

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

May 27, 2008
6:30 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

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

Report by City Attorney

Report by City Manager

PUBLIC COMMENTS – *On Items Not on the Agenda*

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

*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.*

PRESENTATIONS:

- 1) WRCOG (Western Riverside Council of Governments)
Presentation by Rick Bishop, Executive Director

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

III. 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 6
Items to be pulled _____, _____, _____ for discussion.**
(Resolutions require a recorded majority vote of the total membership of the City Council)

1. Approval of Minutes – Regular Meeting – 05/13/08 1
2. Resolution No. 2008-57, Approving the California Transportation
Commission (CTC) Project Baseline Agreement for a Trade
Corridors Improvement Fund (TCIF) Grant to Fund the Sunset
Avenue Underpass Project. 29
3. Resolution No. 2008-58, Temporarily Deferring the Collection
of the City’s Commercial and Industrial Development Impact Fees
Until the Issuance of a Certificate of Occupancy 37
4. Resolution No. 2008-61, Rescinding Resolution No. 2008-18 to
Amend the Classification & Compensation Plan for the City of
Banning 42
5. Resolution No. 2006-63, Awarding the Contract to Civic Solutions,
Inc. for Third Party Project Management Services for the Liberty
XXIII Biofuels Project, Inc. and Appropriating the Necessary
Funds for the Project in an Amount Not to Exceed \$60,000.00 52
6. Award of Annual Weed Abatement Contract to Inland Empire
Property Service in the Annual Estimated Amount of \$70,000. 56

- Open for Public Comments
- Make Motion

IV. PUBLIC HEARINGS

1. The 1.5 MGD Expansion of the Water Reclamation Facility and
Phase I Recycled Water Project.
Staff Report 57

Recommendation: The City Council adopt Resolution No. 2008-50 approving the following:

- 1) **The City Council finds the construction of the 1.5 MGD Expansion of the Water Reclamation Facility and Phase I Recycled Water Project will not have a significant effect on the environment with the mitigation measures included in the Initial Study/Mitigated Negative Declaration.**
 - 2) **The City Council adopts the Initial Study/Mitigated Negative Declaration-Wastewater Treatment Plant Expansion and Phase I Recycled Water System with a Mitigation Monitoring and Reporting Program.**
 - 3) **The City Council directs staff to file a Notice of Determination in accordance with the City's Environmental Guidelines.**
2. Resolution No. 2008-52, Confirming a Diagram and the Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2008/09.

Staff Report 62

Recommendation: The City Council adopt Resolution No. 2008-52:

- 1) **Confirming a Diagram and the Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2008-09, Pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code.**
 - 2) **Authorize the City Clerk to file the diagram and assessment with the Riverside County Assessor/County Clerk-Recorder's Office.**
3. Tentative Tract Map (TTM) 3194 (Formerly known as the "Tefft" project) time extension. Located Generally West of San Geronio Avenue and South of Westward Avenue (APN: 543-020-021; 543-030-004; 543-040-001, -002; 543-050-001, -002, -003).

Staff Report 71

Recommendation: That the City Council adopt Resolution No. 2008-53, approving a one-year extension of time to May 10, 2009, for Tentative Tract Map No. 31924.

V. REPORTS OF OFFICERS

1. Brian Nakamura, City Manager
 - A. City Council Direction to allow Interim Urgency Ordinance No. 1376 to Expire on June 25, 2008, and Direct Staff to Address Key Issues as Identified in the Kosmont Study. . . 105

Recommendations: That the City Council direct staff to follow the Kosmont Study's recommendations and improve upon its infrastructure and allow Ordinance No. 1376, Interim Urgency Ordinance, An Interim Urgency Ordinance of the City of Banning, California, Continuing the Provisions of Ordinance No. 1373 for a period of Ten (10) Months and Fifteen (15) Days Establishing a Temporary Moratorium on the Approval of Self-Storage Facilities and Warehousing Uses Within the City to expire on June 25, 2008, and have staff prepare the appropriate documents to enable this action.

VI. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Review of "Green Plan" in All Departments (*Machisic-10/9/07*) (*Earhart*) (ETA 6/08)
2. Annual Review of General Plan (*Hanna- 10/9/07*) (*Comm. Dev.*) (ETA 6/08)
3. Schedule Meeting with the Beaumont City Council (*Salas- 11/27/07*) (*City Mgr.*)
4. Schedule Special Jt. Meeting the Banning Unified School District Board – (*Botts – 11/27/07*) (*City Mgr.*)
5. Schedule Special Jt. Meetings with the City's Various Committees (Planning Commission, Economic Development Committee, Parks & Recreation) – (*Franklin – 11/27/07*)
6. Review of Development Fees (*Hanna – 12/11/07*) (*Johnson*) (ETA 6/08)
7. Update on Warehouse Moratorium (*Salas/Franklin – 03/25/08*) (*City Mgr.*) (ETA 5/27/08)

FUTURE MEETINGS

1. Redevelopment Workshop on OPA and Façade Grant Programs – May 30, 2008 at 3:00 p.m. – Council Chambers
2. Joint City Council and Planning Commission Workshop Regarding Housing Element - May 30, 2008 at 5:00 p.m. – Council Chambers

VII. CLOSED SESSION

1. Pending Litigation
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:
 - Highland Springs Conference and Training Center v. City of Banning - (RIC 460950)
 - Center for Biological Diversity v. City of Banning – (RIC 460967)

- Cherry Valley Pass Acres and Neighbors, and Cherry Valley Environmental Planning Group v. City of Banning – (RIC 461035)
 - Banning Bench Community of Interest Association, Inc. v. City of Banning – (RIC 461069)
2. Existing Litigation
The City Council will meet in closed session to confer with legal counsel pursuant to the provision of Government Code Section 54956.9(a) with regard to the following matter of pending litigation:
 - Banning Airport Associates; Andrew Marocco vs City of Banning (RIC 497338)
 3. The City Council will meet in closed session Pursuant to Government Code Section 54957.6 Conference with Labor Negotiators.
Employee organizations: CBAM (City of Banning Association of Managers)
Agency Designated Representatives: Brian Nakamura, Bonnie Johnson and Chris Paxton
 4. The City Council will meet in Closed Session pursuant to Government Code Section 54957 with regard to City Attorney evaluation.
 - A. Opportunity for Public to address closed session items.
 - B. Convene to Closed Session

VIII. 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
CITY COUNCIL
BANNING, CALIFORNIA

05/13/08
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Salas on May 13, 2008 at 6:55 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

BOARD MEMBERS ABSENT: Councilmember Botts

OTHERS PRESENT: Brian Nakamura, City Manager
Julie Hayward Biggs, Agency Counsel
Bonnie Johnson, Finance Director
Duane Burk, Public Works Director
Jim Earhart, Public Utility Director
Leonard Purvis, Police Chief
Chris Paxton, Human Resources Director
Matt Bassi, Interim Community Development Director
Ted Yarbrough, Fire Marshal/Fire Prevention Officer
Jeff Stowells, Battalion Chief
Marie A. Calderon, City Clerk

Mayor Salas invited the audience and public to join her in the Pledge of Allegiance to the Flag. The invocation was given by the Pastor Henry Ramirez, Morongo Faith Chapel.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS
ANNOUNCEMENTS/APPOINTMENTS

Report by City Attorney – There was nothing to report at this time.

Report by City Manager

- Regarding the San Geronio Memorial Hospital and their financial situation he had some discussions with them and he is pleased to report that they are operational. A lot of their issues are based on the financing through the State and that is not to say that they are not having financial constraints just like any organization is in today.
- Also you will recall at the in the last couple of weeks they had some interesting headline news in the Record Gazette and he wanted to clarify that the Banning Airport Association which was the Drag City Project was the actual applicant and he hasn't received, at least to the best of his knowledge, the court filing. They are

in request of that and will be getting that and as soon as they do he will provide it to the Council and to the City Attorney's Office.

- The other item was related to Mr. Stephenson's contract and his façade grant was for \$200,000 and not \$2 million dollars.
- In regards to pending items the school district has hired its new superintendent and he has taken the liberty of meeting her at the reception and he looks forward to working with her. He knows the Council is looking forward to working with the school district and he will be coming forward with joint meeting dates for the Council to consider.
- In regards to the warehouse moratorium the actual study will be coming to the Council on May 27th for full discussion. Staff has had some time to review it and they will be making some corrections in terms of the date of the statistics and making sure that they fulfill their obligation, the Osmond Group, and then bring it forward for full discussion. The Council will have a copy of that study hopefully a week before that meeting.
- He is working with Mr. Kapanicus to do a joint meeting between the City of Beaumont and City of Banning City Councils.

PUBLIC COMMENTS – *On Items Not on the Agenda*

Charlene Sakauri, 43000 Dillon Road addressed the Council regarding the marketplace event to be held on Friday evenings and those involved. It will be held for nine weeks during summer and will start on June 20, 2008 and run through August 22, 2008. It will go from 5:30 to 8:30 p.m. and there will be different themes associated with the event. The Cruise Night component will be on the 3rd and 4th Friday evenings of the month. The title of the marketplace is "Cool Summer Nights." She clarified that of all of those Friday nights, July 4th comes in there and it will be dark.

Mrs. Sakauri addressed Passcom and stated that Passcom is part of Riverside County Office of Emergency Services but this is the committee for the Pass Area to plan for disasters and they would really like a lot more community involvement. She said that on Tuesday, June 10th at 8:30 a.m. the speaker is going to be Denise Westbrook and she is from the Department of Animal Services for the County of Riverside to talk about what can be done for animals in case of an emergency. They meet at the San Geronio Memorial Hospital in the modular building which may move around. She said that the County of Riverside has what is called a Reverse 911 which is a system by which the County in case of an emergency can notify residents within a good hour or hour and a half if not sooner of an impending emergency to let them know about evacuations, road closures, etc. Initially the phone numbers that were put into that system were residential and business phone numbers that you could find in the phone books. They are now able to include cell phone numbers and you can register our cell phone number and the easiest way to do this is to go on to the Passcom website and that is www.passcom.org

Don Thornton, Thornton Media, 137 N. San Geronio addressed the Council stating that before he was at this address he was at 89 N. San Geronio. He said that at this business he creates language tools. These are revolutionary products that help American Indian

Tribes regain their languages and they are working with nearly 100 tribes and they are the only language tool company in the world that is devoted to native languages. They were at 89 N. San Geronio for a year and it was a real troubled tenancy and they had a lot of problems. When they went to get some paperwork at City Hall they were told that they were illegally occupying a building that had been deemed unsafe by the City and told that they were the third tenant that had come in for documentation and were told the same thing. The owner, Ben Stephenson, had been told many, many times not to lease or rent this building out and he rented it to them and they were the third one and the worst part of it is that they subsequently found out that the City had given Mr. Stephenson a grant for several hundred thousand dollars. He said don't you vet this people? And if you don't have a vetting policy in place, maybe you should have one because that may be compliance with your rules and should be a basic factor in how you award these grants. It is hard for him to believe that public money is so free-flowing that you can just hand these checks out. He said that they relocated their business back into Banning and they agree with the City's program to beautify downtown Banning. His question is how do you determine who gets these grants and that you should, he thinks, include as a factor whether or not these people are complying with your rules. It does tend to make you look rather powerless if they are ignoring your rules and at the same time you reward them for doing that.

Mayor Salas said that on May 30th at 3:00 p.m. the Agency Board will take a good look at those issues and the façade grants. It is a fairly new program and will definitely take a look at the ordinances on that date.

Fred Sakauri said that he is here to ask about the kick-off dinner that Linda Escandel had for the Stagecoach Days Celebration and she did a heck of a job and now he understands that she is going to try to have a coronation dance at the Armory but there is not much cooperation. He would like to urge the City Council and whoever else has any influence with the State of California to try to get the Armory available for the coronation dance prior to the Stagecoach Days Festival.

Mayor Pro Tem Franklin said that the lease is on-going. The issue that they had was in regards to the way the National Guard has been paid. Assemblyman Paul Cook had said that he would follow-up on it so he has a copy of the lease and we are hoping that he is going to be able to make some inroads with the National Guard.

Francisco Sanchez, 100 W. Westward addressed the Council stating that he was the Assistant Yearbook Editor at Banning High School. He is here to present the 70th Annual San Geronio Yearbook. This year they worked very hard on creating this year's annual from staying after school to staying up late to make sure they met their deadline. The yearbooks have arrived on campus and will be ready for delivery on May 30th with a special release on May 28th. He has brought this year's annual so the Council could preview it and also if the Council is interested you may purchase one at the ASB Office from Heidi Garcia. He hopes that the Council will enjoy the preview. He thanked all the businesses in Banning who advertised in the year book as well.

Patti Hanley, Banning Public Library addressed the Council stating that they have extended hours at the library. The new hours are Monday through Thursday 9a.m. to 7 p.m. and Friday and Saturday 9 a.m. to 5 p.m.

CORRESPONDENCE: None

ANNOUNCEMENTS/COUNCIL REPORTS:

Councilmember Botts -

- said that he represents the Council at the Riverside County Transportation Commission (RCTC) and we may have talked about this some time back but the public voted for bond money for roads and freeways and he knows those are important issues to all of us as we try to move around the county. We had a \$163 million dollar proposal from RCTC that went to the California Transportation Commission and that was approved and in that was \$10 million dollars for the Sunset Grade Separation.

Mayor Pro Tem Franklin -

- said that RTA is adding another evening route to the Commuter Link for those people who take the bus into Riverside. They have three now coming back and one of the things they try to do is to make sure for people who might be taking the Metrolink into Los Angeles they will hold the third bus until the 7:30 train so even if it is late, they will make sure that they will wait for it so people have a way to get back here. They are hoping to see an increase in the rider ship for Commuter Link. Overall the rider ship on all busses has increased almost 10% especially with the gas prices but they are hoping to see more people ride the Commuter Link from our area.
- On May 22nd the Community Action Partnership is sponsoring the Poverty Symposium to be held at the Community Center. It is free and the keynote speaker is John Husing and there will also be other speakers talking about housing and healthcare. The phone number if people are interested is 955-4900.
- They did have a very successful Disaster Expo and will have a full report on the agenda in a couple of weeks.
- she thanked everyone who participated in the Community Clean-Up. They had young people from B.P.A.L., from Twin Pines, Interact and they even had a family where they participated last year and the children looked like they were about 5 and 6 years old and they were so excited to help clean up again. They had about 50 people and will get a report from WRCOG as to how much trash they picked up that day which was quite a bit.
- There was a Child Care Summit a couple of weeks ago and at this summit which was put on by First Five they broke down by city what the needs are for child care. The Council will receive the pages that actually refer to Banning because they break out not only what the need is but what we actually offer.
- The Friends of the College have been working on classes and we are really hoping that we can have some classes at the high school starting in the fall and are trying to coordinate it with the schedule that the students actually have. But they are

looking forward to people giving their input to staff at the San Jacinto College Office to say what kind of classes people are actually looking forward to having. They want to be able to eventually offer them not only for high school students but also for adults who are looking to increase their skills or maybe working on their workforce skills.

- "Ready to Ride" is a program that will be coming up on June 29th and looking forward to the community participating in it and it will be held at Repplier Park from 10 a.m. to 2 p.m. They are asking service clubs and anyone who would like to be a sponsor to contact Detective Monte at 840-8562.
- She said that she and Councilmember Hanna have been the representatives for the Ad Hoc Committee for the Budget and there is one thing she wanted to ask if we would consider for the next agenda and it would be something to add to our policy for the budget.

Councilmember Machisic -

- said the meeting of the Regional Conservation Authority one of the things that they noted was that they have acquired 40,000 acres in Western Riverside County and one of the questions being asked is what are you doing with all of the money buying this land and so they are taking a lesson from WRCOG and they are going to put out some publicity and explain the pieces of property that they bought, their purpose, and what they are doing with it. He said that is important when you take public money and you spend it and you should be accountable and should also make sure the public knows where the money is being spent.
- the WROCG Executive Committee on May 5th approved \$4.2 million dollars in TUMF funds for the Sunset Grade Separation and also released a schedule for the grade separation. They expect to have construction completed in June of 2012.
- A number of cities are faced with foreclosures and vacant homes and what they are doing is having vacant and abandoned property ordinances. What they are basically doing is getting the lender once the homes are foreclosed on they are passing an ordinance that says these companies or organizations have to maintain these properties. Because these properties are depressing neighborhoods and when you talk about the number of foreclosed homes and abandoned homes you're talking in some of the cities thousands and that begins to destroy the neighborhood. We might want to consider this but although other cities are using code enforcement to kind of take care of abandoned homes.
- We had a presentation by the California High Speed Rail Report and there are planning a high speed train that will go from San Diego to Sacramento. The train will travel at 220 miles per hour and they hope to get this off the ground. On the November ballot there is going to be a measure for this high speed train for \$9.95 billion dollars.
- Attended the Mexican-American Scholarship Dinner at the high school and there are two men, Doug Monte and Alex Diaz, and they did such a terrific job and had the kids organized with B.P.A.L selling tickets, serving meals and

even put on a show and they were also the MC's. These are two men from the police department who are so involved with kids in the community that it is unbelievable. Every place you go they are doing things after school, they are putting on special events. He has always said that the future of this community is in the young people. These two men do an outstanding job and go above and beyond the call of duty. He congratulates them and the police department.

Councilmember Hanna –

- said she also attended the Mexican-American Scholarship Association Dinner on May 5th and this is something everyone should put on their schedule on an annual basis.
- We also have at the high school a Banning Youth Theater Ensemble and they recently put on a musical "Once On This Island" and it was tremendous. They had high school students and adults and young children in the play.
- she represents the Council at SCAG (Southern California Association of Governments) and she attended their General Assembly Business Session Meeting last Thursday, May 8th. SCAG is the planning agency that covers San Bernardino, Riverside, Los Angeles, Orange, Ventura and Imperial counties. They approved at that event their transportation plan and basically if you are not on their transportation plan it is very difficult to get federal grants, etc. so it is worthwhile for this Council to participate actively in SCAG and she will as long as the Council allows her to. They mentioned that there is a bill at the Assembly level AB 1111 regarding mobile home parks so she thinks that we need to look at this especially when you have senior mobile home parks that whether they allow families to move in or not is a very serious public policy issue. Most senior mobile home parks have one perhaps two people in each home and if they become a family all of a sudden the infrastructure demands on that park become triple, quadruple because you have many more people per home so the water, wastewater everything is changed so she suggests that they look at it.
- she said that this is in regards to the South Coast Air Quality Management District and she is on an advisory committee for Government and Small Business and one of the things that they are trying to do in order to clean up our air is in regards to wood burning fire places. And while they won't require everyone to comply with this for example if you are low income and a wood burning stove is your only source of heat they will allow you to use that. But the goal is eventually that if you have a wood burning fireplace and you're considering having a fire, you would either call the SCAQMD or go to their website and determine if this is a no burn day. If it is a no burn day and you burn a fire and you are reported and they see you, you'll have some fines and other minor things to deal with. It is another little component of cleaning up our air and that people should be aware of it.
- She would also like to throw out an idea in that we have code enforcement and we are all 100% behind code enforcement and they are doing a terrific job in our city and in other communities rather than calling "code enforcement" one community, Claremont, calls it "Community Improvement". She thought that would be an idea that we could look into over time a Community Improvement Department.

Mayor Salas –

- Said she would be curious to ask why we went from “Code Enforcement” to “Code Compliance” back to Code Enforcement. She heard that term changed back and forth over the years. She would like a little bit of history brought back and maybe the thought on changing it to a positive.
- She also thanked the City Council for attending a lot of committees and being on boards throughout the region. It allows her to be Mayor and work full-time. She appreciates them being out there and they represent the City well.
- In regards to the “Clean-Up” that was nice and there were a lot of students there from B.P.A.L. and Twin Pines Ranch and she would like the City Clerk to send certificates to these kids who attend on Saturday and get a listing of who were there.

CONSENT ITEMS

Mayor Pro Tem Franklin pulled Consent Items 2, 4 and 10 and Councilmember Hanna pulled Consent Item No. 7

1. Approval of Minutes – Regular Meeting – 04/22/08

Recommendation: That the minutes of the regular meeting of April 22, 2008 be approved.

3. Resolution No. 2008-48, Approving an Agreement with Siddhi Development, LLC for the Deferral of Required Development Impact Fees in the Amount of \$569,824.30 Associated with the Development of the La Quinta Hotel located on the north side of Joshua Palmer Way, east of Highland Springs Avenue & west of Apex Avenue (APN: 419-120-020 & 419-10-022).

Recommendation: That the City Council adopt Resolution No. 2008-48.

5. Resolution No. 2008-54, Recognizing the Green Valley Initiative As a Means to Becoming a Center of Green Technology.

Recommendation: That the City Council join the Western Riverside Council of Government (WRCOG) and member agencies in participation in ICLEI (known as Local Governments for Sustainability) and the California Climate Action Registry (CCAR) and adopt Resolution No. 2008-54 recognizing the Green Valley Initiative as a means of becoming a Center of Green Technology.

6. Approve Amendment to Original Agreement with Civic Solutions, Inc. for Interim Community Development Director Services for the City of Banning Community Development Department.

Recommendation: That the city Council approve the first amendment to the original Agreement with Civic Solutions, Inc. for Interim Community Development Director Services for the City of Banning Community Development Department.

8. Approve Final Tract Map No. 34330, Butterfield/Deutsch Specific Plan (located at the northeast corner of Highland Springs Avenue and Wilson St.)

Recommendation: Approve Final Tract Map No. 34330, Butterfield/Deutsch Specific Plans and authorize the City Clerk and the City Engineer to sign said map.

9. Sponsorship of Western Riverside Council of Governments (WRCOG) 17th Annual General Assembly.

Recommendation: That the City Council consider as a member agency being an Innovative Sponsor for the Western Riverside Council of Governments 17th Annual General Assembly in the amount of \$2,500.

11. Approval of Accounts Payable and Payroll Warrants for the Month of March 2008.

Recommendation: That the City Council review and ratify the following reports per the California Government Code.

Motion Botts/Machisic to approve Consent Items 1, 3, 5, 6, 8, 9 and 11. Mayor Salas opened the item for public comments. There were none. **Motion carried, all in favor.**

2. Resolution No. 2008-45, Approving the Professional Services Agreement for Construction Management Services for Project No. 2007-07, Construction of the New Banning Police Station.

Mayor Pro Tem Franklin would like a little bit more information which has to do with the project manager and if he could explain a little bit about what is the difference between now and last month.

