

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

July 8, 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.*

APPOINTMENTS

1. Designation of Voting Delegates and Alternates for the League of California Cities annual conference – Sept. 24-27, 2008 1

PRESENTATIONS

1. Kosmont Report and Presentation of Findings 5

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 8
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 – 06/10/08 7
2. Approval of Minutes – Special Meeting – 06/24/08. 48
3. Ordinance No. 1389 – 2nd Reading: An Ordinance of the City Council of the City of Banning, California, Vacating and Repealing Ordinance No. 1353, Approving Specific Plan #04-209, to Establish the Development Standards and Guidelines to Allow the Development of Up to 1,500 Residential Units, A 13.1 Acre School Site, 81.2 Acres of Parks, and 869 Acres of Open Space on a 1,488 Acre Site Generally Located North of Wilson Street, West of Bluff Street, Between Sunset Avenue and Highland Springs Avenue 50
4. Accept the Grant of Easement Dedication from Pastor Richard S. Szydlowski of the Mountain Avenue Baptist Church, located on Parcel No. 1, Parcel Map No. 76-4 as per Map Recorded in book 27, Page 61 Parcel Maps in the Office of the Riverside County Recorder, State of California 66
5. Report of Investments for September 2007 through May 2008. 71
6. Resolution No. 2008-88, a Resolution of the City Council of the City of Banning Adopting a Statement of Investment 108
7. Approval of Accounts Payable and Payroll Warrants for Month of April 2008. 124
8. Approval of Accounts Payable and Payroll Warrants for Month of May 2008 126

- Open for Public Comments
- Make Motion

IV. REPORTS OF OFFICERS

1. Ted Yarbrough, Fire Marshal/Emergency Services Coordinator
 - A. Fire Hazard Severity Zone Determinations for the City of Banning 128

V. PUBLIC HEARINGS

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

1. City Business Permit for County Rescue Ambulance
Staff Report 130
Recommendation: **That the City Council approve a City Business Permit for County Rescue Ambulance permitting the company to transport patients within the City Limits of Banning.**
2. Request to Vacate Juarez Street from Barbour Street to Westward Avenue.
Staff Report 134
Recommendation: **That the City Council adopt Resolution No. 2008-86, Vacating the Street Commonly Known as Juarez Street from Barbour Street to future Westward Avenue.**
3. Amendment to Certain Municipal Code Provisions Relating to the Parking of Commercial and Other Vehicles in the City of Banning.
Staff Report 155
Recommendation: That the City Council approve Ordinance No. 1390.

Mayor asks the City Clerk to read the title of Ordinance No. 1390

“An Ordinance of the City Council of the City of Banning, California, Amending Title 10 Vehicles and Traffic; Chapter 10.16 Vehicle Weight Limits of the City of Banning Municipal Code Relating to the Parking of Commercial and Other Vehicles Within the City of Banning; Providing a Penalty; Providing for Severability; and Providing an Effective Date.”

Motion: I move to waive further reading of Ordinance No. 1390.

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1390 pass its first reading.

(A minimum of three votes required)

4. Ordinance No. 1392 – An Ordinance Establishing Regulations for Boarding Houses and Residential Care Facilities in the City of Banning. Staff Report 166
Recommendation: Adopt Ordinance No. 1392.

Recommended Motions:

- 1) **That the City Council approves a Categorical Exemption for Zone Text Amendment No. 08-97504 (Ord. No. 1392) under CEQA Guidelines Section 15061(b)(3) and directs the Interim Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.**

- 2) *Mayor asks the City Clerk to read the title of Ordinance No. 1392 “An Ordinance of the City Council of the City of Banning, California, Approving Zone Text Amendment No. 08-97504 Amending Sections 17.04.070, 17.08.020, 17.12.020 and 17.28.040, and Adding Sections 17.08.201 and 17.12.050(Q) to the Banning Municipal Code to Regulate Boarding Houses and Residential Care Facilities.*

Motion: I move to waive further reading of Ordinance No. 1392.
(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1392 pass its first reading.
(A minimum of three votes required)

VI. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Annual Review of General Plan (*Hanna- 10/9/07*) (*Comm. Dev.*) (*ETA 7/22/08*)
2. Schedule Meeting with the Beaumont City Council (*Salas– 11/27/07*) (*City Mgr.*)
3. Schedule Special Jt. Meeting the Banning Unified School District Board – (*Botts – 11/27/07*) (*City Mgr.*)
4. Schedule Special Jt. Meetings with the City’s Various Committees (Planning Commission, Economic Development Committee, Parks & Recreation) – (*Franklin – 11/27/07*)
5. Review of Development Fees (*Hanna – 12/11/07*) (*Johnson*) (*ETA 8/08*)
6. Ordinance regarding foreclosed housing and bank owned property (*Salas – 6/10/08*)
7. Review of Ordinance regarding the selling of cars in shopping center parking lots – (*Salas – 6/10/08*)
8. Ordinance regarding smoke free parks (*Hanna – 6/24/08*)

FUTURE MEETINGS

1. Special Council Meeting – July 18, 2008 at 4:00 p.m. – City Attorney Interviews
2. Special City Council/RDA Meeting Workshop to be held on August 2, 2008 at 9:00 a.m. to finish vision statement and RDA funding opportunities.

VII. CLOSED SESSION

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

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].

Please review this memo carefully. New procedures were adopted in 2006 regarding designation of voting delegates and alternates and voting at the Annual Conference.

June 13, 2008

TO: Mayors, City Managers and City Clerks

RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference – September 24-27, Long Beach

The League's 2008 Annual Conference is scheduled for September 24-27 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting, scheduled for 8:30 a.m., September 27, at the Long Beach Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. In the event that the designated voting delegate is unable to serve in that capacity, your city may appoint up to two alternate voting delegates. In 2006, the ability to appoint up to two alternates was the result of approval of a League bylaws amendment that increased the number of voting delegate alternates from one to two.

Please complete the attached Voting Delegate form and return it to the League's office no later than September 5, so that voting delegate/alternates records may be established prior to the conference. At the conference, voting delegate forms may be returned to the Voting Delegate Desk located in the conference registration area.

Please note the following procedures that are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. At least one must be present at the Business Meeting and in possession of voting card in order to cast a vote. Voting delegates and alternates

-more-

are requested to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegates Desk. This will enable them to receive the special stamps on their name badges that will admit them into the voting area during the Business Meeting.

- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **New Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special stamp on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they should be sure to sign in at the Voting Delegate desk and obtain the special stamps on their badges.

The Voting Delegate desk in the conference registration area will be open September 24, 25 and 26, and prior to the Business Meeting on September 27. The conference registration area will open at 12:00 p.m., on September 24, at the Long Beach Convention Center. The Voting Delegate desk will also be open at the Business Meeting, but not during a roll call vote, should one be undertaken.

The voting procedures that will be used at the conference are attached to this memo. Please share it and this memo with your council and especially with the individuals your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League office by September 5. If you have questions, please call Mary McCullough at (916) 658-8247.

Attachments:

- 2008 Annual Conference Voting Procedures
- Voting Delegate/Alternate Form



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

Annual Conference Voting Procedures 2008 Annual Conference

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. We encourage voting delegates and alternates to sign in at the Voting Delegate Desk so that they may receive a special stamp on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates) and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is not either a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission will be limited to those individuals with a special stamp on their name badge identifying them as a voting delegate or alternate. If the city's voting delegate and alternates wish to sit together, all should sign in at the Voting Delegate desk and obtain the special stamps on their badges.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

**2008 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM**

Please complete this form and return it to the League office by September 5, 2008. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting, voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this special area will be limited to individuals (voting delegates and alternates) who are identified with a special stamp on their conference badge. If your city's voting delegate and alternates wish to sit together at the Business Meeting, they are all encouraged to sign in at the Voting Desk in order to obtain the identifying stamp that will admit them to the special voting area.

1. VOTING DELEGATE

Name: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

ATTEST (I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate.)

Name: _____

Phone: _____

Title: _____

Date: _____

Please complete and return by September 5 to:

League of California Cities
ATTN: Mary McCullough
1400 K Street
Sacramento, CA 95814

FAX: (916) 658-8240

**CITY COUNCIL AGENDA
DISCUSSION ITEM**

DATE: July 8, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Brian S. Nakamura, City Manager

SUBJECT: Kosmont Report and Presentation of Findings.

RECOMMENDATION:

At the May 27, 2008 City Council meeting staff was asked to invite Mr. Kosmont to next available Council meeting to provide comments on the findings within the submitted report and answer related questions.

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

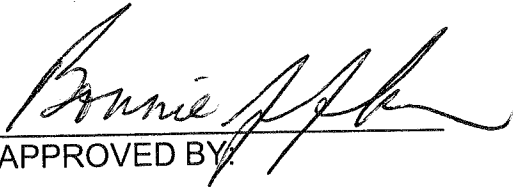
submit a competitive applications for the next rounds of infrastructure
State funding.

FISCAL DATA:

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



RECOMMENDED BY:



APPROVED BY:

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

06/10/08
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Salas on June 10, 2008 at 6:30 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

BOARD MEMBERS ABSENT: None

OTHERS PRESENT: Brian Nakamura, City Manager
Julie Hayward Biggs, Agency Counsel
Duane Burk, Public Works Director
Jim Earhart, Public Utility Director
Leonard Purvis, Police Chief
Phil Holder, Lieutenant
Matt Bassi, Interim Community Development Director
Brian Guillot, Planning Engineer
Ted Yarbrough, Fire Marshal/Fire Prevention Officer
Jeff Stowells, Battalion Chief
George Thacker, Asst. Public Works Dir., Water/Wastewater
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 Jerry Westholder.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS
ANNOUNCEMENTS/APPOINTMENTS

Report by City Attorney

City Attorney said that the Council met in closed session with regards to the four cases relating to Black Bench:

- 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)
and there was no reportable action taken.

Report by City Manager - None

PUBLIC COMMENTS – *On Items Not on the Agenda*

Ellen Carr, 471 W. George St. addressed the Council in regards to spaying and neutering your pets. To get vouchers call Popco at 888-664-5166 or you can contact her at 922-1255. Between February and May they adopted out 66 dogs and 56 cats. Most of that was in the Desert but a lot of the cats come from Banning and there were some adoptions here in town. They are working hard to get the population down. Everyone needs to help.

Charlene Sakurai, 43000 Dillon Road announced that this Saturday there will be a mural painting at the Skate Park and a Battle of the Bands event at Repplier Park from 1 to 6 p.m. Ten bands will be participating. Also the Cool Summer Nights Marketplace in downtown Banning will take place beginning on June 20 from 5:30 to 9 p.m. and will be held on San Gorgonio between Ramsey and Williams. On third and fourth Fridays of each month on Ramsey there will be Cruise Night. Every Friday there will be a different theme and on June 20th the theme is "Bark and Art Festival" and she announced the other themes that will be happening.

Katherine Robinson, 1474 N. San Gorgonio said in regards to the "Bark and Art Festival" there will be pet adoptions, pet look-a-like contest, demonstrations, pooch parade, food and fund, pet friendly shopping, puppy Picasso Art contest, pet spa services, pet fashion show, dog message, low cost vaccinations, farmer's market, classic cars, family fun area, motorcycles, live entertainment, great food, art galleries. The event is hosted by the Renaissance Pet Resort & Spa.

Patti Hanley, Banning Public Library Director announced events happening at the library. The Summer Reading Program signups starts on June 17th and the actual program begins June 24th with the theme "Catch the Reading Bug". One of the incentives to get people to sign up is that they are going to waive library fines. In addition, every Wednesday afternoon they will be having professional puppet shows, a magician, a cartoonist, and other things happening starting at 2:30 p.m. Also she had the information on the speed pumps for the Council.

Detective Doug Monte and kids with the hip-hop group of BPAL addressed the "Ready to Ride Youth Safety Expo" to be held on June 28th from 10 a.m. to 2 p.m. at Repplier Park parking Lot. He went over the events that will be happening that day. There will be free Ready to Ride safety kits to all kids, free helmets and many activities regarding personal safety.

CORRESPONDENCE None

PRESENTATIONS:

- 1) Presentation by Nicole Warrington, Event Coordinator for Riverside County Department of Animal Services – “Boot Scoot on Down to the Pound” – June 14, 2008.

Nicole Warrington addressed the Council stating that this event will be held at the Banning Animal Shelter from 3 to 9 p.m. There will be animal adoptions, opportunity drawings, trivia on animals, BBQ, Wiener Dog Races and a feature movie about animals.

- 2) Presentation of Solar Cup Certificates – Art Welch, Sr. Field Representative, Assembly Paul Cook’s Office

Mr. Welch said back on May 16th through 18th there was a group of students from Banning Independent Studies that participated in the Solar Cup Boat Races on Lake Skinner. He understands that they did exceptionally well so this evening Assemblyman Paul Cook would like to recognize that team and he presented certificates to: Andrew Millage, Elizabeth Dexter, Paul Scott, Michael Wilburn, and Daniel Swick. He also presented a certificate to Svend Nelson that read: On behalf of the California Legislature he would like to thank you for providing a great learning experience for your students that generated excitement, pride and teamwork by participating in the Solar Cup Boat Races on Lake Skinner on May 16, 2008.” Mayor Salas and the City Council members also presented certificates to these students.

Mr. Nelson said that it is the Metropolitan Water District that puts this big show on every year and since they are not part of that water district they were lucky enough to get the City of Banning Electric Department to sponsor them for this event and he thanked Fred Mason for all of his work.

ANNOUNCEMENTS/COUNCIL REPORTS:

Mayor Pro Tem Franklin –

- Commended Heidi Meraz and staff for the Volunteer Dinner held May 31st. It was good to see so many volunteers, approximately 300, recognized.
- The League of California Cities had a Mayor and Council’s Training Institute that she attended along with Councilmember Machisic. She attended a session on Economic Development and they talked about those things that have changed from what we consider to be the method of the day and it was surprising to see that this is no longer the way we should move ahead. They said that Smart Growth is old and Economic Development Director is old and marketing your City is old. They said we really need to focus on our assets for our City that we need to be aware of our strengths and weaknesses but we really need to go out to the public and sell our cities not only to ourselves but to the public. They really highlighted that we don’t want to knock our city in public media. That we want to make sure that anytime we are talking about our city that we really highlight our assets and that is what will draw people here. 85% of the development of our city will come from existing businesses and that we really

needed to work as a Council with our local businesses to see what we can do to help them expand and not look for big businesses coming. Also they had two main sessions and one was about Shared Leadership and how leadership is changing and what we need to focus on is are we doing what we can to not only be successful for today but for the future and are we pulling other people along with us so that everyone is successful together. There is no "I" in leadership and everyone has to work together as a Council. She has a handout if anyone is interested.

- Attended the Banning High School Baccalaureate and the Scholarship Night.
- She thanked those people who helped with the barbeque for the National Guard. They are preparing to go to Iraq.

Councilmember Machisic –

- In attending the Regional Conservation Authority they put out their Annual Report for 2007. He has said many times that they are conserving land and various species and right now they have accumulated about 41,000 acres and they are working towards 150,000 acres. This is one of the unique programs in the Country. They are putting this land away and when you combine it with the Government owned BLM and other agencies they are looking at some time in the future of having 500,000 acres of open area to conserve species as well as wildlife. He will make this report available to the Council.
- In attending WRCOG the Santa Ana Watershed Project Authority is having a dinner on Thursday, June 26th at 5:30 and it is important to meet with these various groups to share problems and solutions.
- Also they had a report from a representative of the Governor's Office indicating the various aspects of the budget.
- From the Public Policy Institute of California there is a research report that reports on "What California Will Be Like From a Population Point of View in 2015". It is important to look at this because it is a prediction of what we are going to look like in seven years. He has the full report if Council is interested.
- He said that he and Mayor Pro Tem Franklin attended the League of California Cities Institute and not only do they attend sessions but the most important things that he thought was that you get a chance to exchange ideas with other people in California and the problems are very similar. There was a man named Stevenson who gave the opening session and there were some sayings that he brought up that carry merit for instance when we talk about money being scarce and he has a phrase "do more with less money". Other phrases were: "think about new ways to do things"; "success is never final"; and the most important thing is "attitude". He also indicated that each department employee should make suggestions on how to work efficiently and a reward system should be offered. He also said, "Why do we do certain things and more important, why don't we." These things stimulated your thoughts. He also attended another session that dealt with "Preparing For a Successful Revenue Ballot Measure." Another session he attended was "Talking About Your City" and when you talk to media you need to have your facts straight and everyone that talks to the media has to be saying the same factual stories.

Councilmember Hann

- Said she met with the Mayor of Redlands, John Harrison, and he and a group of folks are pulling together the seven cities "East Valley" to look at the greening of our cities and how to make our cities more sustainable and they are working together talking about what they have in common and how they differ in this respect and seeing how they can work cooperatively and develop employees for the emerging green industries. She thought that unofficially she might sit in on this to see what she could learn and share and perhaps in time they could develop something comparable for the Pass Area.

Mayor Salas -

- Said it was mentioned that our police officers were awarded at the Riverside County Awards Night out of all of the cities in the entire County ours were a few that were recognized for our B.P.A.L. (Banning Police Activities League)
- Yesterday the Governor was in town and a few of them were asked to sit in and hear a message from him and basically the message was that he wants us to take back to the people to live within our means. It was a strong message that often times what is happening in Sacramento between our State Legislature the Assembly and the Senate is that they are spending much more than we have and he is saying that he cannot do it alone, he can't talk with the legislators by himself. He needs the people to call and let them know to stop spending more than we are talking in. Businesses are leaving our State and at the same time we are spending more. So at some point we have to come up with a plan and locally we are doing what we can to hold things down and put monies aside in case additional monies are taken away from us.
- Most recently at the last Council meeting there was a pretty passionate debate or discussion which is healthy and she would like to ask the Council to keep a professionalism about what we do because we represent the City. It is okay to disagree but keep it professional.
- Cherry Festival Parade was this weekend and there were thousands of people and it was nice representing Banning as the Mayor.
- There was the opening of Richard Sanchez Park and she thanked Duane Burk and his staff.

CONSENT ITEMS

Mayor Pro Tem Franklin pulled Consent Item No. 11 and Councilmember Botts pulled Consents Items No. 13 and 16.

1. Approval of Minutes – Regular Meeting – 05/27/08

Recommendation: That the minutes of the Regular Meeting of May 27, 2008 be approved.

2. Resolution No. 2008-19, Declaring the City's Support for the Green Builder ("CGB") Program.

Recommendation: That the City Council adopt Resolution No.2008-19.

3. Resolution No. 2008-46, Initiating Proceedings for the Vacation of a Portion of

Juarez Street Between Barbour St. and Westward Ave.

Recommendation: That the City Council adopt Resolution No. 2008-46, initiating proceedings to vacate Juarez Street from Barbour Street to future Westward Avenue, and setting the date, time and place for the public hearing as July 8, 2008, 6:30 p.m., in the Council Chambers at 99 E. Ramsey Street.

4. Resolution No. 2008-56, Authorizing Staff to Submit a Grant Application to the California Transportation Commission (CTC) For a Highway Railroad Crossing Safety Account (HRCSA) Grant For the Sunset Avenue Grade Separation Project.

Recommendation: That the City Council: 1) adopt Resolution No. 2008-56, Authorizing staff to submit a Grant Application to the California Transportation Commission (CTC) for a Highway Railroad Crossing Safety Account (HRCSA) Grant for the Sunset Grade Separation Project; 2) Authorize Engineering Division staff to prepare the application and authorize the City Engineering to execute and submit it to the CTC; and 3) Authorize the Finance Director to certify that the City of Banning has matching funds that will be available to finance the project.

5. Resolution No. 2008-62, Approving an Agreement with the County of Riverside for Review of Geologic Reports Under the Earthquake Fault Zoning Act.

Recommendation: That the City Council adopt Resolution No. 2008-62.

6. Resolution No. 2008-65, Providing for Certain Nuisance Abatement Charges to be Added to the Tax Rolls of Riverside County, California.

Recommendation: That the City Council adopt Resolution No. 2008-65.

7. Resolution No. 2008-66, Adopting Regulations for Candidates for Elective Office, Pertaining to the Electorate and the Costs Thereof For the General Municipal Election to be Held in the City on Tuesday, November 4, 2008.

Recommendation: That the City Council adopt Resolution No. 2008-66.

8. Resolution No. 2008-67, Calling a General Municipal Election on November 4, 2008.

Recommendation: That the City Council adopt Resolution No. 2008-67.

9. Resolution No. 2008-68, Authorizing the Chief of Police or His Designee to Execute Any Actions Necessary to Complete and Submit Grant Applications on the Local, State, and Federal Levels.

Recommendation: That the City Council adopt Resolution No. 2008-68.

10. Resolution No. 2008- 72, Approving Cooperation Agreement for the Community Development Block Grant and Home Investment Partnership Program Funds for Fiscal years 2009-2010, 2010-2011, and 2011-2012.

Recommendation: That the City Council adopt Resolution No. 2008-72.

12. Resolution No. 2008-74, Awarding the Contract to Civic Solutions, Inc. for Third Party Project Management Services for the Pardee Homes-Butterfield Specific Plan and Appropriating the Necessary Funds for the Project in an Amount Not to Exceed \$60,000.00.

Recommendation: That the City Council approve an amendment to the current Deposit/Reimbursement Contract with Pardee Homes-Butterfield for the Senior Project Management Services, award of contract to Civic Solutions, Inc. in the amount not to exceed \$60,000, and approve Resolution 2008-74, authorizing an additional appropriation of funds.

14. Approve Final Parcel Map No. 34878 (two lots located one lot west of the southeast corner of George St. & Hargrave St.).

Recommendation: Approve Final Parcel Map No. 34878 as presented and authorize the City Engineer and the City Clerk to sign said map.

15. Award the Construction Contract for Project No. 2007-40, Landscape Improvements to the Sunset Reservoir to Rock Bottom, Inc. of Bakersfield.

Recommendation: That the City Council award the Construction Contract for "Project No. 2007-40, Landscape Improvements to the Sunset Reservoir" to Rock Bottom, Inc. of Bakersfield, California, in the amount of not to exceed \$119,624.96.

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

**Motion Machisic/Franklin to approve Consent Items 1 through 10, 12, 14 and 15.
Motion carried, all in favor.**

11. Resolution No. 2008-73, Approving an Advance to the San Gorgonio Child Care Consortium in the Amount of \$25,000.

Mayor Pro Tem Franklin pulled this item to abstain because she sits on the Board for that Agency.

Motion Hanna/Botts to approve Consent Item No. 11, adopting Resolution No. 2008-73, approving a short-term loan to the San Gorgonio Child Care Consortium which would be funded on July 1, 2008 and expire September 30, 2008, in the

amount of \$25,000. Mayor Salas opened the item for public comments. There were none. **Motion carried, all in favor.**

13. The "City of Banning Clean & Green Report & Recommendations"

Councilmember Botts asked Mr. Earhart to talk briefly about what this is about because this seems to be a major piece of legislation dealing with "green" and "sustainability".

Jim Earhart, Public Utilities Director said sometime back at the request of the City Council he was asked to put together a report/recommendations on clean/green sustainability attributes for this City. They did a lot of research and Fred Mason his Resource and Revenue Manager did a lot of work on this along with several people in the department. They gathered information from many, many sources and put together this very comprehensive report. It does involve a lot of philosophy as far as the City's position and how they want to move forward with things but it also covers several things as far as water, electricity, conservation measures and things that they will need to follow and move forward on. One of the recommendations is to form a committee at some point in time through the City Manager's recommendation and approval to review some these plans and develop those plans that are brought forth to us and they will be looked at on a case by case basis. This will be funded and supported by the Public Benefits Charge that is assessed, State mandated, to all rate payers within the city and those are funds that will be used to offer incentives and rebates, etc.

Mayor Pro Tem Franklin said that this is one of the sessions she attended at the League Institute and it talked about becoming more green as a city and one of the things that they did add that they talked about a lot and the example that was given was actually Starbucks. They talked about how Starbucks is doing various buildings across the country but they really talked about how much it cost. It is a good idea to do but you really have to look at how much it is going to cost because doing things like triple paneling windows, double-skinning the walls means that you are adding that much more cost to the original project.

Mr. Earhart said that is a great point and how green and clean can you afford to be is ultimately what it amounts to. They have a lot of programs like he said but they are also very careful with them and try to set aside monies that they can use for programs but at the same time we are our own utility so the more solar panels you put in it decreases revenue so there are balances that they have to try to maintain throughout this.

Councilman Machisic said he appreciated the report and for a town our size he thinks it is a great report and he thanked the staff and said this is an outstanding first step. He said when we put new things in as far as green he thinks that we need to develop some criteria, in other words, how many people does it serve, how much does it cost, etc. He was trying to think of a logical way of adding incentives. Once we get this plan we are going to be bombarded on different kinds of incentives, for instance, at this point in time we need an incentive for water because water is the next critical issue and people don't like to look at the issue until it becomes a crisis and by that time it is too late. He would

like to have staff go back and throw this around and think about some criteria for example, when you add an incentive does it meet these criteria (cost, who does it serve, how many does it serve, does it serve the old part of town, does it serve the new part of town, etc.).

Mr. Earhart thanked Councilmember Machisic for his compliments on the report and as you are aware, they have created many incentives and they do require that certain criteria be met for their programs on the electric side. They are developing several things on the water side right now to address those very issues. As you are also probably aware, Governor Schwarzenegger just declared a drought in the State of California on the northern side of the delta so they will be putting forth several programs on the water side and also will be addressing challenges to the citizens to reduce water consumption and to conserve water. So there will be several things coming forward.

Councilmember Hanna said that on page 116 of the packet it talks about a Clean and Green Committee and she would encourage the City Manager in developing this committee. We have tremendous resources within our community. We have people with incredible backgrounds that could really add to the value of what Councilmember Machisic was referring to about setting standards and so forth. It says that the committee will act as a citizen review function for all sustainable programs, investigations, special projects and will provide leadership for emerging task forces and working groups that will from time to time be created for specific focused investigations and program development. She said that she just happened to cut out an ad from the City of San Jacinto on the Planning Commission vacancy and she really likes this approach and we need to make it really evident to our community what this is the purpose of the committee and the types of resources and backgrounds, education of potential members of this committee could have. She would encourage getting that word out and perhaps the utility bill is another approach.

Councilmember Botts said it was mentioned that you worked with staff and other groups and did he understand that the Building Industry Association supports this.

Mr. Earhart said yes and Item No. 2 on the Consent Calendar is also a resolution that has been put forward to the Council to support the California Green Builder Program. Mr. Earhart said that they just put on a temporary employee who will be going to every household in the city and they are giving away compact florescent light bulbs to every citizen in the city and will be doing a short survey.

Mayor Salas said that she has been told that there are companies that will do solar panels for free for businesses that have over 25,000 square feet and is that true or is that something we want to look into.

Mr. Earhart said that he doesn't think that there are too many programs out there that they are not aware of and he has never heard of anybody doing that one. He would need to research that out and if you have any information on that he would like to receive it.

Mr. Mason said what they are doing is buying roof space so they actually use roof space and they give them a small pay back for using that roof space to put solar panels on and generate power for that company and the actual commercial owner gets no benefit other than a small return for the use of the roof.

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

**Motion Hanna/Botts to approve Consent Item No. 13 to accept the City of Banning Clean & Green Report and Recommendations ("Report") attached as Exhibit "A".
Motion carried, all in favor.**

16. Amending the Existing Agreement with Metcalf & Eddy, Inc. to Provide the Upsizing of the Proposed 24" to 54" Diameter State Water Project Pipeline.

Councilmember Botts asked that this be pulled and he had received calls in the past when this issue came public that the Pass Water Agency was asking for a bigger pipeline and if you don't read the detail in this it sounds like Banning is going to pay for that. It wanted it clear that San Gorgonio Pass Water Agency is paying for the engineering costs for that design upsizing.

Councilmember Machisic said he had the same concerns as Councilmember Botts because they had had this extensive discussion about who should support the cost of the extension of the pipeline and he was assured from the City's point of view that we will not bear any of the costs for this pipeline.

Mr. Earhart said when this is all completed every effort will be made to insure that the City is made whole.

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

**Motion Machisic/Hanna to approve Consent Item No. 16, amending the Existing Consultant Services Agreement for Design of the Transmission Pipeline to Deliver State Water Project Water to Banning with Metcalf & Eddy, Inc. to Include the Upsizing From 24" to 54" Diameter Pipeline for a Stand Alone Design Package for San Gorgonio Pass Water Agency in the Amount Not-to-Exceed of \$95,215.00.
Motion carried, all in favor.**

PUBLIC HEARINGS

1. Repeal of Resolutions 2006-128, 129 130 and Ordinance No. 1353.
(Staff Report – Julie Biggs, City Attorney)

City Attorney said that as the Council is aware the Black Bench Project came before the Council in 2005 as the SunCal Project and submitted with that a Specific Plan, General Plan Amendment, Tentative Tract Map and corresponding Environmental Impact Report (EIR). The Council held a public hearing at the time and voted to certify the EIR and approve those

entitlements. The next month, in November 2005, four lawsuits were filed against the City by Highland Springs Conference and Training Center, The Center for Biological Diversity, Cherry Valley Pass Acres and Neighbors, and the Banning Bench Community of Interest. These were all CEQA challenges to the environmental determination that had been made. The cases went to hearing and were heard in December 2007 in the Riverside Court. Ultimately a ruling came down on April 24, 2008 basically finding in favor of all four of the petitioners for the writ and issuing a peremptory writ of mandate to the City to do the following: vacate and set aside the adoption of the various environmental documents and also to vacate and set aside the General Plan Amendment, the Tentative Tract Map and the ordinance approving the Specific Plan. At the time the staff report was written the clock was running from April 24 to June 24, 2008 which is the Council's next meeting at which time the City was directed to take these actions by the court. Last Friday, the attorneys for SunCal filed an appeal in the matter and that appeal creates an automatic stay and that stay is subject to challenge by the City or any of the petitioners but nevertheless it is currently in place. So the time urgency that brought these to you is not as eminent as it was at the time the staff report was prepared. Basically at the present time the City has various options before it: 1) you can still comply with the court order although there is a stay in effect and there are some legal complications that could arise if you take that action; 2) or you could join in the appeal that SunCal has filed; 3) you could decline to join in the appeal; 4) you can oppose the stay if you chose to get it lifted or get bond imposed on the appellant which is SunCal to secure obligations to the City that still arise; 5) or you can do nothing; or 6) you can continue the hearing to a later date and determine what you choose to at that point. There are various considerations in play here. Whenever there is a land use approval such as this the party that is seeking the entitlements is asked to indemnify and defend the City and that was asked of SunCal and there are some issue with regard to that that remain outstanding between the City and SunCal. There issues with regard to the City and the opposing parties in that when you win a CEQA case you are usually entitled to legal fees so there is some exposure; some liability to the City. At the present time there are settlement discussions underway among all of the parties. The City has been a party to some of those and not to others. But for this evening it would be their recommendation that the Council continue the hearing. This has been a noticed public hearing and notice was given exactly as it was given to the approvals which included notice within a 1000 feet which was much greater than what was legally required but they did the same thing this time as they did when it originally approved the entitlements. She would suggest that the Council continue the hearing to the next Council meeting, which is June 24th. In view of the stay there is no concern at this point with immediate compliance with the court order and at that time see where things have fallen out with regard to the parties.

Mayor Salas opened the public hearing on this matter for comments from the public.

Julie Hutchinson, 43350 Dunlap Street, Banning Bench addressed the Council. She said that she wanted to correct the City Attorney's report that it did not happen in 2005 but it was in 2006 when the project was approved by the City. This project has gone wrong from the start and with the judgment now up appeal or not, there were 9 counts that were found to be incorrect and errors on behalf of not only the City but of the developer. Those 9 counts many of those were brought up in public comment by members that were affected by this

project, members of this community and she hopes that the Council will consider that. The biggest thing for them is that they want to know that people are listening to what is being said; they are reading the documents and know what is included in them. They are at a point now where she doesn't think they had to be here had that had been listened to and people would have really studied what was in those reports. It is beyond her that they are looking at a potential of extending this further without stopping it on the City side. As you have stated there are already major exposure and liability to the City because of it. We need to put a stop and the Council has the power to direct which way this City is going to go. We allowed a developer to come in and put the Council in the back seat of the car, paint up the windows and drive around and tell you how beautiful this whole thing is going to be without thinking of the dangers, the hazards, and the impact it is going to have not only on the City but on your neighbors on the Bench. We do have a chance now to put developers in the back seat and let you drive them around and show them what you want for this community. Show them those assets we have, the beautiful vistas, the mountains, the topography we have and show them what you want for this city and determine how this is going to be for the future. She asked that the Council not continue this and vote on it today and follow the judge's direction and put a stop to it. If appeals go through and they change, you can always bring it back up. But it needs to be stopped and she would appreciate and she thinks that for the residents that are deeply impacted by this, they would feel the same. And you guys are in the driver's seat and we are your community whether we live directly in the city or not. We are the ones that bring our kids to school, we work in this community and we are part of this community. We want to keep people in this community and not run people off just because we want to bring the new people in. We have to find ways to maintain what we have to keep these people in this community and bring in new people as well. But it needs to be the right development in the right areas for the right reasons.

Rod Hanway representing SunCal Companies developer of Black Bench addressed the Council asking that the Council to postpone action on this item. As your Counsel has advised you an appeal has been filed on this litigation and the litigation remains unsettled at this point and to take action to repeal or rescind these approvals would be premature at this point in the process. Negotiations are in progress with the plaintiffs with regard to legal fees, negotiations are in progress with regard to their lenders on raising funds to continue this project. Negotiations are ongoing with correcting deficiencies found by the courts so that they can come back and make those corrections. He would point out that SunCal has many millions of dollars at stake here so this is not a simple decision for any of us. It is a very difficult time for SunCal and they have been hit by a very difficult housing market. They have been hit by a very difficult finance market and been hit by litigation and they are trying to work through all of those issues on a very complex project and resolve these issues to the satisfaction of as many people as possible. And for that reason they would ask that the Council not take action but that you continue the item.

City Clerk received correspondence from Albert Leung owner of APN 531-240-004 supporting the approval of Black Bench Ranch Specific Plan.

Mayor Salas closed the public hearing on this item.

Councilmember Hanna said that it is actually true that this development has left the City exposed to significant liabilities and while the agreement with SunCal was that they would cover us and it is not clear that in fact they will be able to cover the cost of the legal fees which the court has assigned. There are nine significant areas that the judge found lacking in this and it is unlikely that this will be overcome. However, at this moment in time because of ongoing negotiations that may reduce the City's significant exposure she would support our legal counsel's recommendation to our next Council Meeting.

Councilmember Botts seconded the recommendation.

City Attorney asked that they leave the public hearing open.

Mayor Salas reopened the public hearing.

Motion carried, all in favor.

2. Tentative Tract Map (TTM) 33540 Time Extension. Located Generally North of Generally North of Gilman Street and West of 8th Street (APN: 535-110-002; -006; -011; -012; 535-311-006 through -23; 535-312-001 through -024; 535-070-014. (Staff Report - Matthew Bassi, Interim Community Development Director)

Mr. Bassi said that this is a request for a one-year extension of time for Tentative Tract Map 33540. The project was approved by the Council on September 26, 2006 and with the original approval had the two-year time frame to record the final map. Staff did receive a request from the applicant due to economic hardships and financial hardships at this time a request to get a one-year time extension would give it another year before recordation. Staff is in support of the applicant request and the recommendation would be to approve the time extension for one more year.

Councilmember Machisic said that on page 372 the last sentence states, "Both the project proponent and representatives of the Morongo Band of Mission Indians have worked together to find an appropriate way to address and preserve the remains of the Indian School and cemetery." Has that been done?

Mr. Bassi said he believes it has and brought up Brian Guillot, Planning Engineer of this project, to share a few things.

Mr. Guillot said it is his understanding that they did work on that at the time the Council approved the Tentative Map but there has not been a lot of activity. The next activity has been a request for the extension of time. He wanted the Council to note also that in the list of conditions there are several conditions related to that.

Councilmember Franklin said in considering this is there a way to get a list of what things are being done in regards to the preservation of the cemetery.

Mr. Bassi said that they could get a list and bring it back to the Council.

Mayor Salas said that this is the property that is right adjacent to the cemetery on Gilman and 8th Street. Most recently the Boy Scouts cleaned up the cemetery and it was in huge disrepair. There were tons of debris and trash and it had not been cleaned for years. Grave sites have been kicked over, vandalism had happened and it has been ongoing. The Malki Museum came out and took a look with the Boy Scouts to try to do what they could to salvage what it used to look like. She remembers when this project first came to the City Council they had been shown graphs and charts of what the museum could be. After taking a good look at the site a lot of the landmarks were previously the school was would have to be moved. You have a large rock structure where previously they had a place for prayer. She cannot see how you could move that and keep it as though it was in an original place. She doesn't know if there had been communications between Morongo and the Malki and she hasn't seen any correspondence and asked if there was anything of that nature. If we don't have anything on the record, she cannot support this after seeing that site and walking it and talking with the museum and some of their thoughts on history. They also had Riverside County out to take a look at historical facts and we have to be really careful when we plan homes on this type of site. We need to take a good look at all the studies that had been done in the past. She knows that there had been a couple done.

