant nurseries, without on-site sales	X	C	X	X	X	X	X	C
Surface Mining <sup>1</sup>	X	X	X	X	C	X	X	D
Cargo/Storage Containers <sup>2</sup>	X	T	T	X	C	C	C	C
<b>Recreation, Education and Public Assembly</b>								
Adult entertainment	X	X	X	X	C	X	X	X
Adult day care facilities	X	C	C	C	X	X	C	X
Automobile race track	X	X	X	X	C	C	X	X
Billiard parlors/pool halls	C	C	C	X	X	C	C	X
Churches	X	X	X	C	C	X	C	X
Community centers	P	P	C	C	X	X	X	X
Convention facilities	P	P	P	X	X	P	X	X
Day Care Centers	C	C	C	C	X	X	C	X
Health/fitness facilities	C	P	P	P	X	X	C	X
Indoor recreation centers	C	P	P	X	X	C	X	X
Libraries	P	P	P	P	X	P	X	X
Membership organization facilities	X	X	X	C	C	P	C	X
Museums	P	P	P	P	X	P	X	X
Outdoor commercial recreation	P	P	P	C	X	C	C	X
Public parks and playgrounds	P	P	P	P	X	P	P	X
Recreational vehicle (RV) parks	X	X	C	X	X	X	X	X
Recreational vehicle (RV) storage	X	X	X	X	C	X	C	X
Schools	X	X	X	C	X	P	X	X
Sport facilities and outdoor public assembly	C	C	C	C	X	C	C	X
Studios for dance, art, music, photography, etc.	P	P	P	P	C	X	C	X
Theatres and meeting halls	P	P	X	C	X	C	X	X

Retail Uses								
Accessory retail uses	P	P	P	P	P	P	P	X
Alcoholic Beverage Sales, on- or off-site	X	C	C	C	X	X	X	X
Antique stores	P	P	P	X	X	X	P	X
Art Galleries	P	P	C	C	X	P	P	X
Auto, mobile home, and motor vehicle sales, and part sales, new	X	P	P	X	C	X	C	X
Auto, mobile home, and motor vehicle sales, and part sales, new and used <sup>3</sup>	X	P	P	X	C	X	C	X
Bakeries, retail	P	P	P	C	X	X	P	X
Bars and drinking establishments	C	C	C	X	X	C	X	X
Building material stores	X	P	P	X	X	X	P	X
Certified farmers' markets	P	P	P	X	X	X	X	X
Convenience Stores	C	P	P	C	X	C	X	X
Convenience Stores, no liquor sales	P	P	P	X	X	X	P	X
Department stores	P	P	P	X	X	X	P	X
Drive-in and drive-through sales	X	P	P	C	X	X	C	X
Drug stores	P	P	P	C	X	X	C	X
Factory outlet centers	X	P	P	X	X	X	C	X
Farm and ranch supply stores	X	P	P	X	X	X	X	X
Furniture, furnishings, home equipment stores	P	P	P	X	X	X	P	X
Gift shops	P	P	P	C	X	P	P	X
Grocery stores, retail butchers and green grocers	P	P	P	X	X	X	C	X
Hardware/lumber stores	X	P	C	X	X	X	P	X
Liquor stores (off-site consumption)	X	C	C	C	X	X	X	X

Outdoor retail merchandise display & activities	P	C	C	C	X	X	C	X
Outdoor retail sales, temporary	T	T	T	T	X	T	T	X
Pawn shops	X	P	P	X	X	X	C	X
Pet stores and grooming	P	P	C	X	X	X	C	X
Restaurants, no beer, wine or liquor sales	P	P	P	C	X	P	P	X
Restaurants, serving beer, wine or liquor <sup>4</sup>	C	C	C	C	X	P	C	X
Restaurants, drive-in, take-out, fast food	C	P	P	C	X	X	C	X
Retail stores, general merchandise	P	P	P	X	X	X	P	X
Second hand/thrift stores	X	C	C	X	X	X	X	X
Shopping centers, 15,000 square feet or more	C	P	P	X	X	X	C	X
Video rental stores	P	P	P	X	X	X	P	X
Warehouse or club stores (i.e. "Big box stores")	X	P	P	X	X	X	P	X
Services								
Automatic teller machine (ATM), not at a bank	P	P	P	P	X	P	P	X
Banks and financial establishments/services	P	P	P	P	X	X	P	X
Barber Shops and Beauty Shops	P	P	P	X	X	X	P	X
Bed and breakfast establishments	P	C	C	X	X	X	X	X
Business support/secretarial services	P	P	P	P	X	P	P	X
Car wash	X	P	P	X	X	X	C	X
Columbariums and mortuaries	X	C	C	X	X	X	C	X
Construction storage (indoor and/or outdoor)	X	X	X	X	P	X	C	C
Drive-in and drive-through	X	P	P	C	X	X	C	X

