

AGENDA
REGULAR MEETING
CITY OF BANNING
BANNING, CALIFORNIA

May 26, 2009
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 council members present and voting.

I. CALL TO ORDER

- Pledge of Allegiance
- Invocation
- Roll Call – Council Members Franklin, Hanna, Machisic, Robinson, Mayor Botts

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 or 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.

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsive, fair treatment to all and is the pride of its citizens.

PRESENTATIONS:

1.	Proclamation – The Church of Later Day Saints	1
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ANNOUNCEMENTS/COUNCIL REPORTS: *(Upcoming Events/Other Items and Report if any)*

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 11
Items to be pulled _____, _____, _____, _____ for discussion.
(Resolutions require a recorded majority vote of the total membership of the City Council)

1.	Approval of Minutes – Special Joint Meeting – 4/28/09	2
2.	Approval of Minutes – Regular Meeting – 5/12/09.	14
3.	Approval of Minutes – Special Meeting – 5/20/09	28
4.	Ordinance No. 1407 – 2 nd Reading: An Ordinance of the City Council of the City of Banning, California, Approving Zone Text Amendment No. 09-97501, to Amend Section 17.28.040 of the Municipal Code Pertaining to Industrial Warehousing and Industrial Manufacturing Parking Standards.	32
5.	Resolution No. 2009-38, Approving the city of Banning's Disadvantaged Business Enterprise (DBE) Program Implementation Agreement with the Department of Transportation (CALTRANS)	36
6.	Resolution No. 2009-39, Approving the Measure "A" Five Year Capital Improvement Plan	49
7.	Resolution No. 2009-40, Approving the Professional Services Agreement for Project No. 2009-02, Design of the New Repplier Park Playhouse Bowl	63
8.	Resolution No. 2009-42, Approving an Advance to the San Gorgonio Child Care Consortium in the Amount of \$25,000.	68
9.	Public Improvements Acceptance and Performance/Labor and Material Bond Release for Barbour Street Industrial Park	72
10.	Notice of Completion for Project No. 2008-08, Phase II Improvements to the Banning Community Center Gym, as complete and direct the City Clerk to record the Notice of Completion	73
11.	Approval of Accounts Payable and Payroll Warrants for Month of April 2009.	78

- Open for Public Comments
- Make Motion

IV. 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.	Resolution No. 2009-36, Confirming a Diagram and Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2009/10.	
Staff Report	82
Recommendations:		
I.	That the City Council adopt Resolution No. 2009-36, Confirming a Diagram and the Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. for Fiscal Year 2009/10, pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code; and	
II.	Authorizing and directing the City Clerk to file the diagram and assessment with the Riverside County Assessor/County Clerk-Recorder's Office.	
2.	Resolution No. 2009-37, Edward Byrne Memorial Justice Assistance Grant	
Staff Report	92
Recommendation: That the City Council conduct a Public Hearing and accept grant funds provided by the Office of Justice Programs in the amount of \$95,724 to cover overtime costs for police officers participating in Banning Police Activities League (BPAL) activities and training exercises for the department's Emergency Tactical Unit (ETU).		

V. REPORTS OF OFFICERS

1.	Brian Nakamura, City Manager	
A.	Adoption of Tag Line for the City of Banning	95
Recommendation: That the Council adopt Tag Line for the City of Banning.		
B.	Resolution No. 2009-41, Finding a Severe Fiscal Hardship Will Exist If Additional City Property Tax Funds are Seized and Additional Unfunded Mandates are Adopted by the State of California	104
Recommendation: That the City Council adopt Resolution No. 2009-41.		
C.	Stagecoach Days City of Banning In-Kind Service Costs Update and Possible Funding Appropriation for FY 2009-10	108
Recommendation: The information/recommendation is to 1) provide City of Banning In-Kind Service Costs for City Council information; and 2) provide financial update regarding City Council Contingency for possible appropriation for 2009 Stagecoach Days.		

VI. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Service Club Signage on Ramsey Street, Gateway project
2. Ramsey Street Left Turn at Beaver Medical (*ETA 6/1/09*)
3. Courthouse Development, Land Assembly for Future Development
4. City Purchasing Policy for Buy Local Program (*ETA 526/09*)
5. Golf Cart Lane Policy for City of Banning
6. Update on Sunset Grade Separation
7. Schedule Meetings with Our State and County Elected Officials

FUTURE MEETINGS

1. Special Council Meeting - Budget Workshop – June 3, 2009 – 9:00 a.m.
2. Special CRA Meeting - Budget Workshop – June 9, 2009 – 4:30 p.m.
3. Special Council Meeting - Budget Workshop – June 10, 2009 – 2:00 p.m.

VII. CLOSED SESSION

1. Pursuant to Government Code Section 54957.6 Conference with Labor Negotiators Employee organization: IBEW - Utility Unit and IBEW General Unit, CBAM and BPOA. Agency Designated Representatives: Brian Nakamura, David Aleshire, Bonnie Johnson and Hoyl Belt
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 Closed Session

VIII. ADJOURNMENT

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m.

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].



PROCLAMATION

WHEREAS, The Church of Latter Day Saints was chosen to receive an award for Outstanding Community Service for participating in the Annual Banning Community Cleanup event; and

WHEREAS, The Church of Latter Day Saints is to be commended and celebrated for generously planting trees, painting buildings and cleaning up one ton of trash off city streets and with the help of over 400 participating church members the Annual Banning Community Cleanup was a successful event; and

WHEREAS, The Church of Latter Day Saints deserves special recognition for their dedication and outstanding services; and

WHEREAS, The Church of Latter Day Saints should be saluted for their innovative spirit and enthusiasm to help the Banning Community.

NOW THEREFORE, BE IT RESOLVED, that I Robert E. Botts, Mayor of the City of Banning along with the City Council do hereby congratulate

"THE CHURCH OF LATTER DAY SAINTS"

on being chosen for an "Outstanding Community Service" award and deem it an honor and pleasure to extend our sincere thanks for their kind volunteering.

IN WITNESS WHEREOF, I have set my hand and caused the seal of the City of Banning, California to be affixed this 26th day of May, 2009.

ATTEST:

Marie A. Calderon, City Clerk

Robert E. Botts, Mayor

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

4/28/09
SPECIAL MEETING

A special joint meeting of the Banning City Council and the Morongo Band of Mission Indians Tribal Council was called to order by Mayor Botts on April 28, 2009 at 12:15 p.m. at the Hampton Inn & Suites Meeting Room, 6071 Joshua Palmer Way, Banning, California.