Duane Burk, Public Works Director said that the last time he brought this forward it was tabled because some more information was given out and they didn't feel the Council would have had enough time to read it and also Councilmember Botts was not in attendance at that meeting. In fairness to Councilmember Botts it was his thought and the recommendation of the City Manager to make sure that the entire Council was on board and fully disclosed as to what they are doing with the Police Station. He explained construction management and how it relates to a project. He said that they started this project in 2004 and it has gone through many obstacles and many potholes but they are here today to champion the same idea of building a project on time and under budget. The Council gave direction to the City Manager, the previous City Manager and the current City Manager to go ahead and build the project and gave him a dollar amount to follow and he fully understands that and fully intends on bringing that forward to the Council and the public and champion the idea of a

new police station; not for today but for 20 to 30 years down the road. We are not building a pool for today but for 20 years down the road. We don't build road and bridges for today. We build roads and bridges for 20 to 25 years. He said that Cal K-12 brings a different dynamic; they are a large company and they are going to cost a little bit more money than this competitor. This is an essential service facility and not just anybody can build them and not just anybody can manage them and not just anybody can inspect them. And we don't have the power in-house to do that; the personnel, the authority or the knowledge to do that. They sought out through Council's objection through the City Manager to put a constructability review team together, and Ad Hoc, and cut that building by 12,000 square feet. In fact, the Council and City Manager in the past paid for a needs assessment and that needs assessment supports a 30,000 square foot building for the number of officers 25 years out. He said he puts before the Council today a construction management team that is going to help him fit that piece of the puzzle to bring forward that 30,000 square foot building. He said that Cal K-12 CEO, Steve Morris, is present to answer any questions.

Councilmember Hanna said she has heard many good things about Steve Morris and his company. She and Councilmember Botts sat on the Ad Hoc Committee for the Police Building and a very good presentation was presented at that meeting. She said that she was concerned that they were duplicating; whether we are paying numerous entities to do the same management of the same building. Also she imagines that they are going out in the bid for construction for a general contractor and why wouldn't the general contractor be that position. She just wanted to make sure that we are not paying three times for the same job.

Steve Morris, CEO Cal K-12 addressed the Council stating that it is a pretty simple difference between them and the architectural firm; architectural firms design projects and as construction manager they build projects. You're correct in saying that the general contractor does have some scheduling responsibilities but he is not in your court. The general contractor's angle is to get as much money as he can; he is a for profit company similar to them. He said that Cal K-12 are consultants who are here to defend you to make sure that the change orders are mitigated. They also come in at a time in the project where they had to go through the plans to insure that they were both constructible, they meet your budget, meet the schedule and do all the things that the City needs to do to provide this building for the public. So their angle is very different from a general contractor. They are the person who stands on the City's behalf while the building is being built. The contractor is completely interested to build the building for the maximum amount of profit he can get. The architect has been paid to design your project and he had a fee that he was going to submit basically to do what they would for you which is they handle everything from the beginning to the end. They insure that the City gets a competitive bid which they have been soliciting for contractors over this period of time analyzing the questions, insuring that the information that needs to be in the document at the time of bid is included in the contracts so you mitigate the change orders thereby and once the contract starts they manage the schedules, the contractors and any kind of change orders. Their complete incentive is to work with the City now and in the future.

Councilmember Hanna said so we won't be paying the architects proposed fee for management consulting of this job? Mr. Morris said that was correct. He said there is an

administrative function that they perform throughout the course of the project but his firm has an onsite superintendent there the entire time along with the administrative staff to monitor the progress. The architect will not have somebody there doing that.

Councilmember Hanna said as well as with the general contractor who gets the bid we won't be duplicating the fees that we pay him as well as Cal K-12. Mr. Morris said the general contractor's costs will be incorporated at the time of bid. He is going to give you a lump sum to build your building. That is all inclusive in what he is going to provide which is a building that is complete for intended use.

Councilmember Hanna said in the bid that went out for construction it was noted that we would have someone in your capacity so that would make a difference in their pricing. Mr. Morris said he didn't know if that would make a difference. They are aware that there is going to be a construction manager on board.

Councilmember Hanna asked how many police departments have they built. Mr. Morris said they never built a police department but they just finished a building that is almost identical to his one in Victor Valley Community College. It is a 53,000 square foot advanced technology building and if you look at the face of the building it looks very similar to this one.

Councilmember Hanna said even though there are differences with the police department and not everyone can build it; you said you haven't built one in the past. Mr. Morris said that is true you operate underneath the Public Contract and buildings built underneath the Public Contract Code and the Division of the State Architect you're also under the purview of an essential service building. These are the buildings that you go to in the event of an emergency. They build schools primarily in California and those essential service buildings are built along the same guidelines as a police station.

Councilmember Hanna said at the bottom of the report there was a contract awarded to Cal K-12 Construction Management to review the police station plans and specifications and did that go before the City Council and have they been paid in an amount for that.

Mr. Burk said what is listed is that they hired Cal K-12 to do a constructability review, review all of the documents, work with the architect and work with the City as a third party, independent review for the Council so that when the architect is not putting too much gingerbread on we are not looking a blind's eye at it. The idea behind the constructability review was that the first time they put it out to bid it came in at \$3.5 million higher than what they anticipated. What Cal K-12 has done is to put an arm's distance with the architect and say this is what you are going to do. We have paid them nothing; we have a contract with them and part of their incentive to do the construction management and they were going to throw in that constructability review to manage the project.

Councilmember Hanna said she understood and there was a comment made that if you finish the job quicker or under budget that you would have some incentive or charge us less.

Mr. Morris said that they are in for a lump sum fee and want to get the project done on time and on budget so the fee that they gave the City if they don't manage it correctly, the project would run over and they wouldn't charge the City for that. If they manage the project correctly they should finish on time and on budget. However, if they finished in a shorter period of time, there is no incentive clause in the body of the City's contract.

Councilmember Hanna said her concern is that your fee while it may be quite reasonable for what you are doing is 30% higher than the other bid.

Mr. Morris said he is not familiar with whomever the other person was that gave you a bid although he would say that within the industry and the construction management companies that are working at the same level as they are and staffed at the same level and have experience similar to theirs would charge you more than what they are charging the City right now and he is certain of that.

Mayor Salas said recently she just was promoted to work for the EDA and they manage projects that are similar. The department has built many sheriff buildings, facilities, community centers and is that the going rate \$500,000 to pay someone to manage a project. She said what would stop us from contracting with an organization that could do that for us at a substantially less price that does the same thing.

Mr. Morris said if you got the same thing and the same service he would say that you should do it. Certainly you should if you could get it for less money and get the same service, you should go for it and he would make the same recommendation himself. If you are asking for a lump sum amount of money and \$500,000 is that a fair amount for the project that they have undertaken at this point in time, yes it is. It is in line with construction management companies of the same level and the same skill. It isn't a lump sum fee. What it is is 6.25% based upon the bids so if the bid comes in at \$900,000 or \$800,000 the fee would actually go down. If it comes in higher, he is already locked in at a certain amount of money and he can't exceed the amount of money that he has given.

Councilmember Botts said this goes back to the Ad Hoc Committee when they said that all in-costs can't go over a certain amount. Is this included in the discussion when he and Councilmember Hanna were at the meeting. Mr. Burk said yes.

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

Motion Botts/Machisic to approve Consent Item No. 2, Approving the Professional Services Agreement for Construction Management Services with Cal K-12 Construction Management of Yucaipa, California in the amount of "Not to Exceed" \$578,750.00. Motion carried, with Mayor Salas voting no.

4. Resolution No. 2008-51, Approving the National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit Implementation Agreement.

Mayor Pro Tem Franklin asked what is the benefit to the City for participating in this program and does this help with the maintenance of the flood channels that we have here in the City.

Mr. Burk stated this is a partnership agreement between the City and Riverside County Flood Control and yes it does help the storm water runoff areas. This program is a County/State regulated program. Our infrastructure is governed by Riverside County Flood Control and we are already in a partnership with them on their master plan as it relates to flood control channels. When the flood control channel has to be built we send all of our plans and specifications to them and we adopt theirs and enter into third party agreements with the Council. This measure is part of the NPDES program for the downstream runoff during a rainy event where we have to mitigate prior to the rain event which usually occurs in October to April and during that mitigated measure time that is when the NPDES program goes into place where we send out the regulation to developers where they have to put sandbags out and follow the best practices. The rule is going to change in June 2009 where we have to do water quality management plans for the entire infrastructure within the city of Banning. He gave an example on how this works.

Councilmember Machisic said that this is another example of operating something on a regional basis where we are covered under a blanket with the County and they have the experts. An interesting thing if you ever look at Banning on the map, everything comes down hill. Flood control is a vital issue on every project that we do so it is important to have the very best information available to us so we can pass it on to our customers whether they be residential or commercial.

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

Motion Hanna/Botts to approve Consent Item No. 4, adopting Resolution No. 2008-51, Approving the NPDES Storm Water Discharge Permit Implementation Agreement. Motion carried, all in favor.

7. Recommendation for the Installation of "Speed Humps" on Wesley Street between San Gorgonio Avenue and Hargrave Street.

Chief Purvis addressed the Council stating that the Riverside County Sheriff's Department is planning to expand their facility at the dead end of south Hargrave Street. Because of the anticipated traffic concerns and the increased traffic in that area the County has met with residents on Wesley Street and they have expressed a concern that they feel there will be an increase in traffic and also feel that at present they have quite a few drivers that are exceeding the speed limit and feel it is going to get worse once the jail expansion occurs. They have met with County officials and City staff and they are concerned about the speeding vehicles and have suggested and asked for speed humps. He said that the Police Department was asked whether they agreed or concurred with that suggestion and his staff and Lt. Holder went out to the scene and also he and Mr. Burk went out there today and also looked at it and concurred with that opinion.

Councilmember Hanna said that they have had discussions on speed humps before and as the report indicates this is an interrupted length of Wesley Street which is narrow and has no sidewalks. She asked if there has been any discussion of the County being responsible for improving that street given their impact on it.

Chief Purvis said he doesn't think that they were asked to improve the street at all and he doesn't know if there are any improvements involved in that particular street. But, he does know that they agreed to pay for the installation and cost of materials to install the speed humps. But as far as any improvements, as far as putting in gutters or expanding the street so they have sidewalks going north and south of Wesley Street, he doesn't believe that was part of the discussion.

Councilmember Hanna said that she would suggest to the Council that this is something that we should ask the County to do. She doesn't know how much authority we have in the situation. She hasn't seen an environmental impact of the expansion of that but if there were one done, it would seem to indicate that there would be increased traffic and that they should have a responsibility to improve that street and make sure that there is curb and gutter, sidewalks, etc. so that people can be safe walking along this street. She thinks there are a lot more issues along with that. The other issue that she will continue to raise is that she doesn't believe there is any research that indicates that speed humps actually reduce the speed of traffic. They may appease the residents and it looks like something is happening to respond to their genuine concern but that in fact isn't a true solution to the problem. Also the County is paying for an additional officer to focus on south I-10 and why not have an officer on an intermittent basis deal with the speeders in that area if it is indeed an issue. She thinks that would be much more effective than speed humps.

Councilmember Botts said that speed bumps and speed humps really slow him down and he would guess it slows a lot of people. He said that he and Mayor Pro Tem Franklin were in a meeting and he thinks that we ought to have some discussion about this but he feels that the City absolutely made a commitment to the people on Wesley that we would work with them on this traffic issue and in fact even though the Council has to work tonight we have all said that we would help you with this. He thinks that one of the issues is where is the traffic coming from. In that meeting they talked about other alternatives to mitigate traffic on behalf of the citizens of Banning. Could we push further east for major traffic whether that is trucks, food, prisoners or whatever to maybe try to move them over to the eastern part of the city more in the commercial/industrial rather than residential. His point is that they are having significant discussion about traffic in that whole area; how do we minimize it, mitigate it for our residents. It is already a problem on Hargrave and he probably shouldn't say it that way to say you have to fix Wesley when in fact, Hargrave really is there primary entrance road now so then we would say you have to improve Hargrave. He thinks we ought to have these types of discussions but we need to keep our commitment to the Wesley folks and put speed humps in.

Mayor Pro Tem Franklin said in regards to living on a street that has speed humps she can tell you for sure that when she doesn't remember it is there, she does slow down once she hits it. But even more so than that this is an issue that came up several months ago when we talked about the issues around Central School and they wanted something around the entire perimeter of the school and they asked the school staff what were their concerns about traffic and what they thought needed to be done. She and Chief Purvis and Duane Burk were there and what they talked about was speed humps. Actually within the last month she has had somebody from one of the schools come out and tell her how glad they were that two speed humps were put on Nicolet because it has definitely showed the traffic down where children are walking around the school. She feels that they should definitely move forward because this is something the residents asked for and it is not overly expensive to do and will help to mitigate some of their concerns and she doesn't see why we shouldn't go ahead and do it.

Mayor Salas said that at the original meeting she did recall that Rob Fields, the Director of Facilities, did agree to have the County pick up the cost of the speed humps as well as the signage and anything having to do with the stripping. As far as the sidewalks, that was not discussed but could definitely be brought back.

Councilmember Machisic said that it is his understanding that speed bumps are one thing and speed humps are something else and is he correct.

Chief Purvis said that speed bumps are a lot more abrupt and speed humps are a little bit easier for your car to maneuver over.

Councilmember Hanna said that she doesn't just rely on personal experiences. She said she tends to drive the speed limit in town when she is behind someone who is driving the speed limit but she just thinks that it would appease her someday to be shown the research that this actually works. She understands what is being said but would like the research. She doesn't want to be doing something to seemingly please residents that will be ineffective.

Mayor Pro Tem Franklin said she doesn't want to incur an expense for something if that research is actually available. She thinks that live experiences are a part of research and many of them have hit speed bumps wherever they go.

Patti Hanley from the Banning Library said that she would do the research.

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

Motion Botts/Machisic to approve Consent Item No. 7, that the City Council receive and place on file this report as a recommendation from the Banning Police Department regarding traffic issues on Wesley Street between San Geronio Avenue and Hargrave Street. Motion carried, with Councilmember Hanna voting no.

10. EDC Take the Lead to Establish a Pass Area Tourism Council.

Mayor Pro Tem Franklin said that she wanted to get a little more information in regards to the Tourism Council and is there going to be some kind of a business plan presented before we move forward on this.

John Klimkiewicz, 4678 W. Gilman Street and EDC Chairman addressed the Council stating that the charge as they understood it from the City Council to the newly reformed EDC included asking them to take a look at the tourism element in what they were considering for economic development for the City of Banning. In following that charge from the Council they discussed tourism as an element of economic development and the conclusion that they came to was that rather than consider Banning as one unit or part of an area in trying to formulate either a tourism plan or develop a tourism bureau or committee or anything else to focus solely on Banning they felt it really didn't make much sense to isolate the city of Banning from the rest of our region which is the Pass. So they felt it would be a better idea to reach out to other communities, other organizations both city level, county level and even state and include the region from Cabazon through Calimesa or even through Yucaipa and talk to these organizations chambers of commerce, city councils, other organizations that have to do with economic impact or tourism or visitors and see if there is some interest in these groups to come together and to perhaps form a regional tourism council or bureau to put together a plan to encourage tourism to our region, Banning of course included. The memorandum that they came up with that they submitted through the City Manager merely states that in following your directive to look at this that they are willing to do so and this is the how they think they should go about it to make contact with these other groups and perhaps get a meeting together to get their thoughts and perhaps come back then to our respective organizations and to our cities and say these groups are willing to work together and perhaps formulate a plan. That is really the stage they are at and are not proposing to organize some formal group at this point or even come up with some formal plan. They are in the exploration stages.

Councilmember Machisic said the things he looks at is that he would be interested in knowing if these various groups are interested in doing anything like this. In other words, just a contact before any kind of formality is done. If they are interested, then you can come back and formalize some kind of plan.

Councilmember Botts said he wanted to remind the Council that we reconstituted and redirected the Economic Development Committee and had a 12 page document and because a lot of them worked on it and were not clear on what the EDC should be doing for us we said here are twelve things we want you to do and voted to have them do it and one of those was please go take the lead with tourism. We didn't say be the tourism council, don't even create a council. Go take the lead working with the Chamber of Commerce, Banning, Beaumont, Cherry Valley and everyone out there and see what can be put together in the area of tourism. They want to make sure before they go and spend a lot of their volunteer time that they still have the Council's commitment. There is a group, Scott Riley from Oak Glen, Cherry Valley and others talking about what is called

"Pass Area Heritage Corridor". Supervisor Marion Ashley, in fact, passed a resolution and appointed a number of people including himself to sit on that committee to say is there a reason that we ought to explore the Pass and that was all of them and talk about the history, heritage of the wonderful old buildings, the Bradshaw Trail, etc. and that group has been meeting and they have now brought in the County of San Bernardino because Scott Riley is in the County of San Bernardino and this is really a Riverside directed organization. His only point is that they average about 8 to 20 people from Beaumont, Banning, Calimesa, Cherry Valley, Oak Glen, County, and Caltrans and their goal is simply to take a plan back to the County about heritage. There was State legislation that was approved that directed Caltrans that if you put these heritage corridors together, Caltrans will help fund signage. Having served on that there seems to be a great deal of interest of working in the Pass Area because as you talk about tourism each of us has some significant things to look at but collectively we could have much more.

Councilmember Machisic said he thinks the important thing is, for instance, he didn't know that Councilman Botts was meeting with a group of this kind and it has never been reported back so the Council has not had that information and he thinks it is important that when John Klimkiewicz makes an appeal from the Economic Development Committee that we know that something has been going on. It is important that when you belong to a committee your report back to this Council.

Councilmember Botts said that they have met three times and he takes the responsibility for not report back. He was probably thinking that they needed to make sure where they were going before he brought it back.

Mayor Pro Tem Franklin said in regards to the group that is already meeting have there been discussions about tourism and would it utilize this group that is already meeting to move forward in the area of tourism because that is what it would sounds like to her.

Councilmember Botts said that he doesn't think so with this group because it is very clearly a temporary group and it is constituted by the County and it is just for heritage corridor.

Councilmember Hanna said that our Pass Area Economic Development organization previously called ECOPAC has had a tourism council. It met for several years and it would be worthwhile to talk with them and see if there is any remnant of that particular Council. She said she totally supports a regional effort especially in tourism. If somebody is going to come to Banning for one tourist experience, one might decide it makes so much sense to be marketing together. She would encourage the EDC to work on developing a vision as to what does Banning have to offer to a regional tourism effort. What is our vision of what our contribution would be and what is our infrastructure for tourism? In regards to infrastructure for tourism she is thinking what restaurants can handle bus loads of tourists, where can they park; just to have some idea of what it is we have to offer. She said this regional effort may take time to get all the various entities to the table. Personally, it doesn't make any sense to assume that Banning is going to chair

this effort and once they are together as an organization, they will determine who will chair it. It is wonderful if Banning can offer its energy, enthusiasm and time to move it along but we shouldn't assume that Banning would be the lead once it is formed. But in the interim she would encourage the EDC to begin to develop its vision for Banning's component of this larger effort.

Mayor Pro Tem Franklin said her understanding of the document they received is that the EDC is not talking about chairing it as much as you are talking about just checking to see if it is something for the future for our area. She would like to see if could just get some information from the group that Bob is with and ECOPAC and use that as a starting point to find out what is out there and what kind of interest is out there in addition to the cities and then be able to come back and tell us what your able to find out first and then we would know what direction we might suggest you go into to but at least find out what is out there, what could be merged together, what may not work together, if there is interest from other cities.

Mr. Klimkiewicz said that was their intent in bringing that memorandum to the Council. They simply want to know if the Council wants them to take the lead in doing some research, doing some relationship building and reaching out to see if there is interest in these other organizations and groups in putting something together.

Councilmember Botts said he totally agrees with what was said by everyone but he would like to add the caveat that we said to our EDC go work on tourism and we didn't say regional and if no one wants to work with us, we as a Council, he thinks, wants our EDC to work on tourism. If nobody wanted to work with us, would we still want to have a tourism program in the City of Banning and he thinks the answer is yes.

Mayor Salas asked if there would be any fiscal concerns related to this and regardless there is no doubt that we need something that brings all the cities in the Pass Area together and Councilmember Hanna said it nicely we need to know what we have to offer here but at the same time we could really be a good nexus if it was brought together what is happening in the Pass so we could capture that for the weekend and not just have them go gamble for the evening and leave. We want to stay, shop, dine, etc. and go to all the historic places but we need a brochure that brings this all together. So ultimately she thinks this is the goal with many of these groups and it is just a question on how to do that and who is going to be the lead on it but she would be curious to know who are those groups and what they are doing.

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

Motion Hanna/Franklin to approve Consent Item No. 10, approval of the Economic Development Committee taking the lead to establish a Pass Area Tourism Council. Motion carried, all in favor.

REPORTS OF OFFICERS

1. Draft Ordinance Regulating Boarding Houses and Residential Care Facilities.
(Staff Report – Matthew Bassi, Interim Community Development Director)

Mr. Bassi said that this is basically a study session to talk about the draft ordinance that would regulate boarding houses and residential care facilities. The Planning Division has worked closely with the City Attorney's office on this to prepare the draft ordinance for Council consideration and discussion. There has been a lot of thorough research that has gone into the draft ordinance and they feel it is legally sound and is as regulated as they could possibly make it being in compliance with State regulations on these kinds of facilities. The fundamental aspect of the draft ordinance relates to boarding houses and residential care facilities. He summarized the requirements for boarding houses and stated that they are adding several definitions to the zoning ordinance to deal with the different types of definitions; with respect to conditional use permits (CUP) boarding houses will be required to have a CUP in the highway service commercial zone, as well as the MDR (Medium-Density Residential) and HDR (High-Density Residential) zones; boarding houses definition includes two or more people that are living in a house that have rental agreements. With regards to residential care facilities the draft ordinance requires a CUP and the MDR and HDR districts and that would be for the large license or unlicensed facilities and the small unlicensed facilities which would be six or less; large facilities defined as seven or more. In the Highway Service Commercial Zone all residential care facilities whether small or large will require a CUP. They did also include in the draft ordinance provisions for small and large family day care homes which are basically your child day care home that are run out of the house and those are pretty consistent with State law where you are allowed eight permitted by right and over eight can be required to have a CUP.

Councilman Machisic said essentially any group home that has six or less is totally uncontrolled. Mr. Bassi said if they are licensed that is correct. State law preempts City regulations from imposing a CUP.

Councilman Machisic asked if these licenses came from the County. Mr. Bassi said he believes they come from the State.

Councilman Machisic said essentially because he knows that they have tried to pass some legislation controlling these homes and it failed at the State level because they couldn't agree and at best it was a watered-down version of the law but essentially if it is six or under the City really has very little control. It is treated for instance, disabled and children, as residential.

Mr. Bassi said that was correct and with the unlicensed facility of six or less they are proposing to require a CUP and there is litigation right now and there is no decision but he will let the City Attorney speak to that specific thing but they felt they could require a CUP because there is conflict between federal and state regulations right now on that six and under for unlicensed facilities.

Councilmember Machisic said that in the summary, the second sentence, the City's ability to regulate unlicensed group homes that serve six or fewer, children or disabled individuals is

unsettled at this time. That means that essentially we don't control them in any way, shape or form.