services								
Dry cleaning, retail	C	P	P	C	X	X	P	X
Equipment rental yards	X	X	C	X	P	C	C	X
Government offices <sup>5</sup>	C	C	C	P	X	P	X	X
Hotels and motels	P	P	P	X	X	X	C	X
Laundry, coin operated	C	P	P	X	X	X	X	X
Massage Parlors	C	C	C	C	X	X	X	X
Medical services, clinics and labs	C	C	C	P	X	X	C	X
Vehicle fueling/service stations	X	P	P	X	X	P	X	X
Professional offices	P	P	C	P	X	C	P	X
Public parking	P	P	P	P	P	P	P	X
Public utility and safety facilities	P	P	P	P	P	P	P	P
Real estate offices	P	P	C	P	X	X	C	X
Repair and maintenance of consumer products	X	P	P	C	X	X	P	X
Repair and maintenance of motor vehicles, including auto body	X	C	P	X	P	P	P	X
Research and development facilities	X	X	X	C	C	C	P	X
Storage, accessory, including self-storage	X	X	X	X	C	X	C	X
Veterinary clinics, animal hospitals, grooming	C	P	C	C	X	X	X	X
Manufacturing and Processing Uses								
Assembly from prefabricated parts or products	X	C <sup>6</sup>	X	X	P	P	P	X
Auto wrecking/parts salvaging	X	X	X	X	C	X	X	X
Bakeries, wholesale	X	X	X	X	P	X	P	X
Breweries and distilleries	C	C	C	X	C	X	C	X
Breweries and distilleries,	C	C	C	X	X	P	C	X

ancillary to a bar or restaurant								
Cabinet shops, carpentry, furniture manufacturing & assembly	X	X	X	X	P	X	P	X
Ceramics manufacturing & assembly	X	X	X	X	P	X	P	X
Cleaning and dyeing plants	X	X	X	X	P	X	X	X
Contractor's storage yards	X	X	X	X	P	C	P	P
Creameries and dairies	X	X	X	X	C	X	X	X
Distribution	X	X	X	X	P	P	P	X
Food products manufacturing	X	X	X	X	P	X	C	X
Furniture and fixtures	X	X	X	X	P	X	P	X
Garment and shoe manufacturing	X	X	X	X	P	X	P	X
Ice and cold storage	X	X	X	X	P	P	P	X
Laundries and dry cleaning plants	X	C	C	X	P	X	X	X
Lumber yards	X	X	X	X	P	X	C	X
Machining, welding and blacksmithing	X	X	X	X	P	P	C	C
Manufacturing facilities, Light	X	X	X	X	P	C	P	X
Manufacturing facilities, Heavy	X	X	X	X	P	C	X	X
Metal Plating shops	X	X	X	X	C	X	X	X
Mixed use office/industrial	X	X	X	X	P	C	P	C
Mixed use industrial/commercial	X	X	X	X	P	X	C	X
Packing plant	X	X	X	X	P	X	P	X
Printing/publishing	C	C	C	C	P	X	P	X
Recycling facilities	X	X	X	X	P	X	C	X
Recycling - reverse vending machines	P	P	P	X	P	X	P	X
Sheet metal shops	X	X	X	X	P	P	C	C
Stone and granite storage and sales	X	X	X	X	P	X	C	P