COUNCIL MEMBERS PRESENT:	Council Member Franklin Council Member Hanna Council Member Machisic Council Member Robinson Mayor Botts
COUNCIL MEMBERS ABSENT:	None
TRIBAL COUNCIL MEMBERS PRESENT:	Council Member Andreas Council Member Mathews Council Member Miller Council Member Sandoval Chairman Martin
COUNCIL MEMBERS ABSENT:	Council Member Lyons Council Member Martin
OTHERS PRESENT:	Brian Nakamura, City Manager David Aleshire, City Attorney Jim Earhart, Public Utility Director Duane Burk, Public Works Director Leonard Purvis, Police Chief Heidi Meraz, Community Services Director Daniele Sevard, Executive Secretary Marie A. Calderon, City Clerk Kevin Wolf, President - Germania Eric Haley, Sr. Vice President - Germania Rick Hoffman, Sr. Vice President - Germania Megan Cabrera, Project Analyst - Germania Michael Milhiser, Chief Administrative Officer Roger Meyer, Chief Executive Officer Tom Linton, Planning & Construction Services Administrator Sharon Savage, Executive Recording Secretary – Tribal Council Patti Hanley, Banning Library Traci Kratzer, Record Gazette

Mayor Botts welcomed everyone to the meeting and asked that everyone introduce themselves.

PUBLIC COMMENTS – On Items Not on the Agenda

There were none.

DISCUSSION ITEMS

1. South I-10 Bypass Update

Mayor Botts said Germania would start with their presentation.

Eric Haley thanked all who participated in this discussion thus far brining us to the point of where we are today. He said that Monday last they had a terrific meeting and thanked Duane Burk, Tom Linton and his staff and Mike Meyer. He also thanked Supervisor Ashley's personal staff plus the County of San Bernardino in the person of Juan Perez who have been kind of leading the effort since November. The goal has been to put out a series of southern route alternatives to cost them within reasonable tolerances and some you will find a bit intolerant as you begin to look at the proposed price tags. They have also created some attention from the press and from property owners on both sides of Interstate 10 who have an interest in what is changing. They have also been the subject of quires from the economic development consultants and the like who are interested in the picture of how things are beginning to pull together. They were also joined very recently by the California Highway Patrol who has brought a whole new dimension and a whole new set of issues of which includes homeland security concerns that relate to the precise location of the scales and any kind of improvements that might affect the routes of major trucking firms. The first concern would be truckers skipping scales to avoid the fees. That concern then gets magnified by public safety issues of what exactly those cargos are and whether they constitute any kind of threat to the greater metropolitan area. He said that the CHP is very, very strongly in favor of a bypass with the incident that happened a couple of years ago of what can happen when Interstate 10 gets shut down for 10, 12 or 16 hours. He said that WRCOG (Western Riverside Council of Governments) was also a recent participant and Germania very much appreciates the fact that WRCOG through the intersession of its members and Supervisor Ashley didn't just join the party, they have been paying for it. They permitted \$467,000 to this fiscal year and there is another \$550,000 that he mentioned in his presentation to the Tribal Council a few weeks back that is in the budget for 2010/2011. That still faces the uphill challenge that every budget item faces this year and they are spending considerable amounts of money replying to documents and coming up with alternative such as the ones you have in front of you.

Mr. Haley had a posted a map of the area showing the alternative routes. He said that they stretch out towards Apache Trail and they initially came in with two alternatives listed as Alternative 2 which presents some very substantial problems which lead to some very big numbers from \$52 million to \$60 million and there was even initially a \$92 million dollar estimate for this route. The problems are the waters of the United States of America (The

Army Corps of Engineers) demands that some of this involve bridges and also involves blasting and some grade issues which just make the pricing of Alternative 2 initially pretty shocking. Alternative 1 the most northerly of these was in place until they found through the good work of the County of Riverside that there was a future option that they were cutting the corner of and the last thing that they wanted to was to consider paying for buying out a huge gravel operation or filling in a portion of the an existing one. He said that the dotted line on the map which leads to Alternative 3 is a means of avoidance of having to pay what would be a real punitive economic price. He said that Alternative 3 is the boundary of lands that are owned by Morongo and this is here not out of any preference. They are waiting and it has been expressed by everybody in the meeting that the Tribal Council would embrace a route that they are comfortable with. He said this does not mean that we won't have private land owners; that we don't have other scenarios that come out of the environmental impact process. Those will be considered in the legal fashion that you do as a Council and that it is done through the planning process of the Tribe but they will initially continue to refine the alternative. Alternative 3 assumed that there is a scenario where the Tribe does not want to have any incursion into their lands.

Mr. Haley said that Alternative 1 is least expensive and goes into a quadrant of properties owned by the Tribe and does present a number of economic benefits. There are others who wish to have a fork in the road and serve more directly the Banning airport and their interests are very clear and he thinks that their interest may be shared by everyone in this room. The economic development potential of the airport is broadly understood and this route could be a linkage between Apache Trail all the way to Banning airport and in his view this leads to their early work on Hargrave grade separation and public works projects that are necessary to access both the airport and to swing around and catch the new bypass.

Mr. Haley said that these are the options where they are today with preliminary information of where the key parties are in terms of which routes should get further refined study. With that he would not preclude any other option coming out of the public process but this is where they are. You are funded to do work for a couple of years utilizing the Transportation Uniform Mitigation Fee which are fees assessed on every residential, commercial and industrial property that is approved in Riverside County with the exception of the Tribe which is a sovereign entity and does not have participation in that. A lot of this is going through County land and is viewed as a public site safety necessity.

Mr. Haley said that this is not on the map but part of the public discussion is that at Apache Trail there is a roundabout which is in the process of being refined because it is one of the early efforts of roundabout in the state of California especially next to an interstate highway. At Apache Trail we are now going east towards I-10, Main St., Haugen-Lehmann and Highway 111 and there is a keen interest in relocating \$28.8 million dollars still owned the Tribe from the Transportation Congestion Relief Program approved by the State of California in the year 2000. That money is still to be claimed and requires because of the spacing of interchanges in this area this is considered a rural area so anything closer than two miles is considered non-standard but in the future the Federal Highway Administration and Caltrans and the CHP want to avoid the kind of weaving that close to an interchange cause and want to avoid the kind of problems that they are facing right now with the truck scales in terms of

cueing of trucks and physical danger to motorists and truckers. But the discussion that they are beginning to broach is to define the Apache interchange as having a natural location connecting to this bypass but going all the way out towards Haugen-Lehmann and define the apron of a new interchange which will then create a bypass from close to Highway 111 all the way to the Banning Airport by putting these two projects together with one funded by the State and one largely funded by local revenues and eventually the State will play a part as well.