Mr. Guillot said that on page 390 of the staff report there are conditions of approval for that that direct that seven acre parcel to go to the Morongo Band at the time that the actual map is final. Also there is a plan to preserve that area. He is not intimately familiar with it but he does understand that they are going to do the things that were recommended. Also the Council should be aware that they will be able to approve the final map should the applicant bring it to record. So that will come forward to the Council.

Mayor Salas said but with the park site that they are allocating what they are doing is basically moving the structures all the way over to the back of the property within that seven acres.

Councilmember Machisic said that he would remind himself and the rest of the Council that we have approved the tentative tract map with certain conditions and when it comes back we can certainly make modifications and additions and deletions. So what we are actually doing here is just saying we will extend it for another year and that is the only requested action right now and is that correct.

Mr. Guillot said that is the action just to the extension of time.

City Attorney said that with a tentative track map approval in place you would have to have an entire amendment process to make any changes to it. And if it comes back to you as a final map and the conditions that have been imposed have been met, you have a ministerial duty that means no discretionary decision, to approve it.

Mayor Salas asked what can be done as far as taking a better look at the site and the historical components of it.

City Attorney said at this point we are looking at an extension of the tentative map because there has been, as she understands it, no progress on it. If you deny the extension, then the map terminates on its own accord. It can always be resubmitted and come back through, etc. But if you extend it, then you extend it and you cannot condition that extension on any change to the map.

Mayor Salas said then you are saying the only way to reevaluate is to deny it. City Attorney said that is correct.

Councilmember Hanna said that she recalls this one and you may recall also that we told the developer that we didn't like the original map and they had to go back and they totally redid it in terms of the amount of dirt that was going to be moved offsite. They did a huge amount of work on this and we went through two renditions of it and a lot of money was put into this in response to Council's concerns about the development at that time.

Mayor Salas said to keep in mind that when they staked the property and put the boundaries of the fence around the cemetery, there were still gravesites found outside of that line. So somehow it looks as though the line wasn't drawn exactly where it should have been and outside on the hilltop as well. So if you have some gravesites that are outside of where the fence was put, her guess is that there may be additional ones that were not found.

Councilmember Hanna said that we can't figure this out tonight and she would suggest that the developer be allowed an opportunity to address the issues. It is a matter of moving the lines and there may be things that they can do and quite happy to do rather than lose the whole development. That would be the option either we would say no extension and it is gone and all of that money and time and effort will be lost.

Mayor Salas asked if they could continue it to do more research.

City Attorney said that the request was timely filed and that would allow the Council to continue the matter because you can always do that. The only thing that she would caution the Council on is that the developer would have to voluntarily make whatever changes you are looking at. You cannot condition the extension on getting those changes.

Mayor Salas opened the public hearing on this item.

Jenna Villalobos, 1490 W. Gilman addressed the Council stating that she lives within 20 feet of this development. She is urging the Council urgently do not give this project anymore time. It is a historic site not only for the school but it is adjacent to the Gilman Ranch which is a designated state historic place. You mentioned talking about sustainability and keeping the city green; this is one of the only open spaces in the town that is left basically. That is one of the great values that Banning has is the views and the topography of the area and if you approve it, it is gone and you cannot grow land again. Sustainability about water and if you have 170 more houses that is 170 more houses that need water. Lawns are going to be put in, showers, dishwashers and we can't even maintain what we

have now so that is something else that she would like the Council to consider. Also there is ingress and egress issues and there was a fire there two years ago that went from Gilman all the way to Sundance and if you drove by Sundance that day when they were trying to evacuate people could not evacuate in time. You have to consider fire and natural disasters and ingress and egress for that area. The only way out for 170 homes is on 8th Street and 11th Street that goes out to Wilson Street. There is also species of deer, bear, bobcat, rabbits, hawks, several bird species as well as coyotes that use that land actively. Also there are many, many citizens that walk up and down that street and they use that area because there are no trails for walking and no open spaces anywhere in the city where you can legally walk on without accessing fire hazards. There is a reason she doesn't live in a subdivision because she doesn't want a brick wall in front of her house. She doesn't know what the tract map says but she doesn't want to walk outside her door and see a brick wall of somebody's backyard. There is a reason why she doesn't live in a subdivision and there is a reason why she lives in Banning and this is why. Why she lives in Banning and was born and raised here is because of where she lives today and don't take that right from her or her neighbors.

Phyllis Zakian, 1498 N. 8th Street addressed the Council stating that she knows what the lady just mentioned has all been discussed in the first conference to approve this venture already. It has already been approved and now we are talking about an extension. But two gentlemen earlier were saying that they don't have any reports on the progress of making the program right. She knows that someone mentioned it was a lot of money and we should be considering that they have already spent a lot of money but they also asked for the appropriate time frame to get some questions answered and they never did. Someone talked about not understanding the map and the map is not final and yet they want an extension of time to just finish it up. But when you ask them well do you have the map, they said they don't have that end of the report so the extension is like to give more time when they haven't really addressed it in the first place. So in another year will there be another extension because we had a poor time with money. She has asked the City for an extension and she was told no and she has been living here for a long time and just to get a bill paid she was told they don't give extensions. You can help make adjustments but you cannot give extensions but yet a business that has spent a lot of money can get an extension. She said that this truly affects her home and she is right across the street from the site where they want to put the driveway and she does not understand the whole process. She asked if the cemetery was going to stay intact or will they be making it active or try to move it. She knows that if she is not clear and you are not clear and they have nothing prepared to show you why they want the extension other than sending in a request saying can we get an extension because the market has been bad or the financial impact. The market has been bad and the financial impact has been bad for her as well. She said with that in mind she thinks that an extension would be a bad idea. She doesn't want the Council to extend the project.

Fred Sakurai, 43000 Dillon Road about 3 and half miles north of the project but the project will greatly affect the city if a particular point is not taken care of. At the time they were investigating the geologic conditions at the site the owner had excavated three huge trenches in the western portion of the site to check for geologic hazards and since

that time there has not been anything reported as far as geologic conditions and how the soils are compacted back into those trenches. This would eventually come about when utilities, storm drains, pipes, etc. are installed in the trench backfill when the trench backfill is not properly compacted. These utilities will fail which will in turn domino down the hillside and cause great distress. He thinks that before any extension is granted that there should be some sort of provision in their final report or their final approvals saying that this trench will be compacted properly, backfill tested and reported to the City.

John Vong, HDS Group addressed the Council stating that he would like to request the extension. There are a lot of issues that have come up here tonight in regards to the cemetery. There were extensive studies that had been done by them and they have adjusted the subdivision to accommodate the historical site and they have hired an environmental group to do the study and the analysis. Obviously they can go out there and study but can't dig and find all of the grave sites. They can only go by historical data and they have hired a company to do that. They have pulled the northerly boundary back to accommodate what they think is where the historical cemetery is and there has been an additional study to be done that incorporates the historical artifacts there that are left there on that site and he doesn't believe in that study they were proposing to relocate anything. They were going to maintain everything that is within that area. He knows that this has been a long process over and over and they are not the type of developer that comes in and leaves. They want to maintain that and that is part of the history here in the area so they have gone through extensive research to maintain that. Obviously, if something comes up while they are out there, they will adjust as the situation arises. He cannot foresee what is under the ground without digging and they can take their best guess. Unfortunately the market is bad for them and two years ago they probably could have started and got the development going but right now they cannot financially make this project pencil let alone get a construction loan. That is how bad the market is so they are hoping the Council would extend it and give them more time. They would be open to work with the Council in regards to the subdivision.

Mayor Pro Tem Franklin addressed Mr. Vong stating that he said that they have hired a company to work on the cemetery and are you working in partnership with Morongo or have they been consulted.

Mr. Vong said that they have been in conversations with them and had hired an outside company to kind of look at the area in regards to the Morongo Indians to find the boundaries. They didn't know what the boundaries were and the Reservation didn't know exactly where their boundaries were either and so they had to hire a company to go back through the historical archives with the County to find out where approximately those areas were and identify all the historical artifacts. They haven't recently been in contact with Morongo because they started and the market changed and they pulled back.

Mayor Salas asked what company did they hire and could the Council receive reports of the environmental. Mr. Vong said he had the study that was done for the cemetery and

they actually put together a layout of what they thought the cemetery park would look like. He believes it was RHA out of Riverside.

Councilmember Botts said he wasn't on the Council when this was approved and he knows that this has been dealt with significantly. He asked who is going to own the cemetery and maintain it.

Mayor Salas said from her understanding and she is just working off of institutional knowledge it was going to be built and then turned over to the County or to the Malki Museum to be run. She doesn't see any maps in here that show exactly where it is located. The property is almost L shaped where the Indian School was.

Mr. Guillot said that on page 390 of the agenda packet about a third of the way down it speaks of the project conveying that 7 acre parcel to the Morongo Band of Mission Indians. And about another two-thirds of the way down it says, "The applicant and the Morongo Band shall develop a plan for the preservation of the cemetery and other items on that seven acre parcel." So it is included in the Conditions of Approval and of course that plan would put in items to mitigate work items and different tasks to be accomplished. So those things are remaining.

Mr. Vong directed the Council to page 406 of the agenda packets which vaguely shows the seven acres bounded by the existing subdivision on the right hand side and the proposed subdivision

Councilmember Machisic said he appreciates all the comments that have been made. When we have a tentative tract map proposed to us we have a public hearing and many of these concerns that the Council has brought up, as well as, from the audience are very appropriate. But when we get passed the tentative tract map with a number of these questions what we are really doing is reopening the tentative tract map essentially and that puts the developer and anyone else who wants to propose a project in the City in a difficult position because what it amounts to is two or three bites of the apple. His feeling is that once a developer or whoever wants to build a house whether it is an individual they come in and present a plan and we have some concerns and we expressed them like Councilmember Hanna says we required him to move a certain amount of dirt and he fulfilled that but at the same time what we are talking about tonight is an extension of that tentative tract map that we gave him. We are not opening up the subject of where the cemetery is and what the problems are down the street. Those are problems that should have been discussed when the tentative tract map was brought up because here we are saying maybe we need to see the agreement with the Morongo Indians and what about this problem with access. You talk about all of those problems when you talk about the tentative tract map. All we are talking here is essentially an extension and over the past year because of the housing market we have probably given about 8 extensions. We almost do it automatically because of the market and with the good faith of the people who are developing this. These are the kinds of things that should have been brought up when he presented his first project. That is when you have a public hearing and that is where you express your concerns whether it is about streets, water, access, moving dirt around or whatever and that is very appropriate. Then the Council puts

on conditions that they have to meet. What we are talking about tonight is really an extension of the tract map that we gave him.

Councilmember Botts said that he would move approval of the extension. Councilmember Hanna seconded the motion. He added that there are ten conditions and they seem rather significant what they asked you to do in regards to the cemetery and though we cannot put it in the motion he trust that you hear all of us saying deal with this issue and work with Morongo.

City Clerk said that she received two letters – one from Lisa Passarow, 1575 W. Wilson Street and one from Jim and Loretta Melville, 1322 W. Gilman Street objecting to this extension. Copies have been given to the Council and Planning Department.

Mayor Salas asked if there were additional comments.

Jenna Villalobos addressed the Council again stating that two years ago it was a different world and a different economy and now we are talking about sustainability. So can we really sustain another 172 houses with water? Think about sustainability and the decisions and the information you know now is a lot more than you knew two years ago. Please don't extend it.

Mayor Salas addressed the City Attorney asking does this decision, is it predicated on the acceptance of what we hear back from Morongo or is it indefinite.

City Attorney said the motion has been to approve the extension and as she had indicated earlier you cannot condition that extension. You can accept voluntary offers of change or adjustments or whatever but you cannot condition the extension. Either you grant it or you don't based upon factors affecting the extension.

Mayor Salas asked if there were further public comments on this item.

Phyllis Zakian said that she doesn't have the report so she doesn't have all of the details but if you extend it and without these conditions or without these considerations the gentleman said but she doesn't know if he said voluntarily we will work on these issues if we get this extension. Could they come back with another proposal or not. She still goes for not extending it. Why did you have a public hearing if you were going to extend it automatically? Why is she here then? She said that she came because she read the letter and she believed that you wanted to hear views on it and not just automatically extend it because you extended five others.

Mayor Salas said she would like to make a plea to the City Council that we have new information and she was here when it came to the Council and she is here now with new information and that is why her opinion has changed. Had she had that information at the time, she would not have voted for this project. She would have done our homework and made sure that we had all of the facts in front of us assuming that we had it at the time and that is why we voted for it. She is almost confident that the Council who was here at the

time would have done the same thing. We did specifically ask at that meeting have there been communications with Morongo, have there been communications with the museum, how well is it and everything seemed to be yes, yes, yes we have it. After the cleanup of that site and new grave sites found, she can't understand automatically voting for it because it has already been voted for and we had some very good comments this evening. The lady makes a good point in why have a public hearing, if we are not going to listen. Yes, it is a lot to have a public hearing but in her personal opinion it is here personal law that we listen to the people and new information. So, again she supports business and development but she also supports what is best for Banning and the community above all. When we look at history and when the Catholic Church had this site they torn down St. Boniface and that was a historical site and we have a few remnants left but not much and she thinks that it is their obligation to work with all entities involved including the developer to see to it that we keep whatever we have left without bulldozing over it and if it means extending it for another month or two, let us do that and bring back the facts and if we don't have the facts, then we move forward. This evening the gentleman said we are not going to be building tomorrow, so what is it going to hurt us to wait another meeting or two. This could be a historical landmark. The issue before us is whether or not we are going to consider the new information and allow an extra amount of time or just go ahead and move forward because we always continue these items because someone asks and requests that.

Councilmember Botts said he appreciates the comments but there are ten conditions that you all put on this developer and we have gone through the hearings and he doesn't know whether the two ladies were here or not. He is not doing it because it is automatic, he is trying to understand the law and what is fair to the residents there and what is fair to the developer. The conditions address all of your concerns about the artifacts and what is there and Morongo will own it and the developer has to provide the acreage.

Mayor Salas said previously with our old Planning Director, Oscar Orci, he did have more information and she is not sure if it was in the file or not but he was working on it less than six months ago to take a look at the information that had been brought forward from the County of Riverside. It couldn't hurt to find that and bring it forward and see what else they were finding. But she knows that Oscar Orci was working on this for a fact and he could be called tomorrow morning and we could find out what exactly what else there is and it might change your feelings on this.

Mayor Salas closed the public hearing and brought it back to the Council for a vote. Mayor Salas asked Councilmember Botts to reiterate his motion.

Motion Botts/Hanna that the City Council adopt Resolution No. 2008-59, approving a one-year extension of time to September 26, 2009 for Tentative Tract Map No. 33540. Motion approved 3/2 with Council members Franklin and Salas voting no.

Councilmember Hanna said that nothing is going to happen on this parcel probably for not awhile and the developer's representative has offered to share with the Council the report done to date on the site. We are obviously showing interest in that. Even though no development is occurring that would be valuable for us to learn more about the site.

REPORTS OF OFFICERS

1. City of Banning's 2008 Disaster Survival Exposition.
(Staff Report – Ted Yarbrough Fire Marshal/Fire Prevention Officer)

Mr. Yarbrough gave a brief report and power-point presentation on the Disaster Survival Expo that was held on April 26, 2008. He thanked all the sponsors for their generous donations and support of the Expo which included the City of Banning, Supervisor Marion Ashley, the Morongo Band of Mission Indians, Lamar Advertising, Community Action Partnership and United Water Contractors. There were many volunteers involved such as the Banning High School Interact Club and B.P.A.L. Almost every City department was involved and had a booth with information and those involved were Code Enforcement, Building & Safety, Water Department, Wastewater and the Electric Department and they gave away a lot of good information as well as materials and things for the public. There was involvement from the County with Community Action Partnership, Animal Control, San Geronimo Memorial Hospital staff was there and made it fun for the kids. Volunteer organizations involved were the San Geronimo Pass Amateur Radio Club (SPARC) and a lot of its members are members of a County organization called R.A.C.E.S (Radio Amateur Civil Emergency Support). The Hispanic Chamber of Commerce also had booth. There were commercial vendors selling their wares and getting people prepared and had a lot of information on what people should have in their homes supplies for disaster preparedness. The Banning Police Department was there with their mobile unit and tours were given. The Riverside County Fire Department Hazmat Team was in attendance. The Morongo Band of Mission Indians Fire Department was in attendance with their realistic smoke house where people could learn how to escape. Rays RV was also in attendance with their exhibit to show people how recreational vehicles can help during a disaster. The Fire Department Volunteers were also helping out and giving information. An art contest was held prior to the event at the high school and the purpose of this was to get a picture for a coloring contest for the younger kids during the event. The organizing committee consisted of Mayor Pro Tem Debbie Franklin, Bob Ewert, Lynn Holmes, Staff Sgt. Mark Smith and himself. He thanked Heidi Meraz and her staff at the Community Center for all of their help and making that facility available to them for the Expo.

Mayor Pro Tem Franklin said that there were over 200 more people than last year and with changing the venue from the Armory to the Community Center there were a lot of people that said it was better because they were able to walk to the site. It was really successful this year.

2. A) City Council Provide Further Staff Direction Regarding the Proposed Transient Occupancy Tax (TOT) and Warehouse Tax Ballot Measures.
(Staff Report - Brian Nakamura, City Manager)

City Manager said that tonight they are asking the City Council to provide staff with further direction regarding the TOT and warehouse tax initiatives that were proposed. If you recall

back in March of 2008 the City Council directed staff to work with Godbe Research to determine what information needed to be provided to the public to educate them on a TOT and warehouse tax. At that time it was recognized that we had a study that was recently reviewed by the City Council called the Kosmont Study which addressed some of the key issues related to warehousing and the potential for a warehouse tax. Based on that fact that the study was then being generated during this period staff took it that it was imperative that we get the answer from Mr. Kosmont's study before moving forward with the actual public education component for both because of the fact if the Kosmont Study were to come back and say that the warehouse tax proposal would not be something that is desirable within the community that we wouldn't want conflicting information being put out to the citizens and have to come back and reeducate the citizens and say maybe the warehouse tax is not something we want to pursue and it would just be a TOT. In his report he also highlighted three different issues that they would need to focus on and they would be public education component, timing and fiscal impacts and specifically regarding the public education. Staff understands that it is important to move forward with some type of TOT, warehousing tax or revenue generating initiative that would help as you know and we will be talking more about this in our budget discussions tomorrow that the City is facing an eminent structural deficit with respect to the General Fund and the General Fund specifically pays for police, fire, parks and recreation programs, part of public works and other generally funded programs. So with that what they would like to do is to have the Council provide staff that direction because he thinks from his professional standpoint if we try to educate the public on taxes we need to be very specific on a tax and possibly narrowing it down whether it be a TOT, warehouse or sales tax. He thinks that the perception out there may be that if we are trying to educate the public on multiple types of taxes you may get the public perception that we are trying to fish for what would be most acceptable to the general public and that is probably not something we would want the public to perceive. That is not saying that we are trying to do that; he is just saying that is a public perception that could result. The other is a timing issue and the timing is specific to what election we would go forward with and clearly there is a November general election and the general election depending on what type of tax we would be moving forward a TOT would require a 50 plus 1 vote and if we were to elect for a special election or a specific tax for a specific purpose such as a parcel tax then that would require an election where it would require a super majority.

City Attorney said the key to whether it takes a super majority that is a 2/3rds vote or a majority is not the tax itself but its purpose. If it is restricted to police and fire or whatever, it doesn't matter how or where you place the tax. The proceeds are restricted and require a 2/3rds vote otherwise it is just a majority.

City Manager said and basically we are going through what we hope to be an education process and one of the things he wants to make sure that the Council is fully aware of is as you know we are going through some difficult fiscal times at the City just specifically on a revenue and expenditure side and so for example the TOT when that was originally put together and Mayor Salas kind of mentioned this in a previous discussion that times have changed and we are anticipating less revenue than we expected so that could have an impact on the public education program with respect to what dollars are received. Clearly we understand that any assistance with the General Fund is a positive in terms of keeping the

services that we wish to provide to our community but we also want to make sure that you understand that there could be an adverse impact in terms of what our anticipated revenues are whether it be through a sales tax initiative, through a TOT (transient occupancy tax) motel bed tax and then possibly a warehouse tax or any type of tax that the Council wishes to inform the public on.

Mayor Pro Tem Franklin said for clarification one of the things that she thought he said in the Kosmont Study was that it is better to know specifically what the results might be of a tax as opposed to just projecting what you think it might be and was that part of the study.

City Manager said that he believes there was some reference to that and also when we spoke to Godbe that was kind of what they wanted to make sure not specifically within the dollar but within a certain realm of what revenue would be generated. As you know we had multiple developments going forward and hopefully will still be going forward but again they have slowed because of the economy and specific issue related to their financing and so we are again anticipating revenues and not having exact revenue other than for the one hotel that has just come on board.

Mayor Pro Tem Franklin said from looking at the information that we have been talking about from the budget we are also looking at a possible increase on our water costs for our residents and businesses.

City Manager said that as you will see tomorrow in our budget discussion and presentation there is a mired of issues that we are facing. Clearly when we talk to General Fund we are talking about a specific non-restricted fund that pays for police, fire, parks and recreation. Water and wastewater are called Enterprise Funds or restricted funds but those are issues that will be discussed with respect to the rates and potential increases to pay for infrastructure and distribution and delivery of those services.

Councilmember Botts said he wished that Mr. Kosmont could have been here because a majority of the Council wanted to hear from him. He said that he had proposed that we have a task force work with the developers and his colleagues preferred to have staff do that and he proposed that we talk and see if there is some win, win between the landowners and the developers and the City. He wanted to know if any of those conversations had taken place and what the conversations were.

City Manager said that Mr. Kosmont unfortunately due to a timing issue cannot be here until July. What he would like to do and he would ask the Council to provide him with some questions about the study in advance so that he can be prepared to have a thoughtful discussion with the Council on that matter. With respect to the development community he has spoken with some specific entities such as Mr. Gordon, Mr. Sanders and other individuals who represent the developers or represent the landowners. Their discussion were very positive in the sense that they are supportive of understanding where the City needs to raise its revenues whether it is through a development fee or some type of imposed tax. Clearly there are some issues that they are concerned about with respect to being able to market the properties when you have a competitive market out there. One of the concerns

that they had for example is that a neighboring city has adopted a warehouse tax which basically has a significant amount that will inhibit some of the warehousing that happened but most of their concerns are related to the fact that warehousing could eventually come but it is not eminent at this point. The economy has really kind of changed a lot of that and he thinks that is what has happened over the past six to eight months when this initiative first started and it has changed somewhat. He will continue to contact developers or landowners or landowner representatives to have discussions with them. There hasn't been an outright no, I wouldn't be willing to participate but again he thinks it is part of the education process to make sure that they understand what we are attempting to do with those revenues generated.

Mayor Salas said from her understanding if we move forward we would spend \$47,000, we would move forward and not know exactly what type of revenues specifically we would bring back to the City because certain hotels haven't been built or warehouses are not in. So there is a question as to what type of revenues we would bring at the very most she thinks we have projected how much?

City Manager said he thinks they projected approximately \$500,000 with a TOT tax and that was projecting that the other two hotel developments would be in place at the time of the imposition of the TOT tax. For clarification, if you recall during the study there was some interesting data that was presented and there was a desire at least on the onset of a sales tax and a less of a desire for a TOT which the transient occupancy tax affects those that come in and stay in our hotels and not those that live in our community versus a sales tax which would specifically impact those who would be purchasing goods in our city which would be our residents and our current business owners. And specifically that issue is very delicate as well because clearly if you have opportunities to buy or purchase goods outside of our community with a lower sales tax even with a half percent or a quarter of a percent that could make a difference in the persons decision to shop in Banning which would have an adverse impact and he thinks that is why the Council gave direction to move forward with a TOT and possibly a warehouse tax.

Councilmember Hanna said the Godbe/Tramutola telephone survey that was done in our community gave interesting results that was discussed at length and it was this Council's decision to explore the two taxes; the hotel bed tax and the warehouse tax. She thinks that they made it pretty clear that it is easier to educate and convince people if you just go after one tax than two taxes and that would be her recommendation tonight that we proceed with the education of the community in the involvement of the hotel bed tax alone. Of course when you are projecting revenues you are never certain. If we were in a stable environment in a sense that we had a certain number of hotels and that is the number it is going to be, they are generating so much hotel bed tax at 6% and we are going to increase it to 12% then it would be a known factor. So we are going to have to make some assumptions and staff is going to have to make some assumptions and the increase in the hotel bed tax isn't going to solve our structural problem. But if instead of a half a million it is going to be \$250,000 that is a couple of police officers and to her that looks good. We have to understand that there is resistance on the part of the community to appreciate the value of increasing the motel bed tax and that is a task and that is why we are paying \$47,000 to Godbe Research to work with

our community so that they can understand that it is not a tax on the residents but a tax for visitors only and when people in fact make reservations for hotels it is not generally the case that they ask what is your hotel bed tax. It is not a disincentive for people to visit our community. She would actually recommend that we ask staff to make conservative projections on what the increase in hotel bed tax would involve so we feel that it is fairly reliable and proceed as we originally recommended to do this community phase. We must do it now. Her suggestion is that we not go forward with a warehouse tax ballot measure but go forward with a transient occupancy tax.

Councilmember Botts said he certainly concurs with that. He said that our City Manager talked about the kind of funny results that came back from that survey and less people supported the TOT even though they were not going to pay it and even less people, 24% said they would not support a per square foot sales tax on warehousing. He still does not understand that and if you are going to tax business he doesn't get taxed so why wouldn't I do that. He said that the Kosmont Study was almost ambivalent on per square foot tax on warehousing. It said you could consider it but clearly it could put you at a very uncompetitive advantage to San Jacinto, Hemet and the High Desert. So absent Larry Kosmont not being here he thinks that there is just as much impedance in that report that says that could put us in a real competitive disadvantage. He thinks that he could support the TOT.

Councilmember Machisic said that earlier he mentioned that he sat in a session with San Luis Obispo and they had a tax revenue election and it took two years. They met with community committees, they met with opposition groups and it took them two years until they finally got down to the purposes of the election and they were all clear. They had only four things that they were going to do with their money and it happened to be a sales tax increase. He is looking here at our time schedule and today is the 10th of June and if we are going to do it this year in the general election we are looking at five months. And one of the questions posed to the company that we are talking to is there enough time before November election to get a campaign started. You are only talking about five months and you want to involve the whole community. Take into the consideration the time element and he has heard some discussion about warehouse tax and so on and comments about working with developers and staff working with developers it seems to him that the information and the conclusions we have drawn about warehouse taxing is at best indefinite. He doesn't think that they have analyzed the problem and have not analyzed what the possibilities are and he thinks that is going to take a lot of study as far as he is concerned because it is not done commonly in different communities and he thinks we need to do a lot of research. He doesn't think it is a viable possibility for the general election at all. The TOT tax that he sees in our city it is 6% and at some point in time a former City Council reduced it for whatever reason and if you ever stayed in a hotel in the last couple of years the minimum is 10% to 12% and sometimes 14% and if you go to the bigger cities whether it is Long Beach, Anaheim or Los Angeles they put on not only the TOT tax but put on an entertainment fee but they never quote it when you ask for a hotel room. One of things that he proposed without much success was to have a staggered tax on the TOT. Put it at 8% the first year and maybe skip a year or two and go to 10% or 12% eventually. We certainly don't know what the results will be financially for us because of the economy and when the

hotels are built and how fast they are built and what the occupancy would be and that is an unknown but we need to move forward with it. He asked if we have enough time to prepare for an election in November.

City Attorney said she was trying to check for sure with Riverside County but she could say that ballot measures in Santa Barbara County where they have a ballot measure that is coming forward have to be in final form to the County Clerk and Recorder by July 3rd. That is to allow the time for the ballot arguments, the rebuttals, etc. It goes to print about the first or second week in August. But to get there the final language has to be submitted by July 3rd. She is trying to check on Riverside County but feels that it should be very close to Riverside County as well.

Councilmember Machisic said if you are correct we are beyond the time limit for November so you are really talking about some time in the future.

Mayor Pro Tem Franklin said listening to everything that has been said having read the information with the Godbe Study it seems like we have not gotten to the point where we are really ready to say whether or not it is better to do a TOT or warehousing. But there is more information that we need to have because when we are talking about moving forward we are not going to be able, she thinks, to be successful in saying we want to put both on the ballot. Our City Manager is saying that there are discussions going on with the business public regarding what may work for the warehousing. There are still some issues about whether people totally understand what a TOT is. So it seems like before we talk about being able to move forward we need to know which of the two is really best for our community. When we look at in terms of sustainability for the long-term and whether or not is a good idea such as Councilmember Machisic said should we stagger it or even limit it at 12% if the rest of the public is going to go up to 14%. She thinks that there is a lot more we need to know before we talk about being able to move forward with either one of them. We need to be able to get more information that tells us this is really the better of the two because putting two on the ballot isn't going to work and we don't have enough information on either one of them to say that we need to move forward at this point.

Councilmember Botts said he would disagree with his colleague on the TOT. He thinks it is pretty simple and straight forward. He is less concerned about the legal side than the campaign side. The City cannot be involved in that and it needs to have a campaign structure that has to go out and raise private money. He would be as concerned about mounting a campaign wherever we start with Godbe and where the public is so he is less concerned about that. He has come to the conclusion that the Kosmont Report is probably right in that a per square foot tax could be counter productive and could put us at a significant disadvantage. He proposed the last time and someone said that maybe if you propose a task force and said you don't have to sit on it that a couple of Council members and a couple of staff could get together and that we need more information. He had discussions with developers and companies that deal with this and there are other things than per square foot tax on warehousing if we want them to help pay the way a little more. Someone proposed a bridge and road assessment district where you don't have to go to a vote of the people. You bring the various players together and you say if you have 5 million

square feet of warehousing on the north and south side of the freeway north of the airport we've got to have an underpass there and we got some streets and roads and infrastructure that has to be put in how can we work together and you have to have a win, win for everyone. But that is another alternative and someone proposed tonight rather than a per square foot a tipping tax or fee which means that trucks coming in and out to a business that could be existing businesses that we are dealing with right now who have significant truck traffic on the east side of town and tear up our roads but we get no sales tax. His point is that there may be some other ways to have warehousing and distribution work with us and share with us without a per square foot tax. So however you see that happening as you did last time to let staff to do that or a couple of you along with staff and a task force say over time lets sit down and reason together and see if there is room for win, win.

Councilmember Hanna said she would agree with Councilmember Botts on that and doesn't need anymore information on the warehouse per square foot tax. It is a disincentive. She thinks that there are many issues that we have about warehouse development and that is why we want Mr. Kosmont to come and have a discussion and there are a lot of issues related to that. She thinks that it kind of confuses things right now to go into that at any depth. She thinks that it is unfortunate that this discussion was delayed since March. We initially gave staff this direction in March and nothing has happened. She understands the confusion or the question regarding the Kosmont Study which was underway and thinks that could have returned to Council much sooner. She said there was a sub-committee or Ad Hoc of the Economic Development Committee for the hotel bed tax exclusively. She thinks that there are individuals in this community that would rally behind that and move that campaign committee forward and raise the funds necessary and it is possible that the educational component can happen simultaneously. In other words, if this Council approved it tonight that can go forward and that can happen and that leaves half of June and July and meanwhile we go ahead and put it on the ballot. It is not the preferred way of doing it but she has a lot of confidence in Godbe/Tramutola that they can do a good education program over the next few months. She would hate for us to delay the possibility of generating lets say a quarter of a million dollars for this city. We need it desperately and this is not a tax on our residents and she doesn't see any reason not to go forward with it.

Mayor Pro Tem Franklin said her biggest concern really is not whether or not we should move forward with a tax in the future but she thinks we need to know exactly what it is we are talking about doing. Even for the public they are going to want to know specifically when you are talking about a TOT tax or warehouse tax exactly what are you talking about. And if the date is to be July 3rd that this is supposed to ready for the ballot she doesn't see that happening and you say we should be able to do that simultaneously and she doesn't see that it is structured at this point to be able to say it is ready to be able to go on the ballot as the ballot measure at this point. Maybe it will be ready next year but to say it will be ready by July is that even possible.

City Attorney said it is possible to draft a ballot measure between and now and your next Council meeting that would establish a TOT tax or an increase in the current TOT. It probably is not possible for you to have the work done by the political consultant here to know the level that is appropriate to know the responsiveness of the community. It is

possible to have the political consultant serve as the education vehicle for whatever measure you put on the ballot after July 3rd so that it goes into the election cycle with those folks at least explaining to the public prior to the election what it is that is on the ballot and what the actual consequences are likely to be in a very neutral way. It really depends on what you choose to do. You are not operating with full information at this point because the polling itself has not been done yet.

Mayor Pro Tem Franklin said she attended a session last year where they talked about ballot measures and the example that was given was between 12 and 18 months were the public education before they put it on the ballot and she doesn't know if that would be too long or not. She doesn't want to see us rush into it because we want to get it on the November ballot. She would prefer that they do it right and if we have to have a special ballot next year do it that way but make sure we are doing it right because there is no reason to move forward if there is a good possibility that it might not pass because of voter misinformation or lack of information.

Mayor Salas said that is more of the question and not whether or not we can get it on the ballot if that is possible and you make a good point whether or not it is likely to pass. She actually commends staff for taking a good look at our numbers and \$47,000 may not be a lot of money but it is still taxpayer dollars and maybe our taxpayers are not going to be paying these taxes if they get approved but we are still using money to educate the public and to find out of the polling numbers as to how they feel about these types of taxes and they ultimately vote for them. She asked how much have we've spent so far prior to this \$47,000 potential. City Manager said he believes that it is approximately \$30,000.

Mayor Salas said so roughly we have spent \$30,000 finding out the public opinion and from what she recalls pretty strong they wouldn't support something like this. So this education/outreach would be more or less to educate them on what type of taxes these are but already our numbers have come back that they don't support it. Her questions is why would we continue to keep adding things to make a little bit here or there. Let say that the TOT does pass if we did go forward with it at some point we are still only looking at \$200,000 to \$300,000 because we are not including the warehouse tax in it which she doesn't support. First of all we have to look at timing and most recently she had a chance to talk with the business owners by both hotels and warehouse and their opinions by doing something like this it inhibits business coming to Banning. This is making them competitive now by not having it and let's just look at the hotels in comparison to some of the other cities. She is not a hotel owner so she doesn't know what helps it sell but that is what she is being told. Right now she definitely wouldn't support it and she is not sure now that she has had the polling numbers come back, if she would in the future. She said that \$200,000 to \$300,000 for all this type of work and the money that we are spending for outreach is not going to put a huge dent in some of the needs that we have for the City not to mention the type of message it sends to the business community.

Councilmember Botts said he thinks that this Council voted in March to say let's go forward with the TOT. If we didn't vote it was through a consensus. As Chairman of the EDC at that time they called a meeting for a campaign committee to come together in March that

started out and went no where. He thinks that they need to decide that the TOT at 6% is so laughable that we ought to just simply say we need to move forward and he is not suggesting for 2008 but maybe it is a special election or something. He said that he has not had the benefit of Councilman Franklin and Hanna to sit in on the budget and \$250,000, \$300,000 is new dollars and not insignificant. He doesn't know if we can do it in 2008 but we ought to decide tonight whether to do it. He is not suggesting spending the Godbe money necessarily but once and for all say yes, we ought to bring that up and then ask staff in consultation with Godbe what is the timing.

Mayor Pro Tem Franklin said she would concur with what Councilmember Botts in terms of I'm okay with moving forward once we have sufficient information. Her biggest concern is not whether or not we do that particular one as much as are we going to do it right. She wants to make sure we do it right if we are moving forward. Yes, we did talk about moving forward those two but getting more information does make a difference. Her biggest thing is that if we are moving forward we need to do it right because we are talking about the figure that has been given is \$250,000 and where we stand with hotels today we are not talking about getting that kind of money in 6% of sales tax with the existing hotels. She could be wrong but when she looks at the hotel we have we are going to need a lot more to talk about getting that kind of money in one year.

Councilmember Botts said he doesn't disagree other than we have an ordinance in place and all we are saying is that we are going to move from 6% to 10% or 11%. There is no new ordinance it just simply says lets move the rate. He is just talking about the TOT and he said he cannot support the per square foot tax. We as a group have sort of agreed officially or unofficially that if we move forward with something that we really need five votes. We have three that don't want to move forward with the warehouse tax so it is a mute point so let's set it aside and focus on the TOT.