Mr. Bassi said the draft ordinance, the unlicensed facilities, can require a CUP.

Councilmember Machisic asked children who are assigned from a county probation or county social services, etc. does he make the assumption that they are licensed since they get paid by the County for each child they board in their home.

Mr. Bassi said he wasn't sure about that.

Councilmember Botts said maybe the Counsel could respond to that one question. Other law firms are saying there is case law on both sides of the issue, if that is a fair statement.

City Attorney said unsettled means exactly what you have described there are cases on both sides and that goes only to the unlicensed situation. Where it is licensed and you have six or under State law pre-empts and there is no control. You can't require anything more than you would a family of six and that is what the law provides. So that does create a hindrance. The current state of the law is that there is jockeying going on and the position that the staff has taken in this ordinance is to take the aggressive position and say we are going to require a CUP for these licensed homes because the law is unsettled. We are going to go ahead and do that even though there may be a challenge. That is a policy direction that actually the Council needs to take on as to whether you really want to take the aggressive approach or the passive approach and no it is unsettled and no we don't want to intrude in that. It is up really to the Council. What they have done is to pull together the ordinance with the idea that it would be given to the Council and let them wrestle with it and give direction to staff as to what kinds of things you want changed, adjusted, done like other places or not done like other places. So it is really a discussion this evening.

Councilmember Botts said as one Council person who initiated this whole discussion we need to be as aggressive as we can possibly be in his estimation. He brought it to the Council and he brought the Norco ordinance which he would like to have the City Attorney talk about where they aggressively said absent the State it doesn't matter, we have a responsibility to protect our residents. He said he brought it to the Council and staff because he had constituents in a mid-city neighborhood who are absolutely terrified of going out of their homes. This is not upscale or a downscale; just a nice residence that has a six or under group home and as a policy and not a legal, we have the right to protect our citizens. When this came up back in November and Norco had said we are tired of this we are going to take it into our own hands and he would like the City Attorney to comment on the law firm who gave them all of the advice that said we are shirking or responsibility. He talked to the Chief of Police that had one home there were 65 calls for service. So not only are they absolutely terrified to walk down their street, they been bullied, there has been questionable sexual harassment, multiple issues, assaults and when they talked about this in December the costs to our police department for that one home, 65 calls for services for disturbances and what all. These are not children but young people doing all kinds of things. He said he has sympathy for them. They are probationers, former drug users, former alcohol users,

former discipline and we need to be sensitive to that but he comes down on the side that the whole neighborhood is afraid to go out of their homes. That is where all of this started and he happened to read that Norco said they were tired of it and we are going to challenge what the State is saying and everyone else and that is a policy decision. He commended Matthew and his staff and the City Attorney for what looks like an ordinance that is pretty good for seven and above but he is going to ask his colleagues to say let's assure that it is six and under and would suggest that they do it for licensed and unlicensed homes and the worst thing that happens is that somebody sues us for trying to put one of these facilities in. He feels that the City is responsible on a policy basis if we don't try to protect our neighborhood. He asked the City Attorney if they ever looked at the ordinance and the attorney firm, Harper and Burns that did the ordinance is well known in Southern California for representing cities. They are the Counsel for the City of Norco. His only argument is that we can sit back and take a conservative approach or we can decide that we are going to protect our neighbors and go out on the edge.

City Attorney said that she could go over the differences that they proposed and the Norco ordinance because there are some provisions in what they proposed that are actually stronger than the Norco ordinance. She said that they have provided in the ordinance that they have identified those circumstances where we have no regulatory power. That is where you have a license for 6 and under home because the State law is clear that if there is no authority on the part of the City to do that for licensed. That has been identified and is not identified in the Norco ordinance. Norco defines a boarding house as any home where three rooms are rented out and it does not specify the number of tenants so you could rent out three rooms to three people which would bring you in the statutory six person limit or you could rent three rooms out to nine people and you would then be in a different category. They have specified the definition of boarding house according to the number of tenants and in this case it begins with six so it is clear that a boarding house is something that is outside the statutory limitation that applies to the other kinds of group homes that we have talked about. As stated in regards to the unlicensed homes they have provided that those are considered boarding houses and they are subject to regulation by a CUP. That is in keeping with the Norco ordinance but it does split out the ones that we know what the State has said and we know what State law provides. They have not separated out the definition of parolee or probationer or living homes as specific as types of boarding houses we've been all inclusive in boarding houses so it is all of them regardless of those things and gives a little bit more regulatory authority. Norco allows boarding houses in any zone with a CUP; we've restricted zones where you can have a boarding house so it is only four zones in the city where it is permitted as opposed to all of them. The Norco ordinance does not address certain residential facilities for the disabled for children that fall within the licensed boarding house and that is a matter of preemption by the State. They also eliminated some language in the zoning ordinance that would allow the operator of a boarding house to evade the boarding house definitions so they tweaked that somewhat. So those are the major differences if you care to call them that but the major issue clearly is whether you are going to abide by the State law with regard to the licensed six and under homes or whether you want to take a different approach. And if you do, she thinks Councilmember Botts has outlined exactly the risk which is that there is a risk with a group of some sort that would challenge and bring a lawsuit and you would then be in a position to defend and that is an

option. She said that they are advisors and not policy makers and it is up to the Council to decide what they want to do there.

Councilmember Botts said the unsettledness there is case law on both sides as it relates to what? City Attorney said it relates to the unlicensed homes only. The license homes there is a statute that says if you have a licensed home and it is six and under it must be treated as a residential property and you cannot impose any requirement on that use that you would not impose on a family. That is statute by the State Legislature. The Norco ordinance does not make that distinction. Under the Norco ordinance it is fuzzy as to whether it applies to the licensed and unlicensed under seven residential.

Mayor Pro Tem Franklin said she wanted to make sure that she was understanding and asked Councilmember Botts if his recommendation is that we talk about doing this ordinance for both licensed and unlicensed even though that could be contrary to the State regulation. Councilmember Botts answered yes. Mayor Pro Tem Franklin also asked Counsel if she thought there was going to be an impact in our area in this area of boarding homes with the early release program of the prisoners. City Attorney said she wouldn't know necessarily. A part of what happened in the discussions with staff and certainly with the police department as well is that the parolee/probationer issue was not as significant here as some of the other concerns that are addressed by the ordinance. Obviously, if there is an early release program which she understands has been abandoned by the Governor, but if there is such a program, a variety of communities will be affected and she couldn't begin to predict how that would affect Banning.

Councilman Machisic said in spite of the comments that he made earlier he agrees with Councilman Botts in that we need to do whatever we can to protect our neighborhoods even though you are sticking your neck out a little bit but he thinks sometimes you have to do that and he thinks people in the neighborhood would appreciate that. He is supportive of it but at the same time he understands the practicalities of what the law will enforce. He said that he has spoken to people in the school district and one of their concerns are sometimes the concerns they have about group homes and the difficulties. In talking about 65 calls you talk about teacher time, counselor time, assistant principal time, principal time, paper work, etc. so there is some difficulty there. If this is an aggressive approach, he is supportive of it and he knows in the vernacular we may get our tail feathers burned at some point in time but he thinks it's important that we express intent to the people in our town that we are interested in the welfare and the safety of neighborhoods.

Councilmember Hanna said what the City Attorney is saying is that there are elements of this proposed ordinance that are stricter than Norco and she certainly wants to go ahead with the stricter interpretation to that degree. She doesn't have any objection to pursuing the additional elements that may be contrary to State law to further enforce it in our community. She would suggest just as an idea and maybe there is a better idea out there that we go forward with this ordinance and then see what revisions need to be made to go that step further with the licensed six and under homes.

Councilmember Botts said he totally agrees but he would like to add that this has been Council driven and what he would suggest is that we need to move forward in the most severe way we can to protect our citizens. But he has not had the ability to determine exactly who is in that house. What he would like to add is that we need to be prudent but we need to be on the cutting edge. If they could have staff work on this a little bit rather than just Counsel, to find out who owns the house; is it licensed or unlicensed and he is using that as the perfect example but if you talk to the school district the range is 18 to 30 group homes within the city of Banning and it is a major issue. The challenge is what our educational system has with those people and that is an issue we need to be supportive of; we need to help people get through this but right now and not at the expense of the entire neighborhood. He would like to ask his colleagues to move forward as cutting edge as we can and ask staff to use that as the model.

Mayor Pro Tem Franklin said if we were to pass this ordinance, what impact would it have on existing homes.

Mr. Bassi said he thinks that they would be considered legal non-conforming and be able to remain indefinitely unless the City Attorney has anything to add to that.

Mayor Pro Tem Franklin said so it would not take away anything that is already there. So if you are saying there are problems with homes that are already existing that wouldn't change.

Councilmember Botts said that Norco's ordinance requires all existing homes comply with the ordinance so the answer according to Norco and their Counsel is every home that fits that new bill has to comply with the CUP. What Matthew is telling us is that ours is not written that way but it should be. If we are going to fix the problem, we ought to have those that fit the ordinance come under it.

Councilmember Hanna asked could we do that retroactively then. Councilmember Botts said Norco's attorney said yes and Norco did it.

City Attorney said one of the things that can be done is to include a provision that basically allows an amortization of the current use over a period of time. So maybe on day one they don't need a CUP but a year from day one or six months from day one, at that point there could be a requirement. So they could look into that.

Mr. Bassi said that on page 122 there is actually a provision in there under Section D. Non-conforming uses that says, "All boarding houses, single room occupancies, large residential care facilities and small, unlicensed residential care facilities existing illegally prior to the effective date of the ordinance creating this section shall be required to comply with the requirements of this section within six months of the effective date." So there is a sunset clause in there.

Mayor Salas said there is no doubt that we need to do something about this. For years we have been talking about it and finally have something in front of us that is in writing and we

may need to tweak it here and there but she thinks that we have come a long way from where we've been in the past. No longer should we wait and watch our schools go down because of the types of students that are being brought in from all over the State. She says all over the State because we have many group homes that can't afford Los Angeles or Ventura County and they bring their clients out here to live in Banning because the prices of the property and that is not acceptable because we end up paying in the long term whether it is through our law enforcement or our schools so there definitely needs to be a little bit of teeth in some of these ordinances and it just a matter of how we go about doing it.

Mayor Pro Tem Franklin asked if this impacted foster homes because people are taking care of children and they get some kind of compensation. Some of them do have multiple children.

City Attorney said that she would have to take a look at it but she doesn't think so because foster arrangements are quasi-family arrangements as opposed to commercial institutions but she will take a look at it.

Mr. Bassi said so just that he is clear the ordinance as they have drafted now he wants to make sure that the comments about the licensed small facilities we have permitted by right in accordance with State law. Do you want us to change that to require a conditional use permit or the way that it is drafted now to move forward as it is.

City Attorney said before the Council responds to that she would like an opportunity to brief the Council on truly the legal risk involved. They have not looked at that here. We have looked at an ordinance that complies with State law and makes that exception. If you are going to look at taking action that is directly inconsistent with State law, they would need to first give Council some advice.

Mayor Salas asked if the recommendation would be to postpone it. City Attorney said the recommendation would be to move forward as it is drafted and let the City Attorney give you some advice and make a change later if the Council decides to go that route.

Councilmember Botts asked if they accepted the suggestion of having staff do some homework on this to determine this particular problem which he thinks is systematic and he thinks it would help all of them to know if it licensed or unlicensed. If it is unlicensed then it is easy; if it is licensed then it becomes a little bit more difficult.

Mayor Salas opened the item for public comments.

Fred Sakauri, 43000 Dillon Road addressed the Council stating concerning this group housing and group care facility and things like that he doesn't have the full text in front of him so he brings forth some words that say regulate and license and to him that spells inspection and when you start talking about these group care facilities and don't we need trained medical staff to do these inspections. And without these inspections if someone does get injured or gets sick as in elder abuse or child abuse, is the City putting itself on one heck of a real slim legal branch. He thinks that these are things that should be

considered elder abuse, child abuse and trained inspection medical people to check these facilities out. He thinks as far as the police department they can assure citizen safety in public places but then to go behind closed doors they have to get called in with regards to something going on behind closed doors and there you have to get into trained medical people. So those are things that he thinks should be considered in this ordinance.

Councilmember Botts said he had one other comment and he thinks that in comparison we put a distance of 300 feet between potential units and Norco said 1000 feet. With concurrence of the Council he would much rather use 1000 feet between these units.

City Attorney said that she thinks they picked the 300 figure because there was some case law saying that that worked. It doesn't mean that 1000 feet won't work it just means that 300 is sort of a safe harbor. But if you want to be more aggressive than that, then they can do what the Council directs. **There was consensus of the Council to do that.**

City Attorney said that have direction and will move forward.

ITEMS FOR FUTURE AGENDAS

New Items –

Councilmember Hanna said that they need to add back on the meeting with the Morongo Band of Mission Tribal Council.

Mayor Salas said that City Manager will try to schedule this meeting again.

Mayor Pro Tem Franklin said if the Council concurs she would like to talk about having a meeting to talk about the budget in terms of policy and not so much in terms of what we are doing with the Ad Hoc right now but in terms of what policy direction we want to give staff having to do with when we are balancing the budget, what our requirements are, whether or not we are saying we are going to include the reserves, whatever we want to do but at some point we sit down as a Council and talk this is what we want staff to do.

City Manager said that he and the Finance Director had just went over a draft memo regarding that because as you know the budget is a very sensitive issue and probably your strongest policy document that you are going to adopt on a fiscal basis and provide the level of services and that is what is going to be determined through the budget process. What they would like to do is to make sure that the full Council is aware of where we stand and how we can address and adapt to our changing budget. As you know there are a lot of unknowns out there with the State and what is going to happen. He said the more meetings that they can have and he is not suggesting every week but maybe on a quarterly or bi-annual basis to address these key issues would be more effective as a policy making body as well as direction for staff.

Councilmember Machisic said that he gets this police report every month and it is a very complete report but he is sure that someone spends a lot of time on this report and he would suggest that when departments report to the Council that we put them on two or

three times a year as opposed to doing them monthly. He would like to see the Council develop some kind of informal policy that departments would only have to report on this two or three times or semi-annually or something of that nature.

Councilmember Botts said that we have had a lot of discussion about communications and he appreciates everything that staff does on all these reports and he thinks that a lot of them came from a previous administration when they were asking for more information and it is great data and important. He would like the City Manager to say to staff here is a way we ought to be reporting to the Council and maybe it is all those reports or consolidated maybe quarterly or whatever. If he is willing to do that he would like the City Manager to handle it.

Councilmember Hanna said that in regards to the budget one of the biggest issues that Mayor Pro Tem Franklin may be referring to is the Council policy that our General Fund should maintain a 10% reserve and assuming that we won't be able to have a time for our workshop prior to completion of the Budget Ad Hoc Committee she would suggest that the Budget Ad Hoc should comply with and ask staff to comply with our existing policy and present a budget that will project a 10% reserve as our policy now requires. Anything less is not in accordance with our own policy.

Councilmember Botts said he would like to clarify what Mayor Pro Tem Franklin said in that he heard her saying not just reserve but policy question; what are we trying to get at.

Mayor Pro Tem Franklin said what she wants to do is make sure that as a body we are on the same page when we're talking about what we want to do in terms in looking at future budgets, what kind of direction we want to be able to get to staff as they are working on budget issues because the Council sets the policy. She just wants to make sure that they are on the same page and they all know what they are talking about in terms of as we move forward with not only this year's budget which should be balanced based on what we have so far. That they are also looking and adding to it what our City Manager said at what time frame do we want to look ahead, what do we want to do as we move forward through some very rocky times with this budget. But more than anything else, she wants to make sure that they are all on the same page.

Mayor Salas said the reason she concurs with that as always she thinks it is important that we have the entire Council be part of huge decisions and this is big when dealing with the budget especially right now. In the past maybe the past 8 to 10 years they have always had the Ad Hoc refer everything to the Council and they would approve it. But times are different financially and we just really need to be careful and make sure we are planning for the future and projecting out far enough as a group. The Ad Hoc has done a fabulous job but again, this is something that the entire Council even on a quarterly basis should be part of.

Councilmember Botts asked if she wanted them to be a part of it now.

Mayor Pro Tem Franklin said no. She said what she would like to see the Council do are a couple of things and that would be to have one meeting where they go over policy specifically and once they have agreement on that then look at quarterly updating through facts where they are because there are so many unknowns right now with what is going on with the State budget and whether or not we are going to get anymore Tasin money. Those kinds of things can make a difference in how we are projecting the future.

Councilmember Botts asked if they were going to bring a balanced budget. Mayor Pro Tem Franklin said they are going to try.

Councilmember Botts said we won't have any major policy decisions to cut services. Mayor Pro Tem Franklin said that was right. Councilmember Hanna said yes you will for the second year of the two year budget. Councilmember Franklin said not for this year and that is why she is saying they need to meet quarterly.

City Manager said from a staff's perspective that is exactly what they were concerned about because their goal is to bring back a conservative budget because we believe we know where we are going to go and he thinks the Council does too. We just don't want to get into a situation where administration starts making quasi-policy decisions on what programs that we will cut because it is clearly a policy direction for the Council to make as group. He said that staff has made some significant modifications in the budget already and if they go any deeper he thinks they will probably and this is his professional opinion, start cutting into programs and programs are something that the Council gives staff direction on and staff wants to make sure that they are not deviating from that policy.

Councilmember Hanna said she thinks it is really a valuable exercise for staff to present with approval of the Ad Hoc a budget with a 10% reserve for both years so we can see what the exact issues are. There are always choices. She thinks we need staff professional development of that budget with a 10% reserve for both years.

Councilmember Botts asked what are we doing as a Council to help balance the budget. He said that staff has provided the Council their budget and how they spend money and is that something that can be provided to them as to how they spend money on travel and trips, etc. If we are asking staff to cut, we ought to set the example so if you could provide that to us, we could say at the top we will start cutting what they spend, or pay their own way.

Finance Director said in the past staff has simply presented Council's budget. The components of the budget are simply the stipends you receive and there is some money for travel and conferences, as well as, the major bulk of it beyond that is for the payment of the state and federal lobbyist. Beyond that there are not a lot of expenses that are specifically attributable to City Council in the budget. She would be happy to proceed with that and present it in any fashion the Council would like.

City Manager said maybe what they need to do is bring this back as a formal agenda item so that we can have a discussion on it.

Councilmember Botts said he is simply asking staff to send them a report.

Pending Items –

1. Review of “Green Plan” in All Departments (*Machisic-10/9/07*) (*Earhart*) (ETA 6/08)
2. Annual Review of General Plan (*Hanna- 10/9/07*) (*Comm. Dev.*) (ETA 6/08)
3. Schedule Meeting with the Beaumont City Council (*Salas- 11/27/07*) (*City Mgr.*)
4. Schedule Special Jt. Meeting the Banning Unified School District Board – (*Botts – 11/27/07*) (*City Mgr.*)
5. Schedule Special Jt. Meetings with the City’s Various Committees (Planning Commission, Economic Development Committee, Parks & Recreation) – (*Franklin – 11/27/07*)
6. Review of Development Fees (*Hanna – 12/11/07*) (*Johnson*) (ETA 6/08)
7. Update on Warehouse Moratorium (*Salas/Franklin – 03/25/08*) (*City Mgr.*) (ETA 5/27/08)

FUTURE MEETINGS

1. Redevelopment Workshop on OPA and Façade Grant Programs
Possible Date: May 29, 2008 at 6:30 p.m.

CLOSED SESSION

City Attorney said the Council will meeting 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:

- Highland Springs Conference and Training Center v. City of Banning – (RIC 460950)
- Center for Biological Diversity v. City of Banning – (RIC 460967)
- Cherry Valley Pass Acres and Neighbors, and Cherry Valley Environmental Planning Group v. City of Banning – (RIC 461035)
- Banning Bench Community of Interest Association, Inc. v. City of Banning – (RIC 461069)

In addition, the City Council will meet under the provisions of Government Code Section 54956.9(b) to confer with legal counsel with regard to one matter of significant exposure to litigation and the City Council will meet in closed session pursuant to Government Code Section 54957 with regard to the City Attorney evaluation.

Mayor Salas asked if there were any public comments on these items. There were none.

Meeting went into closed session at 9:07 p.m. and returned to regular session at 10:20 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 10:20 p.m.

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.

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: May 27, 2008

TO: Honorable Mayor and City Council

FROM: Kahono Oei, City Engineer



SUBJECT: Resolution No. 2008-57, "Approving the California Transportation Commission (CTC) Project Baseline Agreement for a Trade Corridors Improvement Fund (TCIF) Grant to Fund the Sunset Avenue Underpass Project"

RECOMMENDATION:

- I. Adopt Resolution No. 2008-57, "Approving the California Transportation Commission (CTC) Project Baseline Agreement for a Trade Corridors Improvement Fund (TCIF) Grant to Fund the Sunset Avenue Underpass Project."
- III. Authorize the Finance Director to certify that the City of Banning has matching funds that will be available to finance the project.

JUSTIFICATION: It is essential for the City Council to authorize execution of the Project Baseline Agreement for a Trade Corridors Improvement Fund (TCIF) grant to the CTC in order to obtain and utilize state funds for the Sunset Avenue Underpass project. Additionally, the Finance Director must certify that the City of Banning has the necessary matching funds that can be committed to the project.

BACKGROUND: The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by California voters as Proposition 1B, provided for \$2 billion to be transferred to the TCIF for infrastructure improvements along corridors that have a high volume of freight movement. The TCIF program is subject to the provisions of Government Code Section 8879.23(c)(1), as added by Proposition 1B, and to Section 8879.50, as enacted through implementing legislation in 2007 (SB 88 and AB 193).

Per the term of CTC's guidelines for the TCIF Grant the City of Banning has to demonstrate a 50% match but may utilize previously earmarked local, federal, or private funds for this match. The City of Banning has already been approved for four grants totaling \$24 million. The City of Banning has been approved for \$13.9 million in grant funds that can be used as matching funds.

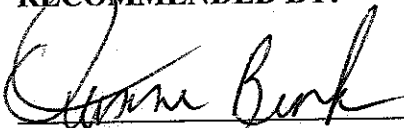
On July 12, 2006, the City of Banning received notification from the Riverside County Transportation Commission (RCTC) that it had been approved for \$7.5 million in Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA-LU) Federal Transportation Grant funding, the maximum amount allowed under RCTC guidelines, for the Sunset Avenue Underpass project. The City has also entered into an agreement with

Congressman Jerry Lewis for \$2.3 million in funding and with the Western Riverside Council of Governments for \$4.1 million in Transportation Uniform Mitigation Fee (TUMF) funding. The City also plans to enter into an agreement with the Union Pacific Railroad whereby the railroad would provide 10% of the total project cost, in accordance with subdivision (d) of Section 2454 of the Streets and Highways Code.