Mr. Haley said that those are the things that he has been charged with and continuing to work on. This is changing monthly and probably more rapidly than that and they are delighted at the speed of this. There is a desire to do this because this is a moment in time when people think they can put things together and we have this opportunity here. They are in conversation with a new Executive Director of the California Transportation Commission Bimla Rhinehart just appointed two weeks ago to do exactly this to change the definition of Apache Trail Interchange and move it easterly and make it more flexible so once again they will go through this exercise involving everyone in terms of the placement of this facility. It is not going to be in the city limits of Banning obviously but it will affect the entire Pass and the California Highway Patrol. The final piece of the puzzle is much more complicated and still has to be worked out and that is the question of State scales and the location of those scales. Within that issue they need to be lined up between the two projects so that we don't create a bypass for truckers to avoid paying their fees and maintain a homeland security profile. He said that this is what Germania is doing on behalf of Morongo and he hopes on behalf of everybody else in the room.

Mayor Pro Tem Hanna asked what are the next steps in terms of drafts of EIR's and things like that.

Mr. Haley said they looked at the EIR's and the dynamics of sovereign land and land on public and private property as well. There are two multi-species habitat zones in this territory with one in the Coachella Valley and one in the Western Zone. There are no complications that he sees on that. Their next step is to get a sense of which of the routes the Tribe wants to go forward with and Banning and the County join with them on and then begin the environmental process and public hearing process. He said he doesn't see this having an impossible timeline and it would probably be two and half to three years to finish the whole process. Then their challenge would be taking advantage of every public relations cycle in the House of Representatives and the Senate to get additional money. Recognize that the old Ramsey Street proposal is in the Measure A Development Program for the County Transportation Commission and the problem with their challenges are is that they are under water on lots of things at the same time like everyone else so they are not in a hurray to get more financial commitments but still it is part of the program that the voters approved in 2002 so there is some money there. He said environment first, clearance within two and half years, financing plan to coincide and simultaneously working on the interchange issues and other things.

Council Member Miller asked Mr. Haley if he could tell a little bit more about the opportunities because he said he hasn't been convinced himself that the cost outweighs the opportunities.

Mr. Haley said in a real sense he believes that you are obviously going to improve access to the airport. The question of building additional structure bridges over what are 99 dry wash areas and in Route 2 you have prohibited cost issues. Route 3 is just on the boundary line of the property you own and out of your planning department and out of the demands of the market place he thinks that you will make a decision on what benefits there are. He would think that you are involved in a combination of things that differ a lot and commercial is not on everybody's lips these days but commercial will come back and the access to these lands for commercial purposes are very positive. There is obviously the Union Pacific Railroad so there are industrial and warehousing opportunities. Right now a lot of this is land-locked and he has seen the City's General Plan and he knows it is a very complicated document and a far-reaching document. So he thinks there will be combination of industrial and commercial and an energy component here with relocation of utility lines.

There was some further discussion in regards to land-locked areas with regards to some of these proposed routes.

Mayor Botts asked what is driving a couple of these routes because when they met on Friday and personally he doesn't have a preferences but when they met and negotiated this originally we said lets extend Westward to go straight out but what is driving the other two routes.

Mr. Harley said a lot of the bends and dipping part are to avoid Waters of the United States (Army Corps of Engineers) and the time and cost of the project and the second thing is that we have an active sand and gravel operation and future options. There are real cost driven concerns about the type of route we chose to take and they were well into their third month of work before it came out that there was a fifty year option on a corner of a major sand and gravel operation. He said that a lot of this is avoidance and trying to keep within a financially doable envelope.

Mayor Botts asked him to comment on what impacts the private property ownership on the south side.

Mr. Haley said that they have been looking at the public print and there is private ownership on one side and they have received proposals and aerial photographs from property owners on the south side and the route systems that they would like to see put into this. And they all recognize the complicated nature of partnership that they would have to participate in and they have all been told that some of their proposals are going to have to be totally financed by themselves. But Mr. Fields and the Daniel's Family have very significant interest on how this goes. Mr. Haley said they have gone to the environmental part of this process as a logical part of this process that gets those variations of this that are not tilting them towards a particular land owner. In fact, they are trying earnestly to avoid the kind of price tag that comes when you encroach on somebody's property or on our future options.

Mr. Haley said through your economic development arms both organizations are going to be engaged in those kinds of discussions as far as private land owners. And the split of dollars and the irony of the public function and the CHP, WRCOG and the County of Riverside really have significant public safety issues with the community of Cabazon and the possibility of future closures with I-10 in emergency circumstances so the commitment to a bypass is really overriding all of the public interests. He said that they do not work for, nor anticipate working for, any of the private folks who have an interest at this point.

Mayor Botts said he was certainly happy there is congressional interest in the bypass. Mr. Haley said that Mr. Lewis has support for this. And Morongo representatives have been out and have inserted numbers in this year's appropriations bill so that discussion of getting to that multi-million dollar figure, a couple of hundred thousand at the time, that strategy is on-going and will be seen in this year's appropriations process.

Mr. Hoffman said as Mr. Haley has pointed out we don't have any non-overcome able environmental issues at this point but those go up exponentially every time you get into Smith Creek and the City has had those same issues with Smith Creek Park and others. So to the extent that you can avoid crossings and avoid any relocations of the creek you're much better off in terms of processing time and dollars spent.

Council Member Miller asked Mr. Haley what is your best estimate if that road was opened today and then four or five years down the road. What kind of traffic counts would you get on that road? He is wondering who the consumer is. Is it the person who lives in Cabazon that does not want to get on the freeway to go to Banning?

Mr. Haley said that is a wide open question. There are localized traffic but thinks that you will experience here the kind of impact we see in Riverside with Van Buren and Alessando Boulevard. Numbers of 35,000 cars. Mr. Hoffman said many of those trips will be tied to the type of economic development that occurs there.

Council Member Miller said he has often heard what if there is another reason to shut down I-10. He said that on a yearly basis the Grapevine gets closed down probably 4 to 6 days a year but that is intra-commerce though within the state of California which is probably much more destructive so how do they bear with that. They don't have a bypass which he is aware of.

Mr. Wolf said that one of the staggering statistics is that 45% of all the goods going through the United States comes through the I-10 corridor. He doesn't know the actual truck count but it is probably much more significant than that one. If the destruction also included rail system he thinks it would be a more spectacular national impact.

Council Member Miller said but this plan isn't to mitigate any potential problems with the railroad; this is for traffic.