Mayor Salas said in regards to the TOT we all agree that it is definitely far below most cities but her concern is that every time we have something that is below do we take it out for a tax. We can't continue to keep going out for a tax and continue to pay companies like Godbe anywhere in the sum of \$80,000 to \$100,000 because we are below a few percentage points and we need an extra \$100,000. If we are going to go out for a tax, look at the services we need and she is not saying that she is trying to add anything additional but take a good look at it and have a philosophy about the way we do things and the approach. She knows that someone mentioned up here that we need police officers, we need fire and \$200,000 to \$300,000 could pay for an officer or two so how are we tying this into the TOT. Are we bringing it around to this tax or is there something else that needs to be explored. She doesn't know if the TOT is going to solve all of our problems and her concern is that we keep going out for a tax and we are going to get "no's" all the time unless we are supported behind one single one that will be effective and provide a few items that we need and she doesn't know if this one does it.

Councilmember Hanna said that she thinks most investors and maybe she is wrong would invest \$47,000 to get a return of \$250,000 indefinitely. She made up the \$250,000 and the original projection of TOT was a half a million but she is saying let's say that we had

unrealistic assumptions and cut it in half and that is where the \$250,000 came from. She feels it is a decent rate of return and she understands that it will not solve our problems by any means but as Councilmember Botts said why wouldn't we do it given it is 6%. She understands that we are not going forward at this time but just wanted to respond that it is a good rate of return.

Mayor Salas opened the item for public comments.

Fred Sakurai, 43000 Dillon Road said that there has been a lot of sayings that I've talked to this merchant and talked to this hotel owner and the voice of the business people here in town is supposed to be the Chamber of Commerce. They have not been here to say one way or another. Has there been a hotel owner or a motel owner coming forward to say lets not do this or let's do that or what not. We are supposing that the various owners will think this way or that way. Why can't we start the process of putting it on the ballot and letting the voters decide whether they want one or the other or both and it would be easier to stop the process then to start it from ground zero. Let's get it started and if the old hotel/motel owners would like to come up and say something, if the warehouse owners would like to come up and say something they have had plenty of opportunity to come up here and state their views and say it is going to chase away business or whatever. But the main thing is let's start the process and give the voters the opportunity to say they want one, two or three.

Charlene Sakurai, 43000 Dillon Road said she received the call that did the survey on what they felt on different types of taxes and although the young lady was wonderful and we had a good time on the phone the explanation of the TOT left a lot to be desired. And when she asked questions she wanted her opinion but if she asked questions she literally couldn't explain it to her and said she would have to stick with the script. She thinks that leaves a huge knowledge gap for all of those people that received those phone calls. She personally thinks that the TOT probably is the way to go. She has spent the last ten years of her career staying in hotels all over the country and believe me when you need a room somewhere you just want to know what the price is and don't ask about the tax but you know that they are going to be there and it is going to have to be paid. It dawned on her that cities need this money in order to support what they need to do to make the city run properly. She thinks that is part of our challenge to have the citizens understand that this is one mechanism that is not coming out of their pockets that will benefit our city. She also thinks that just going up from 6% to 8% defeats the purpose because throughout the country it is going up and up. We are always going to be behind the eight ball if we do it that way. You need to make the decision to take that leap and to bring us up to whatever the standard is now. Maybe in five years we may say we have to take another leap but we have to make that decision and do it but don't take baby steps because by that time you end up going backwards. She does support the TOT and would go out and educate the public. She believes that this is the way to go right now. What she is hearing from tonight and before is that there is a little bit of resentment out there on the part of the builder that will be putting in the warehouse or not because of this warehouse tax. And the sales tax comes out of everybody's pockets and everybody's pockets are shrinking.

She asked if we went to a special election, how much would that cost us compared to getting something on the ballot now and trying to educate the public.

Jeff Gordon, 250 Newport Center Drive, Newport Beach addressed the Council stating that it sounds like you are heading in the right direction from his point of view on this warehouse tax and it is not just him that has been whining about it and Mr. Kosmont told you it is probably a bad idea and he thinks that they all agree with that. He can't remember quite frankly when it first came up because it came up in the same discussion with the moratorium whether the tax was to try to discourage warehouses or increase the city's revenues. As a developer they do want to come and talk to you guys. We have a huge investment in this town and developers do and we paid for property out there and we need to have something happen. In trying to sell their property, their project, their warehouse or their manufacturing building or whatever it is going to be they have to be able to say you have a safe community with good public safety so when they hear budget problems we get nervous even though we don't live here because we are trying to sell your town. We have to sell your town, our town that you are going to survive and be good. They want to sit down and help that situation. He thinks that all of the Council is discouraged with the warehouse tax and he doesn't know how you would put it on the ballot and tell John Q. Public that you can expect a certain amount of dollars for that because it all depends on guys like him to build or not whether you get it. It would be a hard thing to quantify on the ballot.

Lloyd Fields said he owns a land parcel in Section 1 and he would like some general information would a ballot measure quantify the tax or would it authorize the Council in its discretion to quantify the tax and would the tax be based upon parcel size or warehouse footprint.

City Attorney said if there is going to be a tax that is passed it is has to state what the tax is so yes, it would be quantified on the ballot so that the people would know what is being imposed. And in terms of the warehouse tax itself it is her understanding that it would be the square footage of the building.

Councilmember Botts said on the TOT if we all agree that we ought to put it on at some point could we say rather than a specific amount say up to 10% or 12%. Then the Council could have flexibility between 6% and what the voters have approved.

City Attorney said you can always approve less than what the public authorizes. But the authorization would be for whatever the percentage is. That would make the ordinance itself which would be adopted by the election a little bit more complicated to draft because you would need some criteria for what you are talking about. As long as you don't exceed it would be the issue.

Councilmember Machisic said in their discussions they have discussed all kinds of taxes and for various reasons we have eliminated all of them because some Councilmembers don't support certain taxes and our tax advisor told us that unless it is unanimous you don't go ahead with it. It appears that we are down to a TOT tax and he certainly feels

that if we are going to go into an election he wants to be well prepared to convince the public that is the right way to go. We paid some money to a tax advisor and went out and got some information. He is concerned first of all about the time element and he would like a report back from these people to let him know how many months do we need to prepare and he would like it at the next meeting. The second thing is that then once based on the advice they give us we need to set the election and whether it is in March, April or an individual election or mail election that could be a possibility. And sometimes like Councilmember Hanna said if you are saying a special election would cost \$30,000 to generate \$300,000 he thinks that is a good return. He would like for the Council to make that determination quickly, set a date and agree on a percentage amount and if we have to have a special election, so be it.

Mayor Salas said since they are talking about different taxes, in the past she knows that a public safety tax had come forward and something we often heard in the community was we would have supported it but the only thing was that there was not enough information or it wasn't structured right. So is that something that is going to be explored in the future or what are our future plans on that since we are on the subject.

City Attorney said if you are going to go for a special tax which is what you are talking about for public safety, then you do have to identify what is going to be used for and you have to sell it to 2/3rds of the community. That is the issue with the special tax. With a general tax you can be as specific as you choose to about how you're going to tax but you cannot promise to apply it to anything in particular. So it is a difficult choice obviously. It would be much easier to get through a specific tax if it only took a majority but both of those are intended to make it more difficult.

Mayor Salas said did Godbe say that when they polled the voters if it went to a specific cause the likeness of it to pass was higher than if it didn't.

City Attorney said that is usually the case. The problem is whether or not it is high enough.

Councilmember Hanna said that there was a great deal of support. Remember they looked into the sales tax idea and if it was going to be used for public safety that whet up much, much higher. Her concern about Councilmember Machisic's recommendation saying we are going to do the hotel bed tax through a special election is that we have as we all understand a much bigger problem. And that much bigger problem is going to require a much bigger response. It is probably going to involve a public safety tax. That is going to require a greater source of revenue than a hotel bed tax. She would suggest that we are not going to go forward with a hotel bed tax and a public safety tax at the same time and it would not fly. She would be reluctant to approve at this moment in time that we are definitely doing the hotel tax because we may need to make other decisions between now and then.

Mayor Salas said that they definitely agree that we don't want the warehouse tax. And in looking at the TOT it sounds like the timing is not good right now.

City Manager said his understanding at this point is to bring back at next meeting the time frame of the education component, actual ballot initiative timing frame and put it for either a special election next year or the following general election and that this general election doesn't provide the time frame to move it forward.

Mayor Salas said it would be nice to know looking out into the future what other things are being explored including the hospital because she has been told that they are not going to have enough money after they had their initiative approved so we really need to time it right and make sure it is definitely worth the while if this is something the City decides to move forward with.

Mayor Pro Tem Franklin would like to see options for the type of voting we could have.

City Attorney they would be happy to address that and also if it would be of value to you if you want to keep the options open, she would be happy to pull together the resolution and ordinance that would be necessary if they decided to go forward with a TOT simply as it is. That way when you have all the information from Kosmont as to the timing you need and all at the next meeting you could consider whatever you choose to in terms of action to move forward, if the Council would like.

Meeting recessed at 9:28 p.m. are reconvened at 9:35 p.m.

2. B) City Council Consider Staff Recommendation Regarding the Proposed Modification of Redevelopment/Economic Development Director to Redevelopment Manager.

City Manager said if you recall at the last meeting we had a proposal to restructure the organization somewhat. Three of the outlying factors were for efficiency purposes, efficiency from a perspective of **trying** to achieve a more common goal which is the one stop shop and the other was more of an efficiency of staffing and the other was a budgetary issue. Through that discussion it was a restructuring and it was pulled from the Consent Agenda and asked to be brought for full discussion at this meeting. What he has done is to develop a staff report hopefully providing some background for the City Council in terms of what the proposed restructuring would do but more importantly what we would be requiring if we were continuing to be the Redevelopment Director position as a stand alone position within the City and how we could make that work. His recommendation at this time is to have this discussion as he has indicated and this is a City-wide team and we have to work together from the dais as well as our staff. We try to create efficiencies where we can so that we can insure that we are addressing the community's needs, developer's needs, our downtown business owner needs and those types of things and he would open this to any types of questions the Council may have. He said that he is looking for basically a direction and it could be a vote if the Council wishes to firmly establish the Redevelopment Director position or if they are comfortable with the Manager position as he as alluded to. If you recall, one of the goals was to consolidate to create those efficiencies and that was to put the Redevelopment Manager position within the Community Development Department under

the Community Development Director. Currently we have an Economic Development Consultant who works part time for the purpose of economic development. We had a Redevelopment Director and we had a Redevelopment Assistant which helped the Director and now that has been consolidated in his Assistant who now works with the Redevelopment Agency in insuring that the reports get done and the data is collected and those types of things. So we are sharing that amongst one position rather than two.

Mayor Salas asked if he was finding that more efficient and are you getting more done since you have made that change.

City Manager said it has been working fine in terms of his assistant working on that but unfortunately he doesn't have anything to compare to because the assistant that was under Redevelopment left prior to his coming on board.

Councilmember Botts said he has some strong feelings that if something isn't broken, let's not try to fit it. He has had significant discussion with the City Manager and he will reiterate it again that it is not his place or this Council's place to micromanage. He hires and fires and leads and in no way is he suggesting that we ought to deal with that. But he just sees it as a policy issue and we set policy and he is not suggesting hiring or firing or that kind of thing but the reorganization is significant. In light of what staff is proposing to spend \$300,000 of Redevelopment money in this reorganization to fund the Code Enforcement and he is not arguing one way or another but he thinks that really comes back to the Council do we want to spend our Redevelopment money that way and Code Enforcement would come over and report to Planning and Development. He said that 70% of the Code Enforcement costs which is \$407,000 and 70% is \$280,000 approximately and he thinks it is proposed that RDA now pay 40% of the Planning Director's salary. His only point there is that it fits into a policy decision. Also he would say not very long ago we had a part-time Redevelopment gentleman named Henry would lived in another part of the State and came down on weekends and worked about 20 hours a week on Redevelopment. He wasn't on the Council at the time but you three were and others and said we got to get in gear and look what is happening in Beaumont in retail sales tax. Look at what is happening in other communities and look at what is not happening with the City of Banning in regard to redevelopment and economic development. So you and previous Council said we have to get moving and you created along with the previous City Manager a high level directorship and hired Jae Von Klug and began to move along. Then others came on board the Council and realized that we had a extremely strong Redevelopment Director but redevelopment is a great tool for economic development, but economic development is a market driven system of retail development, retail sales tax, jobs and that kind of thing and working with the City Manager said lets bring on an economic development person. At the time we had April and had that Administrative position and we have not filled that. We have purposely left a couple of positions open in his mind so that the new City Manager could in fact fill those spots. His only point is here is a system that is working and this Council has said what is our priority and it is retail development, its retail sales, its jobs, and industrial development. And as somebody that has been in business forty years and worked five years in economic development in San Bernardino this is a step backwards in his mind with redevelopment and economic development and it has nothing to do with our Interim Director of Planning and

Development whether he is interim now or whoever that position is they are in charge of planning and development and not RDA experts. They are not economic development experts. With this Council it is such a high priority on moving this City forward. He just sees this as a step backwards and one that ought not to do.

Councilmember Hanna said she would agree. This Council she thinks has been very emphatic and the previous Council said when she came on five years ago that Code Enforcement was absolutely the number one issue and that continues to be very high on the list. We've made significant strides and there is a lot more to do. She thinks this Council has said economic development and redevelopment. She thinks that we do have a role to play in terms of the budget decisions but she thinks what we are saying to you, Mr. City Manager, is that is your job and we want you to achieve more than anyone could dream possible in terms of economic development and redevelopment. You do that any way you want to do it and if you don't do it and we don't see any outcome that is significant and she thinks that we've been seeing significant outcomes. She is really impressed by the work that has been done particularly in economic development and redevelopment. She thinks that we have made significant strides so if you think that you can continue to achieve this level of accomplishment with this other staffing, fine. Go for it. We could use the savings in money. It is not clear to her that is possible but you're the boss and you determine that in terms of your team and structure. But we expect great things to continue to happen.

Mayor Pro Tem Franklin said she would like to share some things that came out of the session she just went to and it was in the economic development area and it talked about economic development philosophies, transitional process and just to take a few seconds to talk about what was the difference between the old and the new. The old was top down development and the new is grassroots support. The old is economic development director and the new is interactive coordination. The old is consultant driven and the new is community ownership. The old is growth at any cost and the new is liveability quality. The last one is competition for sales tax dollars and the new is sustainability. She would have to agree with Councilmember Hanna in that we have asked the City Manager to bring his expertise here and asked him to do what he thought was best and the Council knows that they will go to the City Manager for the bottom line in terms of results. She would support moving forward with the City Manager's recommendation because we can always change it if it is not working. But we have to give you the confidence in saying you know what you are doing and we want to see results and you know what kind of results we want so let's give it a try.

Mayor Salas said for many years it has been broken and we all know that and we have heard this in the community and have had many complaints from the businesses, the residents, and the people who come to City Hall in trying to get things through. It doesn't mean that our staff doesn't do their job. It just means that the process somewhere is flawed and we need to work on it. And we have hired, in her opinion, a professional who is bringing in what he needs to analyze and prescribe something. This is what he is bringing forward. As the CEO or driver of the bus basically we are looking to him, to Brian, our City Manager to come up with some ideas on how he can make it where we envision it. He can create what we envision as a Council and she whole-heartedly supports it if this is what you would like to

do it. We can try it out three or four months and what is the worst thing that can happen. We can only get better so she basically supports this recommendation and we can reevaluate it in four to six months and come back and tell us whether it works but either way we need to do something and there has been a long time call to action and she is glad we are actually coming up with a plan. Whether or not that is going to work has yet to be seen but she thinks that this Council is willing to take a risk and look at it because something needs to happen.

Councilmember Machisic said one of the concerns that he has always had that he has heard from different people is that the departments didn't work together and that has been a concern and he has heard it from this Council numerous times. This is a way of placing responsibility and that is one of the things that is pretty easy if you have four or five people running you when you have something go wrong they point in all different directions. His feeling is that he has the confidence in the City Manager that he feels this is the system that will solve that problem and that is important. He would agree that in six months let's make an assessment and have an assessment from the City Manager about how it has worked, what are the problems, what do we have to modify because organizations ought to be kind of a living thing. They never will remain the same forever. You have to look at them and if you have a problem, you change it or modify it or whatever. He is very supportive of the suggestion that the City Manager has made here.

Councilmember Botts said obviously he sees where we are going with this and he would just say this does not question the integrity of Mr. Nakamura or his expertise. He just thinks we are making these changes for the wrong reasons. If he understands his reasoning it is budgeting, it's getting money over to the General Fund of a half a million dollars of RDA. There were very few complaints when he was Chairman of the EDC and on this Council about Redevelopment/Economic Development. The complaints and problems were in Planning and Development there is no question about that. We have a new gentleman and it is not him. It was not Redevelopment and Economic Development but Planning for any number of reasons and no dispersions on individual people. We all know and we have all talked about it and that was the issue. And so how do you fix the problem you take what was working Redevelopment and Economic Development and put it over under Development. He would suggest would you do the same thing if we found that Jim Earhart wasn't working well with Planning and Development. They need to work together so let's move Jim over to Planning and Development. He just thinks for the wrong reasons we are making these changes.

Mayor Salas asked how this proposal addresses Councilmember Botts concerns as far as planning.

City Manager said whenever we look at organizational structures we have to look at what we can provide in terms of services and one of the things that he heard very clearly when he came on board was that one-stop shop and not necessarily meaning you come in and get a permit and you walk out but how you coordinate the efforts of each department together and how do you form teams without saying we are all in these individual silos we need to work more cohesively and cooperatively. We have done a lot in terms of the last four months and

we still have a lot to obtain. We have general expertise within each department but if you look at the City overall in terms of Community Development or wherever you may want to focus your attention Economic Development its part of the whole organization that needs to work well together whether we find the right players, whether we find the right team members. That is probably just as important he would say as a knowledge base. We all work interdependently and not independently. He would venture to guess that a Community Development Director is not going to know everything specific about redevelopment, the owner participation agreements, the façade grant programs and how those work but that is what the Redevelopment Manager will add to the positions. That is what the Economic Development Consultant will add to that position. When you talk about Community Development you are talking about the whole community. When you talk about Redevelopment you are talking about specific areas within the community similar to Economic Development. We have certain land available throughout the community and those are clearly for future development and not at this time for Redevelopment. As we move forward we grow the organization and he knows that there are concerns about whether or not there will be a forthright effort in Redevelopment and he can understand that but again, if we find the right people which hopefully we do, they will come to fruition and see the changes continue and those will further develop.

Councilmember Hanna said that she is concerned about reducing staff in that whole area. Your Executive Assistant, for example, working in Redevelopment and so forth reminds her of organizations, small companies that need to cut back in their expenses so they cut off marketing. You are not going to generate new business if you don't do marketing. If we don't have staff to actually do the work, things are not going to happen and she is afraid that could happen now. Again, she would encourage the City Manager not to cut costs to the extent that we cannot get the work done and that is her concern.

Councilmember Botts reminded the City Manager that we are downgrading all of this. The reclassification from a Director to a Manager, the lowering of the salary, we are significantly changing Redevelopment/Economic Development and you are all supportive of that and that is okay. But he can tell you as an organizational person and all the rest of it this is a significant change and downgrade and burying within another department.

Councilmember Hanna said she would like to clarify that she made a strong comment earlier and everyone interpreted that to mean that she agreed with your proposal and she doesn't but it is yours to make. She thinks that what the Council holds you to is important and she is going to continue to want to see the same level of achievement that has occurred in the past year or so. How you do it is your business but she has her personal opinion about that but doesn't think that is relevant. You are the CEO of the organization but we will be looking at the achievements.

Mayor Pro Tem Franklin said we are still expecting to see improvement and we are expecting to see an increase but she thinks the focus should be on sustainability for our community and the quality of life. Not that we are trying to go out there and get whatever we can for whatever it costs but we are going to be looking at the long term in terms of

sustainability for our community and how well we can improve the quality of our city overall and we are coming to you to get it done.

City Manager said he wanted to insure the Council that this wasn't just something that they decided as a budgetary exercise to say here is how we can reallocate funds. These were thought about because essentially he heard a comment was made about code compliance and its applicability to Redevelopment. One of the key components, not all of it, but one of the key components for Code Compliance is at least through his understanding from this City and many others is that it addresses blight issues. Whether it be for yards, whether it be for business owners, residents, those types of things one of the things we want to do is to make sure that we have the ability to employee within our budget framework individuals that can really get work done. We have department directors that are basically one person departments or two or three person departments and we need people within the departments to get a lot of the work done and he thinks we can do that and still address the key issues that the Council wants which is productivity.

Mayor Salas said in a department they should be able to answer questions that are brought forward to the table from the business owners and right now from what we hear right now people come in and if someone is out for the day, the other doesn't know what is happening with the business and that doesn't make sense. If you are a business owner and you need to know where your project is or when it will be back, you shouldn't have to wait a week or two until someone is back from vacation to get that answer and if you have crossover hopefully you will have answers a little bit quicker and a response.

There was consensus to move forward with staff's recommendation of a Redevelopment Manager.

ITEMS FOR FUTURE AGENDAS

New Items –

Mayor Pro Tem Franklin said she is still not comfortable that we have resolved what our vision is for our City and she would still like to see if the Council concurs that we have one meeting to wrap up where we are going with our vision. That we can state this is the vision and these are the things that we are working on specifically. And she would like to talk about considering having one meeting in July and August. We have asked staff to do a lot of things in the last couple of meeting and vacations take place in the summer time. She found out in talking to many cities this last week was that many cities go dark for one meeting in the month of July and August. She wanted to suggest that we consider that and if we need another meeting, then we could have a meeting called. She would like to move forward with the first meeting in July and the first meeting in August.

Councilmember Hanna said it was a terrible idea. Every time that happens we get loaded up so incredibly. Our meetings go late enough as it is. She doesn't think that we are helping staff. In fact, the same work has to get done and it all has to happen around this one time and it means that everything has to be focused on that one meeting. We haven't

had any lightweight meetings and she doesn't think they are going to be lightweight during the summer. Plus we do have our one year goals and she is not quite sure what the vision is and are you thinking about a longer view than the one year goals.

Mayor Pro Tem Franklin said she thinks in terms of being able to state this is our vision for what our City will be twenty years from now but also knowing it will be a living document but also saying these are the target industries that we want to go after and there are certain issues that we want to say we want to specifically address. One area we haven't even touched on really is our housing element. We said we wanted to wait until we got the report in and the report is coming but we haven't said what we want to do in terms of this is the way we specifically want our city to look. Maybe you have it clear in your mind; she doesn't have it clear where she can go out and articulate that to the community. We are close but we need to finalize it.

Councilmember Hanna said one of the ideas that she heard from one City like Anaheim is that they have a Housing Strategic Plan so once we have the housing element then we can develop a strategic plan of how we are going to achieve the goals and so forth. We have of course had several documents over the last two years in that we had a 20-year vision and then we did the analysis so we have done quite a bit along those lines. To her that adds a third meeting this summer and doesn't take away from the meetings.

Mayor Salas asked the City Manager how that would affect our calendar and would that triple the agenda packet.

City Manager said that is also our standard CRA meeting date but staff can accommodate the Council's wishes. Also he would need to talk to the department directors and get back to the Council.

Councilmember Botts said he would rather have you working during the day and trying to meet deadlines than keep you here half the night. We all go into closed session and some of you stay and we have repeatedly talked about having a CRA meeting twice a month because somehow no matter whether it is Council or particularly staff doing the agendas we'll end up getting out of here at 10:30 or 11:00 tonight and he doesn't think it is good for Council people to make decisions in the middle of the night nor staff. He is concerned about staff but they are having to stay as long as the Council and what good does that do if we skip a meeting.

Mayor Pro Tem Franklin said maybe we could have staff check and see how that would affect the calendar. It is not that we have to make a decision tonight but really look to see how that impacts the agenda. City Manager said he would check with the directors.

Mayor Salas said a few months back she had mentioned the bank foreclosures and the homes and Riverside County has adopted an ordinance that we might want to mimic. She knows that the City Clerk is working with the Clerk of the Board to see what the Board of Supervisors has adopted and maybe have our Council look at it and that may be something we want to really aggressively pursue. A lot of these homes are starting to

have a lot of weeds and go unattended. Also recently she has noticed in parking lots a lot of cars are being sold at Big Lots and Rite Aid particularly. In the past the Council has worked with the Police Department to see to it that these cars were not on the corners because before they were on vacant corner lots and this is not good for the business community and instead of people having to go to a car lot to buy a car they end up just buying it in the parking lot of Rite Aid or Big Lots. Can we please take a look at that and find out how we can put more teeth into the ordinance because they are just circumventing the law.

City Attorney said in regards to the housing maintenance ordinance they are currently working on one with the new City of Wildomar and she would be happy to share that so that it cost each of you half.

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 7/22/08)
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. Jt. Meeting with Morongo Band of Mission Indians Tribal Council (*Hanna – 05/27/08*)

Councilmember Machisic said that Pending Item No. 1 could be removed from the list.

City Manager said the one meeting he is trying to coordinate is the Joint Meeting with Morongo Band of Mission Indians Tribal Council and he has so far received mixed feedback. There was Council discussion and the date that works for the Council is June 30th.

FUTURE MEETINGS

1. Joint City Council, Utility Authority and Redevelopment Agency Budget Workshop – June 11, 2008 at 6:30 p.m. – Council Chambers

There was consensus of the Council to continue the meeting beyond 10:00 p.m.

CLOSED SESSION

City Attorney said the City Council will be meeting in closed session pursuant to the provisions of Government Code Section 54956.9(c) to confer with legal counsel with regard to one (1) matter of potential initiation of litigation; and the City Council will be meeting in closed session pursuant to the provisions of Government Code Section 54956.9 (b) to confer with legal counsel with regard to one (1) matter of significant exposure to litigation.

Meeting went into closed session at 10:12 p.m. and returned to regular session at 10:42 p.m. with no reportable action.

ADJOURNMENT

By common consent the meeting adjourned at 10:42 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.

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

06/24/08
SPECIAL JOINT MEETING

A special joint meeting of the Banning City Council and the Community Redevelopment Agency was called to order by Mayor Salas on June 24, 2008 at 6:00 p.m. at the Banning Civic Center Small Conference Room, 99 E. Ramsey Street, Banning, California.

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

BOARD MEMBERS ABSENT: None

OTHERS PRESENT: Bonnie Johnson, Finance Director
Julie Hayward Biggs, Agency Counsel
Matt Bassi, Interim Community Development Director
Marie A. Calderon, City Clerk

CLOSED SESSION

City Attorney/Agency Council said that the City Council/Agency Board will meet in closed session on the following items as listed.

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. Real Property Negotiations
The Agency Board will meet in closed session pursuant to the provisions of Government Code Section 54956.8 to confer with its real property negotiator Brian Nakamura or his designee Bonnie Johnson on the price and terms of the acquisition of property for located at 255 E. Ramsey Street.

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, Julie Hayward Biggs, Bonnie Johnson and John Ruiz

Mayor Salas opened the item for comments from the public. There were none. Meeting went into closed session at 6:02 p.m. and returned to regular session at 6:43 p.m. with no reportable action.

ADJOURNMENT

By common consent the meeting adjourned at 6:43 p.m.

Marie A. Calderon, City Clerk

2nd Read.

ORDINANCE NO. 1389

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, VACATING AND REPEALING ORDINANCE NO. 1353 APPROVING SPECIFIC PLAN #04-209 TO ESTABLISH THE DEVELOPMENT STANDARDS AND GUIDELINES TO ALLOW THE DEVELOPMENT OF UP TO 1,500 RESIDENTIAL UNITS, A 13.1 ACRE SCHOOL SITE, 81.2 ACRES OF PARKS AND 869 ACRES OF OPEN SPACE ON A 1,488 ACRE SITE GENERALLY LOCATED NORTH OF WILSON STREET, WEST OF BLUFF STREET, BETWEEN SUNSET AVENUE AND HIGHLAND SPRINGS AVENUE.

WHEREAS, an application for Specific Plan #04-209 to establish the development standards and guidelines for the development in accord with the provisions of a development agreement entered into by the City and certain landowners on July 8, 1994 (the "Development Agreement") of up to 1,500 residential units, a 13.1 acre school site, 81.2 acres of parks and 869 acres of open space on a 1,488 acre site was duly filed by:

Applicant / Owner: SunCal Companies

Authorized Agent: Rod Hanway

Project Location: North of Wilson Street, west of Bluff Street, between Sunset Avenue and Highland Springs Avenue

APN Numbers: 401-230-001 thru 011, 401-240-007 & 008, 401-250-005 & 006, 401-260-005 & 006, 531-200-001 thru 010, 531-210-004, 531-210-008 thru 012, 531-230-001 thru 007, 531-230-011 & 012, 531-240-007, 531-340-001 & 004.

WHEREAS, on October 11 and October 24, 2006 the City Council conducted duly noticed public hearings to consider Ordinance No. 1353 approving Specific Plan # 04-209; and

WHEREAS, at the City Council meeting of November 14, 2006 the City Council approved the second reading of Ordinance No. 1353 approving Specific Plan # 04-209; and

WHEREAS, Petitioners the Center for Biological Diversity, Highland Springs Conference and Training Center, Banning Bench Community of Interest Association, and Cherry Valley Pass Acres and Neighbors filed litigation actions against the City and Real Party in Interest SCC/Black Bench LLC, challenging, among other things, the City's adoption of Ordinance No. 1353 approving Specific Plan # 04-209; and

WHEREAS, on April 24, 2008, the City received notice of the Judgment and Peremptory Writ of Mandate issued by the Riverside Superior Court directing the City to vacate and repeal adoption of Ordinance No. 1353 approving Specific Plan # 04-209 in order to comply with the provisions of the California Environmental Quality Act ("CEQA") (California Public Resource Code §§21000 et seq; and

WHEREAS, the Judgment and Peremptory Writ of Mandate further direct the City to file a return to Peremptory Writ of Mandate no later than 60 days from issuance of the Judgment and Writ; and

WHEREAS, on June 9, 2008, City received notice that SCC/Black Bench LLC appealed the Judgment and Peremptory Writ of Mandate creating an automatic stay of the proceeding; and

WHEREAS, on June 20, 2008, city received notice from the Court that SCC/Black Bench LLC, was issued a notice of default in the appeal proceeding for failure to order and pay for the production of the records (Exhibit "A"); and

WHEREAS, in accord with Section 2(c) of the Development Agreement the City has the right, in its absolute discretion to take any action that is in conformance with or required by CEQA and SCC/Black Bench LLC has waived any right to file legal challenge to such action; and

WHEREAS, it appears that SCC/Black Bench LLC cannot in fact pursue its appeal, in order to comply with the Judgment and Peremptory Writ of Mandate issued by the Riverside Superior Court, which has ordered that the land use approvals be vacated and set aside in order to comply with the requirements of CEQA, the City Council therefore desires to vacate and repeal adoption of Ordinance No. 1353 approving Specific Plan #04-209; and

WHEREAS, THE City further desires to vacate and set aside the adoption of Ordinance No. 1353 to limit the costs and expenses associated with these matters, including attorney fees, because SCC/Black Bench LLC is in actual and anticipatory breach of its contractual obligation under condition A(1) of the Final Conditions of Approval, which is attached hereto as Exhibit "B," to indemnify the City in these matters and reimburse the City for its actual costs and expenses incurred in the course of its defense; and

WHEREAS, on May 30, 2008, the City gave public notice by advertising in the Press Enterprise newspaper and property owners within 1200 feet of the site were mailed public hearing notice of the holding of a public hearing for consideration of this Ordinance No. 1389; and

WHEREAS, at the public hearings held on June 10, 2008 and June 24, 2008, the City Council considered and heard comments on the adoption of this Ordinance No. 1389.

NOW, THEREFORE, the City Council of the City of Banning does Ordain as follows:

SECTION 1. FINDINGS.

1. On November 21st and 22nd, 2006, the following litigation matters were filed against the City of Banning and Real Party in Interest SCC/Black Bench LLC:

Highland Springs Conference and Training Center v. City of Banning;
Case No. RIC 460950;

Center for Biological Diversity v. City of Banning; Case No. RIC 460967

Cherry Valley Pass Acres and Neighbors and Cherry Valley
Environmental Planning Group v. City of Banning; Case No. RIC 461035

Banning Bench Community of Interest Association, Inc. v. City of Banning;
Case No. RIC 461069

2. On April 24, 2008, the City received notice of the Judgment and Peremptory Writ of Mandate issued by the Riverside Superior Court in the above referenced cases directing the City to vacate and repeal adoption of Ordinance No. 1353 approving Specific Plan # 04-209.

3. Condition of Approval A.1 to the Tentative Tract Map for Black Bench project requires the Sun Cal Companies, including SCC/Black Bench LLC to

“indemnify, protect, defend, and hold harmless, the City . . . from any and all claims, demands, lawsuits, writs of mandamus . . . brought against the City . . . that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, 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 applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.”

4. SCC/Black Bench LLC is in actual and anticipatory breach of this obligation to indemnify, protect, defend, and hold harmless the City in these litigation matters, and its obligation to reimburse the City for the costs and expenses it has incurred in the course of its defense in these matters. The City's attorney fees and costs in defending these matters through April 2008 is \$130,284.10, and has incurred approximately \$15,000 more in attorneys fees

and costs in these matters since then, and the claimed legal fees for opposing counsel total \$722,000. Vacating the adoption of Ordinance 1353 is necessary to limit the City's costs and expenses associated with these matters and to limit the potential attorney's fees incurred by the petitioners in these matters.

SECTION 2. CITY COUNCIL ACTION

The City Council hereby takes the following actions:

1. **Ordinance No. 1353:** The City Council hereby repeals Ordinance 1353 approving Specific Plan # 04-209, which is attached hereto as Exhibit "C".

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

Brenda Salas, Mayor

ATTEST:

Marie Calderon, City Clerk

APPROVED AS TO FORM:

Burke, Williams & Sorensen, LLP
City Attorney

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1389 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 24th day of June, 2008, and was duly adopted at a regular meeting of said City Council on the 8th day of July, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

EXHIBIT "A"

Notice of Default in Appeal Proceeding

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
HALL OF JUSTICE - APPEALS DIVISION
4100 MAIN STREET
RIVERSIDE, CA 92501**

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

JUN 20 2008

RV

WMC

JUN 23 2008

P

NOTICE OF DEFAULT

**TO: WESTON BENSHOOF ROCHEFORT RUBAL
333 SO. HOPE STREET
16TH FLOOR
LOS ANGELES, CA 90071**

**CASE NO. RIC 460950
(Master File)**

**HIGHLAND SPRINGS CONFERENCE
AND TRAINING CENTER
Plaintiff & Respondent**

**RULE 8.140
California Rules of Court**

Vs.

**CITY OF BANNING
Defendant & Respondent**

**SSC/BLACK BENCH, LLC
Real Party-In-Interest & Appellant**

TO THE APPELLANT(S) AND/OR ATTORNEY OF RECORD:

You are hereby notified that you are in default for failure to submit designations and fees or waiver Pursuant to the California Rules of the Court 8.122 & 8.130.

Accordingly, the appeal will be dismissed by the reviewing court if appellant fails to perform the action necessary to produce the record as enumerated within 15 days from the mailing of this notice.

June 20, 2008

Wicke Valencia
DEPUTY CLERK

Case No. RIC 460950 (Master File)

CERTIFICATE OF MAILING

I, Clerk of the Superior Court of the State of California, do hereby certify that I am not a party to the within action or proceeding; that on the date below-indicated, I served a copy of the foregoing **Notice of default** by depositing said copy enclosed in a sealed envelope with postage thereon fully prepaid in the United States Post Office in City of Riverside California, addressed as follows:

CHATTEN-BROWN & CARSTENS
2601 OCEAN PARK BLVD
SUITE 205
SANTA MONICA, CA 90405

WESTON BENSHOOF ROCHEFORT
333 SO. HOPE ST
16TH FLOOR
LOS ANGELES, CA 90071

LEIBOLD MCCLEANDON & MANN
23422 MILL CREEK DR
SUITE 105
LAGUNA HILLS, CA 92653

BURKE WILLIAMS & SORENSEN
444 S. FLOWER ST
SUITE 2400
LOS ANGELES, CA 90071

LAW OFFICES OF ROBERT C. GOODMAN
311 CALIFORNIA ST
SAN FRANCISCO, CA 94104

CITY OF BANNING
99 E. RAMSEY ST
BANNING, CA 92220

DATE: June 20, 2008

By



DEPUTY CLERK

EXHIBIT "B"

Final Conditions of Approval



DEPARTMENT OF
PLANNING

Planning Department
(951)922-3125

FINAL CONDITIONS OF APPROVAL

PROJECT #: Resolution No. 06-19, Lot Split #04-4509/Tentative Tract Map 34001

SUBJECT: Black Bench

APPLICANT: Sun Cal Companies

LOCATION: North of Wilson Street, west of Bluff Street, between Sunset Avenue and Highland Springs Avenue

APPLICANT SHALL CONTACT THE PLANNING DIVISION, (951) 922-3125, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

A. General Planning Requirements

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.