On November 14, 2007, the CTC announced its intention to implement TCIF guidelines in order to fairly and competitively score applications submitted by California public agencies with infrastructure improvements along these trade corridors and distribute the funds. These guidelines were adopted by the CTC on November 27, 2007. The City Council authorized the Engineering Department to submit an application to the CTC for a Trade Corridors Improvement Fund Grant on December 11, 2007. In order to move forward with the grant process, the City of Banning is required to enter into the Project Baseline Agreement, attached as Exhibit "A."

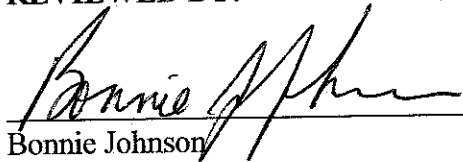
FISCAL DATA: The preliminary cost estimate to complete all phases of the project, including design, construction, construction management, etc., is approximately \$36.5 million. If approved, the City may receive up to \$10 million in these TCIF grant funding from the CTC for the Sunset Avenue Underpass project.

RECOMMENDED BY:



Duane Burk
Director of Public Works

REVIEWED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

RESOLUTION NO. 2008-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE CALIFORNIA TRANSPORTATION COMMISSION (CTC) PROJECT BASELINE AGREEMENT FOR A TRADE CORRIDORS IMPROVEMENT FUND (TCIF) GRANT TO FUND THE SUNSET AVENUE UNDERPASS PROJECT

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by California voters as Proposition 1B, has provided for \$2 billion to be transferred to the TCIF to assist cities and other agencies with infrastructure improvements along corridors that have a high volume of freight movement; and

WHEREAS, the City of Banning has already received notification from the Riverside County Transportation Commission (RCTC) that it had been approved for \$7.5 million in Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA-LU) Federal Transportation Grant funding; and

WHEREAS, the City of Banning has entered into an agreement with Congressman Jerry Lewis for \$2.3 million and with the Western Riverside Council of Governments for \$4.1 million in Transportation Uniform Mitigation Fee(TUMF) funding; and

WHEREAS, on November 14, 2007, the CTC announced its intention to implement TCIF guidelines in order to fairly and competitively score applications submitted by California agencies with infrastructure improvements along these trade corridors and distribute the funds; and

WHEREAS, It is essential for the City of Banning to enter into a Project Baseline Agreement with CTC in order to proceed with the grant.

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

Section I. The City Council of the City of Banning hereby approves the Project Baseline Agreement for the CTC's Trade Corridors Improvement Fund (TCIF) Grant.

Section III. The City Council of the City of Banning hereby authorizes the Finance Director to certify that funds are available to provide the City of Banning's matching costs to finance the remainder of the project.

PASSED, ADOPTED AND APPROVED this 27th day of May, 2008.

Brenda Salas, Mayor
City of Banning, California

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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. 2008-57 was adopted by the City Council of the City of Banning at a regular meeting thereof held on the 27th day of May, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

EXHIBIT "A"

**TRADE CORRIDOR IMPROVEMENT FUND
PROJECT BASELINE AGREEMENT**

TRADE CORRIDOR IMPROVEMENT FUND PROJECT BASELINE AGREEMENT

This Project Baseline Agreement for the Sunset Avenue Underpass, effective on _____, is between the California Transportation Commission, the California Department of Transportation, and the City of Banning.

Whereas at its April 10, 2008 Meeting the California Transportation Commission programmed the Trade Corridor Improvement Fund and included in this program of projects the Sunset Avenue Underpass, the parties are entering into this Project Baseline Agreement to document the project scope, cost, schedule, and benefits, as detailed on the attached fact and funding sheets, as the baseline for project monitoring by the California Transportation Commission and its Project Delivery Council. The undersigned certify that the funding sources cited are committed and expected to be available; the estimated costs represent full project funding; and the scope and description of benefits is the best estimate possible. The undersigned also agree to the following:

General Provisions

- I. To meet the requirements of Government Code Section 8879.23(c)(1), as added by Proposition 1B, and to Government Code Section 8879.50, as enacted through implementing legislation in 2007 (Senate Bill 88 and Assembly Bill 193).
- II. To adhere to the provisions of the California Transportation Commission Resolution TCIF-P-0708-01, "Adoption of Program of Projects for the Trade Corridors Improvement Fund (TCIF)," dated April 10, 2008.
- III. To adhere to the California Transportation Commission's Trade Corridor Improvement Fund Guidelines.
- IV. To adhere to the California Transportation Commission's Accountability Implementation Plan and policies.
- V. To adhere to the process for program and project baseline agreement amendments as documented in the California Transportation Commission's Accountability Implementation Plan and Resolution _____, adopted on May 29, 2008. The Sponsoring Agency agrees to secure funds for any additional costs of the project. Any change to the funding commitments outlined in this agreement requires an amendment.
- VI. To report to the California Transportation Commission on a quarterly basis on the progress made toward the implementation of the project, including scope, cost, and schedule.
- VII. To report to the California Transportation Commission on the progress, on a quarterly basis, and outcomes, at the end of the environmental phase, of the environmental process with regard to air quality impacts due to emissions from diesel or other particulates and related mitigation strategies. The Department of Transportation, the Sponsoring Agency, and the Corridor

Coalition understand and agree that the California Transportation Commission will only allocate TCIF to projects that can demonstrate compliance with applicable environmental requirements. If environmental clearance is conditioned to the implementation of mitigation measures, the sponsoring agency must commit, in writing, to the implementation of those mitigation measures.

- VIII. To maintain and make available to the California Transportation Commission and/or its designated representative, all work related documents, including engineering and financial data, during the course of the project and retain those records for four years from the date of the final closeout of the project. Financial records will be maintained in accordance with Generally Accepted Accounting Principles.
- IX. The California Transportation Commission and/or its designated representative, has the right to audit the project records, including technical and financial data, of the Department of Transportation, the Sponsoring Agency, and any subconsultants at any time during the course of the project and for four years from the date of the final closeout of the project. Audits will be conducted in accordance with Generally Accepted Government Auditing Standards.

Specific Provisions and Conditions

These provisions and conditions will be project specific and may include such things as deadlines for agreements with other agencies or entities, special funding requirements, provisions for the disposition of public assets on projects with private partners, commitments for public benefits, or milestones that must be met by the 2010 review.

Brenda Salas
Mayor
City of Banning

Date

Will Kempton
Director
California Department of Transportation

Date


John F. Barna, Jr.
Executive Director
California Transportation Commission

Date

**CITY COUNCIL
CONSENT CALENDAR**

DATE: May 27, 2008

TO: Honorable Mayor and City Council

FROM: Matthew Bassi, Interim Community Development Director 

SUBJECT: A Resolution of the City Council (Resolution No. 2008-58) Temporarily Deferring the Collection of the City's Development Impact Fees for Commercial and Industrial Development in the City of Banning

RECOMMENDATION:

That the Council adopt Resolution No. 2008-58 temporarily deferring the collection of certain commercial and industrial development impact fees until the issuance of a Certificate of Occupancy permit.

JUSTIFICATION:

The City has the ability to establish development impact fees and collection protocols/policies for such fees.

BACKGROUND:

The City Council on March 5, 2008 adopted a resolution approving the deferral of residential development impact fees in an effort to assist home builders deal with the financial burden during the current economic/market conditions. The Council decided to defer collection of the development impact fees until the issuance of certificates of occupancy. Currently, development impact fees are collected when the building permit is issued for a given project.

To address a similar economic situation now facing commercial and industrial developers, staff is proposing that Council also consider deferring development impact fees for commercial and industrial development projects. Attached to this report is Resolution No. 2008-58 that would defer the collection of commercial and industrial development impact fees until the issuance of a Certificate of Occupancy for any given project. If a commercial or industrial developer requests a deferral of development impact fees beyond the issuance of a certificate of occupancy, then staff will bring a project specific deferral agreement for Council consideration (similar to the La Quinta Inn hotel request approved by Council on May 13, 2008).

The development impact fees that are routinely collected by the City are used to pay for such things as roadway improvements, including signals and water and sewer facilities. The following is a list of the City's development impact fees (refer to next page):

- Administrative Program Processing Fee
- Development Impact Fee
- Energy Conservation Fee
- Fire Protection Facilities & Equipment Fee (Fire Facilities Fee)
- General Facility & Equipment Fee
- General Plan Fee
- Park Land Fee
- Police Facilities Fee
- Solid Waste Facility and Equipment Fee
- Water Capital Facilities Fee
- Traffic Control Facility Fee (Transportation-Signals Fee)

The attached resolution would improve the cash flow and financing challenges for commercial and industrial developers by allowing the flexibility of paying development impact fees when a certificate of occupancy is issued rather than at the time building permits are issued. It is important to note that staff's recommendation to defer development impact fees to certificates of occupancy will not eliminate the option for any given developer to pay development impact fees when the building permit is issued for their project.

FISCAL DATA: No direct financial impact to the City, except that the collection of the development impact fees will occur later in the development review process.

RECOMMENDED BY:



Matthew Bassi
Interim Community Development Director

REVIEWED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

CC Attachment:

1. Council Resolution No. 2008-58

ATTACHMENT 1

City Council Resolution No. 2008-58

RESOLUTION NO. 2008-58

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BANNING, CALIFORNIA, TEMPORARILY DEFERRING THE
COLLECTION OF THE CITY'S COMMERCIAL AND
INDUSTRIAL DEVELOPMENT IMPACT FEES UNTIL THE
ISSUANCE OF A CERTIFICATE OF OCCUPANCY**

WHEREAS, due to the effects of the current economic factors and conditions within the County of Riverside and based on meetings/discussions with the development community, there is a desire that the collection of commercial and industrial Development Impact Fees (DIF) be deferred to the issuance of a Certificate of Occupancy; and

WHEREAS, given the need to promote economic development during the slowdown in the current economic environment, the City Council hereby finds the temporary deferral of the collection of Development Impact Fees until the issuance of a Certificate of Occupancy, to be in the best interest of the City.

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

Section 1. The City Council hereby determines with the adoption of this Resolution that effective on May 27, 2008, the collection of the City's Commercial and Industrial Development Impact Fees shall be temporarily deferred until the issuance of a Certificate of Occupancy.

Section 2. Development Impact Fees shall mean those fees imposed and levied by the City to recover the cost of planned public facilities and to mitigate impacts of development on the City. The Development Impact Fees include the following:

- Administrative Program Processing Fee
- Development Impact Fee
- Energy Conservation Fee
- Fire Protection Facilities & Equipment Fee (Fire Facilities Fee)
- General Facility & Equipment Fee
- General Plan Fee
- Park Land Fee
- Police Facilities Fee
- Solid Waste Facility and Equipment Fee
- Water Capital Facilities Fee
- Traffic Control Facility Fee (Transportation-Signals Fee)

Section 3. This Resolution shall be in full force and effect for a period of one (1) year commencing from the effective date of this Resolution.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2008.

Brenda Salas, Mayor
City of Banning

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

Burke, Williams & Sorensen, LLP
City Attorney

ATTEST:

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. 2008-58, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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**CITY COUNCIL AGENDA
CONSENT CALENDAR**

Date: May 27, 2008

TO: Honorable Mayor and City Council

FROM: Chris Paxton, Human Resources Director *CP*

SUBJECT: Classification Plan Amendment

RECOMMENDATION: Adopt Resolution No. 2008-61 amending the City's Classification Plan to reflect new job classifications and salary ranges in accordance with a reorganization plan previously submitted by staff. Approve by minute order those changes noted in attached "Exhibit A".

JUSTIFICATION: The City Council approved the City of Banning Classification and Compensation Plan on January 25, 2005. The plan has since been amended, most recently on February 12, 2008. Maintenance of this plan is a dynamic process in which Human Resources works continuously with operating departments to develop classifications which reflect the current needs of the department in their efforts to deliver quality services to residents. City Personnel Rules require that the City Council approve all changes to the City's Classification Plan. Council approval of this recommendation will meet the City's goal to provide top quality and reliable service to both internal and external customers and to ensure labor market competitiveness in both recruitment and retention.

BACKGROUND: As a result of recent reorganizations in the Community Development Department and Utility Department along with an expansion of duties for the Human Resources Director, some changes are proposed for the City's Classification plan. Those changes are summarized in the attached "Exhibit A".

Community Development Department

Currently, Redevelopment and Community Development are separate departments. With the recent departure of the City's Redevelopment Director, this provided the opportunity to reexamine the redevelopment function and explore options for making programs more efficient and cost effective. Because redevelopment issues are so deeply intertwined with land use, there is much coordination and communication required between Redevelopment and Community Development. Code Enforcement Officers are brought in to remediate blighted areas, planners are called upon to review plans and comment on aesthetics and land use conformance.

With the recognition of this interdependence, staff has proposed eliminating the position of Redevelopment Director and instead hiring a Redevelopment Manager to work within the Community Development Department under the direction of the Community Development Director. The existing Economic Development/Redevelopment Project Coordinator position will report to the Redevelopment Manager. This provides for better coordinated and more efficient processing of redevelopment projects. It also provides some overall salary savings. The salary range for Redevelopment Manager will be Range 81.

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Utility Department

At this time, City utilities are separated into Electric and Water/Wastewater. When the Water/Wastewater Director resigned late last year, that department was brought temporarily under the management of the Electric Services Director. Once again, this gave staff the opportunity to study both operations and look for opportunities to increase efficiency. While both operations are different in some regards, their basis as utilities makes them function similarly in many ways. Both are enterprises. Both operations are highly reliant on complex and expensive infrastructure. Construction projects throughout the City typically involve both departments. Training for the two entities is very similar.


Having both operations under a unified management structure helps eliminate redundancies associated with planning and organizing. It has also provided for more efficient and effective training across disciplines. Maintenance of electrical and water facilities has been improved. Consequently staff is proposing to make the unified management structure permanent. The new Department will be called Public Utilities and the Electric Services Director will become the Director of Public Utilities. The new salary range will be Range 96. In addition, the classifications of Assistant Public Utility Director and Public Utility Superintendent will be re-titled to Assistant Director Water/Wastewater and Water/Wastewater Superintendent, respectively.

Human Resources

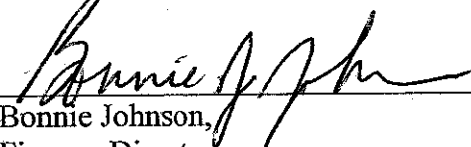
The Human Resources Department consists of both personnel and risk management functions. Both of these disciplines require a high degree of technical competence and managerial skill. Both exist in a complex legal environment with severe consequences for error. In recent years risk management duties have increased as the City has grown. In recognition of the responsibility of this position and the increase in risk management activities, staff has proposed increasing the salary range of this position from Range 83 to Range 88, an increase of 12.5%. This increase is in line with the City's other department heads and keeps the position competitive in the market.

FISCAL DATA: The above classification changes result in the following budgetary impacts: Water fund savings of \$139,300; Wastewater savings of \$59,700; Community Redevelopment Agency savings of \$5,480; General Fund increase of \$3,782; miscellaneous funds increase of \$10,764. All of these budget impacts have been incorporated into the 2008/09 budget.


RECOMMENDED BY:


Chris Paxton,
Human Resource Director

REVIEWED BY:


Bonnie Johnson,
Finance Director

APPROVED BY:



Brian Nakamura,
City Manager

Summary Schedule of Proposed changes
Resolution 2008-61 with Classification and Compensation Plan

Exhibit A

<u>Existing Titles</u>	<u>Proposed Action</u>
1) Electric Utility Director	Title Change to Public Utility Director and Change Salary Range from 92 to 96
2) Assistant Public Utility Director	Title Change to Assistant Director Water/Wastewater
3) Public Utility Superintendent	Title Change to Water/Wastewater Superintendent
4) Redevelopment Director	Delete classification of Redevelopment Director (Range 84) and add classification of Redevelopment Manager (Range 81)
5) Human Resources Director	Change Salary Range from 83 to 88

RESOLUTION 2008-61

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
RESCINDING RESOLUTION NO. 2008-18 TO AMEND THE CLASSIFICATION
& COMPENSATION PLAN FOR THE CITY OF BANNING**

WHEREAS, it is necessary to amend the City's Classification Plan from time to time to maintain a current plan which reflects the nature of work, organizational structure, or otherwise;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1:

The City Council adopts as its official Classification Plan the attached schedule setting forth all classifications of the City and their corresponding salary ranges.

PASSED, APPROVED, AND ADOPTED this 27th day of May, 2008.

Brenda Salas, Mayor
City of Banning, California

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

Burke, Williams & Sorensen, LLP
City Attorney

ATTEST:

Marie A. Calderon, City Clerk

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CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2008-61 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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CITY OF BANNING
CLASSIFICATION & COMPENSATION PLAN
REVISED MAY 27, 2008 (RESOLUTION NO. 2008-61)

MATRIX BY CLASS SERIES/JOB CODE

Class Series/Occupational Job Group	Job Code	Classification/Position	Salary Range	Bargaining Unit
1000 - CITY ADMINISTRATION SERIES				
City Administration Group	1010	City Manager	109	Council Contract
	1005	Assistant City Manager	97	Contract
Financial Services Group	1020	City Clerk/City Manager Secretary	55	Elected
	1110	Finance Director/Assistant City Manager	97	Contract
	1130	Financial Services Specialist	45	IBEW-G
	1150	Accounting Manager	73	Mgmt/Conf
	1140	Accountant	52	General
	1160	Purchasing Manager	73	CBAM
	1165	Buyer	52	General
Human Resources Group	1210	Human Resources Director	88	Contract
	1220	Human Resources Analyst	60	Mgmt/Conf
	1225	Senior Human Resources Analyst (Recruitment & Benefit Manager)	68	Mgmt/Conf
	1240	Risk Management Analyst	60	CBAM
	1230	Human Resources Technician	52	Conf/Gen
Utility Billing Group	1310	Customer Services Manager	67	CBAM
	1340	Sr. Utility Billing Rep	46	IBEW-G
	1350	Utility Billing Representative	41	IBEW-G
Information/Cable Systems Group	1405	Information Technology Manager	73	CBAM
	1410	Information Technology Coordinator	57	IBEW-G
	1416	Police Information Technology Technician	57	IBEW-G
	1415	Info Technology/Media Technician	55	IBEW-G
	1510	Cable Services Specialist	42	IBEW-G
Office Support Group	1610	Executive Secretary	51	IBEW-G
	1620	Office Specialist	42	IBEW-G
	1630	Receptionist	29	IBEW-G

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2000 - POLICE SERIES

Police Group	2010	Police Chief	96	Contract
	2015	Deputy Police Chief	86	Police Mgmt/Conf
	2025	Police Lieutenant	82	Police Mgmt/Conf
	2030A	Police Staff/Master Sergeant	75	POA
	2030	Police Sergeant	68	POA
	2050	Police Officer	64	POA
	2060	Police Recruit/Trainee	N/A	At-Will
Police Support Group	2143	Lead Public Safety Dispatcher	54	IBEW-G
	2110	Public Safety Dispatcher	50	IBEW-G
	2120	Property & Evidence Specialist	48	POA
	2130	Community Services Officer	42	POA
	2140	Lead Police Records Specialist	43	IBEW-G
	2141	Police Records Assistant	31	IBEW-G

3000-COMMUNITY DEVELOPMENT SERIES

Community Development Group	3010	Community Development Director	88	Contract
	3021	Planning Engineer	72	CBAM
	3050	Senior Planner	75	CBAM
	3020	Associate Planner	64	CBAM
	3015	Assistant Planner	59	CBAM
	3026	Development Project Coordinator	56	IBEW-G
	3025	Planning Technician	54	IBEW-G
Economic/Redevelopment Group	3116	Redevelopment Manager	81	CBAM
	3103	Economic/Redevelopment Project Coordinator	56	IBEW-G
Development Services Group	3210	Development Services Manager (Building Official)	80	CBAM
	3215	Senior Building Inspector	65	IBEW-G
	3220	Building Inspector	60	IBEW-G
	3235	Senior Code Compliance Officer	59	IBEW-G
	3230	Code Compliance Officer	56	IBEW-G
	3240	Building Permit Specialist	53	IBEW-G

3300-COMMUNITY SERVICES GROUP


Community Services Group	3315	Recreation Director	78	Contract
	3325	Recreation Coordinator	49	IBEW-G
	3350	Lead Bus Driver/Trainer	53	IBEW-G
	3340	Bus Driver	45	IBEW-G

4000-PUBLIC WORKS SERIES

Public Works Management Group	4010	Public Works Director	88	Contract
Streets/Parks Group	4210	Public Works Superintendent	77	CBAM
	4220	Streets/Parks Maintenance Manager	64	CBAM
	4230	Work Release Crew Leader	45	IBEW-G
	4240	Sr. Maintenance Worker	48	IBEW-G
	4250	Maintenance Worker	43	IBEW-G
	4260	Motor Sweeper Operator	48	IBEW-G
Engineering Group	4300	City Engineer	81	CBAM
	4350	Senior Civil Engineer (Water/Wastewater)	78	CBAM
	4320	Associate Civil Engineer	72	CBAM
	4325	Assistant Civil Engineer	64	CBAM
	4330	Public Works Inspector	60	IBEW-G
	4340	Engineering Services Assistant	46	IBEW-G
General Maintenance and Support Group	4410	Fleet Maintenance Manager	71	CBAM
	4425	Lead Fleet Maintenance Mechanic	54	IBEW-G
	4420	Fleet Maintenance Mechanic	51	IBEW-G
	4430	Building Maintenance Specialist	47	IBEW-G
	4440	Custodian	32	IBEW-G
	4450	Warehouse Services Specialist	50	IBEW-G

4100 PUBLIC UTILITIES SERIES

	4109	Director of Public Utilities	96	Contract
Water/Wastewater Group	4110	Assistant Water/Wastewater Director	81	CBAM
	4115	Water/Wastewater Superintendent	77	CBAM
	4120	Assistant Water Superintendent	65	IBEW-U
	4130	Water Crew Supervisor (Distribution Specialist)	58	IBEW-U
	4140	Water Services Worker	50	IBEW-U
	4145	Wastewater Collection System Technician	50	IBEW-U
	4150	Wastewater Collection System Specialist	52	IBEW-U
	4160	Water Crew Supervisor (Production Specialist)	58	IBEW-U
	4132	Water Valve Flushing Crew Lead	54	IBEW-U
	4133	Water Construction Crew Lead	54	IBEW-U
	4131	Water Meter Crew Lead	54	IBEW-U
	4155	Wastewater Collection System Supervisor	58	IBEW-U



Electric Services & Operations Group	5015	Electrical Systems Engineer	86	CBAM
	5021	Power Contracts & Revenue Administrator	81	CBAM
	5031	Sr. Electric Service Planner	77	IBEW-U
	5030	Electric Service Planner	75	IBEW-U
	5045	AutoCAD/GIS Technician	66	IBEW-U
	5050	Public Benefits Coordinator	53	IBEW-U
	5055	Utility Services Assistant	46	IBEW-U
	5110	Electric Operations & Maintenance Manager	81	CBAM
	5120	Powerline Crew Supervisor	77	IBEW-U
	5130	Powerline Technician	73	IBEW-U
	5140	Powerline Apprentice	65/ 71	IBEW-U
	5150	Electric Services Worker	50	IBEW-U
	1325	Field Service Representative	49	IBEW-U
	5160	Electric Meter Test Technician	73	IBEW-U
	5170	Apprentice Electric Meter Test Technician	65 / 71	IBEW-U

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: May 27, 2008

TO: City Council

FROM: Bonnie Johnson, Finance Director

SUBJECT: Approve an amendment to Deposit/Reimbursement Contract with Liberty XXIII Biofuels Power, Inc for Senior Project Management Services and Award of Contract to Civic Solutions, Inc. for Third Party Senior Project Management Services for the Liberty XXIII Biofuels Project located at the southeast corner of Westward Avenue and Scott Street in the amount not to exceed \$60,000.