Storage Yard	X	X	X	X	P	C	C	P
Tire recapping, retreading and storage	X	X	X	X	C	C	C	X
Truck (commercial) repair, towing, storage and service	X	X	X	X	P	P	C	C
Trucking yard or terminal	X	X	X	X	C	C	C	X
Warehousing	X	X	X	X	P	P	P	C
Wholesaling	X	X	X	X	P	C	P	X
<b>Residential Uses</b>								
Caretaker/watchperson's dwelling	C	X	X	X	C	C	C	C
Group homes	X	X	X	X	X	X	C	X
Guest house	X	X	X	X	X	X	X	X
Home occupations	P	X	X	X	X	X	X	X
Mixed Use, residential/commercial	P	P	C	C	X	X	C	X
Organizational and boarding houses	X	X	C	X	X	X	X	X
Residential accessory uses and structures	C	X	X	X	X	X	X	X
Senior Citizen/Congregate Care Housing	C	X	X	C	X	X	C	X
Single room occupancy facilities	C	X	C	X	X	X	X	X
Single family dwellings, existing	C	X	X	X	X	X	X	X
Single family dwellings, new	X	X	X	X	X	X	X	X
<b>Other Uses</b>								
Commercial or Telecommunications Antennae	X	C	C	C	C	C	C	C
Public utility facilities	X	P	P	P	P	P	P	P

<sup>1</sup> Surface Mining Permit required. See Chapter 17.100.

<sup>2</sup> Cargo and storage containers in the commercial zones are only to be used for temporary (seasonal) storage, and require a Temporary Use Permit.

<sup>3</sup> Must include a minimum of 50% new product sales.

<sup>4</sup> Refer to Section 17.12.050 (B) for Conditional Use Permit requirements

<sup>5</sup> A government office shall include administrative functions as well as those activities that will involve on-site customer patronage. A government office that is only administrative in nature, involving no customer patronage, can be considered a professional office.

<sup>6</sup> When undertaken in conjunction with on-site retail as a primary use.

**SECTION 4. Amendment to Section 17.08.240(L) of the Banning Municipal Code.**  
Section 17.08.240(L) of the Banning Municipal Code is hereby amended to add the following provisions:

5. Chain link fences and barbed wire are not acceptable materials.
6. Wood, wrought iron, masonry, vinyl and adobe are acceptable fence/wall materials.
7. Decorative masonry walls, including, but not limited to, slump stone and split-face block can be used without a stucco or plaster finish, but must be architecturally treated and complement the adjacent dwelling units.
8. All property fencing must be compatible in design and of similar materials.

**SECTION 5. Amendment to Section 17.08.270(L) of the Banning Municipal Code.**  
Section 17.08.270(L) of the Banning Municipal Code is hereby amended to read as follows:

L. Walls. Walls and fences are an important part of the streetscape and should be designed thoughtfully. Walls and fences should have the following characteristics:

1. Both sides of all perimeter walls or fences should be architecturally treated.
2. Walls should be of smooth stucco finish, or of plaster or of other approved masonry or stonework. They should be designed in a style, materials and color to complement the adjacent dwelling units.
3. Chain link fences and barbed wire are not acceptable materials.
4. Wood, masonry, vinyl and adobe are acceptable fence/wall materials.
5. Decorative masonry walls, including, but not limited to, slump stone and split-face block can be used without a stucco or plaster finish, but must be architecturally treated and complement the adjacent dwelling units.
6. All property fencing must be compatible in design and of similar materials.

**SECTION 6. Amendment of Section 17.24.080 of the Banning Municipal Code.**  
Section 17.24.080 of the Banning Municipal Code is hereby amended to read as follows:

A. Only decorative block or stucco walls and wrought iron shall be permitted around the perimeter of subdivisions or planned communities. Wood fencing is prohibited.

B. Fences, walls, and hedges shall not exceed 6 feet in height, unless required by any law or regulation of the City, the State of California, Federal Government, or agency thereof.

C. Fences, walls and hedges located in the front yard setback shall not exceed 48 inches in height in any District.

D. On a corner lot, no fence, wall, hedge, sign or other structure, shrubbery, mounds of earth, or other visual obstruction over 36 inches in height above the nearest street curb elevation shall be erected, placed, planted, or allowed to grow within a Traffic Safety Sight Area. The foregoing provision shall not apply to public utility poles; trees trimmed (to the trunk) to a line at least 6 feet above the level of the intersection; saplings or plant species of open growth habits and not planted in the form of a hedge, which are so planted and trimmed as to leave at all seasons a clear and unobstructed cross view; supporting members of appurtenances to permanent structures existing on the date this Zoning Ordinance becomes effective; and official warning signs or signals.

E. Barbed wire, electrified fences or razor wire fences are prohibited in any district unless required by any law or regulation of the City, the State of California, Federal Government, or agency thereof. Chain link fences are prohibited in all districts except the R/A, R/A/H, RR, RR/H if approved by the Director. Agricultural and equestrian uses may use electrical fences if approved by the Director.