Completion
Date

___/___/___

2. The Approval of Tentative Tract Map 34001 shall be for a period of two (2) years from the date of City Council Approval; the expiration date is October 24, 2008 . All Conditions of Approval must be met on or before the expiration date or the applicant must request an extension of time at least thirty (30) days prior to the expiration date; otherwise, the approval shall expire and become null and void. _ / _ / _
3. The development of the property shall provide for no more than 1453 lots as illustrated by Tentative Tract Map 34001. The design of all lots within the subdivision shall meet the minimum property development requirements as outlined in the "Black Bench Specific Plan". _ / _ / _
4. Prior to the issuance of any building permits, building elevations shall be submitted to the Planning Department for design review and approval, in accordance with the provisions and requirements of the Black Bench Specific Plan or if not provided in the Specific Plan, by the City's Municipal Code in effect at the time of the submittal. Submittal and approval of Design Review application and related materials is required prior to the issuance of building permits. _ / _ / _
5. A detailed landscape and irrigation plan shall be prepared by a licensed landscape architect and submitted to the Planning Department. Landscaping and irrigation shall be designed in accordance with the Black Bench Specific Plan. _ / _ / _
6. The issuance of these Conditions of Approval do not negate the requirements of the Engineering/Public Works Department or submittal, review, and approval of: Street improvement plans, signing and striping plans, grading plans, storm drain improvement plans, street lighting plans, water, sewer, and electrical improvement plans, or other plans as deemed necessary by the City Engineer. _ / _ / _
7. A copy of the signed Resolution of Approval or Community Development Director's letter of approval, and all Standard Conditions, shall be included in legible form on the grading plans, building and construction plans, and landscape and irrigation plans submitted for plan check. _ / _ / _
8. Occupancy of the facilities shall not commence until such time as all Uniform Building Code and State Fire Marshal regulations have been complied with. Prior to occupancy, plans shall be submitted to the City of Banning Fire Marshal and the Building and Safety Division to show compliance. The buildings shall be inspected for compliance prior to occupancy. _ / _ / _
9. Revised site plans, if any, and building elevations incorporating all Conditions of Approval shall be submitted for a review and approval in accordance with Design Review requirements prior to the issuance of building permits in accordance with the Specific Plan design guidelines and development standards and relevant Codes. _ / _ / _
10. All site, grading, landscape, irrigation, and street improvement plans shall be coordinated for consistency prior to issuance of any permits (such as grading, tree removal, encroachment, building, etc.) or approved use has commenced, whichever comes first. _ / _ / _
11. Prior to the issuance of a Certificate of Occupancy within TTM 34001, or any phased portion of TTM 34001, the applicant shall submit to the City for review and approval a detailed landscape and irrigation plan (in accordance with the Black Bench Specific Plan) indicating type, species and location of the minimum number of drought tolerant, multi-branched trees on each lot adjacent to the street right-of-way (all trees shall be planted with root barriers) _ / _ / _

EXHIBIT "C"

Ordinance No. 1353

ORDINANCE NO. 1353

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING SPECIFIC PLAN #04-209, TO ESTABLISH THE DEVELOPMENT STANDARDS AND GUIDELINES TO ALLOW THE DEVELOPMENT OF UP TO 1,500 RESIDENTIAL UNITS, A 13.1 ACRE SCHOOL SITE, 81.2 ACRES OF PARKS, AND 869 ACRES OF OPEN SPACE ON A 1,488 ACRE SITE GENERALLY LOCATED NORTH OF WILSON STREET, WEST OF BLUFF STREET, BETWEEN SUNSET AVENUE AND HIGHLAND SPRINGS AVENUE.

WHEREAS, an application for Specific Plan #04-209, to establish the development standards and guidelines for the development of up to 1,500 residential units, a 13.1 acre school site, 81.2 acres of parks, and 869 acres of open space on a 1,488 acre site, has been duly filed by:

Applicant / Owner:	SunCal Companies
Authorized Agent:	Rod Hanway
Project Location:	Generally located north of Wilson Street, west of Bluff Street, between Sunset Avenue and Highland Springs Avenue.
APN Numbers:	401-230-001 thru 011, 401-240-007 & 008, 401-250-005 & 006, 401-260-005 & 006, 531-200-001 thru 010, 531-210-004, 531-210-008 thru 012, 531-230-001 thru 007, 531-230-011 & 012, 531-240-007, 531-340-001 & 004.
Lot Area:	1,488 Acres

WHEREAS, the Municipal Code allows for the preparation of Specific Plans when land use amendments are proposed; and

WHEREAS, on the 29th day of September 2006, the City gave public notice by advertising in the Press Enterprise newspaper and property owners within 1200 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, at a public hearing on the 15th day of August 2006, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Specific Plan and at which time the Planning Commission considered the Specific Plan and approved Resolution No. 06-18 recommending approval of the Black Bench Specific Plan to the City Council; and

WHEREAS, on the 11th day of October 2006, , the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Specific Plan; the City Council continued consideration of the Specific Plan to October 24th 2006, and at which time the City Council considered the Specific Plan; and

WHEREAS, at this public hearing on the 11th day of October 2006, which was continued to the 24th day of October 2006, the City Council considered and heard public comments on the Specific Plan; and

WHEREAS, the City Council considered the Environmental Impact Report prepared for the proposed project and recommended its certification to the City Council.

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 Reports dated the 11th and 24th day of October 2006, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing on this matter, hereby finds and determines as follows:

1. CEQA: The approval of this Specific Plan is in compliance with the requirements of the California Environmental Quality Act ("CEQA"), in that an Environmental Impact Report was prepared reflecting its independent judgment and analysis and documenting the potential significant impacts associated with implementation of the proposal. 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). A portion of the project is located within the MSHCP criteria Cell #227 and has gone through the HANS process with the Riverside Conservation Authority. No development or disturbance of land will occur within the Cell and mitigation will also be made through the payment of the MSHCP mitigation fees.

SECTION 2. GENERAL PLAN CONSISTENCY

The City Council finds that the Specific Plan is consistent with the General Plan, as amended, insofar as the property is designated Specific Plan Area with an underlying Very Low Density land use designation (0-2 units/acre). The site is 1,488 acres and the applicant proposes to cluster 1,452 residential parcels, a density of less than one unit per acre. Further, this map will provide executive ("move-up") housing opportunities, which is consistent with Land Use Residential Goal 2 in that the project will provide "a broad range of housing types to fill the


needs of the City's current and future residents". Also, the Map will provide approximately 81.2 acres of parks and 869 acres of open space with a variety of passive and active recreational opportunities, which is consistent with Goal 1 of providing "a high quality public park system with adequate land and facilities to provide recreational facilities and activities for the City's residents."

SECTION 3. CITY COUNCIL ACTIONS.


The City Council hereby takes the following actions:

1. Approval of Specific Plan. The City Council hereby approves Specific Plan #04-209

PASSED, APPROVED AND ADOPTED this 14th day of November, 2006.



John Machisic, Mayor

APPROVED AS TO FORM AND
LEGAL CONTENT:



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

ATTEST:



Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1353 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 24th day of October, 2006, and was duly adopted at a regular meeting of said City Council on the 14th day of November, 2006, by the following vote, to wit:

AYES: Councilmembers Salas, Welch, Mayor Machisic

NOES: Councilmembers Hanna, Palmer

ABSENT: None

ABSTAIN: None



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

CITY COUNCIL MEETING

CONSENT ITEM

DATE: July 8, 2008

TO: City Council

FROM: Roger Ohms, Sr. Electrical Service Planner

SUBJECT: Accept the Grant of Easement Dedication from Pastor Richard S. Szydlowski of the Mountain Avenue Baptist Church, located on Parcel No. 1, Parcel Map No. 76-4 as per Map Recorded in book 27, Page 61 of Parcel Maps in the Office of the Riverside County Recorder, State of California.


RECOMMENDED: Accept the Grant of Easement Dedication from Pastor Richard S. Szydlowski of the Mountain Avenue Baptist Church, located on Parcel No.1 of Parcel Map No.76-4, as per map Recorded in book 27, page 61 of Parcel Maps in the Office of the Riverside County Recorder. The said easement is for electrical apparatus and cable as shown on attached Exhibits "A" and "B"; and direct the City Clerk to accept and record said easement.

JUSTIFICATION: It is essential that an easement be established in order for the City of Banning Electric Department to gain ingress and egress to maintain and repair the electrical facilities serving this property.

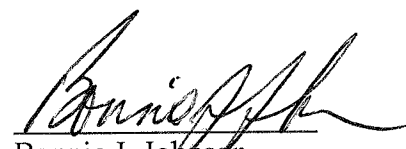
BACKGROUND: The Pastor has submitted the required Grant of Easement to the Electric Department as part of the conditions of the project on Mountain Avenue. It is essential that the City of Banning accept the easement, as shown on the attached Exhibits "A" and "B" in order for the City to properly maintain and repair the electrical facilities serving said property.

FISCAL DATA: Not applicable

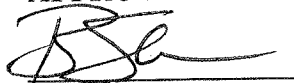
RECOMMENDED BY:


Jim Earhart,
Public Utility Director

REVIEWED BY:


Bonnie J. Johnson,
Finance Director
Assistant City Manager

APPROVED BY:


Brian Nakamura
City Manager

RECORDING REQUESTED BY:

CITY OF BANNING

WHEN RECORDED, MAIL THIS DEED AND,
REQUIRED UNLESS OTHERWISE SHOWN
BELOW, MAIL TAX STATEMENTS TO:

NAME: KAHONO OEI
P.O. BOX 998
BANNING, CA. 92220

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF EASEMENT

DOCUMENTARY TRANSFER TAX IS \$ _____
_____ Computed on full value of property conveyed, or
_____ Computed on full value less liens and
encumbrances remaining at time of sale
_____ Unincorporated Area X City of Banning

For a valuable consideration, receipt of which is hereby acknowledged,

MOUNTAIN AVENUE BAPTIST CHURCH

Hereby **GRANT(S)** to

CITY OF BANNING

An easement for **ELECTRIC LINES** and associated appurtenances within the area described in Exhibit "A" attached hereto and made a part hereof, which is depicted on Exhibit "B" attached hereto and made a part hereof. All such facilities will be located underground, except for the transformer and pedestal facilities.

By accepting this Deed, the City of Banning agrees that if it damages or disturbs the surface of the easement area as a result of its repair or maintenance of the facilities located in the easement area, that it will promptly restore the surface improvements to their condition immediately prior to such damage or disturbance.

Dated 5-9-08

MOUNTAIN AVENUE BAPTIST CHURCH

By: Richard S. Szyszlewski
Title: Pastor

Attach above or affix to this document a California All Purpose Acknowledgement:

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Riverside

On 09 May 2008 before me, N. Luce Notary Public
(Here insert name and title of the officer)

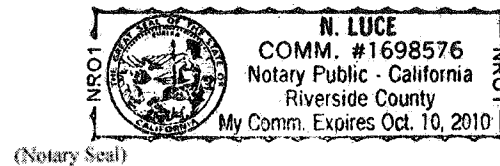
personally appeared Richard S. Szydlowski

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

EXHIBIT "A"
ELECTRIC EASEMENT IN THE CITY OF BANNING

THAT PORTION OF PARCEL NO. 1, PARCEL MAP NO. 76-4, AS PER MAP RECORDED IN BOOK 27, PAGE 61 OF PARCEL MAPS, IN THE OFFICE OF THE RIVERSIDE COUNTY RECORDER, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID PARCEL NO. 1 AS SHOWN ON SAID MAP, THENCE NORTH 00°37'15" WEST A DISTANCE OF 17.05 FEET TO THE POINT OF BEGINNING; SAID POINT BEING A POINT ON THE WEST LINE OF MOUNTAIN AVENUE; THENCE SOUTH 89°35'15" WEST A DISTANCE OF 346.94 FEET; THENCE NORTH 00°24'45" WEST A DISTANCE OF 213.69 FEET; THENCE SOUTH 89°35'15" WEST A DISTANCE OF 21.00 FEET; THENCE NORTH 00°24'45" WEST A DISTANCE OF 21.55 FEET; THENCE NORTH 89°11'41" EAST A DISTANCE OF 231.09 FEET; THENCE SOUTH 00°48'19" EAST A DISTANCE OF 10.00 FEET; THENCE SOUTH 89°11'41" WEST A DISTANCE OF 200.15 FEET; THENCE SOUTH 00°24'45" EAST A DISTANCE OF 215.45 FEET; THENCE NORTH 89°35'15" EAST A DISTANCE OF 336.92 FEET; THENCE SOUTH ALONG SAID WEST LINE 00°37'15" EAST A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

DESCRIPTION PREPARED BY:




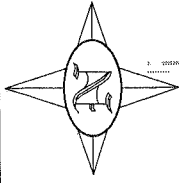
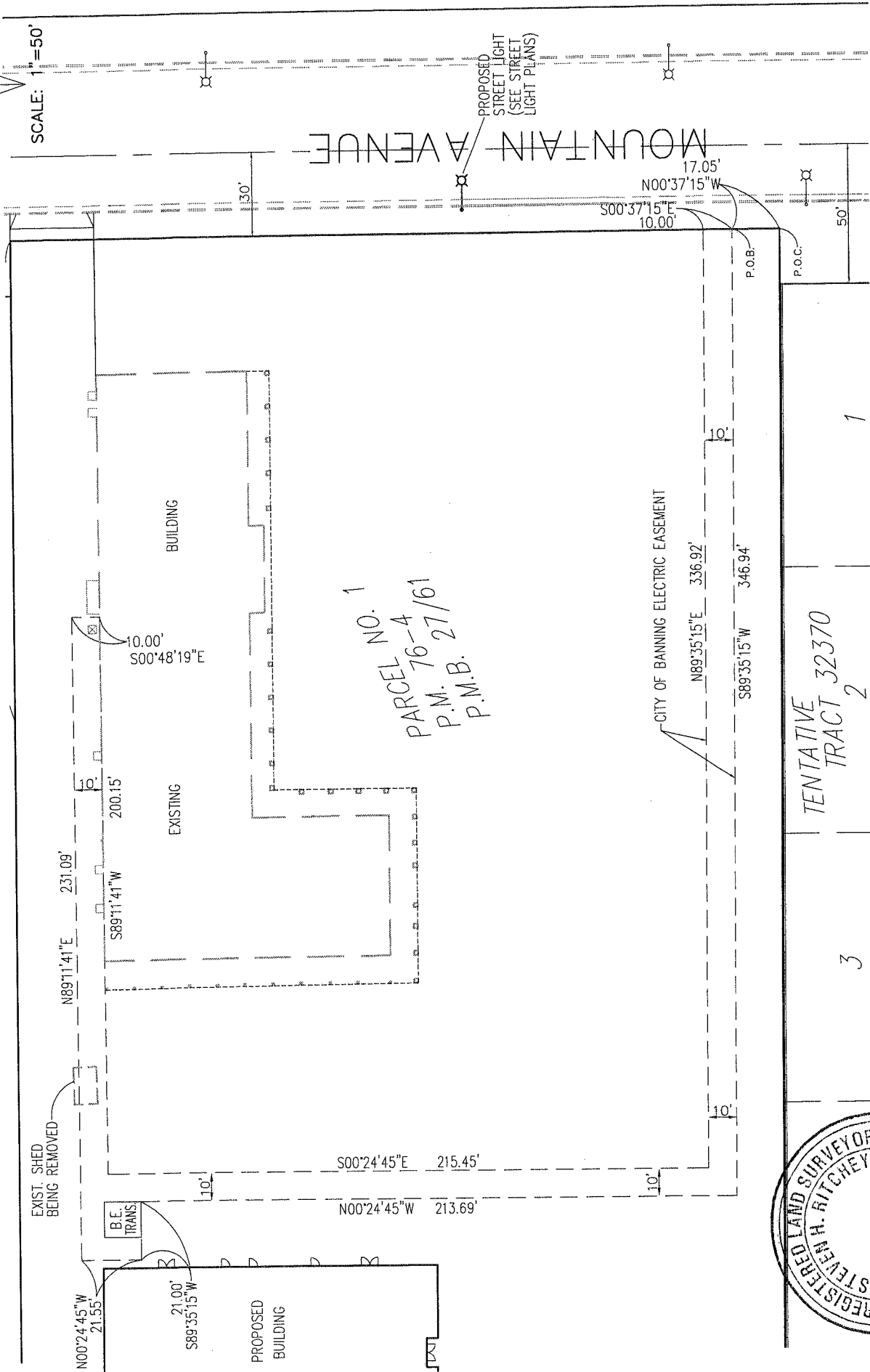

STEVEN H. RITCHEY, P.L.S. 7319

EXHIBIT "B"

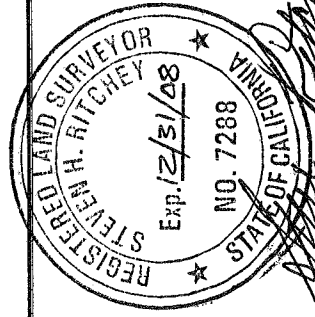
CITY OF BANNING ELECTRIC EASEMENT



SCALE: 1" = 50'



PARCEL NO. 1
76-4
P.M. 27/61
P.M.B.



TENTATIVE
TRACT 32370

3

1

Land Engineering Consultants, Inc.

P.O. BOX 541, 650 AVENUE K, CALIMESA, CALIFORNIA 92320
PH: (909) 795-8882, FAX: (909) 795-8818

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: July 8, 2008

TO: City Council

FROM: Bonnie J. Johnson, Finance Director

SUBJECT: Report of Investments for September 2007 through May 2008

RECOMMENDATION: "The City Council receive and place these required monthly *Report of Investments* on file."

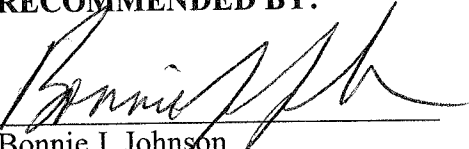
JUSTIFICATION: State law requires that a monthly report of investments be submitted to the Chief Executive Officer and the Legislative Body.

BACKGROUND: The attached reports include investments on hand at the end of each month from September 30, 2007 through May 31, 2008. As of May 31, 2008, the City's operating funds totaled \$74,010,172. Included in operating funds is \$6,497,358 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of May 31, 2008 approximately 35% of the City's unrestricted cash balances were invested in investments other than LAIF.


Due to Finance Department staffing levels, submission of these monthly reports has fallen behind. This action brings all reporting requirements current.

FISCAL DATA: The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) decreased to 3.072 % in May. The average rate for all investments was 3.377%.

RECOMMENDED BY:


Bonnie J. Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

Summary Schedule of Cash and Investments**Operating Funds**Petty CashAmount

2,275

Bank Accounts

	Interest Rate	Amount
Wells Fargo Bank	0.000%	141,827
Wells Fargo Bank-Investment Account	0.625%	788,022
Bank of America-Airport	0.300%	4,630
Bank of America-Parking Citations	0.300%	3,453
Bank of America-CNG Station	0.300%	<u>3,770</u>

Money Market and Bank Account Sub-Total 941,702

Government Pools

Local Agency Investment Fund: Account #1 3.072% 39,868,620

Account #2 Operating Amount 1,833,795

Account #2 CRA Bond Cash Bal 6,497,358

Local Agency Investment Fund: Account #2 3.072% 8,331,153

Government Pool Sub-Total 48,199,773

Operating Cash Balance**49,143,750**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 4.840% 774,431

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 4.099% 24,091,991

Operating Funds Total**74,010,172****Fiscal Agent**

BNY Western Trust Company
US Bank

Amount

539,042

100,360,195**Fiscal Agent Total****100,899,237****Deferred Compensation**

City Employee Trust Accounts

4,135,438**Deferred Compensation Total****4,135,438**

City of Banning Investment Report

Operational Portfolio Individual Investments

May 31, 2008

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
141,827	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	141,827	n/a	141,827
788,022	Wells Fargo Bank-Investment Acct	n/a	0.63%	daily	varies	788,022	n/a	788,022
4,630	Bank of America-Airport	n/a	0.30%	daily	varies	4,630	n/a	4,630
3,453	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,453	n/a	3,453
3,770	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,770	n/a	3,770
Sub-total								941,702
<u>Government Pools</u>								
39,868,620	L.A.I.F. account #1	n/a	3.072%	daily	varies	39,868,620	n/a	39,868,620
8,331,153	L.A.I.F. account #2	n/a	3.072%	daily	varies	8,331,153	n/a	8,331,153
								48,199,773
<u>Investments-US Bank/Piper Jaffray</u>								
925,000	Fedl Home Loan Bank	n/a	5.000%	2/13/2009	12/14/2006	924,873	127	940,031
1,000,000	Fedl Natl Mtg Assn	n/a	5.100%	9/10/2009	9/14/2007	1,003,001	0	1,005,310
6,000,000	Fedl Natl Mtg Assn	n/a	4.500%	12/24/2009	12/24/2007	6,000,000	0	5,915,640
5,000,000	Fedl Home Loan Bank-Disc Note	n/a	3.250%	7/16/2008	1/16/2008	4,919,111	80889	4,987,000
2,000,000	Fedl Home Loan Bank	n/a	3.100%	10/29/2010	4/29/2008	2,000,000	0	1,986,880
9,257,130	Money Market	n/a	4.280%	daily	varies	9,257,130	0	9,257,130
US Bank/Piper Jaffray Average Rate=								24,091,991
Average Rate All=								3.377%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 14, 2007. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 85 days and does not include Bond Reserve Fund Investments

City of Banning Investment Report

Individual Investments with Fiscal Agent

TRUSTEE		Bond Maturity Date	Investment Description	Current Yield	Bond Reserve	Minimum Reserve Requirement	Interest May-08	5/31/2008 Market Value
BNY WESTERN TRUST COMPANY								
1997 Admin Building COPs Refunding		2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 1.750%	11/1/2020 daily	522,375	0.00 * 81.08	522,562 16,480
US BANK								
1991 Wilson St. Assessment District		2012	AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	1.769% 3.620%	daily daily	330,620	526.06 0.05	332,536 32
2005 Fair Oaks Ranch Estates		2035	First Amer Treas Oblig Fd CL D	1.820%	daily	190,323	280.10	216,172
2003 CRA Tax Allocation Bonds		2028	Forward Delivery Agreement - B of A First Amer Treas Oblig Fd CL D	4.330% 1.820%	daily daily	971,763	0.00 * 29.35	972,763 22,647
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007								
Redevelop Fund		2037	First Amer Treas Oblig Fd CL D	1.820%	daily		0.00	627,841
Redevelop Fund			MBIA Inc GIC	5.140%	daily		813.52	21,881,889
Cost of Issuance Fund			First Amer Treas Oblig Fd CL D	1.820%	daily		9.87	7,619
Reserve Fund			First Amer Treas Oblig Fd CL D	1.690%	daily		0.00	118
Reserve Fund			MBIA Inc GIC	5.140%	daily	1,880,751	0.15	1,880,751
Capital Interest Fund			First Amer Treas Oblig Fd CL D	1.820%	daily		0.00	109,851
Capital Interest Fund			MBIA Inc GIC	5.140%	daily		142.34	568,753
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	2.140%	daily		140.00	140
Principal Account			First Amer Treas Oblig Fd CL D	1.820%	daily		1.13	122,502
Project Fund		12/1/2008	Transamerica Occidental Life Ins Co C/O Aegon Institutional Markets Inc	4.240%			14,749.21	3,969,568
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	1.790%	daily		611.24	613
Interest Account			First Amer Treas Oblig Fd CL D	1.580%	daily		0.00	0
Principal Account			First Amer Treas Oblig Fd CL D	1.820%	daily		2.91	320,005
Reserve Fund			First Amer Treas Oblig Fd CL D	1.820%	daily		1,632.83	2,312,343
Project Fund			First Amer Treas Oblig Fd CL D	1.870%	daily		0.87	697
Project Fund		6/15/2008	F H L M C MTN-US Treas/Agency Obli	3.875%	daily		0.00 *	3,101,953
Project Fund		7/25/2008	F N M A MTN	4.000%	daily		0.00	5,010,950
		5/7/2009	Federal Home Loan Banks	2.780%	daily		0.00	1,178,159
Project Fund		12/1/2008	Transamerica Occidental Life Ins Co Investment Agreement #MN01748N	4.536%	daily		70,330.46	19,461,120

City of Banning Investment Report

May 31, 2000

BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES

Bond Fund	First Amer Treas Oblig Fd CL D	1.820%	daily	0.00	23,010
	6/1/2008 AIGMFC GIC	5.225%		29.82	1,210,046
Reserve Fund	First Amer Treas Oblig Fd CL D	1.820%	daily	0.00	64
	6/1/2013 AIGMFC GIC	5.300%		0.08	2,961,500
Acquisition & Construction	First Amer Treas Oblig Fd CL D	1.820%	daily	0.00	0
	12/1/2010 AIGMFC GIC	5.225%		1.08	34,066,553
Total				89,382.15	100,899,237

*Paid Semi-Annually-Deposited into Money Mkt Account

Deferred Compensation

ICMA Retirement Corporation CALPERS 457 Program NATION WIDE-PEBSO	Balance	5/31/2008	
	918,589	Various Employee Selected Mutual Funds	varies
	2,256,132	Various Employee Selected Mutual Funds	varies
	960,717	Various Employee Selected Mutual Funds	varies
		<u>4,135,438</u>	

Summary Schedule of Cash and Investments**Operating Funds**Petty CashAmount

2,275

Bank Accounts

	Interest Rate	Amount
Wells Fargo Bank	0.000%	64,632
Wells Fargo Bank-Investment Account	0.625%	794,479
Bank of America-Airport	0.300%	6,728
Bank of America-Parking Citations	0.300%	4,187
Bank of America-CNG Station	0.300%	<u>3,337</u>

Money Market and Bank Account Sub-Total 873,363

Government Pools

Local Agency Investment Fund: Account #1 3.400% 39,868,620

Account #2 Operating Amount 0

Account #2 CRA Bond Cash Bal 6,581,153

Local Agency Investment Fund: Account #2 3.400% 6,581,153

Government Pool Sub-Total 46,449,773

Operating Cash Balance **47,325,411**

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 4.840% 745,032

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 4.120% 24,046,446

Operating Funds Total 72,116,889

Fiscal Agent

BNY Western Trust Company

US Bank

Amount

651,251

101,263,032

Fiscal Agent Total 101,914,283

Deferred Compensation

City Employee Trust Accounts

3,981,716

Deferred Compensation Total 3,981,716

City of Banning Investment Report Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
64,632	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	64,632	n/a	64,632
794,479	Wells Fargo Bank-Investment Acct	n/a	0.63%	daily	varies	794,479	n/a	794,479
6,728	Bank of America-Airport	n/a	0.30%	daily	varies	6,728	n/a	6,728
4,187	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,187	n/a	4,187
3,337	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,337	n/a	3,337
Sub-total								873,363
<u>Government Pools</u>								
39,868,620	L.A.I.F. account #1	n/a	3.400%	daily	varies	39,868,620	n/a	39,868,620
6,581,153	L.A.I.F. account #2	n/a	3.400%	daily	varies	6,581,153	n/a	6,581,153
								46,449,773
<u>Investments-US Bank/Piper/Jaffray</u>								
2,000,000	Fedl Home Loan Mtg Corp NotesB/E	n/a	3.500%	5/19/2008	6/8/2005	1,981,000	19,000	2,001,100
925,000	Fedl Home Loan Bank	n/a	5.000%	2/13/2009	12/14/2006	924,873	127	941,770
2,000,000	Fedl Home Loan Bank	n/a	5.250%	5/29/2009	5/29/2007	2,000,000	0	2,003,760
1,000,000	Fedl Natl Mtg Assn	n/a	5.100%	9/10/2009	9/14/2007	1,003,001	0	1,007,810
6,000,000	Fedl Natl Mtg Assn	n/a	4.500%	12/24/2009	12/24/2007	6,000,000	0	5,941,860
5,000,000	Fedl Home Loan Bank-Disc Note	n/a	3.260%	7/16/2008	1/16/2008	4,919,111	80889	4,979,500
2,000,000	Fedl Home Loan Bank	n/a	3.100%	10/29/2010	4/29/2008	2,000,000	0	2,006,260
5,164,386	Money Market	n/a	4.280%	daily	varies	5,164,386	0	5,164,386
US Bank/Piper/Jaffray Average Rate=								24,046,446
Average Rate All=								3.607%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 14, 2007. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 105 days and does not include Bond Reserve Fund Investments

City of Banning Investment Report

Individual Investments with Fiscal Agent

Individual Investments with a Maturity Date of 4/30/2008								
Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Bond Reserve	Minimum Reserve Requirement	Interest Apr-08	Market Value
BNY WESTERN TRUST COMPANY								
1997 Admin Building COPs Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 1.510%	11/1/2020 daily		522,375	0.00 * 16.74	522,562 128,689
US BANK								
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	1.928% 1.580%	daily daily		330,620	526.06 3.28	332,536 27
2005 Fair Oaks Ranch Estates	2035	First Amer Treas Oblig Fd CL D	1.580%	daily		190,323	242.57	215,892
2003 CRA Tax Allocation Bonds	2028	Forward Delivery Agreement - B of A First Amer Treas Oblig Fd CL D	4.330% 1.580%	daily daily		971,763	0.00 * 24.76	976,393 22,617
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007								
Redevelop Fund	2037	First Amer Treas Oblig Fd CL D	1.580%	daily			0.00	627,028
Redevelop Fund		MBIA Inc GIC	5.140%	daily			686.22	21,881,889
Cost of Issuance Fund		First Amer Treas Oblig Fd CL D	1.580%	daily			8.33	7,609
Reserve Fund		First Amer Treas Oblig Fd CL D	1.580%	daily			0.00	118
Reserve Fund		MBIA Inc GIC	5.140%	daily		1,880,751	8.88	1,880,751
Capital Interest Fund		First Amer Treas Oblig Fd CL D	1.580%	daily			0.00	109,709
Capital Interest Fund		MBIA Inc GIC	5.140%	daily			111.32	568,753
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund		First Amer Treas Oblig Fd CL D	1.580%	daily			0.45	263,672
Principal Account		First Amer Treas Oblig Fd CL D	1.610%	daily			0.95	868
Project Fund	12/1/2008	Transamerica Occidental Life Ins Co C/O Aegon Institutional Markets Inc	4.240%				17,323.04	3,954,819
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund		First Amer Treas Oblig Fd CL D	1.580%	daily			1.86	1,151,669
Interest Account		First Amer Treas Oblig Fd CL D	1.580%	daily			0.00	0
Principal Account		First Amer Treas Oblig Fd CL D	1.580%	daily			2.45	2,241
Reserve Fund		First Amer Treas Oblig Fd CL D	1.580%	daily			0.00	2,310,710
Project Fund		First Amer Treas Oblig Fd CL D	1.580%	daily			695.74	696
Project Fund	6/15/2008	F H L M C MTN-US Treas/Agency Obli	3.875%	daily			0.00 *	3,105,828
Project Fund	7/25/2008	F N M A MTN	4.000%	daily			0.00	5,018,750
	5/7/2009	Federal Home Loan Banks	2.780%	daily			0.00	1,178,525
Project Fund	12/1/2008	Transamerica Occidental Life Ins Co Investment Agreement #MN01748N	4.536%	daily			80,650.85	19,390,789

City of Banning Investment Report

IFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES

	First Amer Treas Oblig Fd CL D	1.580%	daily	0.00	22,980
Bond Fund	6/1/2008 AIGMFC GIC	5.225%		25.15	1,210,046
	First Amer Treas Oblig Fd CL D	1.570%	daily	0.00	64
Reserve Fund	6/1/2013 AIGMFC GIC	5.300%		0.07	2,961,500
	First Amer Treas Oblig Fd CL D	1.580%	daily	0.00	0
Acquisition & Construction	12/1/2010 AIGMFC GIC	5.225%		2.00	34,066,553
				Total	100,330.72
					101,914,283

*Paid Semi-Annually-Deposited into Money Mkt Account

Deferred Compensation

	Balance	
	<u>4/30/2008</u>	<u>4/30/2008</u>
ICMA Retirement Corporation	901,665	901,665
CALPERS 457 Program	2,129,062	2,129,062
NATION WIDE-PEBSO	950,989	950,989
		<u>3,981,716</u>

Summary Schedule of Cash and Investments**Operating Funds**Petty Cash

Amount

2,275

Bank Accounts

	Interest Rate	Amount
Wells Fargo Bank	0.000%	20,113
Wells Fargo Bank-Investment Account	0.800%	632,802
Bank of America-Airport	0.300%	14,671
Bank of America-Parking Citations	0.300%	4,926
Bank of America-CNG Station	0.300%	4,537

Money Market and Bank Account Sub-Total 677,049

Government Pools

Local Agency Investment Fund: Account #1 3.777% 39,855,430

Account #2 Operating Amount 8,426,842

Account #2 CRA Bond Cash Bal 6,749,215

Local Agency Investment Fund: Account #2 3.777% 15,176,057

Government Pool Sub-Total 55,031,487

Operating Cash Balance**55,710,811**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 4.840% 521,453

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 4.163% 24,081,044

Operating Funds Total**80,313,308****Fiscal Agent**

Amount

BNY Western Trust Company

539,878

US Bank

100,658,040

Fiscal Agent Total**101,197,918****Deferred Compensation**

City Employee Trust Accounts

3,817,590

Deferred Compensation Total**3,817,590**

City of Banning Investment Report

Operational Portfolio Individual Investments

March 31, 2008

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
20,113	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	20,113	n/a	20,113
632,802	Wells Fargo Bank-Investment Acct	n/a	0.80%	daily	varies	632,802	n/a	632,802
14,671	Bank of America-Airport	n/a	0.30%	daily	varies	14,671	n/a	14,671
4,926	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,926	n/a	4,926
4,537	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,537	n/a	4,537
Sub-total								677,049
<u>Government Pools</u>								
39,855,430	L.A.I.F. account #1	n/a	3.777%	daily	varies	39,855,430	n/a	39,855,430
15,176,057	L.A.I.F. account #2	n/a	3.777%	daily	varies	15,176,057	n/a	15,176,057
								55,031,487
<u>Investments-US Bank/Piper Jaffray</u>								
2,000,000	Fedl Home Loan Mtg Corp NotesB/E	n/a	3.500%	5/19/2008	6/8/2005	1,981,000	19,000	2,002,820
925,000	Fedl Home Loan Bank	n/a	5.000%	2/13/2009	12/14/2006	924,873	127	946,395
2,000,000	Fedl Home Loan Bank	n/a	5.250%	5/29/2009	5/29/2007	2,000,000	0	2,010,000
1,000,000	Fedl Natl Mtg Assn	n/a	5.100%	9/10/2009	9/14/2007	1,003,001	0	1,011,250
6,000,000	Fedl Natl Mtg Assn	n/a	4.500%	12/24/2009	12/24/2007	6,000,000	0	5,996,280
2,000,000	Federal Farm Credit Banks	n/a	3.625%	1/29/2008	7/29/2009	2,000,000	0	2,002,500
5,000,000	Fedl Home Loan Bank-Disc Note	n/a	3.260%	7/16/2008	1/16/2008	4,919,111	80889	4,970,000
5,141,799	Money Market	n/a	4.280%	daily	varies	5,141,799	0	5,141,799
US Bank/Piper Jaffray Average Rate=								24,081,044
Average Rate All=								3.868%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 14, 2007. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 90 days and does not include Bond Reserve Fund Investments

City of Banning Investment Report

Individual Investments with Fiscal Agent

3/31/2008	
Bond Maturity Date	Market Value
Bond Issue Description	Interest Mar-08
TRUSTEE	Minimum Reserve Requirement
BNY WESTERN TRUST COMPANY	Bond Maturity Date
1997 Admin Building COPs Refunding	Current Yield
	Investment Description
	Bond
	Investment Agreement
	Federated U.S. Treasury Money Mkt
	6.270%
	0.100%
	11/1/2020
	daily
	522,375
	0.00 *
	26.19
	522,562
	17,316
</	

City of Banning Investment Report

BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES

Bond Fund	First Amer Treas Oblig Fd CL D	1.590%	daily	0.00	22,955
	6/1/2008 AIGMFC GIC	5.225%		31.72	1,210,046
Reserve Fund	First Amer Treas Oblig Fd CL D	1.570%	daily	0.00	64
	6/1/2013 AIGMFC GIC	5.300%		0.11	2,961,500
Acquisition & Construction	First Amer Treas Oblig Fd CL D	1.590%	daily	0.00	1,823
	12/1/2010 AIGMFC GIC	5.225%		3.03	37,267,765
Cost of Issuance	First Amer Treas Oblig Fd CL D	1.590%	daily	6.40	0
Total				92,734.65	101,197,918

*Paid Semi-Annually-Deposited into Money Mkt Account

Deferred Compensation

	Balance 1/1/2008	1/1/08 to 3/31/08 Quarterly Activity			3/31/2008
		Contributions	Withdrawals	Gain/Loss	
ICMA Retirement Corporation	952,058	30,484	(60,323)	(66,138)	856,081
CALPERS 457 Program	2,007,687	165,623	(22,592)	(119,143)	2,031,575
NATION WIDE-PEBSO	973,687	3,582	(9,001)	(38,334)	929,934
					<u>3,817,590</u>