Mr. Haley said yes, but he does think that they accelerated the development of the Hargrave Grade Separation and certainly we cannot guarantee the viability of the rail system. But he thinks that you will see more and more north/south grade separations. If you had two or three

facilities generating the truck traffic say at the Arrowhead facility, the lack of grade separations, the lack of modern facilities to I-10 would be a real drawback and grade crossings of major transcontinental railroads would be a major negative to have to overcome.

Chairman Martin said in regards to Alternate Route 3 is that both on Tribal property and does the City own the property to the south. Mayor Botts said that was County. Mr. Hoffman said that the alignment at this level is not that precise so it could be right on the section line or it could be on one side or the other.

Chairman Martin asked that coming west on Westward what impact is that to the public and is there going to be any mitigation for that because it goes up to Hathaway.

Mr. Haley said that you are in pretty good shape and there would obviously have to be improvements because of the truck traffic and signalization, etc. Mr. Hoffman said he thinks that a second grade separation east of Hargrave is not to be overlooked. This is something the County has been looking at for many, many years and it is an important safety issue for Cabazon.

Councilmember Franklin said with all three of these routes do you have any idea of how many inhabitants would be affected.

Mr. Haley said virtually none. Mr. Hoffman said there may be some impacts closer to city neighborhoods.

Mayor Botts said he assumes the process will continue to move forward. Mr. Haley said their next meeting would be the first week of June.

There was some discussion in regards to the preference of the routes and there was City Council and Tribal Council consensus to abandon Alternative 2.

2. Airport FBO and Development Opportunities

Mr. Burk said the Airport Master Plan has been going on for about four years. Two years have been spent with the FAA and they did finally sign on the document. The Airport Master Plan is somewhat conservative in what the airport is doing currently and what will happen in 20 years. What came out from the elected officials was what else could we do at the airport. How do we entice the aeronautical people to fly out of the sky? An example of that is that our airport only serves eight hours of fuel seven days a week and it has to be done by an attendant within those hours. One of the ideas is to go with 24 hour fueling and that is one of the things that the Airport Master Plan talked about. Also what came out of that was looking at a Fixed Based Operator (FBO). The City hired CS Engineers of San Diego and they did the Airport Master Plan and did a feasibility study and in that study it brought all kinds of ideas of what could be done to contract out the uses of the airport and take away the City's involvement to the airport. That study was passed out and they had a meeting with some Tribal members and they just talked about what the feasibility is and what came out of that was that you need to build a business model plan. The City had five business models developed in comparison to

the 13 surrounding general aviation airports within Riverside County and there has been a lot of interest in people wanting to take over the airport but we have not finalized the Fixed Based Operators Business Model. He said that he just recently received one which was commingle between two business models and he passed it out to the Ad Hoc Committed (Mayor Botts and Councilmember Franklin) and they read it and Councilmember Robinson has also read it. He said that staff has a meeting coming up with the Ad Hoc to go over that business idea. The idea in that business model is to have the City of Banning run the regulatory side of it meaning we deal with Caltrans and the FAA while they may be able to private sector out some of the other needs. For example, if we wanted to do the 24-hour fueling, they might enter into an agreement with a private company that could do it and the City takes a cut from that. That is just one idea but we have a business model done and developed and that is kind of where we stand today.

City Manager said that is a great summary. He said that they look to work with the Tribal Council and staff and we want to partner with the Tribe do make sure whatever happens in that area is beneficially to all the people involved which includes the County, the Tribe and ourselves.

Mayor Botts said he hoped that they could have some discussion today on this and they have tried to make sure that the Tribe has the Airport Master Plan and there is a lot in that plan but technically we approved 24-hour fueling, jet fuel, hangars, runways, taxiways and all kinds of paving that needs to be done. Our City position is that we need to improve our airport and make it a profitable venture for the City of Banning. Frankly they have had discussion of how can we work with the Tribe, what is your interest and how could that benefit you.

Council Member Miller said one thing that he has heard for years and years is that the length of the strip is too small to have large planes come in and somebody else told him no and said there was plenty of room with almost a mile there. He asked if it was long enough to handle a 737.

Mr. Burk said no. However; you could land a 737 there if you need to in an emergency situation. The length of the runway right now is 4,990 lineal feet. It has one taxiway to the south and it does not have an approved taxiway to the north. Right now at the 4,990 feet we are at a displaced threshold to the east because Section 12 belongs to the Tribe and the current chain link fence that is there now is supposedly right on the property line. So because of the clear zone between where they land at runway 8 has to be 300 feet; it is a displaced threshold to 4,990. Theoretically if that fence got moved out to accommodate a clear zone, you could use the runway at 5,280 feet so you would increase that displaced threshold by just moving the fence. With that said there has been talk about what size plane could land there today and technically it is a ten-passenger Learjet is what could be accommodated everyday.

Council Member Miller said that when you say you are looking for a 24 hour fuel guy is that just another way of saying you're looking for a full time operator to run the airport because nobody is going to need fuel 24 hours a day.

Mayor Botts said yes they do and this would be automated and not manned. Senators and others that fly planes said that they have a device to check to where is the cheapest fuel and they'll spend a half hour or hour to go and land and fuel up.

Council Member Miller said most large cities like San Jose, Oakland, and Orange County limit the hours that planes can take off and land.

There was some discussion on general aviation landing at the Banning airport and is there a market and have any studies been done.

Councilmember Machisic said in making improvements at the airport he thinks the first thing that you really need to do in working in conjunction with the Tribe is what kind of things would they like to have at the airport; what would accommodate business before we go out and invest money whether it is 24 hour fuel or extending the runways. He thinks we need to say this is what we would like to do at the airport and this is the service we would like. Once that is determined then you say what do we have to spend money on, how do you get the money and so on. He thinks you have to have the purpose first before you go ahead and say we are going to put this in and put that in. He rather see the Tribe come forward and say we would like to do this in conjunction with the airport, whatever it is. Then once we agree on something then we go ahead and start the planning whether it is 24 hour fuel or runway extension.

Chairman Martin said that they don't know either. They really don't know how that would affect them.

Councilmember Machisic said that they need to be in the idea stage. Chairman Martin said he would agree with that.

Council Member Martin said that about twenty years ago there was a proposal that really didn't get off the ground to use the airport, if it had a larger runway, for the remanufacturing of airplane engines. When they need repair it is too expensive for them to go into the major terminals and they could fly their planes in here and every so often they could rebuild the engines, etc. and this seemed to be a less expensive alternative for them.