RECOMMENDATION: That the City Council approve an amendment to the current Deposit/Reimbursement Contract with Liberty XXIII Biofuels Power, Inc. for the Senior Project Management Services, award of contract to Civic Solutions, Inc in the amount not to exceed \$60,000, and approve Resolution 2008-63 authorizing an additional appropriation of funds.

JUSTIFICATION: The Senior Project Manager (SPM) assigned to the Liberty Energy Project will provide day-to-day project planning support and technical expertise with project supervision being handled by the City's Interim Community Development Director.

BACKGROUND/ANALYSIS: Liberty XXIII Biofuels Power, Inc. (Applicant) proposes to develop a 15 MW thermal electric power plant in the City of Banning at the southeast corner of Westward Avenue at Scott Street, adjacent to the City's waste water treatment plant. The multi-phased project will be developed on a 17.3 acre site; it will be fired on a mixture of sewage sludge and biomass. In addition to the Environmental Impact Report, a Conditional Use Permit and a General Plan Land Use and Zone change will be required.

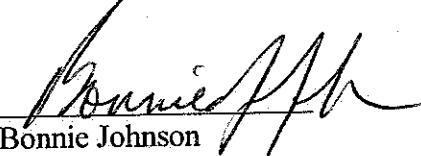
Staff is requesting that the Council enter into a third party contract not to exceed \$60,000 by and between the City, the Applicant and Consultant for the day-to-day project management and planning support. The Applicant will deposit the contract amount which will be used by staff to pay for the Consultant's services. The Consultant will report directly to Staff.

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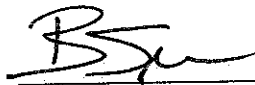
Please note that the purpose of this report is to request that the Council enter into a contract with Civic Solutions, Inc. for third party Senior Project Management Services. The Energy Plant is **not** a matter for discussion at this time.

FISCAL DATA: An appropriation of funds is being requested in the amount of \$60,000. This agreement will not have an impact on the City's General Fund; the applicant will be reimbursing the City for all costs associated to the Senior Project Management Services.

RECOMMENDED BY:


Bonnie Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

RESOLUTION NO. 2008-63

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AWARDED THE CONTRACT TO CIVIC SOLUTIONS, INC. FOR THIRD PARTY PROJECT MANAGEMENT SERVICES FOR THE LIBERTY XXIII BIOFUELS PROJECT, INC. AND APPROPRIATING THE NECESSARY FUNDS FOR THE PROJECT IN A AMOUNT NOT TO EXCEED \$60,000.00.

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.

WHEREAS, The City has entered into a deposit/reimbursement agreement with Liberty XXIII Biofuels Project, Inc.(Applicant). Applicant will reimburse the City for any costs associated with Senior Project Management Services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning, California that the Community Development Account Number 001-2800-441.33-11 budget for the fiscal year ending June 30, 2008, is hereby amended to include an appropriation for \$60,000.00.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2008.

Brenda Salas, Mayor
City of Banning

APPROVED AS TO FORM AND
LEGAL CONTENT:

Burke, Williams and Sorensen, LLP
City Attorney

ATTEST:

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. 2008-63 was duly adopted by the City Council of the City of Banning, California at a regular meeting thereof held on the 27th day of May, 2008 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

SS

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: May 27, 2008

TO: City Council

FROM: Bonnie Johnson, Finance Director

SUBJECT: Award of annual weed abatement contract to Inland Empire Property Service for Fiscal year 08/09 in the annual estimated amount of \$60,000.

RECOMMENDATION: "The City Council award an annual weed abatement contract to Inland Empire Property Services for Fiscal year 08/09 in an estimated yearly amount of \$60,000."

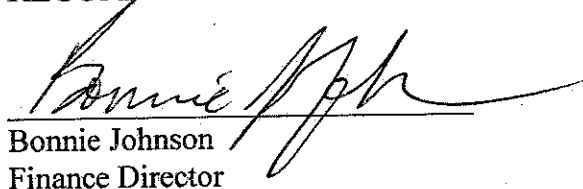
JUSTIFICATION: Authorization of a weed abatement contract is a preventative measure to help mitigate brush fires.

BACKGROUND & ANALYSIS: The Fire Department in conjunction with Building and Safety administer a weed abatement program to help prevent brush fire hazards on private property. The property owners are notified that their property must be abated of weeds by a certain date, and if the property owner fails to comply, the City's weed abatement contractor will accomplish the work. The County of Riverside reimburses the City ninety-five percent (95%) of the cost. The property owner will then be assessed on their next property tax bill for the cost of the weed abatement by the County of Riverside.

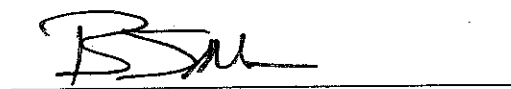
On March 28, 2008, the Purchasing Division advertised for sealed bids for an annual weed abatement contract. In addition, bid packages were sent to fourteen (19) prospective bidders. The bid opening was held at 10:30 a.m., April 30, 2008, in the Purchasing office. One (1) bid was received and evaluated. The bid was submitted by Inland Empire Property Service, the City's current provider for weed abatement services. Based on the evaluation staff recommends that City Council award a contract to Inland Empire Property Service. The City will have the option of renewing this contract two consecutive years for a period of one (1) year at a time.

FISCAL DATA: The Building and Safety Division has budgeted \$60,000 for this expense in their weed abatement services account number 860-9270-490-23.39. Ninety five percent (95%) of all costs will be recovered from the County of Riverside.

RECOMMENDED BY:


Bonnie Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

Report Prepared By: Nicole Mihld, Purchasing Manager

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**CITY COUNCIL AGENDA
PUBLIC HEARING**

Date: May 27, 2008

TO: City Council

FROM: George Thacker, Assistant Public Utilities Director

SUBJECT: The 1.5 MGD Expansion of the Water Reclamation Facility and Phase I Recycled Water Project.

RECOMMENDATION: Adopt Resolution No. 2008-50 approving the following:

1. The City Council finds the construction of the 1.5 MGD Expansion of the Water Reclamation Facility and Phase I Recycled Water Project will not have a significant effect on the environment with the mitigation measures included in the Initial Study/Mitigated Negative Declaration.
2. The City Council adopts the Initial Study/Mitigated Negative Declaration-Wastewater Treatment Plant Expansion and Phase I Recycled Water System with a Mitigation Monitoring and Reporting Program.
3. The City Council directs staff to file a *Notice of Determination* in accordance with the City's Environmental Guidelines.

JUSTIFICATION: The City has determined that the proposed 1.5 MGD Expansion of the Water Reclamation Facility and Phase I Recycled Water System is a project under the California Environmental Quality Act, and has completed an Initial Study/Mitigated Negative Declaration.

BACKGROUND: The City of Banning owns and operates a 3.6 Million Gallon per Day (MGD) Wastewater Treatment Plant (WWTP) and collection system throughout the City. It is proposed to expand the WWTP from 3.6 to 5.1 MGD and construct a Recycled Water System. Facilities to be constructed would include recycled water pipelines, a pipeline to transport water to the expanded WWTP, and pumps, skimmer and storage reservoirs. The system would transfer recycled water from the expanded Banning WWTP to the Sun Lakes Community. The recycled water pipeline would be constructed from the WWTP west along Charles Street, north on Hathaway Street, continuing west on Lincoln Street to South Sunset Avenue where it will turn south on Sunset Avenue to the unpaved City access road (extension of Westward Avenue) that crosses unimproved land terminating at Sun Lakes housing on the west.

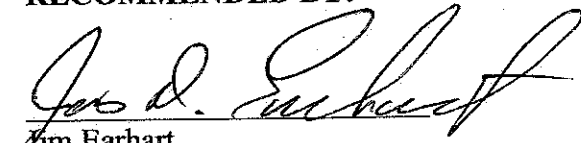
The purpose of the project is to provide the Banning WWTP with capability to produce recycled water in accordance with Title 22 of the California Code of Regulations. The proposed project would provide a recycled water distribution system to meet ongoing and projected water supply needs. The proposed project would enable availability and use of recycled water, which is not available in Banning at this time. Recycled water would be used primarily for irrigation of street medians, greenbelts, parks and golf courses. Surplus recycled water available during certain

times of the year would be stored in reservoirs for future use or percolated into the East Banning groundwater aquifer.

In accordance with California Environmental Quality Act (CEQA) requirements, the City has prepared a Draft Initial Study for the Proposed Project. The Draft Initial Study (dated October 2007) was placed on public review from November 13, 2007 to December 12, 2007.

With implementation of mitigation measures and best management practices to prevent or minimize potentially significant impacts in the areas of Biological Resources, Cultural Resources, and construction best management practices are recommended for Air Quality and hydrology/water quality; the City has determined that the project will not have a significant effect on the environment. A Mitigation Monitoring and Reporting Program has been prepared as a condition of project approval.

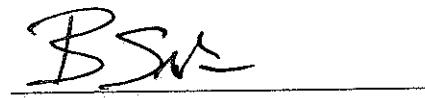
RECOMMENDED BY:


Jim Earhart,
Electrical Utility Director

REVIEWED BY:


Bonnie J. Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

MAY 20, 2008

**THE 1.5 MGD EXPANSION OF THE WATER RECLAMATION
FACILITY AND PHASE I RECYCLED WATER PROJECT**

**A COPY OF THE INITIAL STUDY/ MITIGATED NEGATIVE DECATION IS
AVAILABLE FOR REVIEW AT THE CITY CLERK'S OFFICE AT CITY HALL**

RESOLUTION NO. 2008-50

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, THAT FINDS THE CONSTRUCTION OF THE 1.5 MGD EXPANSION OF THE WATER RECLAMATION FACILITY AND PHASE I RECYCLED WATER PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND ADOPTS AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

WHEREAS, the City of Banning owns and operates a 3.6 million gallons per day (MGD) Wastewater Treatment Plant (WWTP) and collection system throughout the City; and

WHEREAS, the Water Reclamation Facility and Phase I Recycled Water Project will consist of expanding the City's existing WWTP by 1.5 MGD to produce high quality recycled water for irrigation use and groundwater replenishment and design and construction of infrastructures needed to supply the recycled water to non-potable water users in the vicinity of the WWTP and up to the Sun Lakes development, mainly for the golf courses; and

WHEREAS, non-potable water from groundwater Well R-1 near the WWTP is also available for irrigation uses as a part of this project; and

WHEREAS, the City has determined that the proposed expansion of the WWTP and Phase I Recycled Water System is a project under the California Environmental Quality Act (CEQA); and

WHEREAS, an Initial Study/Mitigated Negative Declaration-Wastewater Treatment Plant and Phase I Recycled Water System was made available for public review beginning on November 13, 2007 and closing on December 12, 2007, a period not less than 30 days; and

WHEREAS, the City received eight written comments concerning the proposed Initial Study/Mitigated Negative Declaration; and

WHEREAS, a Public Hearing was held on May 27, 2008; and

WHEREAS, the Study found that the proposed project could have significant impacts on the environment, particularly in the areas of Biological Resources, Cultural Resources, and construction best management practices are recommended for Air quality and hydrology/water quality; however the mitigation measures included in the Initial Study/Mitigated Negative Declaration would reduce those impacts to a less than significant level; and

WHEREAS, a Mitigated Negative Declaration with a Mitigation Monitoring and Reporting Program for this project has been proposed; and

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

Section I. Finds that the construction of the 1.5 MGD Expansion of the Water Reclamation Facility and Phase I Recycled Water Project will not have a significant effect on the environment with the mitigation measures included in the Initial Study/Mitigated Negative Declaration.

Section II. Adopts the Initial Study/Mitigated Negative Declaration-Wastewater Treatment Plant and Phase I Recycled Water System with a Mitigation Monitoring and Reporting Program.

Section III. The City Council directs staff to file a *Notice of Determination* in accordance with the City's Environmental Guidelines.

PASSED, APPROVED, AND ADOPTED this 27th day of May, 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 the foregoing Resolution No. 2008-50 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 27th day of May, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, City Clerk
Banning, California

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**CITY COUNCIL AGENDA
PUBLIC HEARING**

DATE: May 27, 2008

TO: Honorable Mayor and City Council

FROM: Kahono Oei, City Engineer 

SUBJECT: Resolution No. 2008-52, "Confirming a Diagram and the Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2008/09"

RECOMMENDATION: The City Council adopt Resolution No. 2008-52:

- I. "Confirming a Diagram and the Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2008/09," pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code.
- II. Authorize and direct the City Clerk to file the diagram and assessment with the Riverside County Assessor/County Clerk-Recorder's Office.

JUSTIFICATION: The adoption of Resolution No. 2008-52 is essential to confirm the assessments for the Fiscal Year 2008/09 update of Landscape Maintenance District No. 1 ("the District").

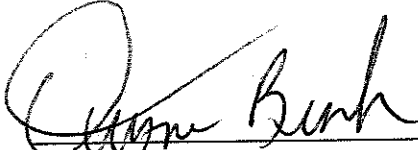
BACKGROUND: In accordance with the "Landscaping and Lighting Act of 1972" of the Streets and Highways Code, the City Council adopted a resolution ordering the formation of Landscape Maintenance District (LMD) No. 1 by adopting Resolution No. 1990-59 on August 14, 1990. An additional five tracts and three 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." On January 22, 2008, the City Council adopted Resolution No. 2008-11, and initiated proceedings to update the District for the next fiscal year and ordered the preparation of the Engineer's Report. Subsequently, on April 8, 2008, the City Council adopted Resolution No. 2008-40, approving the Engineer's Report and setting the date for the public hearing to levy and collect the assessments. Resolution No. 2008-52, if approved, will confirm the assessments for the Fiscal Year 2008/09. The schedule updating Landscape Maintenance District No. 1 is shown on the attached Exhibit "B", and the Notice of Public Hearing is shown on the attached Exhibit "C".

FISCAL DATA: The new assessments for a single-family dwelling now ranges from \$90.30 to \$183.01, as reflected in the Engineer's report approved by the City Council on April 8, 2007. An increase of 3.4 %, based on the average Consumer Price Index (CPI) over the previous fiscal year for the Los Angeles-Riverside-Orange County area as reported by the U.S. Department of Labor, is incorporated in the proposed assessments. Total revenues from the proposed 2008/09 Fiscal Year




assessments for the Landscape Maintenance District are approximately \$124,682.00. The estimated budget for Landscape Maintenance District No. 1 for Fiscal Year 2008/2009 is approximately \$211,000.00. The maintenance costs are expected to exceed assessments by \$86,318.00 in Fiscal Year 2008/2009, and would be paid through the General Fund/Gas Tax Fund.

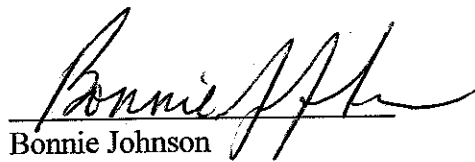
RECOMMENDED BY:


Duane Burk
Director of Public Works

APPROVED BY:


Brian Nakamura
City Manager

REVIEWED BY:


Bonnie Johnson
Director of Finance

RESOLUTION NO. 2008-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, CONFIRMING A DIAGRAM AND THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN THE CITY OF BANNING'S LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2008/09, PURSUANT TO THE PROVISIONS OF PART 2 OF DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE

WHEREAS, the City Council of the City of Banning has by its Resolution No. 2008-11 initiated proceedings for the levy and collection of assessments for the 2008/09 Fiscal Year for Landscape Maintenance District No. 1, pursuant to the terms and provisions of the "Landscaping and Lighting Act of 1972," being Part 2 of Division 15 of the California Streets and Highways Code; and

WHEREAS, the City Council has ordered the preparation of the Engineer's Report, and the City Engineer has prepared and filed with the City Clerk a report pursuant to law for the City Council's consideration, and subsequently thereto the City Council adopted its Resolution No. 2008-40, approving the report of the Engineer and declaring the intention of the City Council to order the levy and collection of assessments to pay the costs and expenses of maintaining and servicing existing and proposed public landscaping facilities in the City of Banning for the Fiscal Year commencing July 1, 2008 and ending June 30, 2009.

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

Section 1. The above recitals are all true and correct.

Section 2. Following notice duly given by publication, the City Council has held a full and fair public hearing regarding the levy of the proposed assessment within Landscape Maintenance District No. 1 for the Fiscal Year commencing July 1, 2008 and ending June 30, 2009, to pay for the cost and expenses of maintaining and servicing existing and proposed public landscaping and storm drain facilities installed and constructed within public places in the City of Banning, pursuant to the terms and provisions of the Landscaping and Lighting Act of 1972, being Part 2 of Division 15 of the California Streets and Highways Code. All interested persons were offered the opportunity to hear and be heard regarding protests and objections to the levy and collection of the proposed assessment against lots or parcels of real property within City of Banning, Landscape Maintenance District No. 1. All protests and objections to the levy and collection of the proposed assessments for the Fiscal Year commencing on July 1, 2008 and ending on June 30, 2009, are hereby overruled by the City Council.

Section 3. The City Council hereby orders the maintenance and servicing of the existing and proposed public landscape facilities installed and constructed in

public places in the City of Banning and hereby confirms the diagram and assessment set forth in the Engineer's report.

Section 4. The assessment is in compliance with the provisions of the "Landscaping and Lighting Act of 1972," being Part 2 of Division 15 of the California Streets and Highways Code and with any applicable provisions of Proposition 218.

Section 5. The assessment is levied without regard to property valuation.

Section 6. The assessment is levied for the purpose of paying the costs and expenses of maintaining and servicing existing and proposed public landscaping facilities installed and constructed in public places in the City of Banning for the Fiscal Year commencing on July 1, 2008 and ending on June 30, 2009.

Section 7. The adoption of Resolution No. 2008-52 constitutes the levy of an assessment for the Fiscal Year commencing on July 1, 2008 and ending on June 30, 2009.

Section 8. The maintenance and servicing of the public landscaping facilities shall be performed pursuant to law and the County Recorder/Auditor of Riverside County shall enter on the County Assessment Roll opposite each lot or parcel of land the amount of the assessment and such assessments shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by the County, the net amount of the assessments shall be paid to the City Treasurer.

Section 9. The City Treasurer shall deposit all monies representing assessments collected by the County to the credit of a special fund known as Improvement Fund, Landscape Maintenance District No. 1.

Section 10. The City Clerk is hereby authorized and directed to file the diagram and assessment, or a certified copy of the diagram and assessment, with the Riverside County, Assessor's Office, together with a certified copy of Resolution 2008-52 upon its adoption.

Section 11. A certified copy of the assessment and diagram shall be filed in the Office of the City Clerk, with a duplicate copy on file in the office of the City Manager and open for public review.

PASSED, APPROVED and ADOPTED this 27th day of May, 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 the foregoing Resolution No. 2008-52 was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 27th day of May, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

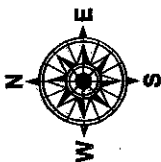
Marie A. Calderon, City Clerk
City of Banning, California

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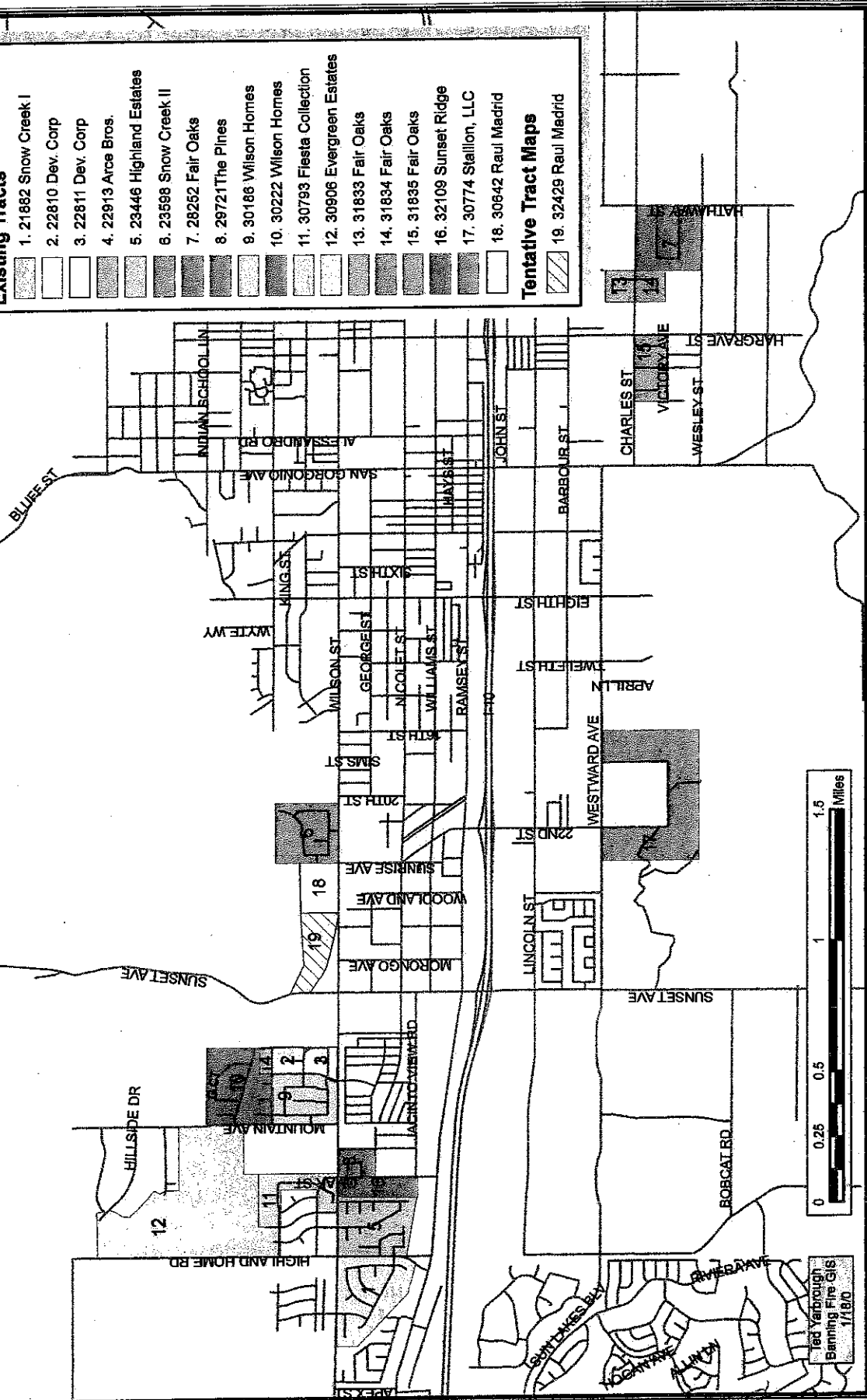
EXHIBIT "A"

**LANDSCAPE MAINTENANCE DISTRICT NO. 1
FOR
FISCAL YEAR 2008/2009**

MAP OF LANDSCAPE MAINTENANCE DISTRICT NO. 1 JANUARY 2008



Legend	
Existing Tracts	
1. 21882 Snow Creek I	
2. 22810 Dev. Corp	
3. 22811 Dev. Corp	
4. 22913 Arce Bros.	
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	



led Yarbrough
Banning Fire GIS
1/18/0

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 27, 2008

EXHIBIT "C"

NOTICE OF PUBLIC HEARING RESOLUTION NO. 2008-52, "CONFIRMING A DIAGRAM AND THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN THE CITY OF BANNING'S LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR THE 2008/2009 FISCAL YEAR"

RECORD-GAZETTE
MAY 9, 2008

Record Gazette

PUBLIC NOTICES

Friday, May 9, 2008

**CITY OF BANNING
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 May 27, 2008, at
6:30 p.m., at the City of
Banning Civic Center, 99
E. Ramsey St., Banning,
California, to consider the
following:

**RESOLUTION NO. 2008-
52**

**Confirming a Diagram
and the Levy and Collec-
tion of Assessments
within the City of Ban-
ning's Landscape Main-
tenance District No. 1 for
the 2008/09 Fiscal Year**
Information regarding the
foregoing can be obtained
by contacting the City of
Banning, Engineering Divi-
sion at (951) 822-3130, or
by visiting City Hall at 99
E. Ramsey St., Banning,
California, between the
hours of 8 a.m. and 5 p.m.
Monday through Friday.