Summary Schedule of Cash and Investments

Operating FundsPetty Cash

Amount

2,275

Bank Accounts

	Interest Rate	Amount
Wells Fargo Bank	0.000%	426,330
Wells Fargo Bank-Investment Account	1.563%	867,348
Bank of America-Airport	0.300%	4,055
Bank of America-Parking Citations	0.300%	3,135
Bank of America-CNG Station	0.300%	3,395

Money Market and Bank Account Sub-Total 1,304,263

Government Pools

Local Agency Investment Fund: Account #1 4.161% 39,855,430

Account #2 Operating Amount 8,232,762

Account #2 CRA Bond Cash Bal 6,793,295

Local Agency Investment Fund: Account #2 4.161% 15,026,057

Government Pool Sub-Total 54,881,487

Operating Cash Balance

56,188,025

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 4.840% 957,712

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 4.165% 23,991,348

Operating Funds Total

81,137,085

Fiscal Agent

BNY Western Trust Company
US Bank

Amount

539,852

102,804,023

Fiscal Agent Total

103,343,875

Deferred Compensation

City Employee Trust Accounts

3,858,229

Deferred Compensation Total

3,858,229

City of Banning Investment Report

Operational Portfolio Individual Investments

February 29, 2008

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
426,330	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	426,330	n/a	426,330
867,348	Wells Fargo Bank-Investment Acct	n/a	1.56%	daily	varies	867,348	n/a	867,348
4,055	Bank of America-Airport	n/a	0.30%	daily	varies	4,055	n/a	4,055
3,135	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,135	n/a	3,135
3,395	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,395	n/a	3,395
Sub-total								
								1,304,263
<u>Government Pools</u>								
39,855,430	L.A.I.F. account #1	n/a	4.161%	daily	varies	39,855,430	n/a	39,855,430
15,026,057	L.A.I.F. account #2	n/a	4.161%	daily	varies	15,026,057	n/a	15,026,057
Sub-total								
								54,881,487
<u>Investments-US Bank/Piper Jaffray</u>								
2,000,000	Fedl Home Loan Mtg Corp NotesB/E	n/a	3.500%	5/19/2008	6/8/2005	1,981,000	19,000	2,002,940
925,000	Fedl Home Loan Bank	n/a	5.000%	2/13/2009	12/14/2006	924,873	127	947,838
2,000,000	Fedl Home Loan Bank	n/a	5.250%	5/29/2009	5/29/2007	2,000,000	0	2,013,760
1,000,000	Fedl Natl Mtg Assn	n/a	5.100%	9/10/2009	9/14/2007	1,003,001	0	1,012,500
6,000,000	Fedl Natl Mtg Assn	n/a	4.500%	12/24/2009	12/24/2007	6,000,000	0	6,007,500
2,000,000	Federal Farm Credit Banks	n/a	3.625%	1/29/2008	7/29/2009	2,000,000	0	2,003,760
5,000,000	Fedl Home Loan Bank-Disc Note	n/a	3.270%	7/16/2008	1/16/2008	4,919,111	80889	4,956,000
5,047,050	Money Market	n/a	4.280%	daily	varies	5,047,050	0	5,047,050
US Bank/Piper Jaffray Average Rate=								
			4.165%					23,991,348

Average Rate All= 4.111%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 14, 2007. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 97 days and does not include Bond Reserve Fund Investments

City of Banning Investment Report

Individual Investments with Fiscal Agent

TRUSTEE		Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Feb-08	2/29/2008 Market Value
BNY WESTERN TRUST COMPANY		2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 2.420%	11/1/2020 daily	522,375	0.00 * 37.96	522,562 17,290
US BANK		2012	AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	2.572% 1.420%	daily daily	330,620	687.79 32.74	331,484 45,687
2005 Fair Oaks Ranch Estates		2035	First Amer Treas Oblig Fd CL D	1.420%	daily	190,323	456.40	303,289
2003 CRA Tax Allocation Bonds		2028	Forward Delivery Agreement - B of A First Amer Treas Oblig Fd CL D	4.330% 1.420%	daily daily	971,763	0.00 * 529.09	980,478 22,555
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007								
Redevelop Fund		2037	First Amer Treas Oblig Fd CL D	1.420%	daily		0.00	625,301
Redevelop Fund			MBIA Inc GIC	5.140%	daily		624,810.76	21,881,889
Cost of Issuance Fund			First Amer Treas Oblig Fd CL D	1.420%	daily		17.85	7,588
Reserve Fund			First Amer Treas Oblig Fd CL D	1.420%	daily		0.00	65,744
Reserve Fund			MBIA Inc GIC	5.140%	daily	1,880,751	48,376.25	1,880,751
Capital Interest Fund			First Amer Treas Oblig Fd CL D	1.420%	daily		0.00	43,781
Capital Interest Fund			MBIA Inc GIC	5.140%	daily		30,622.97	568,753
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	1.450%	daily		0.97	414
Principal Account			First Amer Treas Oblig Fd CL D	1.390%	daily		2.03	865
Project Fund		12/1/2008	Transamerica Occidental Life Ins Co C/O Aegon Institutional Markets Inc	4.240%			16,871.64	4,580,680
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	1.420%	daily		3.98	1,694
Interest Account			First Amer Treas Oblig Fd CL D	1.420%	daily		0.00	0
Principal Account			First Amer Treas Oblig Fd CL D	1.420%	daily		5.29	2,235
Project Fund			First Amer Treas Oblig Fd CL D	1.420%	daily		36.55	751,484
Project Fund		6/15/2008	F H L M C MTN-US Treas/Agency Obli	3.875%	daily		0.00 *	3,109,703
		7/25/2008	F N M A MTN	4.000%	daily		0.00	5,023,450
		5/7/2009	Federal Home Loan Banks	2.780%	daily		18,122.63	1,182,218
Project Fund		12/1/2008	Transamerica Occidental Life Ins Co Investment Agreement #MN01748N	4.536%	daily		78,527.10	19,929,868

City of Banning Investment Report

IFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES

Bond Fund	First Amer Treas Oblig Fd CL D	1.420%	daily	0.00	22,917
	6/1/2008 AIGMFC GIC	5.225%		27.87	1,210,046
Reserve Fund	First Amer Treas Oblig Fd CL D	1.570%	daily	0.00	64
	6/1/2013 AIGMFC GIC	5.300%		0.15	2,961,500
Acquisition & Construction	First Amer Treas Oblig Fd CL D	1.430%	daily	0.00	1,820
	12/1/2010 AIGMFC GIC	5.225%		4.06	37,267,765
Cost of Issuance	First Amer Treas Oblig Fd CL D	1.420%	daily	26.02	0
Total				819,200.10	103,343,875

*Paid Semi-Annually-Deposited into Money Mkt Account

Deferred Compensation

ICMA Retirement Corporation CALPERS 457 Program NATION WIDE-PEBSO	Balance	
	2/29/2008	
	913,926	varies
	2,008,197	varies
	936,106	varies
	<u>3,858,229</u>	

Summary Schedule of Cash and Investments

Operating FundsPetty Cash

Amount

2,275

Bank Accounts

Interest

Rate

Amount

Wells Fargo Bank

0.000% 1,550,716

Wells Fargo Bank-Investment Account

1.600% 1,032,570

Bank of America-Airport

0.300% 8,914

Bank of America-Parking Citations

0.300% 4,174

Bank of America-CNG Station

0.300% 4,180

Money Market and Bank Account Sub-Total

2,600,554

Government Pools

Local Agency Investment Fund: Account #1

4.620% 39,365,868

Account #2 Operating Amount 9,407,629

Account #2 CRA Bond Cash Bal 7,018,428

Local Agency Investment Fund: Account #2

4.620% 16,426,057

Government Pool Sub-Total

55,791,925

Operating Cash Balance

58,394,754

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

4.840%

1,335,968

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

4.167%

23,951,835

Operating Funds Total

83,682,557

Fiscal Agent

Amount

BNY Western Trust Company

539,814

US Bank

102,757,020

Fiscal Agent Total

103,296,834

Deferred Compensation

City Employee Trust Accounts

3,865,019

Deferred Compensation Total

3,865,019

City of Banning Investment Report

Operational Portfolio Individual Investments

January 31, 2008

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
1,550,716	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	1,550,716	n/a	1,550,716
1,032,570	Wells Fargo Bank-Investment Acct	n/a	1.60%	daily	varies	1,032,570	n/a	1,032,570
8,914	Bank of America-Airport	n/a	0.30%	daily	varies	8,914	n/a	8,914
4,174	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,174	n/a	4,174
4,180	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,180	n/a	4,180
Sub-total								
								2,600,554
<u>Government Pools</u>								
39,365,868	L.A.I.F. account #1	n/a	4.620%	daily	varies	39,365,868	n/a	39,365,868
16,426,057	L.A.I.F. account #2	n/a	4.620%	daily	varies	16,426,057	n/a	16,426,057
Sub-total								
								55,791,925
<u>Investments-US Bank/Piper Jaffray</u>								
2,000,000	Fedl Home Loan Mtg Corp NotesB/E	n/a	3.500%	5/19/2008	6/8/2005	1,981,000	19,000	2,003,620
925,000	Fedl Home Loan Bank	n/a	5.000%	2/13/2009	12/14/2006	924,873	127	947,256
2,000,000	Fedl Home Loan Bank	n/a	5.250%	5/29/2009	5/29/2007	2,000,000	0	2,016,880
1,000,000	Fedl Natl Mtg Assn	n/a	5.100%	9/10/2009	9/14/2007	1,003,001	0	1,013,130
6,000,000	Fedl Natl Mtg Assn	n/a	4.500%	12/24/2009	12/24/2007	6,000,000	0	6,016,860
2,000,000	Federal Farm Credit Banks	n/a	3.625%	1/29/2008	7/29/2009	2,000,000	0	2,005,000
5,000,000	Fedl Home Loan Bank-Disc Note	n/a	3.280%	7/16/2008	1/16/2008	4,919,111	80889	4,943,000
5,006,089	Money Market	n/a	4.280%	daily	varies	5,006,089	0	5,006,089
US Bank/Piper Jaffray Average Rate=								
			4.167%					23,951,835

Average Rate All= 4.363%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 14, 2007. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 101 days and does not include Bond Reserve Fund Investments

City of Banning Investment Report

Individual Investments with Fiscal Agent

		Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Jan-08	1/31/2008 Market Value
Bond Issue Description								
TRUSTEE								
BNY WESTERN TRUST COMPANY								
1997 Admin Building COPs Refunding		2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 3.130%	11/1/2020 daily	522,375	0.00 * 45.75	522,562 17,252
US BANK								
1991 Wilson St. Assessment District		2012	AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	3.248% 1.750%	daily daily	330,620	934.60 0.39	339,062 13,887
2005 Fair Oaks Ranch Estates		2035	First Amer Treas Oblig Fd CL D	1.750%	daily	190,323	543.72	193,594
2003 CRA Tax Allocation Bonds		2028	Forward Delivery Agreement - B of A First Amer Treas Oblig Fd CL D	4.330% 1.750%	daily daily	971,763	21,142.22 * 62.84	0 1,283,649
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007								
Redevelop Fund		2037	First Amer Treas Oblig Fd CL D	1.830%	daily		0.00	491
Redevelop Fund			MBIA Inc GIC	5.140%	daily		490.50	21,881,889
Cost of Issuance Fund			First Amer Treas Oblig Fd CL D	1.740%	daily		21.26	7,570
Reserve Fund			First Amer Treas Oblig Fd CL D	1.750%	daily		0.00	17,367
Reserve Fund			MBIA Inc GIC	5.140%	daily	1,880,751	48.78	1,880,751
Capital Interest Fund			First Amer Treas Oblig Fd CL D	1.750%	daily		0.00	13,158
Capital Interest Fund			MBIA Inc GIC	5.140%	daily		36.96	1,190,348
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	1.690%	daily		1.16	413
Principal Account			First Amer Treas Oblig Fd CL D	1.740%	daily		2.42	863
Project Fund		12/1/2008	Transamerica Occidental Life Ins Co C/O Aegon Institutional Markets Inc	4.240%			19,084.66	4,563,808
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	1.750%	daily		4.75	1,690
Interest Account			First Amer Treas Oblig Fd CL D	1.750%	daily		0.00	0
Principal Account			First Amer Treas Oblig Fd CL D	1.750%	daily		6.26	2,230
Project Fund			First Amer Treas Oblig Fd CL D	1.750%	daily		519.09	100,519
Project Fund		6/15/2008	F H L M C MTN-US Treas/Agency Obli	3.875%	daily		0.00 *	3,111,625
		7/25/2008	F N M A MTN	4.000%	daily		100,000.00	5,028,150
		5/7/2009	Federal Home Loan Banks	4.625%	daily		0.00	1,810,561
Project Fund		12/1/2008	Transamerica Occidental Life Ins Co Investment Agreement #MN01748N	4.536%	daily		87,674.17	19,851,341

100% A - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES

BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES				
Bond Fund	First Amer Treas Oblig Fd CL D	1.750%	daily	11,827
	6/1/2008 AIGMFC GIC	5.225%		1,210,046
Reserve Fund	First Amer Treas Oblig Fd CL D	1.570%	daily	64
	6/1/2013 AIGMFC GIC	5.300%		2,961,500
Acquisition & Construction	First Amer Treas Oblig Fd CL D	1.760%	daily	1,816
	12/1/2010 AIGMFC GIC	5.225%		37,267,765
Cost of Issuance	First Amer Treas Oblig Fd CL D	1.750%	daily	11,036
Total				103,296,834

***Paid Semi-Annually-Deposited into Money Mkt Account**

Deferred Compensation

	Balance	
	<u>1/31/2008</u>	<u>1/31/2008</u>
ICMA Retirement Corporation	920,008	920,008
CALPERS 457 Program	1,999,842	1,999,842
NATION WIDE-PEBS CO	945,169	945,169
		<u>3,865,019</u>

Summary Schedule of Cash and Investments

Operating Funds

Amount

Petty Cash

2,275

Bank Accounts

Interest

Rate Amount

Wells Fargo Bank

0.000% 329,916

Wells Fargo Bank-Investment Account

1.125% 3,020,625

Bank of America-Airport

0.300% 9,449

Bank of America-Parking Citations

0.300% 4,128

Bank of America-CNG Station

0.300% 5,500

Money Market and Bank Account Sub-Total 3,369,618

Government Pools

Local Agency Investment Fund: Account #1 4.801% 39,365,868

Account #2 Operating Amount 6,351,460

Account #2 CRA Bond Cash Bal 7,009,368

Local Agency Investment Fund: Account #2 4.801% 13,360,828

Government Pool Sub-Total 52,726,696

Operating Cash Balance

56,098,589

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 4.840% 1,063,441

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 4.491% 23,791,487

Operating Funds Total

80,953,517

Fiscal Agent

Amount

BNY Western Trust Company

539,768

US Bank

102,196,074

Fiscal Agent Total

102,735,842

Deferred Compensation

City Employee Trust Accounts

3,933,432

Deferred Compensation Total

3,933,432

December 31, 2007

City of Banning Investment Report

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
329,916	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	329,916	n/a	329,916
3,020,625	Wells Fargo Bank-Investment Acct	n/a	1.13%	daily	varies	3,020,625	n/a	3,020,625
9,449	Bank of America-Airport	n/a	0.30%	daily	varies	9,449	n/a	9,449
4,128	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,128	n/a	4,128
5,500	Bank of America-Parking Citations	n/a	0.30%	daily	varies	5,500	n/a	5,500
Sub-total								
								3,369,618
<u>Government Pools</u>								
39,365,868	L.A.I.F. account #1	n/a	4.801%	daily	varies	39,365,868	n/a	39,365,868
13,360,828	L.A.I.F. account #2	n/a	4.801%	daily	varies	13,360,828	n/a	13,360,828
Sub-total								
								52,726,696
<u>Investments-US Bank/Piper Jaffray</u>								
2,000,000	Fedl Home Loan Mtg Corp NotesB/E	n/a	3.500%	5/19/2008	6/8/2005	1,981,000	19,000	1,990,500
925,000	Fedl Home Loan Bank	n/a	5.000%	2/13/2009	12/14/2006	924,873	127	935,693
2,000,000	Fedl Home Loan Bank	n/a	5.150%	1/16/2009	1/16/2007	2,000,000	0	2,000,620
2,000,000	Fedl Home Loan Bank	n/a	5.250%	5/29/2009	5/29/2007	2,000,000	0	2,011,260
1,000,000	Fedl Natl Mtg Assn	n/a	5.100%	9/10/2009	9/14/2007	1,003,001	0	1,006,250
6,000,000	Fedl Natl Mtg Assn	n/a	4.500%	12/24/2009	12/24/2007	6,000,000	0	5,998,200
Sub-total								
								9,848,964
9,848,964	Money Market	n/a	4.280%	daily	varies	9,848,964	0	9,848,964
Sub-total								
								23,791,487
<u>US Bank/Piper Jaffray Average Rate=</u>								
			4.491%					

Average Rate All= 4.549%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 14, 2007. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 93 days and does not include Bond Reserve Fund Investments

City of Banning Investment Report

Individual Investments with Fiscal Agent

BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND		BOND			
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City of Banning Investment Report

December 31, 2007

BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES

Bond Fund	First Amer Treas Oblig Fd CL D	3.200%	daily	0.00	11,675
	6/1/2008 AIGMFC GIC	5.225%		42,128.73	1,210,046
Reserve Fund	First Amer Treas Oblig Fd CL D	3.660%	daily	0.00	55
	6/1/2013 AIGMFC GIC	5.300%		62,853.68	2,961,500
Acquisition & Construction Cost of Issuance	First Amer Treas Oblig Fd CL D	0.000%	daily	0.00	0
	12/1/2010 AIGMFC GIC	5.225%		849,803.75	37,267,765
	First Amer Treas Oblig Fd CL D	3.200%	daily	212.85	11,005

Total 1,346,621.77 102,735,842

*Paid Semi-Annually-Deposited into Money Mkt Account

Deferred Compensation

	Balance 10/1/2007	10/1/07 to 12/31/07 Quarterly Activity			12/31/2007
		Contributions	Withdrawals	Gain/Loss	
ICMA Retirement Corporation	938,882	varies	(2,100)	(22,490)	952,058
CALPERS 457 Program	1,982,481	varies	(52,656)	(29,795)	2,007,687
NATION WIDE-PEBSO	1,006,011	varies	(40,299)	4,652	973,687
					<u>3,933,432</u>

Summary Schedule of Cash and Investments

Operating Funds

Amount

Petty Cash

2,275

Bank Accounts

Interest

Rate

Amount

Wells Fargo Bank

0.000% 287,504

Wells Fargo Bank-Investment Account

2.656% 762,729

Bank of America-Airport

0.300% 3,980

Bank of America-Parking Citations

0.300% 3,082

Bank of America-CNG Station

0.300% 3,523

Money Market and Bank Account Sub-Total

1,060,818

Government Pools

Local Agency Investment Fund: Account #1

4.962% 39,365,868

Account #2 Operating Amount

0

Account #2 CRA Bond Cash Bal

6,610,828

Local Agency Investment Fund: Account #2

4.962% 6,610,828

Government Pool Sub-Total

45,976,696

Operating Cash Balance

47,039,789

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

4.840%

1,571,311

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

4.985%

23,486,860

Operating Funds Total

72,097,960

Fiscal Agent

Amount

BNY Western Trust Company

539,720

US Bank

113,111,615

Fiscal Agent Total

113,651,335

Deferred Compensation

City Employee Trust Accounts

3,925,369

Deferred Compensation Total

3,925,369

City of Banning Investment Report

Operational Portfolio Individual Investments

November 30, 2007

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
287,504	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	287,504	n/a	287,504
762,729	Wells Fargo Bank-Investment Acct	n/a	2.66%	daily	varies	762,729	n/a	762,729
3,980	Bank of America-Airport	n/a	0.30%	daily	varies	3,980	n/a	3,980
3,082	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,082	n/a	3,082
3,523	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,523	n/a	3,523
Sub-total								1,060,818
<u>Government Pools</u>								
39,365,868	L.A.I.F. account #1	n/a	4.962%	daily	varies	39,365,868	n/a	39,365,868
6,610,828	L.A.I.F. account #2	n/a	4.962%	daily	varies	6,610,828	n/a	6,610,828
								45,976,696
<u>Investments-US Bank/Piper Jaffray</u>								
2,000,000	Fedl Home Loan Mtg Corp NotesB/E	n/a	3.500%	5/19/2008	6/8/2005	1,981,000	19,000	1,991,740
1,000,000	Fedl Home Loan Bank Bond B/E	5.340%	5.340%	12/8/2008	3/16/2006	1,000,000	0	1,000,310
925,000	Fedl Home Loan Bank	n/a	5.000%	2/13/2009	12/14/2006	924,873	127	936,276
2,000,000	Fedl Home Loan Bank	n/a	5.150%	1/16/2009	1/16/2007	2,000,000	0	2,002,500
2,000,000	Fedl Home Loan Bank	n/a	5.250%	5/29/2009	5/29/2007	2,000,000	0	2,012,500
11,000,000	Fedl Home Loan Bank	n/a	5.350%	12/12/2008	6/18/2007	11,000,000	0	11,003,410
1,000,000	Fedl Natl Mtg Assn	n/a	5.100%	9/10/2009	9/14/2007	1,003,001	0	1,005,940
3,534,184	Money Market	n/a	4.280%	daily	varies	3,534,184	0	3,534,184
US Bank/Piper Jaffray Average Rate=								23,486,860

Average Rate All= 4.924%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 14, 2007. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 111 days and does not include Bond Reserve Fund Investments

City of Banning Investment Report

Individual Investments with Fiscal Agent

TRUSTEE		Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Nov-07	11/30/2007 Market Value
BNY WESTERN TRUST COMPANY								
1997 Admin Building COPs Refunding		2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 3.790%	11/1/2020 daily	522,375	0.00 * 57.21	522,562 17,158
US BANK								
1991 Wilson St. Assessment District		2012	AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	4.017% 2.510%	daily daily	330,620	1,109.05 48.19	337,008 13,807
2005 Fair Oaks Ranch Estates		2035	First Amer Treas Oblig Fd CL D	2.510%	daily	190,323	671.92	192,482
2003 CRA Tax Allocation Bonds		2028	Forward Delivery Agreement - B of A First Amer Treas Oblig Fd CL D	4.330% 2.510%	daily daily	971,763	0.00 * 77.65	972,825 22,243
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007								
Redevelop Fund		2037	First Amer Treas Oblig Fd CL D	2.510%	daily		0.00	228,983
Redevelop Fund			MBIA Inc GIC	5.140%	daily		799.34	24,940,342
Cost of Issuance Fund			First Amer Treas Oblig Fd CL D	2.510%	daily		26.27	7,527
Reserve Fund			First Amer Treas Oblig Fd CL D	2.510%	daily		0.00	17,268
Reserve Fund			MBIA Inc GIC	5.140%	daily	1,880,751	60.28	1,880,751
Capital Interest Fund			First Amer Treas Oblig Fd CL D	2.510%	daily		0.00	13,083
Capital Interest Fund			MBIA Inc GIC	5.140%	daily		45.67	1,190,348
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	2.510%	daily		410.01	411
Interest Account			First Amer Treas Oblig Fd CL D	2.510%	daily		0.01	0
Principal Account			First Amer Treas Oblig Fd CL D	2.510%	daily		428.98	858
Project Fund		12/1/2008	Transamerica Occidental Life Ins Co C/O Aegon Institutional Markets Inc	4.240%			15,995.13	5,045,909
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	2.510%	daily		1,675.30	1,681
Interest Account			First Amer Treas Oblig Fd CL D	2.510%	daily		0.05	0
Principal Account			First Amer Treas Oblig Fd CL D	2.510%	daily		1,108.20	2,217
Project Fund			First Amer Treas Oblig Fd CL D	2.510%	daily		15,785.85	189,450
Project Fund		6/15/2008	F H L M C MTN-US Treas/Agency Obli	3.875%	daily		0.00 *	3,089,336
		7/25/2008	F N M A MTN	4.000%	daily			4,987,500
		5/7/2009	Federal Home Loan Banks	4.625%	daily			1,812,263
Project Fund		12/1/2008	Transamerica Occidental Life Ins Co Investment Agreement #MN01748N	4.536%	daily		73,446.65	21,662,702

City of Banning Investment Report

NOVEMBER 30, 2007

BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES

Bond Fund	First Amer Treas Oblig Fd CL D	2.510%	daily	0.00	865,842
	6/1/2008 AIGMFC GIC	5.225%		18.94	1,210,046
Reserve Fund	First Amer Treas Oblig Fd CL D	2.510%	daily	0.00	62,827
	6/1/2013 AIGMFC GIC	5.300%		27.56	2,961,500
Acquisition & Construction	First Amer Treas Oblig Fd CL D	2.510%	daily	0.00	849,433
Cost of Issuance	12/1/2010 AIGMFC GIC	5.225%		377.29	40,542,000
	First Amer Treas Oblig Fd CL D	2.510%	daily	38.77	10,973
*Paid Semi-Annually-Deposited into Money Mkt Account				Total	112,208.32
					113,651,335

Deferred Compensation

ICMA Retirement Corporation	Balance	11/30/2007
CALPERS 457 Program	904,845	904,845
NATION WIDE-PEBSO	1,997,373	1,997,373
	1,023,151	1,023,151
		<u>3,925,369</u>

Summary Schedule of Cash and Investments**Operating Funds**Petty Cash

Amount

2,275

Bank Accounts

Interest

Rate

Amount

Wells Fargo Bank

0.000% 88,455

Wells Fargo Bank-Investment Account

2.875% 419,274

Bank of America-Airport

0.300% 3,607

Bank of America-Parking Citations

0.300% 3,171

Bank of America-CNG Station

0.300% 3,614

Money Market and Bank Account Sub-Total

518,121

Government Pools

Local Agency Investment Fund: Account #1

5.137% 39,365,868

Account #2 Operating Amount 1,419,907

Account #2 CRA Bond Cash Bal 7,940,921

Local Agency Investment Fund: Account #2

5.137% 9,360,828

Government Pool Sub-Total

48,726,696

Operating Cash Balance

49,247,092

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

4.840%

863,465

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

5.081%

23,351,806

Operating Funds Total

73,462,363

Fiscal Agent

Amount

BNY Western Trust Company

907,385

US Bank

87,563,361

Fiscal Agent Total

88,470,746

Deferred Compensation

City Employee Trust Accounts

3,990,625

Deferred Compensation Total

3,990,625

City of Banning Investment Report

Operational Portfolio Individual Investments

October 31, 2007

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
88,455	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	88,455	n/a	88,455
419,274	Wells Fargo Bank-Investment Acct	n/a	2.88%	daily	varies	419,274	n/a	419,274
3,607	Bank of America-Airport	n/a	0.30%	daily	varies	3,607	n/a	3,607
3,171	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,171	n/a	3,171
3,614	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,614	n/a	3,614
Sub-total								518,121
<u>Government Pools</u>								
39,365,868	L.A.I.F. account #1	n/a	5.137%	daily	varies	39,365,868	n/a	39,365,868
9,360,828	L.A.I.F. account #2	n/a	5.137%	daily	varies	9,360,828	n/a	9,360,828
								48,726,696
<u>Investments-US Bank/Piper Jaffray</u>								
2,000,000	Fedl Home Loan Mtg Corp NotesB/E	n/a	3.500%	5/19/2008	6/8/2005	1,981,000	19,000	1,987,840
1,000,000	Fedl Home Loan Bank Bond B/E	5.340%	5.340%	12/8/2008	3/16/2006	1,000,000	0	1,000,940
925,000	Fedl Home Loan Bank	n/a	5.000%	2/13/2009	12/14/2006	924,873	127	931,364
3,000,000	Fedl Natl Mtg Assn	n/a	5.000%	2/8/2008	12/22/2006	2,999,580	420	3,000,000
2,000,000	Fedl Home Loan Bank	n/a	5.150%	1/16/2009	1/16/2007	2,000,000	0	2,002,500
2,000,000	Fedl Home Loan Bank	n/a	5.250%	5/29/2009	5/29/2007	2,000,000	0	2,008,760
11,000,000	Fedl Home Loan Bank	n/a	5.350%	12/12/2008	6/18/2007	11,000,000	0	11,010,340
1,000,000	Fedl Natl Mtg Assn	n/a	5.100%	9/10/2009	9/14/2007	1,003,001	0	1,002,190
407,872	Money Market	n/a	4.280%	daily	varies	407,872	0	407,872
US Bank/Piper Jaffray Average Rate=								23,351,806

US Bank/Piper Jaffray Average Rate=

Average Rate All= 5.099%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 14, 2007. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 120 days and does not include Bond Reserve Fund Investments

City of Banning Investment Report

October 31, 2007

Individual Investments with Fiscal Agent

BOND		BOND	CURRENT	BOND	MINIMUM	INTEREST	10/31/2007
Maturity		Investment Description	Yield	Maturity Date	Reserve Requirement	Oct-07	Market Value
Date							
TRUSTEE							
BNY WESTERN TRUST COMPANY							
1997 Admin Building COPs Refunding		Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 4.200%	11/1/2020 daily	522,375	0.00 * 57.21	522,562 384,823
US BANK							
1991 Wilson St. Assessment District		AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	4.422% 4.260%	daily daily	330,620	1,256.92 145.28	335,899 13,759
2005 Fair Oaks Ranch Estates		First Amer Treas Oblig Fd CL D	4.260%	daily	190,323	707.33	191,810
2003 CPA Tax Allocation Bonds		Forward Delivery Agreement - B of A First Amer Treas Oblig Fd CL D	4.330% 4.260%	daily daily	971,763	0.00 * 77.69	971,757 22,165
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund		First Amer Treas Oblig Fd CL D	4.260%	daily		0.00	228,184
Redevelop Fund		MBIA Inc GIC	5.140%	daily		799.85	227,384
Cost of Issuance Fund		First Amer Treas Oblig Fd CL D	4.260%	daily		27.03	7,501
Reserve Fund		First Amer Treas Oblig Fd CL D	4.260%	daily		0.00	17,207
Reserve Fund		MBIA Inc GIC	5.140%	daily	1,880,751	60.32	17,147
Capital Interest Fund		First Amer Treas Oblig Fd CL D	4.260%	daily		0.00	13,037
Capital Interest Fund		MBIA Inc GIC	5.140%	daily		45.68	12,991
							1,190,348
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		First Amer Treas Oblig Fd CL D	4.260%	daily		0.92	263,907
Interest Account		First Amer Treas Oblig Fd CL D	4.260%	daily		0.01	3
Principal Account		First Amer Treas Oblig Fd CL D	4.260%	daily		429.21	122,458
Project Fund		Transamerica Occidental Life Ins Co	4.240%			19,473.91	5,029,914
		C/O Aegon Institutional Markets Inc	Investment Agreement #MN01749N				
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		First Amer Treas Oblig Fd CL D	4.240%	daily		5.35	1,149,506
Interest Account		First Amer Treas Oblig Fd CL D	4.240%	daily		0.05	13
Principal Account		First Amer Treas Oblig Fd CL D	4.240%	daily		1,108.79	316,352
Project Fund		First Amer Treas Oblig Fd CL D	4.240%	daily		3.07	10,172,373
Project Fund		F H L M C DEB-US Treas/Agency Obli	4.555%			251,359.88 *	0
Project Fund		Transamerica Occidental Life Ins Co	4.536%			86,396.41	21,589,255
		Investment Agreement #MN01748N					

BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES

FA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES						
		First Amer Treas	Oblig Fd CL D	4.260%	daily	0.00
						5,403
Bond Fund	6/1/2008	AIGMFC GIC		5.225%		18.94
		First Amer Treas	Oblig Fd CL D	4.260%	daily	0.00
						7,863
Reserve Fund	6/1/2013	AIGMFC GIC		5.300%		27.56
		First Amer Treas	Oblig Fd CL D	4.260%	daily	0.00
						107,644
Acquisition & Construction	12/1/2010	AIGMFC GIC		5.225%		377.29
Cost of Issuance		First Amer Treas	Oblig Fd CL D	4.260%	daily	38.77
						10,935

***Paid Semi-Annually-Deposited into Money Mkt Account**

Deferred Compensation

	Balance	10/31/2007	10/31/2007
ICMA Retirement Corporation	962,600	Various Employee Selected Mutual Funds	varies
CALPERS 457 Program	2,036,203	Various Employee Selected Mutual Funds	varies
NATION WIDE-PEBS CO	991,822	Various Employee Selected Mutual Funds	varies
			<u>3,990,625</u>

Summary Schedule of Cash and Investments**Operating Funds**Petty CashAmount

2,275

Bank Accounts

	Interest Rate	Amount
Wells Fargo Bank	0.000%	106,218
Wells Fargo Bank-Investment Account	3.625%	777,578
Bank of America-Airport	0.300%	5,200
Bank of America-Parking Citations	0.300%	3,051
Bank of America-CNG Station	0.300%	3,874

Money Market and Bank Account Sub-Total 895,921

Government Pools

Local Agency Investment Fund: Account #1 5.231% 38,854,201

Account #2 Operating Amount 8,314,802

Account #2 CRA Bond Cash Bal 8,040,970

Local Agency Investment Fund: Account #2 5.231% 16,355,772

Government Pool Sub-Total 55,209,973

Operating Cash Balance **56,108,169**

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 4.840% 486,661

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 5.081% 23,355,809

Operating Funds Total 79,950,639

Fiscal Agent

BNY Western Trust Company

US Bank

Amount

539,531

112,372,031

Fiscal Agent Total 112,911,562

Deferred Compensation

City Employee Trust Accounts

3,927,374

Deferred Compensation Total 3,927,374

City of Banning Investment Report

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
106,218	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	106,218	n/a	106,218
777,578	Wells Fargo Bank-Investment Acct	n/a	3.63%	daily	varies	777,578	n/a	777,578
5,200	Bank of America-Airport	n/a	0.30%	daily	varies	5,200	n/a	5,200
3,051	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,051	n/a	3,051
3,874	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,874	n/a	3,874
Sub-total								895,921
<u>Government Pools</u>								
38,854,201	L.A.I.F. account #1	n/a	5.231%	daily	varies	38,854,201	n/a	38,854,201
16,355,772	L.A.I.F. account #2	n/a	5.231%	daily	varies	16,355,772	n/a	16,355,772
								55,209,973
<u>Investments-US Bank/Piper Jaffray</u>								
2,000,000	Fedl Home Loan Mtg Corp NotesB/E	n/a	3.500%	5/19/2008	6/8/2005	1,981,000	19,000	1,983,780
1,000,000	Fedl Home Loan Bank Bond B/E	5.340%	5.340%	12/8/2008	3/16/2006	1,000,000	0	1,001,560
925,000	Fedl Home Loan Bank	n/a	5.000%	2/13/2009	12/14/2006	924,873	127	931,364
3,000,000	Fedl Natl Mtg Assn	n/a	5.000%	2/8/2008	12/22/2006	2,999,580	420	3,000,000
2,000,000	Fedl Home Loan Bank	n/a	5.150%	1/16/2009	1/16/2007	2,000,000	0	2,003,760
2,000,000	Fedl Home Loan Bank	n/a	5.250%	5/29/2009	5/29/2007	2,000,000	0	2,009,380
11,000,000	Fedl Home Loan Bank	n/a	5.350%	12/12/2008	6/18/2007	11,000,000	0	11,017,160
1,000,000	Fedl Natl Mtg Assn	n/a	5.100%	9/10/2009	9/14/2007	1,003,001	0	1,002,190
406,615	Money Market	n/a	4.280%	daily	varies	406,615	0	406,615
US Bank/Piper Jaffray Average Rate=								23,355,809

Average Rate All= 5.164%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 14, 2007. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 118 days and does not include Bond Reserve Fund Investments

City of Banning Investment Report

September 30, 2007

Individual Investments with Fiscal Agent

TRUSTEE		Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Sep-07	9/30/2007 Market Value
BNY WESTERN TRUST COMPANY								
1997 Admin Building COPs Refunding		2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 4.220%	11/1/2020 daily	522,375	0.00 * 57.02	522,562 16,969
US BANK								
1991 Wilson St. Assessment District		2012	AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	4.302% 4.210%	daily daily	330,620	1,257.91 34.20	334,642 13,614
2005 Fair Oaks Ranch Estates		2035	First Amer Treas Oblig Fd CL D	4.210%	daily	190,323	780.41	191,103
2003 CRA Tax Allocation Bonds		2028	Forward Delivery Agreement - B of A First Amer Treas Oblig Fd CL D	4.330% 4.210%	daily daily	971,763	0.00 * 77.04	972,058 22,088
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007								
Redevelop Fund		2037	First Amer Treas Oblig Fd CL D	4.210%	daily		0.00	227,384
Redevelop Fund			MBIA Inc GIC	5.140%	daily		621.01	24,940,342
Cost of Issuance Fund			First Amer Treas Oblig Fd CL D	4.210%	daily		29.57	7,474
Reserve Fund			First Amer Treas Oblig Fd CL D	4.210%	daily		0.00	17,147
Reserve Fund			MBIA Inc GIC	5.140%	daily	1,880,751	46.83	1,880,751
Capital Interest Fund			First Amer Treas Oblig Fd CL D	4.210%	daily		0.00	12,991
Capital Interest Fund			MBIA Inc GIC	5.140%	daily		64.58	1,190,348
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	4.210%	daily		0.92	262
Interest Account			First Amer Treas Oblig Fd CL D	4.210%	daily		0.01	3
Principal Account			First Amer Treas Oblig Fd CL D	4.210%	daily		426.49	122,029
Project Fund		12/1/2008	Transamerica Occidental Life Ins Co C/O Aegon Institutional Markets Inc	4.240%			-	5,010,440
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	4.240%	daily		5.32	1,521
Interest Account			First Amer Treas Oblig Fd CL D	4.240%	daily		0.05	13
Principal Account			First Amer Treas Oblig Fd CL D	4.240%	daily		1,101.78	315,243
Project Fund			First Amer Treas Oblig Fd CL D	4.240%	daily		3.05	873
Project Fund		10/18/2007	F H L M C DEB-US Treas/Agency Obli	4.555%			0.00 *	9,941,917
Project Fund		12/1/2008	Transamerica Occidental Life Ins Co Investment Agreement #MN01748N	4.536%			78,274.47	21,499,859

City of Banning Investment Report

September 30, 2007

FA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES

Bond Fund	First Amer Treas Oblig Fd CL D	4.210%	daily	0.00	5,384
	6/1/2008 AIGMFC GIC	5.225%		18.15	2,035,046
Reserve Fund	First Amer Treas Oblig Fd CL D	4.210%	daily	0.00	7,836
	6/1/2013 AIGMFC GIC	5.300%		26.41	2,961,500
Acquisition & Construction Cost of Issuance	First Amer Treas Oblig Fd CL D	4.210%	daily	0.00	107,267
	12/1/2010 AIGMFC GIC	5.225%		361.52	40,542,000
	First Amer Treas Oblig Fd CL D	4.210%	daily	40.15	10,896

*Paid Semi-Annually-Deposited into Money Mkt Account

Total 83,226.89 112,911,562

Deferred Compensation

Balance	7/1/07 to 9/30/07 Quarterly Activity			9/30/2007
	7/1/2007	Contributions	Withdrawals Gain/Loss	
ICMA Retirement Corporation	905,200	22,552	(6,111)	938,882
CALPERS 457 Program	1,903,024	115,096	(52,398)	1,982,481
NATION WIDE-PEBS CO	1,024,727	3,959	(45,767)	1,006,011
				<u><u>3,927,374</u></u>

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: July 8, 2008

TO: City Council

FROM: Bonnie J. Johnson, Finance Director

SUBJECT: Recommendation to Adopt a Resolution of approving a Statement of Investment Policy

RECOMMENDATION: "The City Council adopt Resolution No. 2008-88, a Resolution of the City Council of the City of Banning Adopting a Statement of Investment."