Mayor Botts said they think there is a lot of opportunity and the consultant originally said you may have to pay a fixed based operator to come in here and they approved the Master Plan looking at a fixed based operator proposal and they had four fixed based operators who said that they wanted to come to Banning and in fact, we will pay you. He totally agrees with his colleague that we need to know if there is any benefit to the Tribe as we move forward. This has gone on longer than they frankly wanted it to. The Council thinks that this airport can be profitable under the plans that they have looked at. But in one Councilmember's opinion if we keep the airport there, it needs to make money for the City. So first and foremost we need to look at what it takes to do that whether it is 24 hour fueling and the rest of that. But while we are doing that he thinks that we need input from the Tribe.

Mr. Haley said that he had gotten involved in San Luis Obispo Airport politics and their goal was CRJ's (Canadian Regional Jets). They largely replaced 737's in a lot of the big fleets out

there and the approximate length of the runway that was demanded by America West was 8000 feet for that particular piece of equipment. The corporate jets were 5000 plus the clear zone. He asked if joint ownership was a possibility of both the FBO and the airport.

Mayor Botts said his favorite saying is that we ought to be talking to each other about almost anything and everything. He asked what are the advantages of having joint ownership.

Mr. Haley said it sort of depends on what you decide on the airport. Mayor Botts said that as one individual here he thinks that they would be open to all things such as ownership, joint powers agreement, etc.

Council Member Miller said the Tribe is real cognizant of the value of that airport and how the extension could add greater use of it. And he said every time something comes up around that area we talk about not obstructing the potential of lengthening that airstrip. We are on board with something but somebody just needs to get active and find a commercial profit making use. Just to try to get a use for it doesn't do anybody any good if it costs us money to do it.

Mayor Botts said that is what we are in the process of doing and he thinks that it is timely that we begin to have more communication on this subject.

Chairman Martin said when you say you are in the process of doing that what is it exactly that you are doing to develop that.

Mayor Botts said the process is just what Mr. Burk said that we have five business models to say how do we make money with the airport and choose one of those models.

Mr. Linton said as he recalls and it has been awhile since he has looked at the studies but two of the main components were fueling obviously from a profitability standpoint but also a better utilization of hangar space and the addition of further hangar space.

Mayor Botts said that with a fixed based operator come people with 24 hour service, pilot facilities, repairs, restaurants, etc.

Chairman Martin said speaking for himself he thinks that they are open to whatever plan you may all agree to so that we can at least understand it and see if there is somehow that they can have involvement but he doesn't know what that completely means.

Mayor Botts said he thinks the fact that we are formally putting this on the table we need to move it along and next time we sit down either as a total group or two on two we say all right here are the models we are heading towards unrelated to anyone else this could in fact make this airport profitable for the City of Banning and how does this impact the Tribe. He said let the City get something concrete in the next thirty days.

Mr. Burk said he would add that this is similar to the bypass road in that this could be a five year venture or a ten year venture. The Airport Master Plan is a 20 year document and as

business plans move on and things change so might be the use of that airport not only for just the City for general aviation but just the use for people coming to the city or whatever you determine.

Mr. Hoffman said he thinks it is important and it hasn't come up in discussion yet that once you have an approved master plan there is a fair amount of money available from the Feds to develop an airport for extensions, for security issues. That is not necessarily out of pocket or private money. There is federal money that is available.

Council Member Miller said one thing he has to say about the airport when you talk about expansion it has to be a quantum leap. There has to be a point where there is a control tower, there is somebody up there because the thought of all these planes buzzing around because we have a 27-story hotel up there. So it has to be a quantum leap.

Mayor Botts said he does not disagree other than the Master Plan is significant and this plan does not include a tower. That is a whole separate major issue.

Council Member Miller said if there was a big player out there like Lewis Homes and all these people who are willing to roll the dice and have a different paradigm of where the business is and maybe building hanger space is more profitable than building homes.

Patti Hanley, Banning Public Library Director addressed the group stating that she thinks she understand the length requirement but in regards to the proposals do they include the possibility of commercial aviation. Mayor Botts said no. Ms. Hanley said because as a resident of Palm Springs she knows that the airport there does have some commercial that is seasonal and they fly the snowbirds in and out and they only operate during the months when the folks are going to be coming and it is to their financial advantage but she thinks also to the City and the Tribe and the casino. She would agree with go bigger or go home as one of the Tribal Members was saying.

Mr. Hoffman said he would like to point out that Hemet-Ryan Airport and French Valley Airport, Corona Airport and Redlands Airport there is a waiting list to get hangars so general aviation is an option that there is a need there.

Councilmember Machisic said these are all good ideas but you need to decide form an idea point of view what you would like to do with the airport. Then you talk to people who know something about the airport whether it is runways, hangars, gasoline. Once you firm up your ideas and say this is what I want to do and you give it to an expert and they say it is not feasible, it is going to cost a zillion dollars or whatever and until you do that you just keep going around with ideas and you don't tie anything to them.

Mayor Botts thanked everyone and said that they will be moving forward with a proposal for their model and honing in on that and as they do that they will come back to you saying here is the direction we are going with our model.

Councilmember Miller said that if the City forms an ad hoc committee or commission on the usage at the airport he wouldn't mind volunteering to serve on that.

Mayor Botts said that the Airport Commission was eliminated some years ago but that doesn't mean that it won't come back around and he appreciated him volunteering.

Councilmember Franklin said something for the future she would really like to see a follow-up regarding the airport and also as Councilmember Hanna said where we are on I-10.

Chairman Martin thanked the Council for inviting the Tribe to this meeting to get information on both sides so they understand what the City is doing and what information the Tribe can give to the City. He said that is not going to hurt to have meetings like this and this meeting has been informative.

3. Set Date for Next Meeting

There was discussion as to when to meet and there was a suggestion as to quarterly and Wednesdays work best for the Tribe. **There was consensus that the City Council and the Tribal Council will meet in September and the City Manager will work on setting up a date.**

ADJOURNMENT

By common consent the meeting adjourned at 1:35 p.m.

Marie A. Calderon, City Clerk

THE MINUTES OF THIS MEETING 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.

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

5/12/09
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Botts on May 12, 2009 at 6:42 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Hanna
Councilmember Machisic
Councilmember Robinson
Mayor Botts

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Brian Nakamura, City Manager
David J. Aleshire, City Attorney
Duane Burk, Public Works Director
Hoyl Belt, Human Resource Director
Heidi Meraz, Recreation Director
Phil Holder, Lieutenant
Fred Mason, Power Contracts and Revenue Administrator
Marie A. Calderon, City Clerk

Mayor Botts invited the audience to join him in the Pledge of Allegiance to the Flag. The invocation was given by Pastor Ken Spicer Crossroads Christian Center.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS
ANNOUNCEMENTS/APPOINTMENT

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

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

PUBLIC COMMENTS

Fred Sakurai, 43000 Dillon Road addressed the Council congratulation CATS (Citizens Against Toxic Sludge) on what seems to be qualifying their petition calling for a special election. At this time he would like to make a personal request to CATS asking that they recall their seemingly approved petition calling for a special election for the sake of the City budget, for the sake of everybody that is employed by the City depending on the City for an income, for every program that the City sponsors financially and probably a short sigh of relief for Michael Bracken. He is asking that they meet and consider recalling their petition.