F. Decorative masonry walls, including, but not limited to, slump stone and split-face block can be used without a stucco or plaster finish, but must be architecturally treated and complement the adjacent dwelling units.

G. All property fencing must be compatible in design and of similar materials.

**SECTION 7. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 8. Non-Exclusivity.** Nothing in this Ordinance shall limit or preclude the enforcement of other applicable laws.

**SECTION 9. Effective Date.** This Ordinance shall take effect thirty (30) days after its enactment in accord with California law.

**SECTION 10. Publication.** The City Clerk is directed to cause this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

PASSED, APPROVED, AND ADOPTED this 8<sup>th</sup> day of April, 2008.

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Brenda Salas, Mayor  
City of Banning

APPROVED AS TO FORM AND  
LEGAL CONTENT:

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Burke, Williams & Sorensen LLP  
City Attorney  
City of Banning, California

ATTEST:

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Marie A. Calderon, City Clerk

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1387 was duly introduced at a special meeting of the City Council of the City of Banning, held on the 8<sup>th</sup> day of April, 2008, and was duly adopted at a regular meeting of said City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Marie A. Calderon, City Clerk  
City of Banning  
Banning, California

**CITY COUNCIL AGENDA  
BANNING UTILITY AUTHORITY AGENDA  
CONSENT ITEM**

**Date:** **April 8, 2008**

**TO:** **City Council**

**FROM:** **Bonnie Johnson, Finance Director**

**SUBJECT:** **Funding of the Bond Reserve Requirement Related to the Outstanding Water Bonds issued by the Banning Utility Authority**

**RECOMMENDATION:**

- “The City Council of the City of Banning approve the funding of the bond reserve requirement for the 2005 Water Bonds from operating reserves.”
- “The Banning Utility Authority approve the funding of the bond reserve requirement for the 2005 Water Bonds from operating reserves.”

**JUSTIFICATION:** Due to the downgrading of several major bond insurance companies, this action is necessary in order in order to bring the Banning Utility Authority Water bonds into compliance with its related bond covenants.

**BACKGROUND & ANALYSIS:** In 2005, the Banning Utility Authority (BUA) issued water and wastewater bonds. All bonds issues have what is called a “debt service reserve requirement.” It is a mechanism for protecting investors in the event the issuer experiences problems paying the annual debt payment. If funded with cash, that money is typically comes from bond proceeds, is invested and earning interest for the life of the bond issue and at the end of the bond issue is applied toward the final debt service payment. Instead of funding the reserve requirement with cash from the bond issuance, the BUA opted to buy a surety from one of the major bond insurance companies. This enabled more of the debt proceeds to be used for projects and still resulted in very secure debt that met all covenants. This, as well as the cash option, are very traditional methods of meeting the requirement.

However, as the City Council is aware, as a result of the current turmoil in the subprime lending industry, several major financial companies have been downgraded by Standard & Poor's, Fitch and Moody's. As a result our surety bond with FGIC that was funding our reserve requirement has been downgraded and no longer meets the bond covenant requirement. In order to cure this situation, the BUA must now fund the reserve requirement with cash. According to Bond Counsel, two options exist: Fund this requirement (\$2,310,710) from City reserves or fund it from the \$17 million lease payment made to the City out of the bond proceeds. The lease payment monies are earmarked for several major City projects. It is unclear at this point how long the money will be required to remain on deposit. It is the opinion of our Bond Counsel and Financial Advisor that likely sometime in the future FGIC's AAA will be reinstated. If that occurs the surety will be reinstated and the cash deposit will be returned to the City. Staff has examined both options as far as cash flow, interest rates, etc. Staff is recommending funding this requirement from the Water Operations reserve. The Council established water operations reserve policy is to maintain a minimum of 10% at all times. Per the mid-year projections, there is currently \$6,445,188 on hand in water operations. That equates to approximately 65% of the current year budget.

*156*

**FISCAL IMPACT:** As noted above, there is currently a Water Operations reserve of approximately \$6,445,188. The required cash deposit to fund the bond reserve is \$2,310,710. This would reduce the operating reserve to approximately \$4,134,478, or 42% of the current operating budget.

RECOMMENDED BY:



\_\_\_\_\_  
Bonnie Johnson  
Finance Director

APPROVED BY:



\_\_\_\_\_  
Brain Nakamura  
City Manager

RECOMMENDED BY:



\_\_\_\_\_  
Jim Earhart  
Interim Water Director