JUSTIFICATION: City policy requires an annual review of the investment policy.

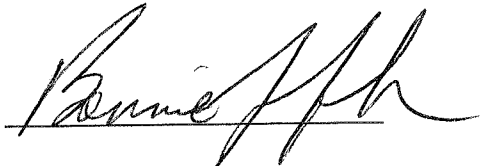
BACKGROUND/ANALYSIS: Our current policy focuses on safety, liquidity and availability, rather than on yield. Under the policy, a maximum of 40% of the City's investments may be placed in an investment other than the State of California's Local Agency Investment Fund (LAIF). These other investments cannot exceed a 36 month maturity.

Currently approximately 35 percent of the City's available operating money is invested in authorized securities. The balance is invested in LAIF. The LAIF rate has dropped from 5.24% percent to 3.072% percent from July 1, 2007 to the present. Our current average rate on investments outside of LAIF is 4.099%.

Staff is not recommending any changes to the policy at this time.

FISCAL DATA: No immediate fiscal impact is anticipated. The monthly Report of Investments will track any changes in investment income.

RECOMMENDED BY:



Bonnie J. Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

RESOLUTION NO. 2008-88

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING ADOPTING A STATEMENT OF INVESTMENT POLICY

WHEREAS, Under the laws of the State of California, it is the responsibility of the City Council to secure and protect the public funds of the City of Banning (hereinafter "City"), and to establish proper safeguards, controls, and procedures to maintain these funds in a lawful, rational and auspicious manner; and

WHEREAS, said maintenance shall include the prudent and secure investment of those funds that are not immediately needed to meet cash disbursements, in a manner anticipated to provide additional benefit to the electorate of the City of Banning;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BANNING as follows:

Section 1.

The following shall constitute the Statement of the Investment Policy of the City of Banning:

1. SCOPE

This Statement of Investment Policy pertains to those funds under the control of the City Council, designated for the ongoing operations of the City and the City's Redevelopment Agency; and concerns the deposit, maintenance, and safekeeping of all such funds, and the investments made with these funds. This Policy does not apply to pension moneys, deferred compensation funds, trustee, and certain other non-operating funds.

2. PURPOSE OF POLICY STATEMENT

The purpose of this Statement of Investment Policy is to provide the public and those involved in servicing the investment requirements of the City, and any other interested party, a clearer understanding of the Government Codes, regulations and internal guidelines that will be observed in maintaining and investing those funds not immediately needed to meet liabilities.

3. INVESTMENT OBJECTIVES

The underlying objective of the City Council is to protect the safety of the principal of the portfolio through the judicious purchase of those legal investments permitted to local agencies, as defined in the State of California Government Codes, consistent with current conditions and the other dominant objectives pursuant to managing a local agency portfolio, namely:

- A. **Safety:** The City Council takes as its primary responsibility to maintain the safe return of all principal placed in investments by avoiding decisions that might result in losses through either fraud, default, or adverse market conditions. Importance is also accorded to the protection of accrued interest earned on any investment instrument.
- B. **Liquidity:** The City Council accepts as an imperative that a majority (a minimum of 60%) of all investments be in items that are immediately negotiable, as the portfolio is a cash management fund. It shall be assumed that all investments shall remain sufficiently liquid in order to meet unexpected cash calls.
- C. **Availability:** Due to the nature of a public funds portfolio, the City Council finds that it is mandatory that moneys be available to meet the monetary requirements inherent to operating a public entity. Thus funds should be invested in such a manner that money will always be available without risk of trading loss to meet normal cash requirements. A vast majority of the moneys invested by the City Council should never require the realization of immoderate losses should an unforeseen cash demand require the sale of investments prior to maturity. A sufficient portion of all funds shall be invested in securities providing a high degree of availability, that is, in securities easily sold or converted to cash in a timely manner, with little or no loss of interest earnings.
- D. **Yield:** While it is considered desirable to obtain a respectable yield, yield shall not be the driving force in determining which investments are to be selected for purchase. Yield is to be given lesser weight in the investment decision than safety, liquidity, or availability.

The City Council shall undertake to place investments with the objective of obtaining a reasonable rate of return under prevailing market conditions. In pursuit of this goal, maximization of yield shall be of lesser concern than either safety of principal, liquidity of the investment, or availability of the invested funds. The City Council undertakes to be prudently cognizant of those factors within the marketplace that may be indicative of either favorable or hazardous conditions relative to the City's investments. The portfolio is to be managed under the strategy of minimal turnover in investments however, with sufficient activity to minimize losses due to adverse changes in market conditions.

4. PRUDENCE

The City Council recognizes that it is subject to the "Prudent Investor Standard" whenever making a decision regarding the investment of the City's funds. This rule states:

When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, general economic conditions and the anticipated needs of the agency, that a prudent person acting in like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency (Cal. Gov. Code §53600.3).

The City Council, and those acting under the auspices of the City Council, is deemed to have a fiduciary trustee relationship with the public for the public funds, and all investment decisions will be made in a manner sustaining this responsibility.

5. DELEGATION OF AUTHORITY

While the City Council has final responsibility for all investment decisions, other City personnel are required to aid in the day to day administration of those decisions. Those staff members currently authorized to act on behalf of the City Council are listed below. This list is subject to change. Parties involved in investment transactions with the City Council are deemed to be on notice of the contents of the most current copy of this Policy, and all pertinent authorizing documents, at the time of accepting written or verbal instructions from any staff member. The Councilpersons and deputized personnel listed below are designated to perform such approved investment related tasks as the City Council shall from time to time assign, to arrange any required notifications, and to execute the documents necessary to put into effect the decisions of and for the City Council:

Title

Mayor

Mayor Pro Tem

City Councilperson

City Councilperson

City Councilperson

Finance Director

City Manager

Other persons, both inside and outside City employment, may act in the role of assistant or advisor to those listed above, to aid in the timely and proper settlement of investment transactions. Such persons may not authorize, approve, or initiate any trading activities. **Only the persons listed above may initiate trading activity and only in a manner consistent with the instructions of the City Council.**

City Council directives to the City Manager and Finance Director are as follows:

- Make investments in accordance with this policy.
- Make phone calls to, or otherwise communicate with, LAIF or brokerage firm for investment purposes and to withdrawal and deposit funds as required to meet the City's cash flow requirements between meetings of the City Council.
- Make transaction withdrawals for cash flow requirements up to a maximum of limit of \$3,000,000 per single transaction without prior approval of the City Council.

6. SECURITIES CUSTODY

As required by the Government Code, the City Council shall establish a third party custody and safekeeping account to which all negotiable instruments shall be delivered upon purchase on a payment versus delivery basis. No negotiable, deliverable, securities or investments will be left in the custody of any brokerage firm or issuing party, including any collateral from Repurchase Agreements.

7. AUTHORIZED INVESTMENTS AND LIMITATIONS

The Government Code of the State of California, primarily within sections 53600 et. seq., sets out the legal authority for inclusion of certain types of investment vehicles in a California local agency's investment portfolio. Consistent with those sections, under no circumstances will the City Council purchase an investment that is not specifically authorized for a local agency under these, or other code sections that may apply, or might later be enacted, pertaining to local agency investments. It shall be a requirement of all investment professionals performing any transaction on behalf of the City that they possess a complete understanding of the acceptability of the subject investment under those code sections.

A "Table of Investments Permitted Local Agencies by the California Government Codes" is attached hereto, marked Attachment "A" and by this reference made a part hereof. Attachment "A" briefly describes the principal types of securities legal within the Government Code sections noted above, and outlines the various limitations included in these sections. From these permitted investments, the Council shall determine those investment types that best meet the needs and abilities of the City.

8. AUTHORIZED AND SUITABLE INVESTMENTS

It is hereby determined by the City Council that, due to the exceptional safety, liquidity and availability provided by the State of California's Local Agency Investment Fund (LAIF), a minimum of 60% of the City's operating moneys shall be placed in the LAIF, with the exception of certain bond proceeds and required deposits that pre-existing contractual obligations restrict to other investment types. Such exceptions shall comply with all appropriate Government Codes, ordinances and other restrictions inherent to the conditions requiring such exceptions.

It is hereby further determined by the City Council that not more than 40% of the City's operating moneys may be placed in the following types of securities:

- Securities issued or guaranteed by the U.S. Treasury or agencies of the United States Government
- Bank Certificates of Deposit
- Shares of savings certificates of savings and loan associations
- Mortgage backed securities

9. AUTHORIZED TERM OF INVESTMENTS

It is hereby determined that the maximum maturity period for any portion of invested operating moneys shall not exceed thirty-six (36) months. This shall not apply to certain bond proceeds or other non-operating moneys of the City.

10. AUTHORIZED DEALER LIST – CONFLICT OF INTEREST PROHIBITION

It is prohibited for a transaction to be entered into with any securities broker, dealer or bank investment department or subsidiary prior to that entity being designated an Authorized Dealer, and placed on the Authorized Dealer List. Authorized Dealers shall be selected on an as needed basis to meet specific needs of the City Council.

No member of the City Council, nor any other official or employee of the City, may accept any gift, honoraria, gratuity or service of value in violation of the regulations set forth by the Fair Political Practices Commission, the Government Code, additional limitations set forth by City ordinance, or internal requirements of the Treasurer and Finance Director. The City Council is prohibited from conducting any business with any broker, dealer, or securities firm that has made a political contribution to the City Treasurer or any member of the City Council, or any candidate for these offices, within the 48 month period immediately following the date of the political contribution, in an amount exceeding the limitation contained in Rule G-37 of the Municipal Securities Rulemaking Board. A copy of Rule G-37 is attached hereto and incorporated herein as Attachment "B."

11. REPORTING

The Finance Director, shall maintain investment records legally required or otherwise requested by the City Council and prepare a report for the Council on a monthly basis stating the holdings, status, and earnings of the portfolio. The Statement of Investment Policy will be provided at the start of each fiscal year annually for review and approval of the City Council. Should conditions arise, or legislation become effective that behooves consequential changes within the Policy during the year, the revised policy will again be addressed by the City Council.

Section 2.

This Statement of Investment Policy shall be reviewed annually and approved by the City Council in an open public meeting. Upon request, it will be provided to banks and brokers and to other effected persons or entities; and to any member of the electorate wishing to review this document. The City reserves the right to provide these documents on a cost recovery basis.

Section 3.

The Statement of Investment Policy was originally adopted under Resolution 2007-92, which expires by its terms on August 14, 2008.

Section 4.

The Statement of Investment Policy is hereby adopted.

PASSED, APPROVED AND ADOPTED this 8h day of July, 2008.

Brenda Salas, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Burke, Williams & Sorenson
City Attorney

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

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

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Table of Investments permitted Local Agencies by the California Government Codes

Investment Type	Max. % of Portfolio	Max. Maturity	Quality Requirements
a) Bonds issued by a local agency	None	None	None
b) Treasury obligations	None	None	None
c) State of California Obligations	None	None	None
d) Obligation of Calif. local agency	None	None	None
e) Obligations issued by Federal Agencies, and U.S. and Government sponsored enterprises.	None	None	None
f) Bankers Acceptances	40%	180 days	None 30% Max of any one commercial bank
g) Commercial Paper	15 or 25% depending on weighted average maturity	270 days max.	U.S. Corporations with \$500MM in assets
h) Negotiable C.D.s	30%	5 years	A or higher long term rating if any, 10% max. of issue, A1/P1 or better C.P. rating by Moody's and S&P.
i) Repurchase Agreements	None	1 year	None
Reverse Repurchase Agreements	20% of base	92 days maximum, or to maturity	Collateral must by a legal investment
j) Medium Term Note	30%	5 years	U.S. Corporations, or Banks licensed within any State of the U.S., "A" or better rating by major rating service.
k) Mutual Funds	20%, 10% per fund	NA	A defined money market fund; or invest only in a-j, m, n, of this list, as restricted; Highest letter and number ranking of 2 of 3 rating services; or a SEC Registered Advisor with 5 Yrs. experience, managing assets of \$500MM or more; No load. Not contrary to 53635 and other pertinent law.
l) Investments as permitted by provision in agreements of indebtedness	As per bond agreement	NA	
m) Asset secured indebtedness	None	None	As required by 53652
n) Collateralized Mortgage obligations	20%	5 years	Issuer must be rated "A" minimum, security must be "AA" by national rating service.
o) Contracted Non-neg. Time Deposits	None	None	None

These tables are not meant to be a replacement for the Government Code. Involved parties should obtain a valid, bona fide current copy of the pertinent Code sections to fully understand all the details included within these Codes.



Political Contributions and Prohibitions on Municipal Securities Business

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Rule G-37. (a) Purpose. The purpose and intent of this rule are to ensure that the high standards and integrity of the municipal securities industry are maintained, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to perfect a free and open market and to protect investors and the public interest by: (i) prohibiting brokers, dealers and municipal securities dealers from engaging in municipal securities business with issuers if certain political contributions have been made to officials of such issuers; and (ii) requiring brokers, dealers and municipal securities dealers to disclose certain political contributions, as well as other information, to allow public scrutiny of political contributions and the municipal securities business of a broker, dealer or municipal securities dealer.

(b)(i) No broker, dealer or municipal securities dealer shall engage in municipal securities business with an issuer within two years after any contribution to an official of such issuer made by: (A) the broker, dealer or municipal securities dealer; (B) any municipal finance professional associated with such broker, dealer or municipal securities dealer; or (C) any political action committee controlled by the broker, dealer or municipal securities dealer or by any municipal finance professional; provided, however, that this section shall not prohibit the broker, dealer or municipal securities dealer from engaging in municipal securities business with an issuer if the only contributions made by the persons and entities noted above to officials of such issuer within the previous two years were made by municipal finance professionals to officials of such issuer for whom the municipal finance professionals were entitled to vote and which contributions, in total, were not in excess of \$250 by any municipal finance professional to each official of such issuer, per election.

(ii) For an individual designated as a municipal finance professional solely pursuant to subparagraph (B) of paragraph (g)(iv) of this rule, the provisions of paragraph (b)(i) shall apply to contributions made by such individual to officials of an issuer prior to becoming a municipal finance professional only if such individual solicits municipal securities business from such issuer.

(iii) For an individual designated as a municipal finance professional solely pursuant to subparagraphs (C), (D) or (E) of paragraph (g)(iv) of this rule, the provisions of paragraph (b)(i) shall apply only to contributions made during the six months prior to the individual becoming a municipal finance professional.

(c) No broker, dealer or municipal securities dealer or any municipal finance professional of the broker, dealer or municipal securities dealer shall solicit any person or political action committee to make any contribution, or shall coordinate any contributions, to an

official of an issuer with which the broker, dealer or municipal securities dealer is engaging or is seeking to engage in municipal securities business.

(d) No broker, dealer or municipal securities dealer or any municipal finance professional shall, directly or indirectly, through or by any other person or means, do any act which would result in a violation of sections (b) or (c) of this rule.

(e)(i) Except as otherwise provided in paragraph (e)(ii), each broker, dealer or municipal securities dealer shall, by the last day of the month following the end of each calendar quarter (these dates correspond to January 31, April 30, July 31 and October 31) send to the Board Form G- 37/G-38 setting forth, in the prescribed format, the following information:

(A) for contributions to officials of issuers (other than a contribution made by a municipal finance professional or a non- MFP executive officer to an official of an issuer for whom such person is entitled to vote if all contributions by such person to such official of an issuer, in total, do not exceed \$250 per election) and payments to political parties of states and political subdivisions (other than a payment made by a municipal finance professional or a non- MFP executive officer to a political party of a state or a political subdivision in which such person is entitled to vote if all payments by such person to such political party, in total, do not exceed \$250 per year) made by the persons and entities described in subclause (2) of this clause (A):

(1) the name and title (including any city/county/state or political subdivision) of each official of an issuer and political party receiving contributions or payments during such calendar quarter, listed by state;

(2) the contribution or payment amount made and the contributor category of each of the following persons and entities making such contributions or payments during such calendar quarter:

(a) the broker, dealer or municipal securities dealer;

(b) each municipal finance professional;

(c) each non-MFP executive officer; and

(d) each political action committee controlled by the broker, dealer or municipal securities dealer or by any municipal finance professional;

(B) a list of issuers with which the broker, dealer or municipal securities dealer has engaged in municipal securities business during such calendar quarter, listed by state, along with the type of municipal securities business;

(C) any information required to be included on Form G- 37/G-38 for such calendar quarter pursuant to paragraph (e)(iii);

(D) any information required to be disclosed pursuant to section (e) of rule G-38;

(E) such other identifying information required by Form G- 37/G-38; and

(F) whether any contribution listed in this paragraph (e)(i) is the subject of

an automatic exemption pursuant to section (j) of this rule, and the date of such automatic exemption.

The Board shall make public a copy of each Form G- 37/G-38 received from any broker, dealer or municipal securities dealer.

(ii)(A) No broker, dealer or municipal securities dealer shall be required to send Form G-37/G-38 to the Board for any calendar quarter in which either:

(1) such broker, dealer or municipal securities dealer has no information that is required to be reported pursuant to clauses (A) through (D) of paragraph (e)(i) for such calendar quarter; or

(2) subject to clause (B) of this paragraph (e)(ii), such broker, dealer or municipal securities dealer has not engaged in municipal securities business, but only if such broker, dealer or municipal securities dealer:

(a) had not engaged in municipal securities business during the seven consecutive calendar quarters immediately preceding such calendar quarter; and

(b) has sent to the Board completed Form G-37x setting forth, in the prescribed format, (i) a certification to the effect that such broker, dealer or municipal securities dealer did not engage in municipal securities business during the eight consecutive calendar quarters immediately preceding the date of such certification, (ii) certain acknowledgments as are set forth in said Form G-37x regarding the obligations of such broker, dealer or municipal securities dealer in connection with Forms G-37/G-38 and G-37x under this paragraph (e)(ii) and rule G-8(a)(xvi), and (iii) such other identifying information required by Form G-37x; provided that, if a broker, dealer or municipal securities dealer has engaged in municipal securities business subsequent to the submission of Form G-37x to the Board, such broker, dealer or municipal securities dealer shall be required to submit a new Form G-37x to the Board in order to again qualify for an exemption under this subclause (A)(2). The Board shall make public a copy of each Form G-37x received from any broker, dealer or municipal securities dealer.

(B) If for any calendar quarter a broker, dealer or municipal

securities dealer has met the requirements of clause (A)(2) of this paragraph (e)(ii) but has information that is required to be reported pursuant to clause (D) of paragraph (e)(i), then such broker, dealer or municipal securities dealer shall be required to send Form G-37/G-38 to the Board for such quarter setting forth only such information as is required to be reported pursuant to clauses (D) and (E) of paragraph (e)(i).

(iii) If a broker, dealer or municipal securities dealer engages in municipal securities business during any calendar quarter after not having reported on Form G-37/G-38 the information described in clause (A) of paragraph (e)(i) for one or more contributions or payments made during the two-year period preceding such calendar quarter solely as a result of clause (A)(2) of paragraph (e)(ii), such broker, dealer or municipal securities dealer shall include on Form G-37/G-38 for such calendar quarter all such information (including year and calendar quarter of such contributions or payments) not so reported during such two-year period.

(iv) A broker, dealer or municipal securities dealer that submits Form G-37/G-38 or Form G-37x to the Board shall either:

(A) send two copies of such form to the Board by certified or registered mail, or some other equally prompt means that provides a record of sending; or

(B) submit an electronic version of such form to the Board in such format and manner specified in the current *Instructions for Form G-37/G-38 and Form G-37x*.

(f) The Board will accept additional information related to contributions made to officials of issuers and payments to political parties of states and political subdivisions voluntarily submitted by brokers, dealers or municipal securities dealers or others provided that such information is submitted in accordance with section (e) of this rule.

(g) Definitions. (i) The term "contribution" means any gift, subscription, loan, advance, or deposit of money or anything of value made: (A) for the purpose of influencing any election for federal, state or local office; (B) for payment of debt incurred in connection with any such election; or (C) for transition or inaugural expenses incurred by the successful candidate for state or local office.

(ii) The term "issuer" means the governmental issuer specified in section 3(a)(29) of the Act.

(iii) The term "broker, dealer or municipal securities dealer" used in this rule does not include its associated persons.

(iv) The term "municipal finance professional" means: (A) any associated person primarily engaged in municipal securities representative activities, as defined in rule G-3(a)(i), provided, however, that sales activities with natural persons shall not be considered to be municipal securities representative activities for purposes of this subparagraph (A); (B) any associated person who solicits municipal securities business, as defined in paragraph (vii); (C) any associated person who is both (i) a municipal securities principal or a municipal securities sales principal and (ii) a supervisor of any persons described in

subparagraphs (A) or (B); (D) any associated person who is a supervisor of any person described in subparagraph (C) up through and including, in the case of a broker, dealer or municipal securities dealer other than a bank dealer, the Chief Executive Officer or similarly situated official and, in the case of a bank dealer, the officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's municipal securities dealer activities, as required pursuant to rule G-1(a); or (E) any associated person who is a member of the broker, dealer or municipal securities dealer (or, in the case of a bank dealer, the separately identifiable department or division of the bank, as defined in rule G-1) executive or management committee or similarly situated officials, if any; provided, however, that, if the only associated persons meeting the definition of municipal finance professional are those described in this subparagraph (E), the broker, dealer or municipal securities dealer shall be deemed to have no municipal finance professionals.

Each person designated by the broker, dealer or municipal securities dealer as a municipal finance professional pursuant to rule G-8(a)(xvi) is deemed to be a municipal finance professional. Each person designated a municipal finance professional shall retain this designation for one year after the last activity or position which gave rise to the designation.

(v) The term "non-MFP executive officer" means an associated person in charge of a principal business unit, division or function or any other person who performs similar policy making functions for the broker, dealer or municipal securities dealer (or, in the case of a bank dealer, the separately identifiable department or division of the bank, as defined in rule G-1), but does not include any municipal finance professional, as defined in paragraph (iv) of this section (g); provided, however, that if no associated person of the broker, dealer or municipal securities dealer meets the definition of municipal finance professional, the broker, dealer or municipal securities dealer shall be deemed to have no non-MFP executive officers.

Each person listed by the broker, dealer or municipal securities dealer as a non-MFP executive officer pursuant to rule G-8(a)(xvi) is deemed to be a non-MFP executive officer.

(vi) The term "official of such issuer" or "official of an issuer" means any person (including any election committee for such person) who was, at the time of the contribution, an incumbent, candidate or successful candidate: (A) for elective office of the issuer which office is directly or indirectly responsible for, or can influence the outcome of, the hiring of a broker, dealer or municipal securities dealer for municipal securities business by the issuer; or (B) for any elective office of a state or of any political subdivision, which office has authority to appoint any person who is directly or indirectly responsible for, or can influence the outcome of, the hiring of a broker, dealer or municipal securities dealer for municipal securities business by an issuer.

(vii) The term "municipal securities business" means:

(A) the purchase of a primary offering (as defined in rule A-13(f)) of municipal securities from the issuer on other than a competitive bid basis (e.g., negotiated underwriting); or

(B) the offer or sale of a primary offering of municipal securities on behalf of any issuer (e.g., private placement); or

(C) the provision of financial advisory or consultant services to or on behalf of an issuer with respect to a primary offering of municipal securities in which the dealer was chosen to provide such services on other than a competitive bid basis; or

(D) the provision of remarketing agent services to or on behalf of an issuer with respect to a primary offering of municipal securities in which the dealer was chosen to provide such services on other than a competitive bid basis.

(viii) The term "payment" means any gift, subscription, loan, advance, or deposit of money or anything of value.

(h) The prohibition on engaging in municipal securities business, as described in section (b) of this rule, arises only from contributions made on or after April 25, 1994.

(i) A registered securities association with respect to a broker, dealer or municipal securities dealer who is a member of such association, or the appropriate regulatory agency as defined in Section 3(a)(34) of the Act with respect to any other broker, dealer or municipal securities dealer, upon application, may exempt, conditionally or unconditionally, a broker, dealer or municipal securities dealer who is prohibited from engaging in municipal securities business with an issuer pursuant to section (b) of this rule from such prohibition. In determining whether to grant such exemption, the registered securities association or appropriate regulatory agency shall consider, among other factors:

(i) whether such exemption is consistent with the public interest, the protection of investors and the purposes of this rule;

(ii) whether such broker, dealer or municipal securities dealer (A) prior to the time the contribution(s) which resulted in such prohibition was made, had developed and instituted procedures reasonably designed to ensure compliance with this rule; (B) prior to or at the time the contribution(s) which resulted in such prohibition was made, had no actual knowledge of the contribution(s); (C) has taken all available steps to cause the contributor involved in making the contribution(s) which resulted in such prohibition to obtain a return of the contribution(s); and

(D) has taken such other remedial or preventive measures, as may be appropriate under the circumstances, and the nature of such other remedial or preventive measures directed specifically toward the contributor who made the relevant contribution and all employees of the broker, dealer or municipal securities dealer;

(iii) whether, at the time of the contribution, the contributor was a municipal finance professional or otherwise an employee of the broker, dealer or municipal securities dealer, or was seeking such employment;

(iv) the timing and amount of the contribution which resulted in the prohibition;

(v) the nature of the election (e.g, federal, state or local); and

(vi) the contributor's apparent intent or motive in making the contribution which resulted in the prohibition, as evidenced by the facts and circumstances surrounding such contribution.

(j) Automatic Exemptions.

(i) A broker, dealer or municipal securities dealer that is prohibited from engaging in municipal securities business with an issuer pursuant to section (b) of this rule as a result of a contribution made by a municipal finance professional may exempt itself from such prohibition, subject to subparagraphs (ii) and (iii) of this section, upon satisfaction of the following requirements: (1) the broker, dealer or municipal securities dealer must have discovered the contribution which resulted in the prohibition on business within four months of the date of such contribution; (2) such contribution must not have exceeded \$250; and (3) the contributor must obtain a return of the contribution within 60 calendar days of the date of discovery of such contribution by the broker, dealer or municipal securities dealer.

(ii) A broker, dealer or municipal securities dealer is entitled to no more than two automatic exemptions per 12- month period.

(iii) A broker, dealer or municipal securities dealer may not execute more than one automatic exemption relating to contributions by the same municipal finance professional regardless of the time period.

- Instructions for Form G-37/G-38 and Form G-37x
- View and Print Form G-37/G-38
- View and Print Form G-37x

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**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: July 8, 2008

TO: City Council

FROM: Bonnie Johnson, Finance Director

SUBJECT: Approval of Accounts Payable and Payroll Warrants for Month of April 2008

RECOMMENDATION: "The City Council review and ratify the following reports per the California Government Code."

FISCAL DATA: The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of April 2008

The reports are:

Expenditure approval lists

April 3, 2008	1,613,235.94
April 10, 2008	679,437.30
April 17, 2008	3,271,229.17
Manual check dated April 22, 2008	1,708.78
April 24, 2008	455,703.91
Manual check dated April 30, 2008	473.38
May 8, 2008	10,250,806.99 (April Month End)

Payroll check registers

Manual check dated April 3, 2008	2,655.27
Manual check dated April 3, 2008	270.46
April 11, 2008	8,699.83
Manual check dated April 15, 2008	1,450.88
April 25, 2008	8,366.14

Payroll direct deposits*

April 11, 2008	333,993.83
April 25, 2008	332,168.78

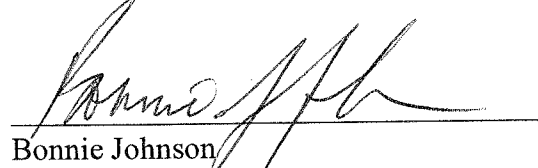
As you review the reports, if you have any questions please contact the Finance Department so that we can gather the information from the source documents and provide a response.

* Included on the APRIL month end expenditure approval list of 05/08/2008.

⁽¹⁾ Due to Positive Pay reporting, manual checks must be recorded in the accounting system separately from the weekly check register.


Report Prepared by: Michelle Green, Accounting Manager

RECOMMENDED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: July 8, 2008

TO: City Council

FROM: Bonnie Johnson, Finance Director

SUBJECT: Approval of Accounts Payable and Payroll Warrants for Month of May 2008

RECOMMENDATION: "The City Council review and ratify the following reports per the California Government Code."

FISCAL DATA: The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of May 2008

The reports are:

Expenditure approval lists

May 1, 2008	560,091.12
May 8, 2008	512,084.15
May 15, 2008	569,946.03
May 22, 2008	464,204.01
Manual check date May 23, 2008	383.00
May 29, 2008	121,092.15
June 10, 2008	3,126,203.40 (May Month End)

Payroll check registers

May 9, 2008	8,808.03
May 23, 2008	8,439.26
Manual check dated May 30, 2008	5,704.23

Payroll direct deposits*

May 4, 2008	342,420.20
May 18, 2008	331,880.34

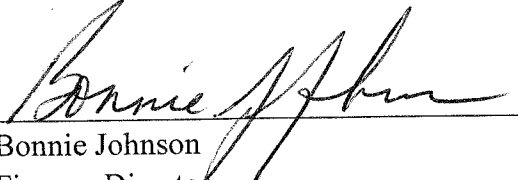
As you review the reports, if you have any questions please contact the Finance Department so that we can gather the information from the source documents and provide a response.

* Included on the MAY month end expenditure approval list of 06/10/2008.

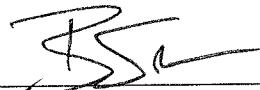
⁽¹⁾ Due to Positive Pay reporting, manual checks must be recorded in the accounting system separately from the weekly check register.

Report Prepared by: Michelle Green, Accounting Manager

RECOMMENDED BY:


Bonnie Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

CITY COUNCIL AGENDA
Staff Report

Continued from 6/24/08
Council Meeting

Date: June 24, 2008

TO: City Council

FROM: Ted Yarbrough, Fire Marshal/Emergency Services Coordinator

SUBJECT: Fire Hazard Severity Zone Determinations for the City of Banning

RECOMMENDATION: None.

JUSTIFICATION: None.

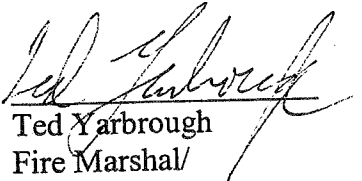
BACKGROUND: The State of California is responsible for determining Fire Hazard Severity Zones for all geographic areas within the state. Analysts use modern fire modeling technology, fire history, fuel models, aerial photos and weather records to determine how fires will burn in an area under different weather conditions. The Fire Hazard Severity Zones that were developed by the analysis indicate how the models predicted the rate of spread (speed of flaming front), the intensity (heat produced by the flaming front), ember production and the potential for those embers to ignite new fires. The zones that were created were titled Very High (most extreme fire behavior), High, Moderate Non-Wildland/Non-Urban and Urban Unzoned. To compliment the adoption of the 2007 International Building and Fire Codes, a chapter was created in the new building code that designated how buildings must be constructed in the moderate, high and very high severity zones. The requirements of the new chapter must be applied for those geographic areas of the state designated as "State Responsibility Areas" for fire protection purposes. In areas designated as a "Local Responsibility Area" (i.e. within the city limits of Banning), the new building code standards must be enforced only in "very high" severity zones.

In the summer of 2007, the state disseminated maps of the severity zones for review by local fire departments. Local departments had until mid-November of 2007 to respond to the zones created by the State. The City Fire Chief and Fire Marshal reviewed the State maps. It was felt that the analysts had made some incorrect (or uneducated) assumptions regarding local wind conditions, local development standards and local codes related to fire hazard abatement. Changes to the severity zones boundaries were made to the map and returned to the State, for review, along with an explanation of why the changes were made. The modified map was returned within the time limit specified. As of now, the State review has not been completed.


On July first, any local jurisdiction that does not have a State approved map adopted by ordinance, must use the map originally developed by the State. That means that the stricter building standards must be applied in the Very High severity zones originally created by the State. Once an approved map is adopted, the construction standards will only apply to the Very High zones as amended.

FISCAL DATA: There will be added construction costs to all development in the geographic areas of the City designated as a Very High severity zone.

PREPARED BY:


Ted Yarbrough
Fire Marshal/
Emergency Services Coor.

APPROVED BY:


Brian Nakamura
City Manager

**CITY COUNCIL AGENDA
PUBLIC HEARING**

DATE: July, 8 2008

T0: City Council

FROM: Phil Holder, Lieutenant

SUBJECT: City Business Permit for County Rescue Ambulance

RECOMMENDATION: “The City Council approve a City Business Permit for County Rescue Ambulance permitting the company to transport patients within the City Limits of Banning.”

JUSTIFICATION: County Rescue Ambulance has obtained a contract with San Gorgonio Memorial Hospital to provide transport services to and from the hospital.

BACKGROUND / ANALYSIS:

Mr. Logan Cromwell is the President of County Rescue Ambulance and has applied for a Business permit for the City of Banning. Sergeant Ray Arretche spoke directly with Mr. Cromwell and the following information was relayed. County Rescue Ambulance was granted a contract with San Gorgonio Memorial Hospital to transport non-emergency patients to and from the hospital .

County Rescue Ambulance has provided 24 hours medical transport service for approximately three years. County Ambulance Rescue is a private Basic Life Support (BLS) ambulance service and provides service throughout Orange County. Since June of 2006, County Rescue Ambulance has been operating within Riverside County and is quickly becoming one of the largest ambulance companies in Riverside County.

County Rescue Ambulance holds a valid and current Riverside County Community Health Agency, Department of Public Health permit, which authorizes them to operate within the boundaries of Riverside County. County Rescue Ambulance has a fleet of ambulances that are painted and distinguished as ambulances, which are registered with the California Department of Motor Vehicles as required by law and they also carry the required level of insurance for the vehicles and business, as required by law. They also maintain their own web site at www.countyrescue.org, which can provide you with additional details.

County Rescue Ambulance's mission is to earn and maintain the trust of the communities they serve by providing them with the highest standards of care and service possible through the employment of only the best personnel.