**ALL INTERESTED PAR-
TIES** 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 898,
Banning, California,
92220. Data relevant to
the Resolution No. 2008-
52 is available for public
review at the office of the
Engineering Division and
City Clerk's Office for the

period of ten (10) days
prior to the Public Hearing.
If you challenge any deci-
sion regarding the above
proposal in court, you may
be limited to raising only
those issues you or some-
one else raised in written
correspondence delivered
to the City Clerk at, or prior
to, the time the City makes
its decision on the propos-
al; or, if a public hearing on
the proposal, 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 (Calif.
Govt. Code Sub-Section
65009).

**BY ORDER OF THE CITY
CLERK OF THE CITY OF
BANNING.**

Dated: 4-25-08.

-s- Marie A. Calderon
City Clerk, City of
Banning, California
Publish The Record
Gazette
No. 1650

05/09, 2008

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**CITY COUNCIL
PUBLIC HEARING**

DATE: May 27, 2008

TO: Honorable Mayor and City Council

FROM: Matthew Bassi, Interim Community Development Director *MB*

SUBJECT: Tentative Tract Map (TTM) 31924 (Formerly known as the "Tefft" project) time extension. Located Generally West of San Gorgonio Avenue and South of Westward Avenue (APN: 543-020-021; 543-030-004; 543-040-001, -002; 543-050-001, -002, -003).

RECOMMENDATION: That the City Council adopt Resolution No. 2008-53, approving a one-year extension of time to May 10, 2009, for Tentative Tract Map No. 31924.

BACKGROUND/ANALYSIS:

A tentative tract map expires 24 months after its initial approval. If it is not recorded the applicant may request a time extension. The City Council approved TTM 31924 on May 10, 2005, by adoption of Resolution No. 2005-53. Subsequently, the City Council approved the first extension of time on June 12, 2007. On April 22, 2008, the subdivider submitted a second application for an extension of time in accordance with Section 66452.6(e) of the Subdivision Map Act. If this request is approved, the applicant may have the tentative tract map extended only one more time.

Project Location:

The proposed project site is located in the southeastern portion of the City, bounded by 16th Street to the west, Westward Avenue to the north, San Gorgonio Avenue (State Route 243) to the east and Smith Creek to the south. The site consists of approximately 452 acres of vacant land that was used for agricultural purposes in the past. The area surrounding the project site consists of vacant lands and scattered single family homes on large lots. North of the project site, and on the west side of San Gorgonio, there is an existing recreational vehicle park.

Project History:

The TTM 31924 divides 352 acres into a total of 478 single family lots; 90 acres remain undivided and are to be used for an open space/flood zone. The map had previously been proposed for 481 lots, but was conditioned to include a park located at the intersection of streets "N" and "R", which reduced the approved single family lots to 478. The map also proposes lettered lots for streets and retention basins. The minimum lot size for the

subdivision is 20,000 square feet, which conforms to the General Plan and Zoning designations for the proposed project.

Environmental/CEQA:

A Mitigated Negative Declaration and Mitigation Monitoring Program prepared for the project was approved on May 10, 2005, by City Council by adoption of Resolution No. 2005-53 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 a time extension does not propose changes to the approved project, nor is there evidence of the circumstances noted in conditions 2 or 3 above. Therefore, no environmental review is needed for the proposed time extension.

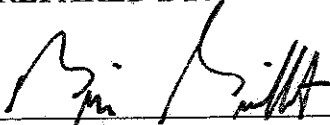
Request for Time Extension:

Attached is a copy of Resolution No. 2005-53 (refer to Exhibit 2) documenting conditions imposed on the project by the City Council along with the corresponding findings. The applicant states that the time extension is necessary in order to comply with the conditions of approval for the subdivision and complete the engineering and design for the project.

The request for time extension was routed to the same agencies and departments that previously reviewed the tentative tract 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 second one-year time extension for the tentative tract map should be approved. Approval of this time extension will extend the expiration date to May 10, 2009.

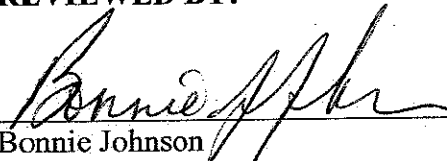
FISCAL DATA: The construction of the proposed subdivision will generate revenues to the City in the form of one-time building permit fees as well as annual property taxes.

PREPARED BY:



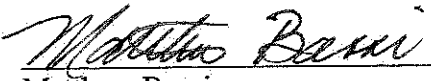
Brian Guillot
Planning Engineer

REVIEWED BY:



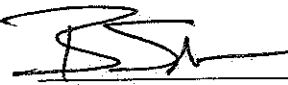
Bonnie Johnson
Finance Director

RECOMMENDED BY:



Matthew Bassi
Interim Community Development Director

APPROVED BY:



Brian Nakamura
City Manager

CC Exhibits:

1. Resolution No. 2008-53
2. Copy of Resolution No. 2005-53 (with conditions of approval)

Exhibit 1

Resolution No. 2008-53

RESOLUTION NO. 2008-53

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF BANNING, CALIFORNIA APPROVING A
ONE-YEAR EXTENSION OF TIME FOR TENTATIVE
TRACT MAP 31924 (TTM 31924) PREVIOUSLY
APPROVED BY CITY COUNCIL ON MAY 10, 2005, BY
RESOLUTION NO. 2005-53**

WHEREAS, an application for time extension for Tentative Tract Map No. 31924 has been duly filed by:

Applicant / Owner: **Banam, LLC**
Authorized Agent: **Rox Consulting Group, Inc.**
Project Location: **Generally, west of San Gorgonio Avenue and south of Westward Avenue.**
APN Number: **543-020-021; 543-030-004; 543-040-001, -002; 543-050-001, -002, -003.**
Project Area: **452 Acres**
Application Complete: **April 22, 2008**

WHEREAS, the City Council of the City of Banning, on May 10, 2005, approved Tentative Tract Map 31924, to allow the subdivision of approximately 352-acre site into 478 single family lots of 20,000 square feet, or more; and

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

WHEREAS, the City Council of the City of Banning, on June 12, 2007, approved the first 12 month extension of time for Tentative Tract Map 31924; and

WHEREAS, Rox Consulting Group, Inc., agent for Banam, LLC, submitted a request for an extension of time for Tentative Tract Map 31924 in accordance with Section 66452.6(e) of the Subdivision Map Act; and

WHEREAS, On May 10, 2005, a Mitigated Negative Declaration and 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. 2005-53; therefore, a subsequent/supplemental environmental document is not required; and

WHEREAS, on May 16, 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 May 27, 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 Tract Map Extension of Time and at which the City Council considered said Extension of Time; and

WHEREAS, at the public hearing on May 27, 2008, the City Council of the City of Banning considered and heard public comments on approval of Extension of Time for TTM 31924;

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

SECTION 1: The City Council hereby approves a one-year time extension for Tentative Tract Map 31924 in accordance with Government Code Section 66452.6(e).

SECTION 2: Tentative Tract Map 31924 shall expire on May 10, 2009, unless said map has been recorded, or a request has been filed with the City for the final extension of time in accordance with law.

PASSED, APPROVED AND ADOPTED this 27th day of May, 2008.

Brenda Salas, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

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

Burke, Williams & Sorensen, LLP
City Attorney

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CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-53, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of May 2008, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Exhibit 2

Resolution No. 2005-53

(Approval May 10, 2005)

RESOLUTION NO. 2005-53

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING OF LOT SPLIT #04-4506/TENTATIVE TRACT MAP 31924, PERTAINING TO THE PROPERTY SOUTH OF WESTWARD, WEST OF SAN GORGONIO AND EAST OF 16TH STREET; ASSESSOR PARCEL NUMBERS: # 543-030-004, 543-020-021, 543-040-001, -002, 543-050-001, -002, & -003

WHEREAS, an application for Lot Split #04-4506/Tentative Tract Map 31924, to subdivide 362 acres into 481 single family lots, has been duly filed by:

Applicant / Owner:	CW Tefft, Inc.
Authorized Agent:	Chris Tefft
Project Location:	South of Westward, west of San Gorgonio, east of 16 th Street
APN Number:	543-030-004, 543-020-021, 543-040-001, -002, 543-050-001, -002, & -003
Lot Area:	452 Acres

WHEREAS, the Municipal Code allows for the subdivision of 352 acres into 478 single family lots, lettered lots for streets and retention basins, and a remainder parcel, subject to the approval of a Lot Split; and

WHEREAS, on 29th day of April 2005, the City gave public notice as required under Government Code Section 66451.3 by advertising in the Record Gazette newspaper and notices to property owners within 1500 feet of the site were mailed a public hearing notice 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 a copy of the Community Development report and recommendation to the City Council at least three (3) days prior to the below referenced noticed public hearing; and

WHEREAS, on the 5th day of April 2005, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Tentative Tract Map and at which time the Planning Commission considered the Tentative Tract Map; and

WHEREAS, at the public hearing on the 10th day of May 2005, the City Council considered and heard public comments on and adopted a mitigated negative declaration and mitigation monitoring program for the project; and

WHEREAS, on the 10th day of May 2005, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Tentative Tract Map and at which time the City Council considered the Tentative Tract Map; and

NOW THEREFORE, the City Council of the City of Banning does hereby find, determine, and resolve 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 10th day of May 2005, 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 this Lot Split is in compliance with the requirements of the California Environmental Quality Act ("CEQA"), in that on 10th day of May 2005, at a duly noticed public hearing, the City Council 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 East Ramsey Street, Banning, California 92220.
2. Multiple Species Habitat Conservation Plan (MSHCP). The project is found to be consistent with the MSHCP. The project is within a Survey Area for the Los Angeles Pocket Mouse and, in accordance with the MSHCP, the project has been modified to preserve their habitat. The project is located outside the MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee and preservation of Los Angeles Pocket Mouse habitat.

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:

1. Tentative Tract Map 31924 is consistent and compatible with the objectives, policies, general land uses, and programs specified the City's General Plan in that the property is designated Residential Agriculture and the tract map will divide the property into lots of

at least 20,000 square feet. These residential lots are a minimum of 20,000 square feet or larger and are consistent with the General Plan Land Use designation.

2. The design and improvement of the subdivision proposed under Tentative Tract Map 31924 is consistent with the City's General Plan in that the proposed subdivision has been designed to meet City standards which will provide satisfactory pedestrian and vehicular circulation, including emergency vehicle access and on site improvements, such as streets, utilities, and drainage facilities insofar as the parcel map has been conditioned to require their construction in conformance with City standards.
3. The site is physically suitable for the type of development proposed under Tentative Tract Map 31924, in that the 352 acres are relatively flat, and their subdivision will allow the subdivision of the site into 481 lots located outside the flood plains on the property.
4. The site is physically suitable for the density of development proposed under Tentative Tract Map 31924, in that the proposed tract map will allow the development of 481 conforming single family lots of 20,000 square feet or more, located outside the flood plains located on the property. According to the density ranges provided in the land use element of the General Plan for Residential Agriculture land use designation, and the City zoning ordinance for Residential- Agricultural, a density of two (2) units per acre is appropriate for a site of this size and configuration.
5. The design of the subdivision and improvements proposed under Tentative Parcel Map 32092 is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat in that mitigation measures have been proposed which reduce the potential impacts associated with the loss of common species to less than significant levels, and preserves Los Angeles Pocket Mouse habitat on the site.
6. The design of the subdivision and improvements proposed under Tentative Tract Map 31924, is not likely to cause serious public health problems in that the design of the subdivision is in conformance with the City's General Plan, Zoning Ordinance, and Subdivision Ordinance, the City's Ordinances relating to Stormwater runoff management and controls. In addition, the design and construction of all improvements for the subdivision has 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.
7. The design of the subdivision and improvements proposed under Tentative Tract Map 31924, will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision in that easements for public utilities and facilities across the site have been disclosed in a search of the title records for the property. The subdivision has been designed in such a manner as to preserve public utility and service easements in the existing area of the easement.

8. The design of the subdivision proposed under Tentative Tract Map 32092 adequately provides for the future passive or natural heating and cooling opportunities in the subdivision by taking into consideration local climate and the existing contour and configuration of the site and its surroundings, the size and configuration of lots within the proposed subdivision have been arranged, to the greatest extent feasible, to permit orientation of structures in an east-west alignment for southern exposure, to take advantage of the natural shade, and the prevailing winds.

SECTION 3. CITY COUNCIL ACTIONS.

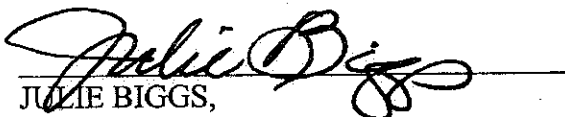
The City Council hereby takes the following actions:

1. Approval of Tentative Tract Map. The City Council hereby approves Tentative Tract Map 31924 subject to the Conditions of Approval attached hereto and incorporated herein by reference as Attachment "1".


PASSED APPROVED AND ADOPTED this 10th day of May 2005.


JOHN MACHISIC, MAYOR

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


JULIE BIGGS,
City Attorney
City of Banning, California

ATTEST:


Marie 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. 2005-53 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of May 2005 by the following vote, to wit:

AYES: Councilmembers Salas, Welch, Machisic

NOES: Councilmembers Hanna, Palmer

ABSTAIN: None

ABSENT: None


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

CONDITIONS OF APPROVAL
TENTATIVE PARCEL MAP 32092
TENTATIVE TRACTMAP NO. 31924

GENERAL CONDITIONS

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. Prior to the issuance of any grading, construction, or building 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)
 - City Water, Sewer and Electric Departments
 - Community Development Department
 - Riverside Co. Flood Control and Water Conservation District
 - Banning Unified School District
 - California Water Quality Control Board (CWQCB)
 - California Department of Fish and Game
 - US Fish and Wildlife Service
 - US Army Corps of Engineers
 - SCAQMD

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- The applicant is responsible for all requirements of the 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 those improvements plans for City approval.
3. The building construction plans shall include a blue-line sheet(s) showing all conditions of approval contained herein.
 4. The applicant/owner shall cause to be recorded against the subject property these and all related conditions of approval, the financing plan and phasing maps with the Riverside County Recorder.
 5. All regional infrastructure shall be constructed as prescribed in the Phasing Maps and Financing Plan.
 6. Prior to recordation of any Final Map (Parcel or Tract) on this property, the 90 acre remainder parcel shall be dedicated to a conservation organization approved by the City Council. The organization shall be dedicated to the preservation of land for open space, and shall commit, in writing, to preserving the 90 acre parcel as open space in perpetuity. The dedication shall include an endowment to that organization sufficient to fund its share of the payments for the maintenance district(s) described in Condition #8, below.
 7. Prior to the recordation of any map (Parcel or Tract) on the site, the project proponent shall cause to be created, or shall annex into an existing assessment district(s) or other financing mechanism(s) for the entire 452 acres which will allow for the construction and maintenance of all facilities listed in the Financing Plan, plus the trails, retention basins, and landscaped parkways and common areas.
 8. Trails located adjacent to Montgomery and Smith Creeks shall be located outside the lands to be dedicated to the Riverside County Flood Control and Water Conservation District, and dedicated to the City in fee.
 9. All sidewalks within the project site shall be meandering, and shall incorporate berming and curb-side planting.
 10. A jogging and walking trail shall be constructed, in conformance with the Parks Master Plan, through the gas line easements located through the property, in conjunction with development of adjacent lots.

MITIGATION MEASURES

11. Lots abutting the northern property line shall be limited to one story, or 18 feet in height.

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12. Pad elevations on the project site shall be redesigned to limit pad elevations for homes proposed above surrounding existing grade to no more than 5 feet above the surrounding existing grade.
13. Prior to buildout of the project site, the project proponent shall contribute his fair share to the design and construction of a bicycle trail system from the project area to the City's commercial core and transit system. The fair share contribution shall be determined on a per unit basis, and established by the Community Services Department prior to issuance of the first building permit for the first house on the proposed project.
14. Prior to issuance of the first building permit on the first house in the proposed project, the project proponent shall establish, for review and approval by the Community Services Department, a transit provision plan, including locations of bus stops, required facilities (including turnouts, shelters, trash receptacles, etc.), and threshold (in number of completed dwelling units) at which transit service shall be provided through the site. All facilities required shall be in place prior to reaching the service threshold.
15. Wood burning appliances of any kind shall be prohibited within the proposed project. Fireplaces shall be either electric or natural gas, without the ability for conversion to wood-burning.
16. Construction equipment shall be properly maintained and serviced to minimize exhaust emissions.
17. Existing power sources should be utilized via temporary power poles to avoid on-site power generation.
18. Diesel particulate filters and NO_x catalysts shall be installed on all construction equipment.
19. Any area to be graded shall be pre-watered to a depth of three feet.
20. The project proponent shall submit a PM10 Management Plan to the City and SCAQMD for review and approval, prior to the issuance of grading permits.
21. No more than 10 acres of land shall be actively graded in one day.
22. SCAQMD Rule 403 shall be implemented.
23. Any disturbed area of the site shall be watered twice per day.

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24. Any area which remains undeveloped for a period of more than 15 days shall be stabilized using either chemical stabilizers or a desert wildflower mix hydroseed.
25. No more than 37.5 gallons per day, or 225 gallons per week of any architectural coating shall be applied at any point in project construction. Such use shall be demonstrated to the Building Department on a weekly basis, in writing, throughout the construction process.
26. An asphalt sealer shall be applied immediately to all newly lain asphalt.
27. A qualified biologist shall map the location of riprap on Smith Creek and assure that no more than 10% of the suitable habitat for Los Angeles Pocket Mouse is disturbed by riprap activities.
28. The limits of LAPM habitat shall be delineated with orange fencing prior to the issuance of grading permits for the southern detention basin.
29. A qualified biologist shall be on site during all earth moving or other construction activities in Smith and Montgomery Creeks, and shall be empowered to stop and redirect work if jurisdictional boundaries or LAPM habitat are encroached upon. The biologist shall also be responsible for providing briefings to all construction personnel on the need to remain outside the jurisdictional limits and the LAPM habitat of Smith and Montgomery Creeks.
30. Within 30 days of grading on any portion of the site, a protocol survey for burrowing owl shall be completed and submitted to the Planning Department for review and approval.
31. If grading is to be initiated on any portion of the site between January 15 and August 31, a qualified biologist shall conduct a nesting bird survey and determine the occurrence of birds nests. Should any nests be identified, the location shall be flagged, and a non-disturbance perimeter fenced with orange fencing prior to the issuance of grading permits. The disturbance of any nest shall require approval by California Department of Fish and Game and U.S. Fish and Wildlife Service.
32. The project proponent shall pay the Western Riverside County Multiple Species Habitat Conservation Plan fee in place at the issuance of grading permits to mitigate for impacts to covered species under that plan.
33. Final design of the improvements for Montgomery Creek and Smith Creek shall be submitted to a qualified biologist for review. The biologist shall conduct a jurisdictional delineation of both Montgomery Creek and Smith Creek, and shall determine the loss of jurisdictional areas (both USACE and CDFG) based on the delineation and final design.

34. The project proponent shall fully mitigate, to the satisfaction of both the USACE and CDFG, impacts to wetlands and riparian areas on the site. This mitigation will include on site creation of wetland/riparian habitat adjacent to one of the retention basins proposed on the site, and/or purchase and enhancement of off site wetland/riparian habitat to the satisfaction of, and at a ratio agreeable to, both the USACE and CDFG.
35. The project proponent shall secure USACE 404 Permits, Regional Water Quality Control Board 401 Certification and CDFG 1600 Agreements prior to the issuance of any ground disturbing permit on the project site.
36. Prior to issuance of any earth moving permit for any portion of the site, the entire site shall be cleared in a manner which does not significantly disturb the ground surface (discing will not be permitted), and a comprehensive cultural resource survey of the entire site shall be undertaken by a qualified archeologist, to assess the potential for historic and prehistoric resources on the site. The survey shall be submitted to the Planning Department for review and approval prior to the issuance of any earth moving permit on the site.
37. A qualified paleontologic monitor shall be on-site during all grubbing, grading, trenching and earth moving activities on the site. The monitor shall be empowered to stop and/or redirect activities while areas are investigated. All materials found shall be curated in conformance with the procedures followed by the San Bernardino Museum for paleontologic resources. The monitor shall submit a report to the Community Development Department within 30 days of completion of earth moving activities on the site.
38. A detailed geotechnical study, mapping areas of expansive soils, and providing detail on construction methods required to mitigate expansive and erosive soils, shall be submitted to the City Engineer for review and approval prior to issuance of any building permit on the project site.
39. A qualified geologist shall review final hydrological improvement plans for Montgomery and Smith Creeks, and shall assure that the relationship of the riprap and the trails proposed for the tops of their banks will not result in any erosion for the trails.
40. Prior to the issuance of any earth moving permit on the site, all improvement plans which cross or abut the Gas Company easement will be submitted to the Gas Company for review and approval. Any conditions or requirements placed on the plans by the Gas Company shall be made part of the grading permit(s) for the project.
41. The location of the easement shall be surveyed, staked and clearly marked immediately following rough grading of the project site. The staking and signage shall be maintained in visible order until all construction adjacent to it is complete.