Lorna Hawkins addressed the Council stating that she has an organization called Drive By Agony and they help victims of violent crimes. She wanted to introduce herself and said that she is moving into the area looking for a building and would be leaving some information to the City Clerk about the organization.

J. B. King, 1396 Charles Street addressed the Council stating that he was born in Minnesota and he has family living there including his daughter and grandkids just out of St. Paul. He has visited on multiple occasions the Pig's Eye Lake Region. Pig's Eye has a wonderful tradition; it is a beautiful lake just off the Mississippi River about five miles from St. Paul. In 1950 they built a dump at Pig's Eye and for twenty years that area was polluted by this dump. It was closed in 1970 by the State of Minnesota. It is an interesting lake and although it is pretty there are no homes on this lake that he has every seen. There is no fishing and nobody will eat the fish. It has never seen anybody in any sporting events skiing for swimming on this lake. The dump has been closed for forty years. This city, Pig's Eye has been branded and the reason he wanted to talk about this is that there was an article in the newspaper about branding Banning. He said that Pig's Eye is branded as a dump. Forty years later Pigs Eye is still a dump because the only industries that have really latched on to that area are other polluters. There are asphalt recycling organizations, metal recycling organizations, plastic/rubber recycling organizations and the famous Liberty twin human waste sewage recycle. No matter what Pig's Eye does it cannot get away from the brand it has as a dump. He knows that as Banning invests into our future he is fearful that we may end up not as a dump but as Southern California's cesspool and that would be hard to overcome. And it is not just the east side or the west side; it applies to everybody with a Banning address because it is the outside world that identifies us. He would encourage the Council to think seriously about our branding initiative what is positive and what may not be so helpful.

Charlene Sakurai, 43000 Dillon Rd. addressed the Council on behalf of the Cultural Alliance. She said that there is an event happening on Thursday, May 21st which is a dedication of the Memorial and Sculpture Garden from 4 to 5 p.m. at the Banning Women's Club Building (Alliance headquarters) 175 W. Hays Street. There are two sculptures in the garden right now which has been totally refurbished and replanted. There will be about 15 sculptures in the garden and all of the benches are all going to be opportunities for memorials. From 5 to 9 p.m. there will be a gala with food stations throughout the gardens, music and dancing and inside there will be some gaming tables, a live art auction. The gala is \$25 per person and tickets are available through the Alliance and you can call 922-4911.

CORRESPONDENCE

Mayor Bolts read a letter from Carol's Kitchen to thank everyone for helping to expedite the dual tasks of refurbishing the basketball court in Banning and serving their Carol's Kitchen at the same time. (See Exhibit "A")

PRESENTATIONS

1. Proclamation – Jayne Dean

Mayor Botts and the City Council presented a proclamation to Jayne Dean teacher with New Horizons Model High School on being named Teacher of the Year for the 2008-2009 school year at the California Continuing Education Association state conference held in the spring of 2008. Mayor Botts read the proclamation for the benefit of the audience.

1. A Proclamation – U. S. Census

Mayor Botts and the City Council presented a proclamation to Paula Almanza in regards to the ten year census that is coming up. It is so critical to every community that we count everyone because that is the way we get money back from the federal government by the number people. There are any number of issues that will sometimes keep people from freely giving information to somebody from the government. We are embarking on a program that will try to reach out to everyone in Banning and say it is okay to be counted. This information is not shared with anyone else and absolutely confidential.

Ms. Almanza said that on behalf of the US Census Partnership she thanked the Mayor and City Council and all of the community of Banning. They have been so helpful to her and ready to cooperate with them in this upcoming census count.

2. Passcom Presentation – Charlene Sakurai and Bob Ewart

Mrs. Sakurai said that she chairs this wonderful diverse talented committee that is working on disaster preparedness for the entire Pass Area. She said that since Bob Ewart, Treasurer, has such a history with Passcom it would be reasonable for him to give the presentation.

Mr. Ewart said that Passcom is an organization that was established in 1983 for the purpose of educating and training residents of the Pass Area in the various methods and means and alternatives to survive large scale disasters. It is an all volunteer although many of the people that attend and participate in it are paid employees of one jurisdictional agency or another. They meet the first Tuesday of every month in the hospital training and education room and many of the people are professionals that include law enforcement, fire protection people, county health department, hospital, and many agencies that have everything to do with how we survive in the Pass Area. The interaction and exchanges of information are really very valuable. One thing they have been doing for many years from Calimesa to Cabazon with recognition that as good as we are our emergency services up in the Pass Area are pretty limited. There are from a practical standpoint only six fire companies between Cabazon and Calimesa. At any given time each of those companies will have four or three people on them. We are very close to 100,000 population in that area right now and obviously we cannot get to all the people that are going to need help following a large scale disaster. Granted they will call companies and other assets from other parts of the county and the state but given the circumstances that always surround large scale emergencies it will be a very long time before they get here and many people will need help right away. They have diligently for many, many years gone through the Pass Area and helped communities and gated communities to help build self-help disaster organizations and they continue to do that. The idea is that is what they do and they have been doing that for a very long time and he thinks that they have been successful. The problem that they have run up against and the reason they are here is that they have come a little short on funds. They don't

spend very much money and over the last two years they have averaged \$335 each of the last two years and almost all of those costs go to website fees and little printed material. Their funds have dwindled down to where they have fees coming up that they cannot really pay so they have decided to go to each of the jurisdictions authorities Banning, Beaumont, Calimesa, etc. and ask for a little support. The game plan for them is to put together an inventory of materials that they can sell at the various events where they set up their booth and hand out disaster survival materials, counsel people and sign people up for CERT Training and all the things they regularly do. They are looking for support of about \$500.

Mrs. Sakurai said that they do have a website and there is all kinds of information that is constantly being updated and this is where they do spend their money for communication purposes. She thanked the City for their support through the years and currently and happy that they can work together with the common goals to help prepare everybody for a disaster that we really hope won't come.

Mayor Botts thanked them for their presentation and said this is a fantastic organization.

Mayor Pro Tem Hanna asked that there be a link on the City's website to Passcom.org and also said she would imagine that the City Manager would move forward on the request for support.

Councilmember Franklin said to be on the safe side she would abstain from any vote because she is an active member of Passcom.