Mr. Cromwell said during the application process with the City for a permit, an announcement will be placed in the local news papers announcing a public hearing at a City Council meeting on a date and time to be determined.

County Rescue Ambulance will not be providing emergency response services as American Medical Response (AMR) is under contract with Riverside County to provide such services.

Presently there are three ambulance companies that provide the same service in the City of Banning. None of them are stationed in Banning and must respond to the City on an as needed basis from outside of the city.


FISCAL IMPACT: None

RECOMMENDED BY:



Leonard Furvis
Chief of Police

APPROVED BY:



Brian Nakamura
City Manager

ACORD™ CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 3/04/2008
PRODUCER Cindy Elbert Insurance Services Inc 3320 W. Cheryl Dr. Ste B-220 Phoenix, Arizona 85051		602-942-3900 THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED County Rescue DBA: CRA 1860 Chicago Ave. Suite H-15 Riverside, CA 92507		INSURERS AFFORDING COVERAGE INSURER A: Empire Fire & Marine Insurance INSURER B: INSURER C: INSURER D: INSURER E:
		NAIC # 21326

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Prof. Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	CL314098	1/24/2008	1/24/2009	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMPOF AGG \$ 3,000,000
A	AUTOMOBILE LIABILITY ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	CL314097	1/24/2008	1/24/2009	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC AGG \$
	GARAGE LIABILITY ANY AUTO				EACH OCCURRENCE \$ AGGREGATE \$ DEDUCTIBLE \$ RETENTION \$
	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				WC STATUTORY LIMITS OTH-ER E L. EACH ACCIDENT \$ E L. DISEASE - EA EMPLOYEE \$ E L. DISEASE - POLICY LIMIT \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Verification of Insurance

CERTIFICATE HOLDER

City of Perris

135 North D Street
Perris, CA 92570

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Cindy Elbert

Riverside County Community Health Agency Department of Public Health

AMBULANCE OPERATOR PERMIT

Issued to:

**CRA
1860 Chicago Avenue H-15
Riverside, California**

**Is permitted to operate BLS ambulance
Services in Riverside County**

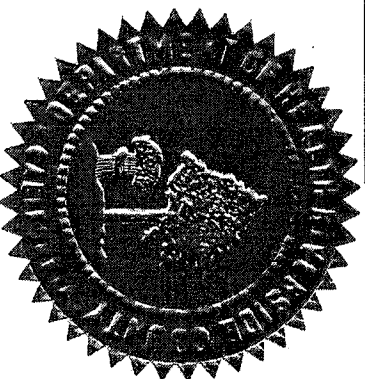
July 1, 2007

Permit Issue Date

June 30, 2008

Permit Expiration Date

**Eric Frykman, M.D.
Public Health Officer**



**CITY COUNCIL
PUBLIC HEARING**

DATE: July 8, 2008

TO: City Council

FROM: Kahono Oei, City Engineer 

SUBJECT: Request to Vacate Juarez Street from Barbour Street to Westward Avenue

RECOMMENDATION: Adopt Resolution No. 2008-86, vacating the street commonly known as Juarez Street from Barbour Street to future Westward Avenue.

BACKGROUND: On February 28, 2008, the City received a written request from the applicant (Hunsaker & Associates of Irvine, California) to vacate a portion of Juarez Street from Barbour Street to future Westward Avenue. The applicant's client (CR & R, Inc. of Stanton, California) desires to use that portion of Juarez Street as a part of a future industrial project.

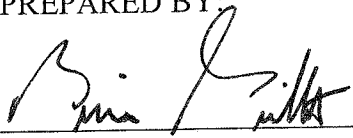
The property in question is a strip of undeveloped land (no street improvements have been constructed) approximately 30 feet wide by 580 feet in length. It is bounded on the west by a 1.93 acre parcel zoned Industrial that has frontage on Barbour Street (a single family dwelling currently exists on this site). It is bounded on the east by a 3.90 acre undeveloped parcel owned by the applicant's client. To the southwest is a residential subdivision (Fair Oaks) constructed in 2005 that is zoned Very Low Density Residential. To the southeast is a 4.54 acre undeveloped parcel zoned Industrial. The portion of Juarez Street proposed for vacation is more particularly described in Exhibit A legal description and Exhibit B plat. A location/vicinity map along with a site photograph is included with the report for reference.

On May 6, 2008, the Planning Commission, by adoption Resolution No. 2008-07, considered this request and determined that the proposed street vacation is consistent with the General Plan in accordance with Streets and Highways Code § 8313(b) and Government Code § 65402.

On June 10, 2008, the City Council adopted Resolution No. 2008-46 initiating proceedings to vacate that portion of Juarez Street from Barbour Street to future Westward Avenue, and set the time and place for the public hearing (Streets and Highways Code § 8320).

FISCAL DATA: Should the applicant complete the proposed project, the project will generate revenues to the City in the form of one-time building permit fees as well as annual property taxes.

PREPARED BY:



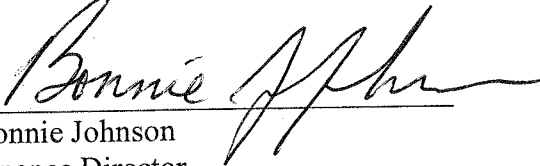
Brian Guillot
Planning Engineer

RECOMMENDED BY:



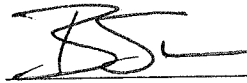
Duane Burk
Public Works Director

REVIEWED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

CC Exhibits:

- 1) Resolution No. 2008-86.
- 2) Exhibit A legal description and Exhibit B plat.
- 3) Copy of Planning Commission Staff Report dated May 6, 2008
- 4) Copy of Planning Commission Resolution No. 2008-07
- 5) Location/vicinity map.
- 6) Site photograph.

Exhibit 1

(Resolution No. 2008-86)

RESOLUTION NO. 2008-86

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF BANNING, CALIFORNIA VACATING THE
STREET COMMONLY KNOWN JUAREZ STREET
BETWEEN BARBOUR STREET AND WESTWARD
AVENUE

WHEREAS, the City of Banning desires to vacate that roadway commonly known as Juarez Street between Barbour Street and Westward Avenue and located in,

All that portion of that certain parcel of land described in a deed to the City of Banning recorded April 14, 1986 as Instrument No. 84327 of Official Records and those portions of Lots A and B of Parcel Map No. 27635 per map recorded in Book 182, pages 29 and 30 of Parcel Maps, records of Riverside County more particularly described as follows:

The west 30 feet of Block 183 of Map of Part of Banning Colony Lands, recorded in Book 3, page 149 of Maps, records of San Diego County. Except for the southerly 40 feet thereof.

That portion of Block 183 of Map of Part of Banning Colony Lands, recorded in Book 3, page 149 of Maps, records of San Diego County lying northwesterly of a curve concave to the Southeast having a radius of 20 feet, said curve being tangent to the north line of said block and tangent to a line distant 30 feet east of and parallel with the west line of said block.

Lot A and that portion of Lot B of Parcel Map No. 27635, per map recorded in Book 182, pages 29 and 30 of Parcel Maps, records of Riverside County, lying north of a line distant 40 feet north of and parallel with the south line of said block; and

WHEREAS, pursuant to California Streets and Highways Code Sections 8300 et seq., the City Council has the authority and responsibility to resolve to vacate streets and highways within the City; and

WHEREAS, on May 6, 2008, the Planning Commission adopted Resolution No. 2008-07, finding that the vacation of Juarez Street between Barbour Street and Westward Avenue is consistent with the City of Banning's General Plan and recommending that the City Council vacate Juarez Street between Barbour Street and Westward Avenue; and

WHEREAS, on June 10, 2008, the City Council set July 8, 2008, as the date on which it would hold a hearing for the purpose of considering the vacation of Juarez Street between Barbour Street and Westward Avenue; and

WHEREAS, on June 27, 2008, and continuing through July 3, 2008, the City gave public notice, by publishing in *Record Gazette* newspaper and by posting in prominent places on Juarez Street between Barbour Street and Westward Avenue in

compliance with Streets and Highways Code Section 8320, of the holding of the public hearing at which the City Council would consider the vacation of Juarez Street between Barbour Street and Westward Avenue; and

WHEREAS, on July 8, 2008, the City Council held the noticed public hearing considering the vacation of Juarez Street between Barbour Street and Westward Avenue, at which interested persons had an opportunity to testify in support of, or opposition to, the vacation of Juarez Street between Barbour Street and Westward Avenue:

NOW, THEREFORE, the City Council of the City of Banning does Resolve, Determine, Find and Order as follows:

SECTION 1. FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's General Plan, the recommendation of the Planning Director as provided in the Staff Report dated May 6, 2008, and documents incorporated therein by reference, the recommendation of the Planning Commission, and any other evidence within the record or provided at or prior to the public hearing of this matter, hereby finds and determines as follows:

1. Juarez Street between Barbour Street and Westward Avenue is unnecessary for present or prospective public use.
2. The vacation of Juarez Street between Barbour Street and Westward Avenue is consistent with the City of Banning's General Plan.
3. No conditions precedent to the vacation of Juarez Street between Barbour Street and Westward Avenue exist or are necessary.

SECTION 2. CITY COUNCIL ACTION

The City Council hereby takes the following actions:

1. The City Council hereby recognizes that Juarez Street between Barbour Street and Westward Avenue is not necessary for present or prospective public use.
2. The City Council hereby orders vacated Juarez Street between Barbour Street and Westward Avenue.
3. The City Council hereby orders the City Clerk to record this Resolution with the County Recorder, which recording will make the vacation of Juarez Street between Barbour Street and Westward Avenue effective pursuant to Streets and Highways Code Section 8325.
4. The City Council hereby orders Public Works Department to review potential uses for the land formerly known as Juarez Street between Barbour

Street and Westward Avenue and to provide to the City Council by August 12, 2008, a report analyzing the reasonably practicable uses for that land, including but not limited to sale of the land as surplus property.

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

Brenda Salas, Mayor

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

Burke, Williams & Sorenson, LLP
City Attorney

ATTEST:

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-86, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2008.

AYES:

NOES:

ABSTAIN:

ABSENT:

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

Exhibit 2

(Exhibit A legal description and Exhibit B plat)

EXHIBIT A

Juarez Street Abandonment

In the City of Banning, County of Riverside, State of California;

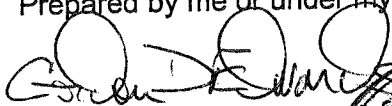
All that portion of that certain parcel of land described in a deed to the City of Banning recorded April 14, 1986 as Instrument No. 84327 of Official Records and those portions of Lots A and B of Parcel Map No. 27635 per map recorded in Book 182, pages 29 and 30 of Parcel Maps, records of Riverside County, more particularly described as follows:

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Lot A and that portion of Lot B of Parcel Map No. 27635, per map recorded in Book 182, pages 29 and 30 of Parcel Maps, records of Riverside County, lying north of a line distant 40 feet north of and parallel with the south line of said block.

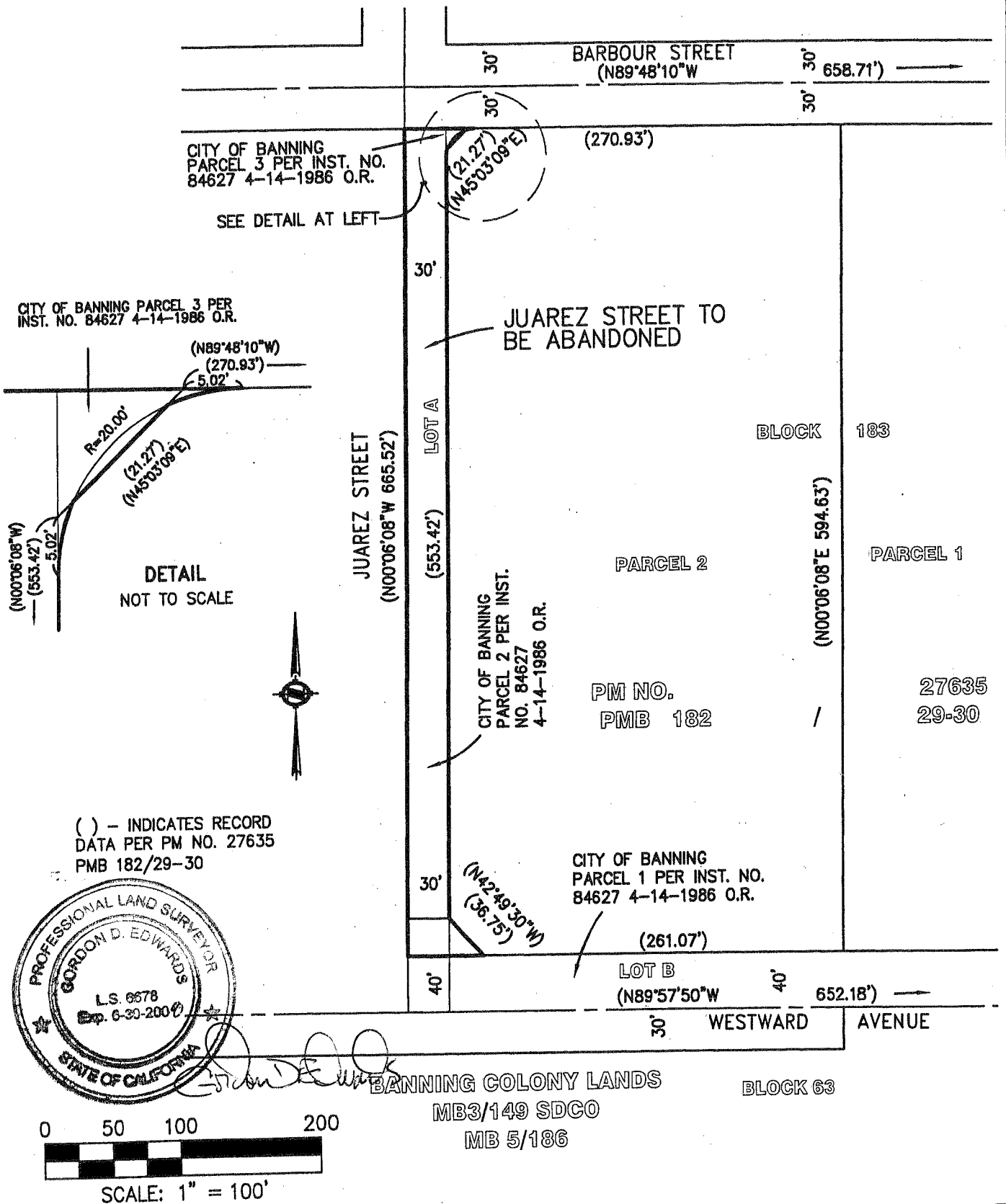
Prepared by me or under my supervision



Gordon D Edwards
PLS 6678
Expiration 6-30-2008



EXHIBIT B



() - INDICATES RECORD
DATA PER PM NO. 27635
PMB 182/29-30

PM NO.
PMB 182

27635
29-30

BANNING COLONY LANDS
MB3/149 SDCO
MB 5/186

BLOCK 63



HUNSAKER & ASSOCIATES
IRVINE, INC
INLAND EMPIRE REGION
2600 ADAMS STREET, SUITE A-15
RIVERSIDE CA 92504 (951)352-7200
PLANNING/ENGINEERING/SURVEYING/GOVERNMENT RELATIONS

ABANDONMENT OF JUAREZ STREET
BETWEEN BARBOUR STREET
AND WESTWARD AVENUE
CITY OF BANNING, CALIFORNIA

SCALE 1"=100'

DATE 12-06-2007

SHEET 1 OF 1 SHEETS

DRAWN BY GDE

Exhibit 3

(Copy of Planning Commission Staff Report dated May 6, 2008)

**STAFF REPORT
PLANNING COMMISSION**

COPY

PC DATE: MAY 6, 2008

CASE NO: STREET VACATION REQUEST PH #08-12501

DESCRIPTION: THE APPLICANT IS REQUESTING TO VACATE A PORTION OF JUAREZ STREET.

LOCATION: JUAREZ STREET BETWEEN BARBOUR STREET AND WESTWARD AVENUE.

APPLICANT: HUNSAKER AND ASSOCIATES IRVINE, INC.

ENVIRONMENTAL CONSIDERATION: THE CITY HAS ANALYZED THIS PROPOSED PROJECT AND HAS DETERMINED THAT IT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") UNDER SECTION 15061(B)(3) OF THE CEQA GUIDELINES.

BACKGROUND/ANALYSIS:

On February 28, 2008, the City received a request from the applicant to vacate a portion of Juarez Street from Barbour Street to future Westward Avenue. The applicant's client (CR & R, Inc. of Stanton, California) desires to use that portion of Juarez Street as a part of a future industrial project.

The property in question is a strip of undeveloped land approximately 30 feet wide by 580 feet in length. It is bounded on the west by a 1.93 acre parcel zoned Industrial that has frontage on Barbour Street. The 1.93 acre parcel presently has a single family dwelling located on it along with several related accessory structures. A site review on April 16, 2008 revealed that the 1.93 acre parcel to the west maintains a small chain link vehicle access gate that fronts on the property in question; however, it appears that this access point is not used regularly (weeds were noted along with the absence of a defined vehicle track in the soil).

The property in question is bounded on the east by a 3.90 acre undeveloped parcel owned by the applicant's client. To the southwest is a residential subdivision (Fair Oaks) constructed in 2005 that is zoned Very Low Density Residential. To the southeast is a 4.54 acre undeveloped parcel zoned Industrial.

Streets and Highways Code §§ 8300 et seq., the Public Streets, Highways, and Service Easements Vacation Law (the "Law"), requires that where, as here, a city's general plan

covers the area in which the street to be vacated exists, then it cannot proceed to vacate the street until the location, purpose, and extent of the vacation has been submitted to the city's planning commission for consideration of consistency with the general plan (Streets and Highways Code § 8313(b) & Gov. Code § 65402).

The portion of Juarez Street proposed for vacation is more particularly described in Exhibit A (legal description), and Exhibit B (plat map). A location/vicinity map is included with the report for reference. If approved, the subject area will be available to use as part of the development of a future industrial project. This action would be consistent with Program 2 of the Land Use Element of the General Plan (*GP p. III-19*) which encourages consolidation of lands to encourage development. Additionally, the subject portion of Juarez Street is not improved and is not planned as part of the City's Proposed General Plan Street System as shown on Exhibit III-6 of the Circulation Element.

The Circulation Element has been developed to serve as a comprehensive transportation management strategy, incorporating analysis of existing conditions within the City, as well as projected future development based on the build-out of the General Plan Land Use Map. Future traffic conditions have been forecast utilizing the Pass Area Model (PAM), anticipated build out land use patterns and intensities, projected regional growth expected to impact City streets and roadways, and a wide range of socioeconomic data and assumptions. Using this data and accepted engineering practice, a Proposed General Plan Street System map was developed and approved as part of the General Plan adopted by the City Council on January 31, 2006.

Juarez Street is not listed on the Proposed General Plan Street System map, or listed in the text of the General Plan Circulation Element; therefore, the vacation of this portion of Juarez Street, if approved, would not adversely impact the development of the surrounding lands including the construction of additional housing in the vicinity of the future proposed industrial project.

PUBLIC NOTICE:

An advertisement regarding this proposal was placed in the Record Gazette Newspaper on Friday, April 25, 2008. No comments have been received for, or against, the proposal by staff.

ENVIRONMENTAL ASSESSMENT:

The City has analyzed the proposed street vacation and has determined that it is Exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

RECOMMENDATION:

The Planning Division recommends that the Planning Commission:

1. Adopt Resolution No. 2008-07 recommending City Council approval of street vacation.

PREPARED BY:

REVIEWED BY:

Brian Guillot
Planning Engineer

Kim Clinton
Senior Planner

RECOMMENDED BY:

Matthew Bassi
Interim Community Development Director

PC Exhibits:

- 1) PC Resolution No. 2008-07
Exhibit A and Exhibit B legal description and plat map.
- 2) Location map.
- 3) Copy of Exhibit "III-6" General Plan Circulation Element Street System map.

Exhibit 4

(Copy of Planning Commission Resolution No. 2008-07)

RESOLUTION NO. 2008-07

COPY

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL ADOPT A RESOLUTION APPROVING STREET VACATION #08-12501 FOR THE STREET COMMONLY KNOWN AS "JUAREZ STREET BETWEEN BARBOUR STREET AND WESTWARD AVENUE"

WHEREAS, the applicant desires to vacate that roadway commonly known as Juarez Street between Barbour Street and Westward Avenue located in that portion of that certain parcel of land described in a deed to the City of Banning recorded April 14, 1986, as Instrument No. 84327 of Official Records and those portions of Lots A and B of Parcel Map No. 27635 per map recorded in Book 182, pages 29 and 30 of Parcel Maps, records of Riverside County, more particularly described as follows:

The west 30 feet of Block 183 of Map of Part of Banning Colony Lands, recorded in Book 3, page 149 of Maps, records of San Diego County. Except for the southerly 40 feet thereof.

That portion of Block 183 of Map of Part of Banning Colony Lands, recorded in Book 3, page 149 of Maps, records of San Diego County lying northwesterly of a curve concave to the Southeast having a radius of 20 feet, said curve being tangent to the north line of said block and tangent to a line distant 30 feet east of and parallel with the west line of said block.

Lot A and that portion of Lot B of Parcel Map No. 27635, per map recorded in Book 182, pages 29 and 30 of Parcel Maps, records of Riverside County, lying north of a line distant 40 feet north of and parallel with the south line of said lot; and

WHEREAS, pursuant to California Streets and Highways Code Sections 8300 et seq. and California Government Code Section 65402, the Planning Commission has the authority and responsibility to review and make recommendations to the City Council regarding the closure or vacation of streets and highways within the City; and

WHEREAS, on May 6, 2008, the Planning Commission reviewed the request for the vacation of Juarez Street and at which time the Planning Commission determined that it is consistent with the City's General Plan; and

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

NOW, THEREFORE, the Planning Commission of the City of Banning does Resolve, Determine, Find and Order as follows:

SECTION 1: ENVIRONMENTAL DETERMINATION

The City has analyzed the proposed street vacation and has determined that it is Exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

SECTION 2: FINDINGS.

The Planning Commission, in light of the whole record before it, including but not limited to, the City's General Plan, the recommendation of the Community Development Director and documents incorporated therein by reference, and any other evidence within the record or provided at or prior to the public hearing of this matter, hereby finds and determines as follows:

1. The vacation of Juarez Street between Barbour Street and Westward Avenue is consistent with the City's General Plan and in particular with the Circulation Element of the General Plan.

2. The vacation of Juarez Street between Barbour Street and Westward Avenue as shown in Exhibit A and Exhibit B made a part by this reference will benefit the City by providing an area to use for future industrial development. The location is described as that portion of that certain parcel of land described in a deed to the City of Banning recorded April 14, 1986, as Instrument No. 84327 of Official Records and those portions of Lots A and B of Parcel Map No. 27635 per map recorded in Book 182, pages 29 and 30 of Parcel Maps, records of Riverside County, more particularly described as follows:

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Lot A and that portion of Lot B of Parcel Map No. 27635, per map recorded in Book 182, pages 29 and 30 of Parcel Maps, records of Riverside County, lying north of a line distant 40 feet north of and parallel with the south line of said lot;

SECTION 3. PLANNING COMMISSION ACTIONS

The Planning Commission hereby takes the following actions:

1. **Notice of Exemption.** In accordance with Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062 the Planning Commission hereby recommends City Council approval of a categorical exemption for the project under CEQA Guidelines Section 15061(B)(3) and directs the Planning Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption.

2. **Recommend Approval of Street Vacation #08-12501.** The Planning Commission hereby recommends City Council approval of Street Vacation #08-12501 incorporated herein by reference as Exhibit A & B.

PASSED, APPROVED AND ADOPTED this 6th day of May 2008.

William Dickson, Vice Chairman
City of Banning Planning Commission

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

Burke, Williams & Sorensen, LLP
City Attorney

CERTIFICATION:

I, Virginia Sorenson, Recording Secretary for the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-07, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 6th day of May, 2008 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California

Exhibit 5

(Location/vicinity map)

Exhibit 5



Location/Vicinity Map

Not to Scale

Exhibit 6

(Site photograph)

Exhibit 6



Site Photograph

Looking southerly from Barbour Street

**CITY COUNCIL
PUBLIC HEARING**

Date: July 8, 2008

TO: Honorable Mayor and City Council Members

FROM: Tim Steenson, Building Official

SUBJECT: Amendments to Certain Municipal Code Provisions relating to the parking of commercial and other vehicles in the City of Banning.

RECOMMENDATION: "I move the City Council:

That the City Council approve Ordinance No. 1390, approving Zone Text Amendment #08-97505, repealing Chapter 10.16 Vehicle Weight Limits of the Municipal Code to add Chapter 10.16 "Parking Restrictions on Commercial and Other Vehicles."

Mayor Salas asks the City Clerk to read the Title of Ordinance No. 1390.

JUSTIFICATION: The proposed code amendment will assist in the control and enforcement of commercial vehicle parking within the residential and commercially zoned districts, close loopholes that allow for the continuous and long term parking of commercial vehicles within commercially zoned districts and repeal the truck parking permit process.

BACKGROUND/ANALYSIS:

Commercial vehicles, particularly vehicles with a manufacture's gross weight rating of 10,000 lbs, are continuously being driven into residentially zoned districts for the purpose of being parked on non-truck route streets and residentially zoned private properties. In addition, staff has determined that the existing code does not address long term parking of commercial vehicles in commercially designated districts and as a result there has been an inundation of commercial vehicles parked upon commercial shopping center parking lots and other vacant properties within the city.

Additionally, the current code provides a permit system that allows Banning resident truck drivers to purchase a permit to park on any street designated as a permitted parking area within the City of Banning. Currently Bryant Street which is located south of Interstate 10 (cross of San Gorgonio Avenue) is the only street within the City that is

designated as a permitted parking area. Staff has determined that the way the code is currently written with respect to large commercial vehicles, adversely impacts both residential and commercial zoned districts substantially as they;

- Are out of place and unsightly.
- Generate incompatible noise and exhaust.
- Are potentially dangerous for neighborhood children at play.
- Can hasten deterioration of public streets and driveway approaches primarily because residential streets are not built to support the excessive weight.
- Detract from the desirability of a neighborhood.
- Reduce adjacent property values and prevent neighbors from having full enjoyment of their properties.
- Allows commercial vehicle drivers to take advantage of the use of commercial shopping center parking lots and other vacant lots as overnight parking facilities.
- Discourages truck drivers from obtaining permits because the only designated parking area is not located in proximity to their homes.

This proposed code change would provide a mechanism to effectively and equally enforce commercial vehicle parking regulations within the City and protect the values of residential and commercial districts and will also provide clarity to the public on how to properly park their commercial vehicles and other vehicles within the city.

Staff recommends that the parking restrictions on commercial vehicles be approved to allow even greater control of the way commercial vehicle parking is regulated within the City.

FISCAL DATA: These amendments will have no fiscal impact.

RECOMMENDED BY:



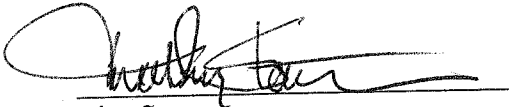
Richard De La Cruz
Senior Code Enforcement Officer

REVIEWED BY:



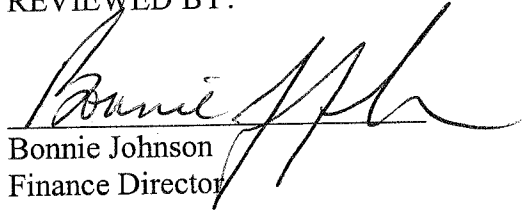
Matthew Bassi
Interim Community Development
Director

REVIEWED BY:



Tim Steenson
Building Official, Development
Services Manager

REVIEWED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

Exhibits:

- 1) Ordinance No. 1390

ZTA #08-97505

***ORDINANCE
NO. 1390***

EXHIBIT “1”

ORDINANCE NO. 1390

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING TITLE 10 VEHICLES AND TRAFFIC; CHAPTER 10.16 VEHICLE WEIGHT LIMITS OF THE CITY OF BANNING MUNICIPAL CODE RELATING TO THE PARKING OF COMMERCIAL AND OTHER VEHICLES WITHIN THE CITY OF BANNING; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has considered amending regulations related to the parking of commercial and other vehicles upon certain streets located within in the city; and

WHEREAS, public response to the issue demonstrated a strong desire on the part of citizens in neighborhoods throughout the city for such regulations to regulate such conduct; and

WHEREAS, the City has recommended the adoption of restrictions on the parking of commercial vehicles within residentially zoned districts to address the following concern of public interest, namely the diminution of property values in neighborhoods where the unregulated parking of commercial vehicles and other vehicles within residentially zoned districts is prevalent; and

WHEREAS, the City desires to enact restrictions to mitigate the negative effects set forth in the preceding recital in affected neighborhoods resulting from the conduct of those who park commercial vehicles and other vehicles on their residential properties in violation of such restrictions; and

WHEREAS, the City has recommended passage of such restrictions to the City Council to protect the public health, safety and welfare:

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA:

SECTION 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. That existing Chapter 10.16 “Vehicle Weight Limits” is hereby repealed in its entirety.

SECTION 3. That Chapter 10.16 of the City of Banning Municipal Code is hereby amended to read as follows:

CHAPTER 10.16 PARKING RESTRICTIONS ON COMMERCIAL AND OTHER VEHICLES

10.16.010 Definitions.

As used in this chapter, the following terms are defined in this section:

“Abut” means to border on; touch.

“Alley” means a secondary means of access to property and is located at the rear or side of the property. Minimum right-of-way width shall be twenty (20) feet.

“Commercial vehicle” means a vehicle of a type required to be registered under the California Vehicle Code used or maintained for the transportation of persons for hire, compensation or profit or designed, used or maintained primarily for the transportation of property having a manufacturer’s gross vehicle weight rating of ten thousand (10,000) pounds or more.

“Exceptions” means the provisions of this chapter shall not apply to the following.

“Highway or street” is a right-of way within which improvements are constructed for conveyance of vehicular, pedestrian and other permitted traffic and includes all streets, roads, and alleys. Such rights-of-way and improvements shall be in conformance with the City of Banning standards and specifications.

“Nonresidential” means any area in the City zoned for office/commercial, industrial, open space or agricultural use.

“Parkway” means the area adjoining the outer edge of the roadbed, extending to right-of-way line in which sidewalks, plantings, utilities, banked slopes and related facilities may be located.

“Residential district” means any area in the City zoned for residential purposes.

“Restricted parking” means no on-street parking is permitted along the street frontage, or where on-street parking is prohibited during specified hours on certain days or on all days.

“Traffic control device” means any sign, signal, marking or device placed or erected by the City for the purpose of regulating, warning or guiding traffic.

“Trailers/semi-trailer” as defined in Sections 242, 550, 630, 635, 636, and 645 of the California Vehicle Code.

“Vacant lot” means any unimproved, unoccupied property.

“Vehicle” means a device by which any person or property may be propelled, moved or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

10.16.020 Parking prohibitions or restrictions.

A. It is unlawful to park or leave standing any of the following:

1. Any vehicle or trailer which is used to transport animals or which harbors vermin or pestilence or which emits noxious or nuisance odors on any highway, street, road, alley or on any public or private property within the City;

2. Any vehicle or trailer which contains any hazardous substance as defined in Section 2452 of the California Vehicle Code on any highway, street, road, alley or on any public or private property within the city;

3. Any trailer, utility trailer, boat trailer, boat, camper, camper shell, recreational trailer, camp trailer, trailer coach, or semi-trailer which is non-self propelled, non-motorized, or not capable of movement under its own power which is unattached to a vehicle on any highway, street, road or alley within the City;

4. Any vehicle on any highway, street, road or alley within the City for the purpose of servicing or repairing such vehicle except when necessitated by an emergency.

B. It is unlawful to park or leave standing any commercial vehicle, truck, trailer or semi-trailer having a manufacturer's gross vehicle weight rating (Vehicle Code Section 390) of ten thousand (10,000) pounds or more as described in the following:

1. On any highway, street, road, alley or private property within any residential district within the City;

2. On any vacant lot or unimproved nonresidential property in the city;

3. On any nonresidential property so that any part of such vehicle is within one hundred (100) feet of any human dwelling;

4. Within one hundred fifty (150) feet of any driveway opening;

5. Within any commercially zoned property for the purpose other than doing business at the site, or for the purpose not related to such business operation, or remaining parked or standing for longer than reasonably appropriate to do such business or acts related to such business operations;

6. On any nonresidential property so that any part of such vehicle is within fifteen (15) feet of the property line, a public sidewalk, or of a public or private roadway edge;

7. On any alley within the City;

8. On any highway, street or road which is adjacent to a parcel upon which there exists a public facility. Within the meaning of this subsection, "public facility" includes, but is not limited to, parks, schools and civic buildings;

9. Any unattached semi-trailer on a public highway, street, road or alley within the City.

C. While adjacent to a developed residential area within the city, the operator shall not idle the vehicle's engine for longer than fifteen (15) minutes.

10.16.030 Exceptions.

A. The provisions of this chapter shall not apply to the following:

1. Any vehicle making pickups or deliveries of goods, wares or merchandise from or to any building or structure located on the restricted highway, street, road or alley, or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon the restricted streets or highways for which a building permit has previously been obtained, or parking for the purpose of lodging at a motel or hotel;

2. Any vehicle parked in connection with and in the aid of the performance of a service to or on a property in the block in which such vehicle is parked;

3. Any school or passenger bus under the jurisdiction of the Public Utilities Commission;

4. Any vehicle owned by the City, county, state, public utility or licensed contractor engaged in the installation, maintenance or repair of any public property, utility or highway;

5. Any authorized emergency vehicle as defined by the California Vehicle Code;

6. Any commercial vehicle which is lawfully parked on a public highway or street designated for commercial vehicle parking;

7. Any attached or unattached trailer parked on improved commercially or industrially zoned property and in conjunction with loading or unloading activity related to the business location or at a commercial vehicle storage facility which complies with City land use and zoning requirements.

8. Notwithstanding the provisions of this section, the following tow *truck* vehicles shall be exempt from enforcement only if all of the following are met:

1. The tow *truck* vehicle is employed by a towing contractor under contract with the City of Banning; and
2. The tow *truck* vehicle is only exempt during the hours in which it has been designated as the "on-call" tow *truck* vehicle for the City of Banning;

and

3. The tow *truck* driver resides in the City of Banning.

10.16.040 Penalty.

1. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of an infraction and upon conviction thereof shall be punishable by:

- a. A fine not exceeding one hundred dollars for a first violation;
- b. A fine not exceeding two hundred dollars for a second violation; or
- c. A fine not exceeding five hundred dollars for a third violation.

2. A fourth violation of the same offense within one calendar year from the date of the first offense shall constitute a misdemeanor. Upon conviction thereof, the person, firm or corporation shall be subject to a fine not to exceed one thousand dollars and/or imprisonment for a period not to exceed six months.

3. Nothing within this ordinance shall preclude the issuance of a parking citation which may be issued concurrently with any other remedial action, penalty or process.

10.16.050 Removal of vehicles.

A. No person who owns or who has possession, custody or control of any vehicle shall park such vehicle upon any highway, street, road or alley for a consecutive period of longer than seventy-two (72) hours.

B. In the event that any vehicle is parked upon a highway, street, road or alley for longer than a consecutive period of seventy-two (72) hours in violation of subsection A of this section, any member of the police department authorized by the chief of police or any employee authorized to enforce parking requirements may remove such vehicle from the highway, street, road or alley in the manner prescribed by the California Vehicle Code.

C. Whenever a vehicle is illegally parked on a highway, street, road or alley in violation of this code, any regularly employed and salaried police officer of the City, or deputy of the sheriff of Riverside County, or member of the California Highway Patrol, Code Enforcement Officer or any regularly employed City employee engaged in directing traffic or enforcing parking laws may cause such vehicle to be impounded, driven or towed away and stored. The costs of such impoundment, towing and storage shall be charged to the owner of the vehicle and to the operator who committed the violation, if different from the owner of the vehicle.

10.16.060 Parking restriction signs.

Whenever this or any other chapter of this code imposes any parking or standing prohibition or restriction on commercial or other vehicles, the City traffic engineer shall erect and maintain appropriate signs as may be necessary to implement the provisions thereof.

10.16.070 Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a final determination of a court of competent jurisdiction, such determination shall not affect the validity of the remaining portions of this chapter. The City Council declares it would have enacted this chapter, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases might be declared invalid or unconstitutional.

10.16.080 Enforcement.

The provisions of this article may be enforced by any police officer, code enforcement officer, parking enforcement officer, or other City employee who has been designated the duty of enforcing parking regulations within the territorial limits of the City of Banning.