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42. Prior to issuance of grading permits for the site, the project proponent shall receive approval by the Fire Marshall of a Fuel Modification Plan which addresses both the southern edge of the property, and the drainage courses through the property. The fuel modification plan shall be comprehensive for the entire project, and its implementation may be phased, with approval by the Fire Marshall.
43. Prior to issuance of any earth moving permit on the project site, the project proponent shall demonstrate to the City Public Works Department that sufficient capacity exists to serve the project site based on maximum perennial yield, and on January 2004 existing housing units, plus building permits issued since that time.
44. Should building permits have been issued which exceed the low maximum perennial yield, the project proponent shall be required to identify, fund and deliver sufficient water to the City to serve the proposed project.
45. The project proponent shall participate in any impact fee established by the City to purchase additional water and/or make required infrastructure improvements to make that water available to the City.
46. The proposed project shall be designed to provide dry lines for tertiary treated water for all residential lots, landscaped areas, etc.
47. Prior to the issuance of any earth moving permit on the project site, the project proponent will submit, for review and approval, a final hydrology and hydraulics analysis to the City Engineer and the Riverside County Flood Control and Water Conservation District.
48. All flood control facilities shall meet the standards of the Riverside County Flood Control and Water Conservation District, and shall be dedicated to the District for maintenance in perpetuity. Acceptance of the facilities by the District shall be complete prior to the issuance of occupancy permits for any house adjacent to them.
49. In conjunction with recordation of the parcel map, a master association shall be formed and maintained, in a method satisfactory to the City attorney, which assures that all on-site drainage improvements, including those associated with trails on the project site, shall be maintained to meet all City standards relating to NPDES, or other laws and regulations as they are enacted.
50. The project proponent may be required to install oil separators, bio-filtration swales or other mechanisms to control surface water contamination through the site. Such a determination will be made by the City Engineer, upon review of final improvement plans for the project site.

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51. A 6 foot high perimeter wall shall be constructed along the eastern property line adjacent to the Banning High School property, adjacent to lots 129 through 144.
52. During construction, all vehicles and equipment shall be equipped with properly operating and maintained mufflers.
53. Construction hours shall be limited to 7 a.m. to 7 p.m., Monday through Saturday. Construction shall be prohibited on Sundays and holidays.
54. Stockpiling, stationary equipment storage and/or vehicle staging areas shall be located at least 100 feet from existing residential dwellings.
55. In conjunction with recordation of the parcel map, the phasing and financing plans for the proposed project shall be recorded against each parcel to assure that construction of the required regional water, sewer, flood control and street improvements are undertaken in a timely manner to serve development as it occurs.
56. All builders within the project site shall be required to participate in any future fire and police personnel and/or facilities fees in place at the time of issuance of grading permits.
57. Design and construction of a 2 to 3 acre playground park utilizing numbered lots 274, 275, 276, and 182. The park design and specifications must receive approval from the Community Services Director before construction of the park can begin. The constructed park must receive approval from the Community Services Director before this mitigation requirement is deemed met. The playground park is intended to serve the immediate community and will be incorporated into the landscape maintenance district (or whatever mechanism is developed to cover the cost of maintaining the trail system).

The balance of the parkland mitigation requirement for the development will be collected in fees, which will go towards the development of the Banning High School athletic fields. If the school district develops the fields before the construction of this development occurs, or if there are funds remaining after the athletic fields are developed, then the fees will be retained by the City in the Parkland Development Fund and be utilized to design and/or construct other park facilities within the city.

58. The trail system shall be designed to connect to approved trails in projects to the west and north. All trails within the project shall be designed to be outside the boundary of the flood control easement to be dedicated to the Riverside County Flood Control District. All trails shall be located at least 40 feet from the top of bank of any creek within the proposed project.
59. Prior to issuance of a grading permit, the developer shall make appropriate fair share contributions toward roadways and intersections affected by project traffic, as identified

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- in the project traffic study, as amended, and the Phasing Plan, as recorded against the parcel map.
60. The project proponent shall contribute his fair share toward traffic signalization at the following study area intersections with the first phase of improvements: 8th Street (NS) at:
 - I-10 Freeway WB Ramps (EW)
 - I-10 Freeway EB Ramps (EW)
 61. The proposed project shall contribute its fair share to traffic signalization at the following intersections as described in the Phasing Plan recorded against the parcel map:
 - 8th Street (NS) at Lincoln Street (EW)
 - 22nd Street (NS) at I-10 Freeway WB Ramps(EW)
 62. The proposed project shall contribute its fair share to traffic signalization at the following intersections:
 - a. Sunset Avenue (NS) at:
 - Lincoln Street (EW)
 - Westward Avenue (EW)
 - Bobcat Road (EW)
 - b. 22nd Street (NS) at:
 - I-10 Freeway EB Ramps (EW)
 - Lincoln Street (EW)
 - c. San Geronio Avenue (NS) at:
 - Lincoln Street (EW)
 - Westward Avenue (EW)
 - Porter Street (EW)
 63. A half-width buildout section of Victory Avenue shall be constructed east of Lovell Street prior to the issuance of the first building permit on the appropriate phase.
 64. A half-width buildout section of 16th Street shall be constructed along the property frontage prior to the issuance of the first building permit on the appropriate phase.
 65. Should improvements to the following roadways not be complete by others at the time that grading permits are issued for the proposed project, the following off site improvements shall be completed by the project proponent.
 - a. Victory Avenue east of Lovell Street shall be constructed to its ultimate full section width as a Local Collector (60 foot right of way) in a southeasterly direction to 16th Street with construction of Parcel 2 homes.

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- b. 16th Street shall be constructed to its ultimate half-section width as a Local Collector (60 foot right of way) along the entire project frontage with construction of Parcel 2 homes.
- 66. The fair share contribution shall be calculated at the time of grading permit application, to the satisfaction of the City traffic engineer. The developer shall make these contributions prior to issuance of a grading permit to help assure City roadways and intersections do not exceed City LOS standards from project-related traffic as close as possible to the time the project is actually developed. If the grading permit application is submitted more than 2 years after completion of the traffic study, the City may require the traffic study be updated.

ENGINEERING CONDITIONS

A. STREET IMPROVEMENTS

- 67. Dedicate the necessary right-of-way along the entire Westward Avenue fronting the proposed Subdivision to the City of Banning, making a half-street width of 40' south of the Westward Avenue centerline.
- 68. Dedicate the necessary right-of-way along the entire 12th Street and a half width of 16th Street frontage of the proposed Subdivision to the City of Banning, making a full-street width of 60'.
- 69. Dedicate the necessary right-of-way along the entire frontage of San Gorgonio Avenue to the City of Banning, making a half-street width of 40' west of the San Gorgonio Avenue centerline.
- 70. Obtain and dedicate the necessary right-of-way along the entire frontage of 8th Street to the City of Banning.
- 71. Prior to installation of street improvements on 8th Street, between Westward Avenue and Lot 396, the developer shall, if the property owners wishes, relocate the tree at the northwest corner of assessor's parcel no. 543-030-001 outside the public right of way, on to that parcel.
- 72. The trails must be maintained by the Landscape Maintenance District No. 1.
- 73. Submit Street Improvement Plans to the City Engineer and construct street improvements along Westward Avenue and 8th Street (from Westward Avenue to the westerly tentative tract map boundary), 16th Street (if it is still non-existing), Bobcat Road, Hilltop Drive, 12th Street, and San Gorgonio Avenue, consisting of A.C. pavement, sidewalk (meandering along Westward Avenue and 8th Street), curb, gutter, streetlights,

- landscaping, striping and all street signs. Existing streets effected by this development, such as Westward Avenue, 8th Street, and San Gorgonio Avenue, shall be overlaid with a minimum of 1 ½" A.C. prior to the completion of the whole project. Curb returns shall have a 35' radius as per the plans approved by the City Engineer. Direct vehicular access from individual lots to Westward Avenue and 8th Street, shall be prohibited.
74. A 6' high decorative masonry wall (as determined by the Planning Department) shall be constructed along the entire tract boundary at the right-of-way line.
 75. An automatic sprinkler system shall be installed within the detention basins and any landscaped open space areas, including between the sidewalk and the tract boundary along Westward Avenue and 8th at the right-of-way line.
 76. Construct street improvements of the interior streets (with 60' right of way), consisting of curb, gutter, 5' wide sidewalk, A.C. pavement, driveway approaches, handicap access ramps, streetlights, street signs, and roadway striping, etc., as per the approved Street Improvement Plans and City of Banning Public Works Standard Specifications. Curb returns shall have a radius of 35 feet.
 77. All intersections designated as "Horse Crossing" must have a complete 4-way (or 3-way, as applicable) stop sign, with a warning sign and pavement marking stating "Horse Xing Ahead" at a spacing of 200 feet before each stop sign.
 78. The Developer of Tract No. 30774 may request the Developer of this Tract to enter into the existing Reimbursement Agreement for street improvements. The Developer shall pay all required fees to said Developer and the City of Banning as outlined in the Reimbursement Agreement.
 79. Obtain the necessary encroachment permits from the Southern California Gas Company and Municipal Water District and submit such copy to the Engineering Division prior to Final Map Approval.
 80. Streetlights along all streets shall be installed offset of the existing streetlights, and those already surrounding the proposed development, per the approved Street Improvement Plans.
 81. Install traffic control devices (signals) at the following intersections: 8th Street and Westward Avenue, and San Gorgonio Avenue and Highway 243, per the City's Traffic Engineer's recommendations and the City of Banning's Standard Specifications. The design shall be included with the street improvement plans.
 82. Traffic signals shall be designed and constructed by the Developer as it is warranted or specified by the City's Traffic Engineer.

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83. The Developer shall participate in the City's Landscape Maintenance District No. 1, to be established by the City of Banning for the maintenance of landscape within the public right-of-way, equestrian trail, and the open space areas within the development's boundary.
84. The Developer shall design and construct the electrical system and contact the City of Banning, Electric Division to obtain comments, and will submit all necessary plans for their approval.

B. WATER

85. The developer shall assist the City in developing a water supply assessment study. Also, the developer may be required to construct facilities, such as, a well or reservoir, in lieu of payment of water connection fees.
86. Prior to Final Map approval the project proponent shall submit Water Improvement Plans prepared by a Licensed Engineer to the Engineering Division for review and approval. The proposed new waterlines shall connect into the City's water supply and be designed and constructed as per the City's approved Water Master Plan. In accordance with the Phasing Plan selected and approved by the City's Engineer.
87. The Project is located within two Pressure Zones: Pressure Zone 1 (Main Pressure Zone) and Pressure Zone 2 (Lower I Pressure Zone). The pressure zones should be split at approximately elevation 2338. Also, at least two Pressure Regulating Stations will be required, with one at Eighth Street and Street "A" and the other at Bobcat Road and 16th Street. Prior to Final Map approval the pressure zone (Pressure Regulation Stations) shall be coordinated with the Water Improvement Plan and the Phasing plan selected and approved by the City's Engineer.
88. Waterlines to be constructed to and across property boundaries (north and south/east and west) of the project. During phasing of the project, all waterlines are to be looped for each phase with two points of connection in each pressure zone and no long dead ends. Points of connection are located at 12th Street, 8th Street and Westward Avenue, San Gorgonio Avenue and Wesley Street, and Westward Avenue and Lovell Street.
89. Fire hydrants shall be installed as per the approved plans, and at a 300' maximum spacing.
90. All dead end water mains shall be provided with 4-inch blow off valves or fire hydrants.
91. All water lines shall be designed with a minimum of 8" diameter, and fittings shall be 10-gauge steel pipes, cement-lined and wrapped, and the entire water system shall be looped.

92. The developer will perform a water system hydraulic study, prepared by a licensed Civil Engineer, showing that the project will meet all required water pressures and fire flows. Construct all on and off site water lines to provide the proper service to the project.
93. After the water line(s) has been constructed, the Developer may request a Reimbursement Agreement for the waterlines installed on the boundaries of the project to be used by others. Pay all required fees to the City of Banning to establish the Agreement.

C. SEWER

94. The Developer shall assist the City in developing a recycled water system assessment study at a future time. Also, the developer may be required to construct facilities such as, pipeline and irrigation systems within the project to use recycled water.
95. Prior to Final Map approval or any permit issuance, the project proponent submit sewer Improvement Plans prepared by a Licensed Engineer to the City Engineer for review and approval. The Sewer Improvement Plan shall be consistent with the City's Maser Swere Plan and shall be consistent with the Phasing Plan selected and approved by the City's Engineer. The Sewer Improvement Plan shall include the City's Sewer Master Plan provisions, which require an 18" Trunk Line to be installed along the southern portion of the project area and connect to the existing 21" Trunk Line east of the project site, near the intersection of Porter Street and Smith Creek.
96. All sewer lines shall be extra strength vitrified clay pipes constructed to and across the property boundaries of the project (north and south/east and west) and the sewer lines are to be a minimum of 8" diameter. Sewer line easements are to be a minimum of 20' wide, shall have an all weather access cover and must be provided in the Final Map.
97. A sewer check valve shall be provided for each lot with a finished pad elevation lower than the rim elevation of the immediate up-stream sewer manhole.
98. The Developer may request a Reimbursement Agreement for the sewer lines installed on the boundaries of the project to be used by others. Pay all required fees to the City of Banning to establish such Agreement.

D. DRAINAGE

99. Erosion and embankment protection shall be provided along the 4th Street Channel, Montgomery Creek and Smith Creek Channels, per the Geotechnical Engineer's and the Riverside County Flood Control District's (the "District") recommendation.

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100. Designs for the 4th Street Channel, Montgomery Creek and Smith Creek shall contain the 100 year storm within the banks of both channels.
101. Offsite drainage facilities shall be located within publicly dedicated drainage easements obtained from the affected property owner(s). The document(s) shall be recorded and a copy submitted to the City of Banning and District prior to recordation of the final map.
102. The property's street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area, outlet points and outlet conditions; otherwise, a drainage easement shall be obtained from the affected property owners for the release of concentrated or diverted storm flows. A copy of the recorded drainage easement shall be submitted to the City of Banning and District for review prior to the recordation of the final map.
103. A fee shall be paid to the Riverside County Flood Control and Water Conservation District (RCFC and WCD) in the amount as specified by the District for performing plan checking and an inspection for the proposed subdivision.
104. The Storm Drain Plan for the proposed subdivision shall be accompanied by hydrology and hydraulic analysis prepared by a licensed engineer and shall be designed per the RCFC and WCD Hydrology Manual. The storm drain design shall incorporate the drainage from the proposed Tract No. 30774 and the existing tracts along the boundary of the proposed project. If required, all of the sheet flow shall be collected onsite in a detention basin within the development and shown on the Final Map. The detention basins and open space areas shall be landscaped and maintained by the Developer for one year past the City's Acceptance date, until the City fully accepts the areas to be included in Landscape Maintenance District No. 1, or said areas shall be the Homeowner Association's responsibility to maintain. All drainage facilities shall be designed and sized to accommodate any future developments to the north and west of this proposed subdivision.
105. Submit drainage/hydrology study calculations and a hydraulic analysis for both developed and undeveloped conditions to the City of Banning, and RCFC and WCD for review and approval. All of the drainage from each individual lot shall drain into the public right of way and not impact surrounding properties, or a drainage easement acceptance letter from the adjacent landowner must be obtained.
106. Prior to the Final Map approval, the project proponent shall demonstrate to the satisfaction of the City's Engineer that the 10-year storm flow shall be contained within the curb and the 100-year storm flow shall be contained within the street right of way. When either of these criteria is exceeded, additional drainage facilities shall be installed.

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107. File a Notice of Intent, obtain a NPDES Construction Activity General Permit from the State Regional Water Quality Control Board, prepare a Storm Water Pollution Prevention Plan (SWPPP) and submit a copy of each to the Engineering Division. Ensure that Best Management Practices (BMPs) are followed, per NPDES requirements to reduce storm water runoff during construction and thereafter. Temporary erosion control measures shall be implemented immediately following rough grading to prevent deposition of debris into downstream properties or drainage facilities.
108. An Encroachment Permit shall be obtained for any work on City facilities or within the City's right of way. The Encroachment Permit application shall be processed and approved concurrently with the improvement plans.
109. As indicated in the preliminary assessment by the RCFC and WCD Engineer, the Hydrology and Hydraulic Analysis may impact the future development of this Tract, therefore the developer shall accommodate any changes based on the findings of the final Hydrology and Hydraulic Analysis of this development.
110. All improvements to Montgomery Creek, Smith Creek and the 4th Street drainage shall be dedicated to the RCFC and WCD once constructed.

E. BONDINGS

111. Amount of bonding of public improvements shall be as follows:

Faithful Performance Bond.....	100% of Estimated Cost
Labor and Material Bond	100% of Estimated Cost
Monumentation Bond	\$25,000.00

The amounts shall be on file in the City Clerk's Office prior to the Final Tract Map going to City Council for approval.

112. Unit prices for bonding estimates shall be those specified or approved by the City Engineer.

F. FEES

113. A Plan Check fee for final map review and all Improvement plans for the proposed subdivision shall be paid prior to plan checking proceedings in accordance with the Fee Schedule in effect at the time the fees are paid.
114. The Public Works Inspection fee shall be paid prior to the final map going to the City Council for approval in accordance with the Fee Schedule in effect at the time the fees

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are paid. Public Works permits are required prior to construction within the public right of way.

115. Water and Sewer Connection fees and Water Meter Installation charges shall be paid on a per lot basis, at the time of issuance of building permits, for each lot within this subdivision in accordance with the fee schedule in effect at the time the fees are paid. Also, pay all water and sewer frontage fees, if applicable, and in accordance with the fee schedule in effect at the time the fees are submitted, prior to plan checking proceedings.
116. A Plan Storage fee shall be paid prior to approval of Final maps and Improvement plans in accordance with the Fee Schedule in effect at the time the fee is paid.
117. A Traffic Signal Mitigation fee and any other applicable transportation fees (TUMF, MSHCP, etc.) shall be paid on a per lot basis, prior to the issuance of building permits, for each lot within this subdivision, in accordance with the fee Schedule in effect at the time the fees are paid..

G. IMPROVEMENT PLANS AND FINAL MAP

118. Improvement Plans for the proposed subdivision shall be prepared as a separate set of drawings for each of the following categories:
 - a) Rough Grading
 - b) Street Improvement
 - c) Drainage/Storm Drain
 - d) Water and Sewer
 - e) Precise Grading
 - f) Electrical
 - g) Striping
 - h) Landscaping
 - i) Traffic Signals
119. Construct all proposed improvements in accordance with the approved Improvement Plans and the City of Banning Standard Specifications for the proposed tract.
120. Street Improvement Plans for the proposed subdivision shall be supplemented with a soil and geology report prepared by a licensed engineer for street structural section design..
121. Submit a Rough and Precise Grading Plan to the City for review and approval. All of the grading shall conform to the latest edition of the Uniform Building Code (U.B.C.) and the grading permit must be obtained prior to the commencement of any grading activity. Submit a soil analysis report prepared by a licensed engineer, along with a grading plan.

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122. The Developer shall remove and replace any areas of existing improvements that are or may become damaged during any phase of construction, as determined by the City's Public Works Inspector. A Public Works Permit shall be obtained prior to the commencement of any work within the City right of way. The contractor working within the right of way must submit proof of a Class "A" State Contractor's License, City of Banning Business License and liability insurance.
123. All street centerline monument ties shall be submitted to the Engineering Division.
124. Submit a copy of the Title Reports and recorded easements to the Engineering Division.
125. All plans, including grading plans, shall be drawn on 24" x 36" Mylar, and also provided on an Autocad diskette to the Engineering Division.
126. Closure calculations, vesting deeds and title report and record maps of adjoining properties shall accompany the Final Map.
127. The original drawings shall be revised to reflect As-Built conditions by the Design Engineer prior to final acceptance of the work by the City. Water service lines, water meters, sewer laterals and electric, irrigation lines, etc., within the street right of way and 5' outside of the street right of way shall be shown on the As-Built Water/Sewer Plans. Construction plans for gas, telephone, electric and cable TV etc., shall be submitted to the City for records.
128. A small index map shall be included on the title sheet of each set of plans, showing the overall layout of the public improvements.
129. A map of the proposed subdivision drawn to scale 1" = 200', showing the outline of streets and street names, shall be submitted to the City to update the City wall atlas map.
130. An original Mylar of the Final Map (after it is recorded as electronic data on compact disc using CADD) shall be provided to the City for the City's map files.
131. Street name signs and traffic control devices shall be relocated or installed as required per the approved plans and City of Banning Standard Specifications.
132. Contact all affected agencies, (Southern California Edison, Municipal Water District, Army Corps of Engineers, California Department of Fish and Game, Regional Water Quality Control Board, Cal-Trans, and Riverside County Flood Control and Water Conservation District, etc.), and obtain the necessary approvals with regards to the proposed development, which includes Montgomery Creek. Submit copies of correspondence with the agencies to the Engineering Division.

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133. Submit improvement plans to all affected utilities including the Gas Company, Time Warner, Verizon, etc. Provide all correspondence of such to the Engineering Division.
134. Construct all improvements as per the Electrical Improvement Plans approved by the Electric Division.
135. The Developer shall participate in the City's Landscape Maintenance District No. 1, for the maintenance of landscape within the public right of way and the open space areas within the development's boundaries and pay the annexation fee and all fees and annual assessments associated with the maintenance cost of said Landscape Maintenance District.

H. CONSTRUCTION AND MAINTENANCE OF PUBLIC IMPROVEMENTS

136. All required water lines and fire hydrants shall be installed and made operable before any building permits are issued. This may be done in phases if the construction work is in progress for emergency vehicles.
137. All weather vehicular access shall be maintained at all times to all parts of the proposed subdivision, where construction work is in progress, for emergency vehicles.
138. All precautions shall be taken to prevent washouts, undermining and subsurface ponding, caused by rain or runoff to all surface structures (curbs, gutters, sidewalks, paving, etc.). The Engineering Division may order repair, removal and replacement, extra compaction tests, load tests, etc. or any combination thereof for any such structure that was damaged or appears to have been damaged. All of the additional work, testing, etc., shall be at the expense of the Developer.
139. All required public improvements for the development shall be completed, tested and approved by the Engineering Division prior to the issuance of any Building Permit.
140. Sewer laterals shall be maintained by individual property owners in accordance with the existing City policy.
141. A standard agreement for Construction of Public Improvements for the proposed subdivision shall be executed prior to Final Map approval.
142. **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 +



Plan Check & Inspection - \$5.00 per unit Disaster Planning
\$42.00 per unit

143. 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.