There was Council consensus to direct the City Manager to work with Passcom on a contribution. Councilmember Franklin abstained.

3. Stagecoach Days Presentation by J. R. Algower

Mr. Algower stated that he was the Chairman of Stagecoach Days and said this is a branded Banning Stagecoach Days and has been around for 52 years going on 53 years. The history is so great that it attracts people from all over. The Banning Stagecoach Days for 2009 will be very similar to what you have seen in the past few years. The only significant change that you are going to see is the elimination of the PRCA Rodeo. This is one of the things that the committee looked at very hard but will be replaced with Cowboy Mounted Shooters and several other equestrian rodeo events. There will be a number of kid's events in the arena including but not limited to Mutton Bustin', Dummy Steer Roping, Chicken Wrangling, Goat Dressing and other community events. They are trying to bring the community into it with the kids so they are trying to bring as many items that they can into the arena to keep it going as an all day event. A full PRCA Rodeo was replaced by these events simply because of the cost associated with the cost of a production of a PRCA Rodeo. After seeking out numerous sources of sponsorship it was determined by the committee that given the current economic climate it would be better to bring something to the arena that would cost less and be entertainment for the community. The Historical Re-enactment Encampment which they have every year will be expanded, as well as, a number of vendors that will be present. They will also have a petting zoo and the carnival is also being expanded. There will be entertainment on the Community Stage area throughout the entire weekend with a variety of local entertainers who are volunteering and are donating their time and

talents to Stagecoach Days this year. It is to provide a quality community event at a very reasonable price for the community. Without the rodeo there will be no rodeo queen however, there will be a Miss Banning Contest which will be open to girls between the ages of 15 to 18 years old. The parade which is a large part of the Stagecoach Days was an event that they gave a lot of thought to and it is their second largest cost. They have decided because of financial reasons not to send it out to a production company but to keep it within the community and the committee will actually produce the parade themselves at a lower cost. The Cultural Alliance will be acting as the physical agent for the Banning Stagecoach Days and will be handling the finances until they can get a non-profit organization in place and Sue Palmer is the Treasurer for their group and the Association. The community is very fortunate to have this group of hard working and dedicated community-minded and forward thinking people that are striving to produce a family-friendly, cost saving event to the city. They looked at the past and the future to come up with this decision to keep Stagecoach Days alive and well and yet bring good quality entertainment to everyone. The Committee respectfully request that the City Council consider providing the necessary in-kind services to help this long-standing community event now going into 53 years as a success. However, other support financially would be greatly appreciated. They are planning on gaining most of their funds by having fundraisers and other events that they will put on between now and Stagecoach Days. They are hoping to be free-standing and make some money when this is over to come out of it ahead. Mr. Algower went over some of the events that they will be having as fundraisers. Also, anybody who would like to volunteer can contact the Community Services Department. They do meet the second and fourth Monday at Dysart Park and anybody who would like to show up they are having a meeting this Wednesday at Dysart Park at 5:30 p.m.

Mayor Pro Tem Hanna said that she understands that they are asking the City to provide the in-kind sponsorship which means preparation of the property, the Parks and Recreation staff and certainly police as well. She is curious in that on the budget it states that for security there is \$1,900. Is that in addition to the police?

Mr. Algower said yes and what they are trying to do is to help cut down on costs because right now there is a budget crunch with the police and they are trying to bring in their own private security. Military police from the Marine Corps has volunteered to come out and they will pay them some money to help with security. They have also secured Stan Sniff who will be the Grand Marshall and he has kindly helping by trying to get the Posse to come back and work with them which should help keep down some of the police costs as well.

Mayor Pro Tem Hanna said that our police department has done a tremendous job and in fact, she tends to think that we intend to do too much and she just wanted to caution that anything we can do to make it just right. When we don't need very many officers, don't have many officers. When we need more on Saturday night, have more on Saturday night. Really tailor it to the actual event.

Councilmember Machisic said that they get this information on Channel 10 in regards to the dates and times of the events. Also he asked the City Manager if the Council could get a summary of what was done last year from the City's point of view with respect to the in-kind services that were provided.

Mayor Botts opened this item for public comments. There were none.

There was some Council discussion in regards to getting some information back especially in regards to in-kind services. **There was Council consensus that the City Manager would bring back a report in two weeks with the City's in-kind contributions and also bring back what the remaining balance is in that sponsorship fund.**

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

Councilmember Robinson –

- Reported that he attended a meeting of SCAG (Southern California Association of Governments) and said that they are trying to come up with a new name and he brought back a lot of information from that meeting and a lot of it had to be with SB 375 – The Greenhouse Gas Reductions.
- He said the Council attended the League of California Cities Meeting in La Quinta and they learned more about the budget.
- He had an opportunity to go through the Offices of Emergency Services and he brought information back to Chief Purvis and Charlene Sakurai with Passcom.
- He said that Cool Summer Nights is coming up on May 29th and it is “Bark and Art” at 6:00 p.m.

Councilmember Hanna –

- Said to piggyback on what Councilmember Robinson was talking about we all know that the State's budget, the whole legislative process doesn't work and the League of California Cities is convening a summit of local government leaders with two major associations which are the County Supervisors and the School Board Association. This summit will be held on July 17 and 18 trying to come up with a proposal of how State government should be redesigned. She hopes that perhaps the Mayor or one of the other Councilmembers could represent the City at that summit.
- The Pass Chorale is having a classical music concert on Sunday, May 17th at 2:30 p.m. at Our Savior's Lutheran Church on Williams Street. The cost is \$10.00 a ticket.
- Each of the Councilmembers is now associated with one of the schools in the Banning Unified School District so they go to events when they can to learn more about the schools. One event coming up for her school which is Nicolet Middle School is that they will be having a fundraiser at Cold Stone Creamery at the Oak Valley Town Center in Beaumont and they will get a portion of up to 30% of the sales will go to Nicolet Middle School. She passed out coupons and you can get them through the school and she will also email them to the City Clerk for those that may want one. This event will be held from 3:00 – 8:30 p.m.

Councilmember Machisic –

- He received an invite from Banning High School for their Second Annual Hospitality Dinner on June 12th between 4:30 -6:00 p.m. It is a fundraiser and will be held at Nicolet Middle School.
- He attended WRCOG (Western Riverside Council of Governments) and RCA (Regional Conservation Authority) yesterday and Councilmember Robinson was also in attendance

and there were a lot of things there that he thinks affect us and he went through each of those: WRCOG Executive Committee dealing with Riverside County Economic Agency has what they call a Recovery Package trying to overcome some of the things dealing with the recent economic situation and the plan and CD will be available with the City Clerk is anyone wants to review it; WRCOG Quarterly Report is available with some interesting information; there is a AB 811 dealing with Energy Efficiency and what WRCOG is going to do is to try to develop a regional program dealing with that issue so that each city doesn't develop its own package and they want to do some coordination; on May 26th is a workshop called Advancing Goods Movement; the preliminary budget for WRCOG has been cut \$350,000 approximately 8.7%; also WRCOG is going to develop a water conservation in landscaping dealing with AB 1881 and it will be developed as a regional program.