SECTION 4. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidance or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

SECTION 5. Effective Date

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

SECTION 6. Publication. The City Clerk is directed to cause this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

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

Brenda Salas, Mayor
City of Banning

APPROVED AS TO FORM:

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 Ordinance No. 1390 was introduced at a regular meeting of the City Council of the City of Banning, California, held on the 8th day of July, 2008 and was duly adopted at a regular meeting of the City Council held on the ____ day of _____, 2008, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon
City Clerk, City of Banning

**CITY COUNCIL AGENDA
PUBLIC HEARING REPORT**

DATE: July 8, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Matthew Bassi, Interim Community Development Director
Julie Hayward Biggs, City Attorney

SUBJECT: Ordinance No. 1392 – An Ordinance Establishing Regulations for Boarding Houses and Residential Care Facilities in the City of Banning

BACKGROUND:

At the City Council's request, the Community Development Department and City Attorney's office has prepared an Ordinance regulating group homes and residential care facilities in the City of Banning. A draft ordinance was presented to the City Council at a study session held on May 13, 2008. The Council provided feedback and directed staff to finalize the ordinance and take it through the public hearing process with the Planning Commission. The Planning Commission reviewed and recommended City Council approval of Zone Text Amendment No. 08-97504 at their June 3, 2008 meeting. A copy of the public hearing minutes from the June 3rd Commission meeting is provided for Council consideration (Attachment 2).

ANALYSIS:

For the purposes of local zoning regulations, "group homes" can be divided into two basic categories: 1) those that cater to protected classes of individuals and 2) those that do not. State and federal laws regarding discrimination and licensing impact how the City may regulate group homes that cater to certain protected groups, specifically group homes for the disabled or children. Accordingly, the proposed zone text amendment regulates "Boarding Houses" which do not cater to any specific class of people and "Residential Care Facilities" which cater to individuals with a disability and children. The proposed zone text amendment also cleans up the "Definitions" section of the Zoning Ordinance to eliminate overlapping and inconsistent definitions.

A. Boarding Houses:

California case law recognizes that boarding houses are a commercial use of property that may be restricted or prohibited in residential zones. (*City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123, 133; Attorney General Opinion No. 01-402 (2003).) However, there is no universally accepted definition of a boarding house. The Zoning Ordinance currently defines a boarding house as "structure where lodging and meals for 7 or more boarders is provided for compensation" and allows this use in the Highway Serving Commercial (HSC) zone with a Conditional Use Permit (CUP).

The proposed ordinance substantially broadens the definition of a boarding house to "a dwelling unit, or part thereof, wherein a room or rooms, with or without individual or group cooking facilities, are rented, leased or subleased under two or more separate written or oral rental agreements, leases or

subleases, whether or not the owner, agent or rental manager resides within the dwelling unit,” and allows boarding houses subject to a CUP in the Medium-Density Residential (MDR) and High-Density Residential (HDR) zones, as well as the HSC zone. For ease of reference, the entries in the land use matrixes that have been changed by the proposed ordinance are in bold and italics.

B. Residential Care Facilities:

The California Community Care Facilities Act (Health & Safety Code §§ 1500 *et seq.*) restricts the City’s ability to prohibit or require a use permit for certain residential care facilities. Specifically, residential care facilities that serve six (6) or fewer children or individuals with a disability that are licensed by the State must be treated as a residential use of property, and the facility’s residents must be treated as a family. No CUP, variance, or other zoning clearance can be required of these facilities which is not required of a family dwelling of the same type in the same zone.

The Community Care Facilities Act does not speak to the scope of the City’s power to regulate residential care facilities that serve more than six (6) children or individuals with a disability or residential care facilities that serve six (6) or fewer children or individuals with a disability that are not licensed by the State. However, state and federal law prohibit disability discrimination, and the federal government interprets the federal Fair Housing Act (42 U.S.C. §§ 3601 *et seq.*) to prohibit zoning regulations that treat group homes for persons with disabilities or children less favorably than group homes for non-disabled adults. In other words, the City must treat residential care facilities the same or better than boarding houses. The proposed ordinance treats large and small, unlicensed residential care facilities identically to boarding houses by allowing all of these uses in the same zones subject to a CUP. The proposed ordinance treats small, licensed residential care facilities more favorably than boarding houses by permitting them in all residential zones.

The Fair Housing Act requires that the City make a “reasonable accommodation” in its zoning policies if requested and if the accommodation is necessary to afford the disabled or children equal access to housing. Accordingly, the proposed ordinance includes a section detailing how an individual may request a reasonable accommodation and providing the criteria for determining if a requested accommodation is reasonable.

SUMMARY:

Based on current State law, the City is prohibited from regulating “licensed” group homes that serve six (6) or fewer children or disabled individuals. The City’s ability to regulate unlicensed group homes that serve six (6) or fewer children or disabled individuals is unsettled at this time. There is case law in other jurisdictions holding that licensed and unlicensed facilities of the same size must be treated the same, and case law holding the opposite. As for licensed and unlicensed group homes that serve seven (7) or more children or disabled individuals, and group homes that serve non-disabled adults, the City is free to regulate these uses

Staff was asked by Council to research whether the 300’ distance requirement proposed in Ordinance 1392 could be expanded to 1,000 feet. The City Attorney’s office has stated that State law sets a separation requirement of 300 feet for all licensed residential care facilities and the City is therefore preempted from regulating the separation of licensed residential care facilities beyond this standard.

Thus, no changes are being recommended for licensed facilities. However, the City can increase the distance requirement for boarding houses and unlicensed residential care facilities. Thus, the proposed ordinance contains a 1,000-foot separation requirement for boarding houses and unlicensed residential care facilities (refer to page 15 of the attached ordinance – subsection 6).


Staff was also asked to research the idea of “prioritization” of parolees and probationers and to consider including regulations limiting the parolees and probationers who may live in boarding houses based on how they have been prioritized by the State. The City Attorney’s office has stated that they were unable to find any information on the prioritization of probationers, but the California Department of Corrections and Rehabilitation does categorize parolees based on the level of supervision required. However, staff did not include any regulation restricting the parolees who may live in a boarding house or group home based on the priority the parolee has been assigned by the California Department of Corrections and Rehabilitation. After researching the idea, the City Attorney’s office strategically made the decision to keep the Ordinance as proposed so it applies to all boarding houses equally, regardless of whether the residents of the boarding house are parolees or not. Including a regulation restricting the type of parolees who may live in a boarding house would eliminate the neutrality of the Ordinance without providing any significant additional protection to the City.

RECOMMENDATION:


The Planning Commission recommends that the City Council:

1. Approve a Categorical Exemption for Zone Text Amendment No. 08-97504 (Ordinance No. 1392) under CEQA Guidelines Section 15061(b)(3) and direct the Interim Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062; and
2. Adopt Ordinance No. 1392 (Attachment 1) establishing regulations for Boarding Houses and Residential Care Facilities in the City of Banning.

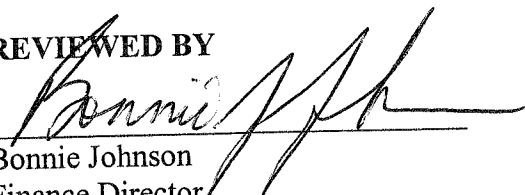
PREPARED BY:


Matthew Bassi
Interim Community Development Director

APPROVED BY:


Brian Nakamura
City Manager

REVIEWED BY


Bonnie Johnson
Finance Director

Ordinance No. 1392 (ZTA No. 08-97504)
July 8, 2008
Page 4 of 4

CC Attachments:

1. Ordinance No. 1392 for ZTA No. 08-97504
2. PC Minutes from the June 3, 2008 Commission meeting

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ATTACHMENT 1

ORDINANCE NO. 1392

(Zone Text Amendment No. 08-97504)

ORDINANCE NO. 1392

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT NO. 08-97504 AMENDING SECTIONS 17.04.070, 17.08.020, 17.12.020 AND 17.28.040, AND ADDING SECTIONS 17.08.201 AND 17.12.050(Q) TO THE BANNING MUNICIPAL CODE TO REGULATE BOARDING HOUSES AND RESIDENTIAL CARE FACILITIES

WHEREAS, the City Council has the authority to review and approve Zone Text Amendment No. 08-97504 (Ordinance No. 1392) to establish regulations for Boarding Houses and Residential Care Facilities; and

WHEREAS, in accordance with Government Code Sections 65353, 65355 and 65090, on June 26, 2008, the City published a public notice in the Record Gazette of the holding of a public hearing at which time Zone Text Amendment No. 08-97504 would be considered by the City Council; and

WHEREAS, in accordance with Government Code Section 65353, on July 8, 2008 the City Council held the noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 08-97504 and at which time the City Council considered Zone Text Amendment No. 08-97504; and

WHEREAS, in accordance with Government Code Section 65353, on June 3, 2008 the Planning Commission held a duly noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 08-97504 and at which time the Planning Commission made a recommendation to the City Council to approve Zone Text Amendment No. 08-97504; and

WHEREAS, the Community Development Director has reviewed the project's potential effects on the environment and has recommended that the project is Categorically Exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines Section 15061(b)(3).

NOW THEREFORE, the City Council of the City of Banning does Ordain as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Planning Commission as provided in the Council Staff Report dated July 8, 2008 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

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

SECTION 2. CITY COUNCIL ACTION

The City Council hereby takes the following actions:

- A. Notice of Exemption - In accordance with Public Resources Code Section 21552(b) and CEQA Guidelines Section 15062 the City Council hereby recommends to the City Council approval of a Categorical Exemption for the project under CEQA Guidelines Section 15061(b)(3) and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.
- B. The City Council hereby adopts Ordinance No. 1392 (Zone Text Amendment No. 08-97504) to read as follows:

SECTION 1. Section 17.04.070 (Definitions) of the Banning Municipal Code is hereby amended as follows:

1. Amend the definition of "Family" to read as follows:

"Family is a Single Housekeeping Unit."

2. Add the following definition of "Single Housekeeping Unit."

"Single Housekeeping Unit is one or more individuals, whether related by blood, marriage, legal adoption or not, jointly occupying a dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager."

3. Amend the definition of “Boarding House” to read as follows:

“Boarding House is a dwelling unit, or part thereof, wherein a room or rooms, with or without individual or group cooking facilities, are rented, leased or subleased under two or more separate written or oral rental agreements, leases or subleases, whether or not the owner, agent or rental manager resides within the dwelling unit.”

4. Amend the definition of “Residential Care Facility” to read as follows:

“Residential Care Facility is a building or group of buildings that provide temporary or permanent housing to children or individuals with a disability, as defined by State or Federal law, where the residents do not live together as a single housekeeping unit, and where every person residing in the facility (excluding the operator of the facility, the operator’s family, and the facility’s staff) is a child or an individual with a disability. A residential care facility shall not be considered a boarding house.

Residential Care Facility, Large, is a residential care facility in which seven (7) or more children or individuals with a disability reside, which is either licensed by the State or unlicensed and not required by law to be licensed by the State.

Residential Care Facility, Small, Licensed, is a State-licensed residential care facility in which six (6) or fewer children or individuals with a disability reside, and which is required by State law to be treated as a residential use of property for zoning purposes. Licensed small residential care facilities that are required by State law to be treated as a residential use of property include, without limitation: Intermediate care facilities for the developmentally disabled (Health & Safety Code § 1267.8(c)); Congregate living health facilities (Health & Safety Code §§ 1267.8(c); 1267.16(a)); Residential community care facilities, including foster family homes, small family homes, social rehabilitation facilities, community treatment facilities, and transitional shelter care facilities (Health & Safety Code §§ 1502, 1566.3); Residential care facilities for persons with chronic life-threatening illness (Health & Safety Code § 1568.0831); Residential care facilities for the elderly (Health & Safety Code § 1569.85); Pediatric day health and respite care facilities (Health & Safety Code § 1761.4).

Residential Care Facility, Small, Unlicensed, is a residential care facility in which six (6) or fewer children or individuals with a disability reside, and which is not licensed by the State and is not required by law to be licensed by the State.”

5. Amend the definition of “Multi-Family” to read as follows:

“Multi-Family Dwelling is a building containing two or more dwelling units.”

6. Add a definition of “Single-Family Dwelling” to read as follows:

“Single-Family Dwelling is a building containing one dwelling unit.”

7. Amend the definition of “Apartment” to read as follows:

“**Apartment** is a dwelling unit in a multi-family building.”

8. Amend the definition of “Bed and Breakfast” to read as follows:

“**Bed and Breakfast** is a lodging establishment in which no more than ten (10) rooms are provided to the general public for lodging on a transient basis, and which may provide meals to the extent otherwise permitted by law.”

9. Delete the definition of “Special Needs Housing.”

10. Delete the definition of “Convalescent Center.”

11. Amend the definition of “Day Care Center, Children” to read as follows:

“**Day Care Center** is a facility which provides non-residential, non-medical care to twelve (12) or more children under eighteen (18) years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four (24) hour basis. The definition of day care center includes infant centers, pre-schools, and extended day care facilities, but does not include day care homes.”

12. Amend the definition of “Day Care Home, Children” to read as follows:

“**Day Care Home** is a single-family dwelling where an occupant of the residence provides non-residential, non-medical care to children that are under eighteen (18) years of age and in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four (24) hour basis.

Day Care Home, Large is a day care home where care is provided to up to twelve (12) children, or up to fourteen (14) children if allowed by State law, and which is not a small day care home.

Day Care Home, Small is a day care home where care is provided to up to six (6) children, or up to eight (8) children if allowed by State law.”

13. Amend the definition of “Dormitory” to read as follows:

“**Dormitory** is a building owned or operated by a public or educational institution which provides private or semi-private sleeping quarters, common cooking facilities and common restrooms for its residents.”

14. Add a definition of "Single Room Occupancy Residential Hotel" to read as follows:

"Single Room Occupancy Facility is a building or group of buildings with one or more guest rooms without kitchen and/or sanitary facilities in individual guest rooms, and which is also the primary residence of the guests."

SECTION 2. Section 17.08.020 of the Banning Municipal Code is hereby amended to read as follows:

ZONE	R/A	R/A/H	RR	RR/H	VLDR	LDR	MDR	HDR	MHP
Residential Uses									
Condominiums & Townhomes	X	X	X	X	C	C	P	P	X
<i>Congregate Care Facility</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>X</i>
Day Care Center	P	P	X	X	X	C	C	C	C
<i>Day Care Home, Small¹</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Day Care Home, Large²</i>	<i>C</i>	<i>C</i>	<i>C</i>	<i>C</i>	<i>C</i>	<i>C</i>	<i>C</i>	<i>C</i>	<i>C</i>
Dormitory	X	X	X	X	X	C	C	C	X
Homeless Shelter	X	X	X	X	X	X	X	C	C
Mobile Home Parks or Subdivisions	X	X	X	X	X	X	C	C	P
Multi-Family Dwelling	X	X	X	X	X	C	P	P	X
Planned Unit Development	X	X	X	P	P	P	P	P	X
<i>Residential Care Facility, Large</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>C</i>	<i>C</i>	<i>X</i>
<i>Residential Care Facility, Small, Licensed</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Residential Care Facility, Small, Unlicensed</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>C</i>	<i>C</i>	<i>X</i>
Second Dwelling Unit	P	P	P	P	P	P	X	X	X
Single Family Dwelling	P	P	P	P	P	P	C	C	X
<i>Single Room Occupancy</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>C</i>	<i>X</i>
Equestrian Uses									
Stables, Private	P	P	P	P	P	X	X	X	X
Stables, Commercial	P	C	P	C	C	X	X	X	X
Tack & Feed Stores	C	C	C	X	X	X	X	X	X
Veterinary Offices and Hospitals	C	X	C	X	C	X	X	X	X

ZONE	R/A	R/A/H	RR	RR/H	VLDR	LDR	MDR	HDR	MHP
Agricultural Uses									
Grazing of Animals	P	P	P	P	P	P	X	X	X
Kennels and Catteries, commercial	C	C	C	C	C	C	X	X	X
Locally Adaptive Farming	P	P	C	C	X	X	X	X	X
Factory Farms with Genetic Monocultures	X	X	X	X	X	X	X	X	X
Ranching	P	P	C	C	X	X	X	X	X
Recreational Uses									
Clubhouses	C	X	C	X	C	C	C	C	C
Golf Courses and Related Facilities	C	X	C	X	C	C	C	C	C
Swimming Pool/Sports Club	X	X	X	X	C	C	C	C	C
Sports Courts and Fields	C	X	C	X	C	C	C	C	X
Accessory Uses									
Telecommunications Antennae	C	X	X	X	X	X	X	X	X
Garages(for storage of vehicles only, in excess to that required under Chapter 17.28 (Parking Regulations))	C	X	C	X	C	C	X	X	X
Other Uses									
<i>Bed & Breakfast</i>	C	C	C	C	C	C	C	X	X
<i>Boarding House</i>	X	X	X	X	X	X	X	X	X
Cemeteries	C	X	C	X	C	C	X	X	X
Churches	C	X	C	X	C	C	C	C	C
Utility Facilities	C	C	C	C	C	C	C	C	C
Private Schools	C	C	C	C	C	C	C	C	C
Neighborhood Oriented Retail Stores ³	X	X	X	X	X	X	C	X	X
Temporary Uses ⁴	T	T	T	T	T	T	T	T	T

¹ Small family day care homes are permitted by right in single-family residences located in any residential zone. Small family day care homes are not permitted in multiple-family residences.

² Large family day care homes are conditionally permitted in single-family residences located in any residential zone. Large family day care homes are not permitted in multiple-family residences.

³ Neighborhood-oriented retail stores, as defined in the General Plan, consist of “corner store” type development such as convenience stores, grocery or green grocer, video rental, drug stores, sit down restaurants, coffee shops or coffee bars or similar uses, less than 5,000 square feet in total square footage.

⁴ Temporary Uses require Temporary Use Permit. See Chapter 17.108 for provisions.

SECTION 3. Section 17.12.020 of the Banning Municipal Code is hereby amended to read as follows:

ZONE	DC	GC	HSC	PO	I	AI	BP	IMR
Resource and Open Space Uses								
Plant nurseries, with on-site sales	X	P	X	X	X	X	C	C
Plant nurseries, without on-site sales	X	C	X	X	X	X	X	C
Surface Mining ¹	X	X	X	X	C	X	X	D
Cargo/Storage Containers ²	X	T	T	X	C	C	C	C
Recreation, Education and Public Assembly								
Adult entertainment	X	X	X	X	C	X	X	X
Adult day care facilities	X	C	C	C	X	X	C	X
Automobile race track	X	X	X	X	C	C	X	X
Billiard parlors/pool halls	C	C	C	X	X	C	C	X
Churches	X	X	X	C	C	X	C	X
Community centers	P	P	C	C	X	X	X	X
Convention facilities	P	P	P	X	X	P	X	X
Day Care Centers	C	C	C	C	X	X	C	X
Health/fitness facilities	C	P	P	P	X	X	C	X
Indoor recreation centers	C	P	P	X	X	C	X	X
Libraries	P	P	P	P	X	P	X	X
Membership organization facilities	X	X	X	C	C	P	C	X
Museums	P	P	P	P	X	P	X	X
Outdoor commercial recreation	P	P	P	C	X	C	C	X
Public parks and	P	P	P	P	X	P	P	X

ZONE	DC	GC	HSC	PO	I	AI	BP	IMR
playgrounds								
Recreational vehicle (RV) parks	X	X	C	X	X	X	X	X
Recreational vehicle (RV) storage	X	X	X	X	C	X	C	X
Schools	X	X	X	C	X	P	X	X
Sport facilities and outdoor public assembly	C	C	C	C	X	C	C	X
Studios for dance, art, music, photography, etc.	P	P	P	P	C	X	C	X
Theatres and meeting halls	P	P	X	C	X	C	X	X
Retail Uses								
Accessory retail uses	P	P	P	P	P	P	P	X
Alcoholic Beverage Sales, on- or off-site	X	C	C	C	X	X	X	X
Antique stores	P	P	P	X	X	X	P	X
Art Galleries	P	P	C	C	X	P	P	X
Auto, mobile home, and motor vehicle sales, and part sales, new	X	P	P	X	C	X	C	X
Auto, mobile home, and motor vehicle sales, and part sales, new and used ³	X	P	P	X	C	X	C	X
Bakeries, retail	P	P	P	C	X	X	P	X
Bars and drinking establishments	C	C	C	X	X	C	X	X
Building material stores	X	P	P	X	X	X	P	X
Certified farmers' markets	P	P	P	X	X	X	X	X
Convenience Stores	C	P	P	C	X	C	X	X
Convenience Stores, no liquor sales	P	P	P	X	X	X	P	X
Department stores	P	P	P	X	X	X	P	X
Drive-in/drive-through sales	X	P	P	C	X	X	C	X
Drug stores	P	P	P	C	X	X	C	X
Factory outlet centers	X	P	P	X	X	X	C	X
Farm and ranch supply stores	X	P	P	X	X	X	X	X

ZONE	DC	GC	HSC	PO	I	AI	BP	IMR
Furniture, furnishings, home equipment stores	P	P	P	X	X	X	P	X
Gift shops	P	P	P	C	X	P	P	X
Grocery stores, retail butchers and green grocers	P	P	P	X	X	X	C	X
Hardware/lumber stores	X	P	C	X	X	X	P	X
Liquor stores (off-site consumption)	X	C	C	C	X	X	X	X
Outdoor retail merchandise display & activities	P	C	C	C	X	X	C	X
Outdoor retail sales, temporary	T	T	T	T	X	T	T	X
Pawn shops	X	P	P	X	X	X	C	X
Pet stores and grooming	P	P	C	X	X	X	C	X
Restaurants, no beer, wine or liquor sales	P	P	P	C	X	P	P	X
Restaurants, serving beer, wine or liquor	C	C	C	C	X	P	C	X
Restaurants, drive-in, take-out, fast food	C	P	P	C	X	X	C	X
Retail stores, general merchandise	P	P	P	X	X	X	P	X
Second hand/thrift stores	X	C	C	X	X	X	X	X
Shopping centers, 15,000 square feet or more	C	P	P	X	X	X	C	X
Video rental stores	P	P	P	X	X	X	P	X
Warehouse or club stores (i.e. "Big box stores")	X	P	P	X	X	X	P	X
Services								
Automatic teller machine (ATM), not at a bank	P	P	P	P	X	P	P	X
Banks and financial establishments/services	P	P	P	P	X	X	P	X
Barber Shops and Beauty Shops	P	P	P	X	X	X	P	X
Bed and breakfast establishments	P	C	C	X	X	X	X	X

ZONE	DC	GC	HSC	PO	I	AI	BP	IMR
Boarding House	X	X	C	X	X	X	X	X
Business support/secretarial services	P	P	P	P	X	P	P	X
Car wash	X	P	P	X	X	X	C	X
Columbarium's and mortuaries	X	C	C	X	X	X	C	X
Construction storage (indoor and/or outdoor)	X	X	X	X	P	X	C	C
Drive-in and drive-through services	X	P	P	C	X	X	C	X
Dry cleaning, retail	C	P	P	C	X	X	P	X
Equipment rental yards	X	X	C	X	P	C	C	X
Government offices	X	C	C	P	X	P	X	X
Hotels and motels	P	P	P	X	X	X	C	X
Laundry, coin operated	C	P	P	X	X	X	X	X
Massage Parlors	C	C	C	C	X	X	X	X
Medical services, clinics and labs	C	C	C	P	X	X	C	X
Vehicle fueling/service stations	X	P	P	X	X	P	X	X
Professional offices	P	P	C	P	X	C	P	X
Public parking	P	P	P	P	P	P	P	X
Public utility and safety facilities	P	P	P	P	P	P	P	P
Real estate offices	P	P	C	P	X	X	C	X
Repair and maintenance of consumer products	X	P	P	C	X	X	P	X
Repair and maintenance of motor vehicles, including auto body	X	C	P	X	P	P	P	X
Research and development facilities	X	X	X	C	C	C	P	X
Storage, accessory, including self-storage	X	X	X	X	C	X	C	X
Veterinary clinics, animal hospitals, grooming	C	P	C	C	X	X	X	X

ZONE	DC	GC	HSC	PO	I	AI	BP	IMR
Manufacturing and Processing Uses								
Assembly from prefabricated parts or products	X	C ⁴	X	X	P	P	P	X
Auto wrecking/parts salvaging	X	X	X	X	C	X	X	X
Bakeries, wholesale	X	X	X	X	P	X	P	X
Breweries and distilleries	C	C	C	X	C	X	C	X
Breweries and distilleries, ancillary to a bar or restaurant	C	C	C	X	X	P	C	X
Cabinet shops, carpentry, furniture manufacturing & assembly	X	X	X	X	P	X	P	X
Ceramics manufacturing & assembly	X	X	X	X	P	X	P	X
Cleaning and dyeing plants	X	X	X	X	P	X	X	X
Contractor's storage yards	X	X	X	X	P	C	P	P
Creameries and dairies	X	X	X	X	C	X	X	X
Distribution	X	X	X	X	P	P	P	X
Food products manufacturing	X	X	X	X	P	X	C	X
Furniture and fixtures	X	X	X	X	P	X	P	X
Garment and shoe manufacturing	X	X	X	X	P	X	P	X
Ice and cold storage	X	X	X	X	P	P	P	X
Laundries and dry cleaning plants	X	C	C	X	P	X	X	X
Lumber yards	X	X	X	X	P	X	C	X
Machining, welding and blacksmithing	X	X	X	X	P	P	C	C
Manufacturing facilities, Light	X	X	X	X	P	C	P	X
Manufacturing facilities, Heavy	X	X	X	X	P	C	X	X
Metal Plating shops	X	X	X	X	C	X	X	X
Mixed use office/industrial	X	X	X	X	P	C	P	C

ZONE	DC	GC	HSC	PO	I	AI	BP	IMR
Mixed use industrial/commercial	X	X	X	X	P	X	C	X
Packing plant	X	X	X	X	P	X	P	X
Printing/publishing	C	C	C	C	P	X	P	X
Recycling facilities	X	X	X	X	P	X	C	X
Recycling - reverse vending machines	P	P	P	X	P	X	P	X
Sheet metal shops	X	X	X	X	P	P	C	C
Stone and granite storage and sales	X	X	X	X	P	X	C	P
Storage Yard	X	X	X	X	P	C	C	P
Tire recapping, retreading and storage	X	X	X	X	C	C	C	X
Truck (commercial) repair, towing, storage and service	X	X	X	X	P	P	C	C
Trucking yard or terminal	X	X	X	X	C	C	C	X
Warehousing	X	X	X	X	P	P	P	C
Wholesaling	X	X	X	X	P	C	P	X
Residential Uses								
Caretaker/watchperson's dwelling	C	X	X	X	C	C	C	C
Guest house	X	X	X	X	X	X	X	X
Home occupations	P	X	X	X	X	X	X	X
Mixed Use, residential/commercial	P	P	C	C	X	X	C	X
Residential accessory uses and structures	C	X	X	X	X	X	X	X
<i>Residential care facility, large</i>	X	X	C	X	X	X	X	X
<i>Residential care facility, small, licensed</i>	X	X	C	X	X	X	X	X
<i>Residential care facility, small, unlicensed</i>	X	X	C	X	X	X	X	X
Congregate Care Housing	C	X	X	C	X	X	C	X
Single room occupancy facility	C	X	C	X	X	X	X	X

ZONE	DC	GC	HSC	PO	I	AI	BP	IMR
Single family dwellings, existing	C	X	X	X	X	X	X	X
Single family dwellings, new	X	X	X	X	X	X	X	X
Other Uses								
Commercial or Telecommunications Antennae	X	C	C	C	C	C	C	C
Public utility facilities	X	P	P	P	P	P	P	P

SECTION 4. Table 17.28.040C (“Institutional Parking Requirements”) of Section 17.28.040 of the Banning Municipal Code is hereby amended to read as follows:

USE	NUMBER OF REQUIRED PARKING SPACES
<i>Boarding houses, dormitories, single room occupancies and similar facilities</i>	<i>One (1) space per room, or one (1) space per two (2) beds, whichever is greater.</i>
Churches, conference/ meeting facilities, mortuaries, theaters, auditoriums	One (1) space for each four (4) fixed seats, or one space for each thirty-five (35) square feet of non-fixed seating area in the principal sanctuary, conference space or auditorium, whichever is greater.
Community college/ university	Twelve (12) spaces for each classroom
Day care centers	One (1) space for each staff member, plus one (1) space for each eight (8) children
Elementary school/ junior high	Three (3) spaces for each classroom
High school	Eight (8) spaces for each classroom
Hospitals	Three (3) spaces for each two (2) patient beds, or as determined in the development review process.
Libraries, Museums, art galleries	One (1) space for each three hundred (300) sq ft of gross floor area, or as determined in the development review process.
Sanitariums/ nursing homes	One (1) space for each five (5) beds, plus one (1) space for each employee on the largest shift, plus one (1) space for each staff doctor
Senior Congregate Care Housing	Two (2) spaces for each three (3) living units.

SECTION 5. Section 17.08.201 is hereby added to the Banning Municipal Code, and shall read as follows:

“17.08.201. Boarding Houses, Single Room Occupancies and Residential Care Facilities.

Any person who seeks to own, manage, or operate a boarding house, single room occupancy, a large residential care facility or a small, unlicensed residential care facility shall obtain a conditional use permit from the City. A boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility may only be allowed to operate with a conditional use permit in the zones indicated in sections 17.08.020 and 17.12.020 of this Zoning Ordinance. No person shall own, manage, or operate a boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility without a valid conditional use permit.

A. Application for a Conditional Use Permit

In addition to the findings for a conditional use permit required by section 17.52.050 of this Zoning Ordinance, no conditional use permit for a boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility shall be granted unless the following findings are made:

1. The Fire Chief and Building Official have determined that the premises complies with all applicable laws, ordinances and regulations.
2. All persons directly or indirectly interested in use as an owner, partner officer, manager, employee or other person to be in charge of the use have not been convicted of a felony or any crime of moral turpitude.

B. Operational Standards

The following standards shall apply to boarding houses, single room occupancies, large residential care facilities and small, unlicensed residential care facilities:

1. The use shall not result in adverse effects to the health, welfare, peace, or safety of persons in the surrounding area;
2. The use shall not jeopardize or endanger the public health, safety, or welfare of persons in the surrounding area;
3. The use shall not adversely affect the livability of the surrounding neighborhood as a result of inadequate maintenance, prohibited activities, and/or operating characteristics;
4. The use shall not result in nuisance activities, including, without limitation, disturbance of the peace, illegal drug activity, public drunkenness, public consumption of alcohol, harassment of passers-by, gambling, public urination, theft, assault, battery, vandalism, littering, loitering, illegal parking, loud noises, lewd conduct, or police detentions and/or arrests;

5. The use shall not result in violation of any applicable provision of any other city, state, or federal law;

6. The use shall not be located within three hundred (300) feet, measured from the property lines, of any other boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility, or within three hundred (300) feet of any elementary or secondary school, or any day care center. However, Boarding Houses and unlicensed residential care facilities shall not be located with one thousand (1,000) feet, measured from the property lines, of any other boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility, or within one thousand (1,000) feet of any elementary or secondary school, or any day care center.

7. The use shall comply with the parking requirements in Section 17.28.040(A)-(C);

C. Revocation of Conditional Use Permit

Violations of any of the provisions of this section shall be grounds for revocation of the Conditional Use Permit authorizing the use. Violation of any local, state or federal laws by individual boarder, tenant or occupant while on the premises of the boarding house, single room occupancy or residential care facility shall be grounds for revocation of the permit. The revocation procedures contained in Section 17.52.100 of this Zoning Ordinance shall be followed.

D. Non-conforming uses

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 (6) months of the effective date. All boarding houses, single room occupancies, large residential care facilities and small, unlicensed residential care facilities existing legally prior to the effective date of the ordinance creating this section shall comply with Chapter 17.88 of the Zoning Ordinance.

E. Reasonable Accommodation.

Any person who seeks to operate a residential care facility in a zone where such use is not permitted, either by right or subject to conditional use permit pursuant to sections 17.08.020 and 17.12.020 of this Zoning Ordinance, may request that the City allow the residential care facility to locate in such a zone as a reasonable accommodation under the federal Fair Housing Act by applying for a Conditional Use Permit. The City shall grant the Conditional Use Permit as a reasonable accommodation if it finds:

1. The request for a reasonable accommodation will not impose an undue burden or expense on the City, and

2. The proposed use will not create a fundamental alteration in the City's zoning scheme. The factors that shall be considered in making this determination include, but are not limited to, the following:

(i) Whether the proposed use is in accord with the operational standards identified in subsection B of this section.

(ii) Whether the proposed location of the use is in accord with the requirements of the zone in which the site is located and complies with other relevant City regulations, policies, and guidelines.

(iii) Whether the proposed location of the use and the conditions under which it will be operated and maintained will not be detrimental to the public health, safety or welfare, or to existing land uses, the operation of established sensitive land uses as defined in this chapter, the character of established neighborhood, or planned residential development in the vicinity.

(iv) Whether the proposed use is consistent with the General Plan.

(v) Whether the type, intensity, sensitivity, and operating characteristics of the proposed use, and the manner in which it is located on its site, are compatible with existing land uses, the character of established neighborhoods, or planned residential development in the vicinity.

(vi) Whether the site is physically suitable for the type, sensitivity, and intensity of the use as proposed, including access, utilities and absence of physical constraints.

SECTION 6. Section 17.12.050(Q) is hereby added to the Banning Municipal Code, and shall read as follows:

“Q. Boarding Houses and Single Room Occupancies

1. All requirements outlined in Section 17.08.201 shall be complied with.”

SECTION 3. Severability.

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

SECTION 4. Non-exclusivity.

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

SECTION 5. Effective Date.

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

SECTION 6. Publication.

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

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

Brenda Salas, Mayor
City of Banning

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

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

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 Ordinance No. 1392 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 8th day of July, 2008, and was duly adopted at a regular meeting of said City Council on the ____ day of _____, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

G:\Group Homes - Residential Care Facilities\CC Ord 1392 - Res Care Fac 7-8-08.doc

Ordinance No. 1392
Residential Care Facilities

ATTACHMENT 2

June 3, 2008 Planning Commission Minutes

The Commissioners requested that Mr. Bassi do his research and check with the City Attorney's Office regarding properties with several lots, but with a house on only one lot and get back to the Commission.

ACTION (BARSH / ESCANDEL): A motion was moved, seconded and carried that the Planning Commission approve (1) Notice of Exemption. In accordance with Public Resources Code Section 21552(b) and CEQA Guidelines Section 15062 the Planning Commission hereby recommends to the City Council approval of a Categorical Exemption for the project under CEQA Guidelines Section 15061(b)(3) and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062 and (2) Resolution No. 2008-10, recommending to the City Council approval of Zone Text Amendment #08-97503.

(Motion carried 5 - 0)

- * 3. Zone Text Amendment #08-97504: A City Initiated Amendment to the Zoning Ordinance establishing regulations for Boarding Houses and Residential Care Facilities.

Interim Director Bassi stated that this amendment is a request by staff to establish regulations for boarding houses and residential care facilities. At the City Council's request, the Community Development Department and the City Attorney's office has been working together to create this draft ordinance. There was a study session with the Council on May 13, 2008 at which time the Council gave direction to move forward to the Planning Commission for review and recommendation back to the Council. The ordinance includes definitions and revisions on several definitions and there were some changes to the Land Use Table 17.08.020. Congregate Care Facility has been amended to where those facilities are permitted by right in the LDR, MDR and HDR zones. Mr. Bassi discussed the recent State laws and court decisions regarding large and small residential care facilities. Staff recommended approval of the amendment.

ACTION (BARSH / ESCANDEL): A motion was moved, seconded and carried that the Planning Commission recommend to the City Council approval of a Categorical Exemption for the project under CEQA Guidelines Section 15061(b)(3) and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.

(Motion carried 5 - 0)

ACTION (BARSH / SIVA): A motion was moved, seconded and carried that the Planning Commission adopt Resolution No. 2008-11 recommending City Council approval of Zone Text Amendment No. 08-97504.

(Motion carried 5 - 0)

V. PLANNING COMMISSIONER'S COMMENTS

Commissioner Escandel mentioned that he liked the change in the format of the reports and packet. Chairman Dickson inquired about the status of the Design Review Board. Senior Planner Clinton responded that the ordinance has been approved to allow the board, but we have not sought any applicants, yet.

VI. DIRECTOR'S REPORT


Interim Director Bassi stated that the Planning Department took a resolution to the City Council to defer development impact fees for commercial projects until certificates of occupancy. The Council adopted a similar resolution for residential projects earlier. The Tefft tract map time extension was approved. There was also quite a lot of discussion on the warehouse moratorium at the last Council meeting. The Council decided to let the moratorium expire, which will be on June 25, 2008. The City also has been directed by the court to rescind all the Sun Cal approvals from a year and a half ago on the Black Bench Ranch.

Mr. Dickson inquired if anything has come up about the Drag City project. Erica Ball, from the City Attorney's office responded that a law suit was filed very recently by the applicant (BAA).

VII. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:30 p.m.

Respectfully submitted,


Gini Sorenson
Recording Secretary