An approved AWWA double check detector check assembly, as approved by the C.O.B Water Department located as close to the property line as possible, and a minimum of twelve (12) inches above the ground shall be provided.

The Water Department shall approve all plans involving water main service.

144. 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 James Jones #J3700, or an equivalent approved by the Fire Marshal.

Fire Hydrants are to be painted by the developer, contractor, 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.

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

146. 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 turning radius shall be 42 feet.

Maximum grade shall be established by the Fire Department.

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

147. 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.

Residential - 3-1/2" mm. Size

148. 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.

149. INSPECTIONS:

Inspections shall be requested a minimum of forty-eight (48) hours prior to the time the required inspection is needed.

Fee for each inspection is \$42.00 per hour per person. Exception, residential inspections are \$21.00 per unit per person.

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Work begun without a permit or without an approved set of plans at the job site will result in a triple fee and/or the work stopped.

150. A GREENBELT OR FUEL MODIFICATION ZONES REQUIRED.

A 100' wide greenbelt will be required between the top of the Montgomery Creek channel and the property lines of those parcels that line the channel. The same requirement applies to the parcels on the south side of the project along Smith Creek. The greenbelt width may be lessened if approved. Items like fuel modification on the channel slopes, block walls on property lines, specific construction techniques (i.e. boxed and stuccoed eaves, dual-pane tempered glass windows, combustible wall surfaces etc.) on the houses along the channels can be used to narrow the required greenbelt width.

Plans for the greenbelt areas must be prepared by a licensed landscape architect and approved by the fire department prior to building permits being issued.

A plan for the perpetual maintenance of the greenbelt areas must also be submitted for fire department approval.

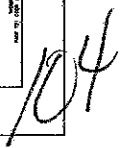
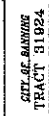
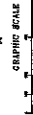
Applicant Acknowledgement: _____

C W Tefft, Inc.

Date: _____

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CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
BEING A PORTION OF SECTIONS 18, T3S, R1E



**CITY COUNCIL AGENDA
DISCUSSION ITEM**

DATE: May 27, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Brian S. Nakamura, City Manager

SUBJECT: City Council Direction to Allow Interim Urgency Ordinance No. 1376 to Expire on June 25, 2008, and Direct Staff to Address Key Infrastructure Issues as Identified in the Kosmont Study.

RECOMMENDATION:

That the City Council direct staff to follow the Kosmont Study's recommendations and improve upon its infrastructure and allow Ordinance No. 1376, Interim Urgency Ordinance, An Interim Urgency Ordinance of the City of Banning, California, Continuing the Provisions of Ordinance No. 1373 for a period of Ten (10) Months and Fifteen (15) Days Establishing A Temporary Moratorium on the Approval of Self-Storage Facilities and Warehousing Uses Within the City to expire on June 25, 2008, and have staff prepare the appropriate documents to enable this action.

BACKGROUND:

The Kosmont Companies was hired to provide conduct a study of the Banning Commercial Industrial Market. The study is intended to assist in the development of a baseline of current conditions in the Commercial and Industrial space markets, and highlight key issues to assist the City in selecting preferred strategies to be incorporated as part of a strategic economic development plan that can and will be implemented.

Kosmont analyzed the current state of the Industrial Market, reviewed the surrounding office and retail market, evaluated the current zoning and land uses and their impact on new development, and determined how this information can be applied in Banning's best interest.

The analysis of the current industrial market and the City's Development Code suggest the City needs to consider concentrating their economic development efforts in three areas:

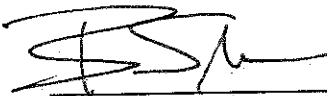
- Develop an economic strategic plan to utilize various municipal programs with the goal of attracting new, desirable business to the Banning area. As part of this effort, the City should study the potential of levying taxes on local distribution business as a means of increasing City tax revenue, as

well as analyzing the impact of undertaking more extensive partnerships with private enterprise.

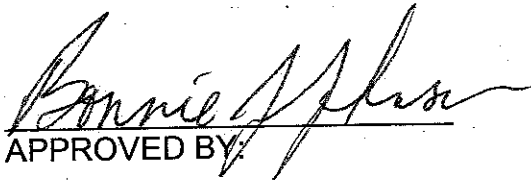
- Enforcing code compliance and adjusting current zoning to align with existing uses.
- Begin infrastructure improvements to encourage further development, and immediately initiate due diligence efforts to understand Banning's ability to submit a competitive applications for the next rounds of infrastructure State funding.

FISCAL DATA:

Fiscal impacts are undetermined at this time and dependent upon future development.



RECOMMENDED BY:



APPROVED BY:

**ORDINANCE NO. 1373
INTERIM URGENCY ORDINANCE**

**AN INTERIM URGENCY ORDINANCE OF THE CITY
COUNCIL OF THE CITY OF BANNING, CALIFORNIA,
ADOPTING AND IMPOSING A TEMPORARY
MORATORIUM ON THE APPROVAL OF SELF-STORAGE
FACILITIES AND WAREHOUSE USES WITHIN THE
CITY**

**THE CITY COUNCIL OF THE CITY OF BANNING DOES HEREBY ORDAIN
AS FOLLOWS:**

WHEREAS, the City of Banning has consistently worked to encourage economic development and to maintain the economic vitality of the community by encouraging development that provides significant tax revenue to the City and that provides significant employment opportunities for City residents wherever possible; and

WHEREAS, the City of Banning has attempted to balance various land uses to accomplish these goals; and

WHEREAS, the City of Banning has formally set forth standards for development within the policies and provisions of the General Plan adopted by the City in January 2006, and in its zoning ordinance; and

WHEREAS, at the present time it appears to the City Council that certain areas that have been designated for industrial uses, which include self-storage facilities and warehouses, are disproportionate to the current need for such uses which offer little in the way of tax revenue generation for the City or employment for City residents; and

WHEREAS, the Land Use Element of the General Plan states that the City must carefully consider compatibility with adjacent lands when designating appropriate lands for warehousing and distribution. (General Plan, p. III-20.); and

WHEREAS, the Land use Element of the General Plan indicates that the City should have commercial lands that provide a broad range of products and services to the City and which increase the City's revenues, as well as provide a range of employment opportunities. (General Plan, p. III-19.); and

WHEREAS, Government Code Section 65030 declares that the intent of the State Legislature to use California's land resources in ways which are economically and socially desirable in an attempt to improve the quality of life in California. To that end, the State Legislature has also declared that land use decisions should be made with full knowledge of other economic implications. (Government code Section 65030.2.); and

WHEREAS, the Economic Development Element of the General Plan indicates that the City will pursue retail commercial developments which reduce the current retail sales leakage

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and will take a proactive role in attracting businesses that generate employment opportunities and contribute to City General Fund revenues. (General Plan, p III-41 to 42.); and

WHEREAS, the Vision Statement of the General Plan indicates that the City should have a healthy, well developed industrial base which provides quality jobs for the City residents (General Plan, p I-1); and

WHEREAS, continuing to permit self-storage and warehouse facilities areas where commercial development would better serve the community and is economically viable would be contrary to the policy directives and other provisions of the current General Plan; and

WHEREAS, the approval under current conditions of additional self-storage and warehouse facilities in areas where commercial development is more desirable and achievable would create irreversible negative impacts on the community; and

WHEREAS, certain self-storage and warehouse developments are being proposed on sites that are more suitable for commercial development but that are currently zoned for industrial uses including self-storage and warehouse facilities; and

WHEREAS, the City Council at its meeting on June 12, 2007 directed staff to immediately undertake a study to determine the impacts on the City and the General Fund of proposed self-storage and warehouse development within the City to determine whether amendment of the General Plan and zoning ordinance is required to achieve the economic policy goals of the City; and

WHEREAS, the City needs to study and analyze possible changes to its General Plan and Zoning Ordinance in order to address proper locations for warehouses and self-storage facilities to adopt reasonable regulations and appropriate development standards so as to prevent possible land use inconsistencies and incompatibilities; and

WHEREAS, there is an immediate threat to the public health, safety and welfare, and Government Code Section 65858 authorizes the City Council to adopt as an urgency measure an interim ordinance prohibiting any uses which may be in conflict with General Plan, specific plan and Zoning proposals which the City is considering or studying or intends to study within a reasonable time.

NOW THEREFORE, THE CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: The City Council finds and determines the following:

- (a) The recitals set forth above are hereby adopted as findings of the City Council; and
- (b) The current balance of industrial and commercial uses within the City contains a disproportionate number of potential areas for self-storage and warehouse uses in that there are currently 289 acres of potential commercial retail/office opportunities compared with 687 acres of properties capable of accommodating warehouses/storage facilities; and
- (c) The continued development of additional self-storage and warehouse uses within the

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City poses an immediate threat to the public health, safety and welfare by permanently limiting the amount of commercial development that might occur in locations now zoned for such uses without appropriate changes to the General Plan and Zoning Ordinance; and

(d) The immediate threat of adverse impacts to the public health, safety, and welfare that would result from allowing development of additional self-storage and warehouse within areas appropriate for commercial development that would generate both additional tax revenues and employment opportunities for city residents at the present time justifies adoption of an interim urgency moratorium ordinance, even though such an ordinance may temporarily limit self-storage and warehouse uses in the region; and

(e) In order to sustain the policies of the General Plan and to allow the City appropriate time to complete an impact study relating to self-storage and warehouse uses and alternative commercial opportunities for development and to adopt, if necessary, amendments to the General Plan and Zoning Ordinance to assure adequate infrastructure and public services, a temporary moratorium on approval of self-storage and warehouse uses must be enacted.

SECTION 2: Pursuant to the authority granted to the City Council by California Government Code Section 65858 to protect the health, safety and general welfare of the residents of the City of Banning, the City Council hereby enacts as an interim urgency measure a moratorium on approval of self-storage and warehouse uses in the Business Park and Industrial Zones of the City to take effect immediately upon the adoption of this ordinance as follows:

Moratorium on Self-Storage and Warehouse Facility Approvals

(a) No applications for the construction of any self-storage or warehouse use in Business Park and Industrial Zones shall be approved during the term of this interim urgency ordinance. Self-storage shall mean a space or place that is solely used to house goods, materials and/or personal property for more than 24 hours. Warehouse shall mean a space or place that is solely used to house goods and/or materials. Facilities that have point of sale purchase shall not be considered warehouses.

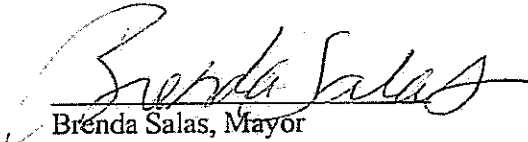
(b) No permit or approval shall be issued for any subdivision (including parcel maps and condominium maps), site development permits, use permits, design review permits, variances, grading permits, building permits, building plans, or any other type of land use, zoning, or building permit or approval for the development of structures for any self-storage or warehouse facility during the term of this interim urgency ordinance.

SECTION 3: Pursuant to Government code § 65858(a), this Ordinance shall take effect immediately but shall be of no further force and effect forty-five (45) days from its date of adoption, unless the City Council, after notice and public hearing as provided under Government Code § 65858(a) and adoption of the findings required by Government Code § 65858(c), subsequently extends this Ordinance.


SECTION 4: Pursuant to Government Code § 65858(d), ten (10) days prior to the expiration or any extension of this Interim Ordinance, the City Council will issue a written report describing the measures taken to alleviate the conditions which led to the adoption of this Interim Ordinance.

SECTION 5: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect immediately and shall be in effect for a period of 45 days.


PASSED, APPROVED AND ADOPTED this 26th day of June, 2007.


Brenda Salas, Mayor
City of Banning

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


Burke, Williams & Sorensen, LLP
City Attorney

ATTEST:


Marie Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, do hereby certify that the foregoing Interim Urgency Ordinance No. 1373 is the actual Ordinance adopted by the City Council and was introduced and finally passed at a regular meeting of the City Council on the 26th day of June, 2007, by the following vote:

AYES: Councilmembers Botts, Franklin, Hanna, Machisic, Mayor Salas

NOES: None

ABSENT: None

ABSTAIN: None



Marie A. Calderon

City Clerk of the City of Banning

**ORDINANCE NO. 1376
INTERIM URGENCY ORDINANCE**

**AN INTERIM URGENCY ORDINANCE OF THE CITY
COUNCIL OF THE CITY OF BANNING, CALIFORNIA,
CONTINUING THE PROVISIONS OF ORDINANCE NO.
1373 FOR A PERIOD OF TEN (10) MONTHS AND
FIFTEEN (15) DAYS ESTABLISHING A TEMPORARY
MORATORIUM ON THE APPROVAL OF SELF-STORAGE
FACILITIES AND WAREHOUSE USES WITHIN THE
CITY**

**THE CITY COUNCIL OF THE CITY OF BANNING DOES HEREBY ORDAIN
AS FOLLOWS:**

WHEREAS, the City of Banning has consistently worked to encourage economic development and to maintain the economic vitality of the community by encouraging development that provides significant tax revenue to the City and that provides significant employment opportunities for City residents wherever possible; and

WHEREAS, the City of Banning has attempted to balance various land uses to accomplish these goals; and

WHEREAS, the City of Banning has formally set forth standards for development within the policies and provisions of the General Plan adopted by the City in January 2006, and in its zoning ordinance; and

WHEREAS, at the present time it appears to the City Council that certain areas that have been designated for industrial uses, which include self-storage facilities and warehouses, are disproportionate to the current need for such uses which offer little in the way of tax revenue generation for the City or employment for City residents; and

WHEREAS, the Land Use Element of the General Plan states that the City must carefully consider compatibility with adjacent lands when designating appropriate lands for warehousing and distribution. (General Plan, p. III-20.); and

WHEREAS, the Land use Element of the General Plan indicates that the City should have commercial lands that provide a broad range of products and services to the City and which increase the City's revenues, as well as provide a range of employment opportunities. (General Plan, p. III-19.); and

WHEREAS, Government Code Section 65030 declares that the intent of the State Legislature to use California's land resources in ways which are economically and socially desirable in an attempt to improve the quality of life in California. To that end, the State Legislature has also declared that land use decisions should be made with full knowledge of other economic implications. (Government code Section 65030.2.); and

WHEREAS, the Economic Development Element of the General Plan indicates that the City will pursue retail commercial developments which reduce the current retail sales leakage and will take a proactive role in attracting businesses that generate employment opportunities and contribute to City General Fund revenues. (General Plan, p III-41 to 42.); and

WHEREAS, the Vision Statement of the General Plan indicates that the City should have a healthy, well developed industrial base which provides quality jobs for the City residents (General Plan, p I-1); and

WHEREAS, continuing to permit self-storage and warehouse facilities areas where commercial development would better serve the community and is economically viable would be contrary to the policy directives and other provisions of the current General Plan; and

WHEREAS, the approval under current conditions of additional self-storage and warehouse facilities in areas where commercial development is more desirable and achievable would create irreversible negative impacts on the community; and

WHEREAS, certain self-storage and warehouse developments are being proposed on sites that are more suitable for commercial development but that are currently zoned for industrial uses including self-storage and warehouse facilities; and

WHEREAS, the City Council at its meeting on June 12, 2007 directed staff to immediately undertake a study to determine the impacts on the City and the General Fund of proposed self-storage and warehouse development within the City to determine whether amendment of the General Plan and zoning ordinance is required to achieve the economic policy goals of the City; and

WHEREAS, the City needs to study and analyze possible changes to its General Plan and Zoning Ordinance in order to address proper locations for warehouses and self-storage facilities to adopt reasonable regulations and appropriate development standards so as to prevent possible land use inconsistencies and incompatibilities; and

WHEREAS, there is an immediate threat to the public health, safety and welfare, and Government Code Section 65858 authorizes the City Council to adopt as an urgency measure an interim ordinance prohibiting any uses which may be in conflict with General Plan, specific plan and Zoning proposals which the City is considering or studying or intends to study within a reasonable time; and

WHEREAS, at a public meeting on June 26, 2007, the City Council of the City of Banning adopted Ordinance 1373, an interim urgency ordinance establishing a temporary prohibition on self storage and warehouse uses for a 45 day period of time which expires on August 10, 2007 unless extended in accordance with the provisions of Government code section 65858; and

WHEREAS, based on substantial evidence in the record, the Planning Department has recommended that the continued approval and issuance of permits for the development of self storage and warehouse uses presents an immediate threat to and specific adverse impact upon the public health, safety and welfare of the community. The Planning Department also advises that

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extension of Ordinance No. 1373 will not have the effect of denying approvals needed for development projects with a significant component of multi-family housing within the meaning of Government Code Section 65858(c); and

WHEREAS, Government Code Section 65858(a) authorizes the City Council to continue the effect of Ordinance 1373 for a period of ten (10) months and fifteen (15) days from the expiration of Ordinance 1373 prohibiting self storage and warehouse uses; and

WHEREAS, on July 24, 2007, the City Council held a duly noticed public hearing to consider extending Ordinance 1373 for an additional ten (10) months and fifteen (15) days from and after August 10, 2007, which is the date Ordinance 1373 expires unless extended; and

WHEREAS, the City Council considered all of the written and oral testimony offered at the public hearing held on July 24, 2007 concerning whether to extend Ordinance 1373;

NOW THEREFORE, THE CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: The City Council finds and determines the following:

- (a) The recitals set forth above are hereby adopted as findings of the City Council; and
- (b) The recitals, provisions and findings made in Ordinance 1373 are hereby reaffirmed, readopted and incorporated by reference as though they were fully restated herein; and
- (c) Pursuant to Government Code Section 65858(d), more than 10 days prior to the expiration date of Ordinance 1373, August 10, 2007, the City Council considered the issue of extension of Ordinance 1373 based upon the staff report submitted for the Council meeting held on July 24, 2007 and issued that written staff report as the report of the Council describing the measures taken to alleviate the conditions which led to the adoption of Ordinance 1373; and
- (d) The extension of Ordinance 1373 will not have the effect of denying approvals needed for the development of projects with a significant component of multi-family housing within the meaning of Government Code Section 65858(c) in that: (1) self-storage units and warehouses are not considered multi-family housing; and (2) Ordinance 1373 does not affect and will not prohibit multi-family housing or other affordable housing development projects; and
- (e) The current balance of industrial and commercial uses within the City contains a disproportionate number of potential areas for self-storage and warehouse uses in that there are currently 289 acres of potential commercial retail/office opportunities compared with 687 acres of properties capable of accommodating warehouses/storage facilities; and
- (f) The continued development of additional self-storage and warehouse uses within the City poses an immediate threat to the public health, safety and welfare by permanently limiting the amount of commercial development that might occur in locations now zoned for such uses without appropriate changes to the General Plan and Zoning Ordinance; and

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(g) The immediate threat of adverse impacts to the public health, safety, and welfare that would result from allowing development of additional self-storage and warehouse within areas appropriate for commercial development that would generate both additional tax revenues and employment opportunities for city residents at the present time justifies the extension of Ordinance No. 1373, even though such an ordinance may temporarily limit self-storage and warehouse uses in the region; and

(h) The extension of Ordinance 1373 is necessary to mitigate deleterious effects that the approval and issuance of permits for self storage and warehouse developments would have on the community. No feasible alternative is available to satisfactorily mitigate or avoid these specific, adverse impacts as well or better with a less burdensome effect than the adoption of the proposed interim ordinance; and

(i) In order to sustain the policies of the General Plan and to allow the City appropriate time to complete an impact study relating to self-storage and warehouse uses and alternative commercial opportunities for development and to adopt, if necessary, amendments to the General Plan and Zoning Ordinance to assure adequate infrastructure and public services, an extension of Ordinance 1373 establishing a temporary moratorium on approval of self-storage and warehouse uses must be enacted.

SECTION 2: Pursuant to the authority granted to the City Council by California Government Code Section 65858 to protect the health, safety and general welfare of the residents of the City of Banning, the City Council hereby extends Ordinance 1373 which established a moratorium on approval of self-storage and warehouse uses in the Business Park and Industrial Zones of the City to take effect immediately upon the adoption of this ordinance as follows:

Moratorium on Self-Storage and Warehouse Facility Approvals

(a) No applications for the construction of any self-storage or warehouse use in Business Park and Industrial Zones shall be approved during the term of this interim urgency ordinance. Self-storage shall mean a space or place that is solely used to house goods, materials and/or personal property for more than 24 hours. Warehouse shall mean a space or place that is solely used to house goods and/or materials. Facilities that have point of sale purchase shall not be considered warehouses.

(b) No permit or approval shall be issued for any subdivision (including parcel maps and condominium maps), site development permits, use permits, design review permits, variances, grading permits, building permits, building plans, or any other type of land use, zoning, or building permit or approval for the development of structures for any self-storage or warehouse facility during the term of this interim urgency ordinance.

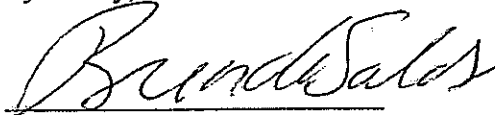
SECTION 3: Ordinance 1373 is hereby extended and shall remain in effect for a period of ten (10) months and fifteen (15) days. Ordinance 1373 was adopted on June 26, 2007, and the forty-five (45) day period is set to expire on August 10, 2007 and accordingly, by this extension that period of time is extended for an additional ten (10) months and fifteen (15) days until June 25, 2008 unless sooner terminated or further extended by the City Council of the City of Banning.

SECTION 4: Pursuant to Government Code § 65858(d), ten (10) days prior to the expiration or any extension of this Interim Ordinance, the City Council will issue a written report describing the measures taken to alleviate the conditions which led to the adoption of this Interim Ordinance.


SECTION 5: 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 6: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect immediately and shall pursuant to Government Code Section 65858(a), remain in effect for a period of ten (10) months and fifteen (15) days.


PASSED, APPROVED AND ADOPTED this 24th day of July, 2007.


Brenda Salas, Mayor
City of Banning

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


Burke, Williams & Sorensen, LLP
Dep City Attorney

ATTEST:


Marie Calderon, City Clerk
City of Banning

CERTIFICATION:

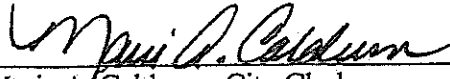
I, Marie Calderon, City Clerk of the City of Banning, do hereby certify that the foregoing Interim Urgency Ordinance No. 1376 is the actual Ordinance adopted by the City Council and was introduced and finally passed at a regular meeting of the City Council on the 24th day of July, 2007, by the following vote:

AYES: Councilmembers Franklin, Hanna, Machisic, Mayor Salas

NOES: None

ABSENT: Councilmember Botts

ABSTAIN: None



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