- He said that Dave Willmon reported that at the present time the only thing he is recommending because the budget is in such a situation depending on the May 19th election that you should send letters to the State Legislators because all the polls indicated with the exception of 1F that they are all appear to be un-favored by the voting public. If there is a defeat of those propositions, you are looking at a \$14 billion dollars as a deficit for 2009/10.
- In regards to TUMF payments there is a developer who has asked for a deferment of his TUMF payments for 24 months and they have agreed to it but the charge to him is that they are going to charge him interest. It is something new and they are trying to accommodate the downturn in the housing market. Also in regards to TUMF the Executive Committee approved \$464,000 dollars in TUMF fees for the I-10 south bypass of Highway 10. That is for planning and environmental work.
- Another issue brought up was dealing with homeless people and it seems to be a much bigger problem and they are looking to develop a regional project for Western Riverside County. CVAG (Coachella Valley Association of Governments) already has a project in place and their project is rather extensive and each of the cities has agreed to contribute to it. They have built some housing and they hope to hire more full-time staff. This is a problem that we have had in the past and in fact it is growing right now so they are going to put together a Task Force, one person from each contract City.
- He said that Don Robinson has been designated as an alternate delegate for the Waste Management District Committee.

Councilmember Franklin –

- She said that those of them that sit on the Transportation Now Committee had an opportunity two weeks ago to ride the bus from Beaumont City Hall to Morongo for the opportunity to see what the current person who has to ride the bus had to go through. It took them an hour and was told that was normal so their meeting convened at Morongo to talk about how they can continue to improve transit opportunities for people throughout the Pass Area and if we are going to be able to include Calimesa because as of next month Calimesa will not have bus service. So they are working on that and trying to see not only how they can improve transit throughout the Pass Area but also how can we improve the bus stops.
- She said she and Mayor Botts attended the Airport Ad Hoc Committee meeting last week and they hope that they will be able to come back to the Council in a couple of weeks in regards to one of the alternatives they are recommending so that they can move forward regarding the airport.

- She attended the Friends of the College meeting last week. They had some not so good news there also. The State is not providing the college with \$3.8 million dollars this year to meet our local needs so that means a 50% cut in the summer classes. They are retaining the core subjects that students need for transfers and degrees but right now that means that it is an equivalent of 860 students that will not be able to get classes. The summer session that begins June 8th is already almost full and as of May 6th seven out of the ten seats had already been taken. There is good news for people who are local because there is a book grant program that is set up for people who are in school in the Pass Area whereby they can get their books free and also local high school students taking classes through the community college at the high school can take both classes free also.
- Mark your calendars for June 27th because BPAL (Banning Police Activities League) is sponsoring Ready to Ride at the Community Center parking lot from 10 a.m. to 2 p.m. There will be a lot of exhibits and a lot of fun things for our young people to do.

CONSENT ITEMS

1. Approval of Minutes – Special Meeting – 4/29/09

Recommendation: That the minutes of the Special Meeting of April 29, 2009 be approved.

Motion Franklin/Hanna that Consent Item No. 1 be approved. Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

PUBLIC HEARINGS

1. Zone Text Amendment No. 09-97501: Amendment to Municipal Code Section 17.28.040, pertaining to Industrial Warehousing and Industrial Manufacturing Parking Standards (Staff Report – Brian Guillot, Planning Engineer –via Public Works Dept.)

Mr. Guillot gave the staff report as contained in the agenda packet. The proposal before the Council is to amend the zoning code related to industrial warehousing and industrial manufacturing parking standards. Mr. Guillot went over the sample parking calculations that were provided in the agenda packet on pages 22 and 25.

Mayor Pro Tem Hanna asked Mr. Guillot to go over some of the recommendations made by the Planning Commission.

Mr. Guillot said that the Planning Commission felt that sometimes we have smaller projects so they wanted to put a minimum requirement in there so regardless of that graduated scale the very minimum would be two parking places plus whatever is required by that square footage amount. Additional at first they didn't have that truck parking requirement on the manufacturing but just on the warehousing and the Planning Commission recommended that it be included it on the manufacturing. They have included these in the ordinance.

Councilmember Franklin said in regards to the trailer parking she spoke to someone who is very involved with truckers and the recommendation for one space for every four docking locations

was not enough. She asked if he spoke to any of these cities to see if they had any problems in these areas.

Mr. Guillot said he contacted the Planning Department in the City of Ontario and they actually like that standard. They recently changed to another standard and now they are wishing they could go back because they liked the standard that we're suggesting using in the city of Banning. He also did some research driving around and there didn't seem to be truck parking anywhere on the street. In each of the bays you can park a truck so this would be in excess of that so for each four bays there would be another parking area. And for some of the large warehouse projects they include many more because they wanted to do trailer storage.

Mayor Botts opened the public hearing for comments on this subject. Seeing none Mayor Botts closed the public hearing and asked the City Clerk to read the title of Ordinance No. 1407. City Clerk read: An Ordinance of the City Council of the City of Banning, California, Approving Zone Text Amendment No. 09-97501, to Amend Section 17.28.040 of the Municipal Code Pertaining to Industrial Warehousing and Industrial Manufacturing Parking Standards.

Motion Hanna/Machisic to waive further reading of Ordinance No. 1407. Motion carried, all in favor.

Motion Machisic/Robinson that Ordinance No. 1407 pass it first reading. Motion carried, all in favor.

REPORTS OF OFFICERS

1. Adoption of City Council Mission and Vision Statement and Annual Goals and Objectives
(Staff Report – Brian Nakamura, City Manager)

City Manager said that before the Council is the recommendation to approve or adopt its Mission and Vision Statements and Annual Goals and Objectives setting the policy direction for the City of Banning for the next year.

Councilmember Franklin said she agrees with everything except that we do need to add some kind of amendment to it stating that these goals and objectives are subject to staffing and finances of the City. Because she feels it is unrealistic to just put them forward without realizing you may have limitations based on our staff and our financial status as a City. She felt it needed to be part of the printed document.

Mayor Pro Tem Hanna said that these they are very broad kinds of goals and so forth and the next step as she understands it after approval tonight is that the City Manager return to us and say given budget and staffing and where we are in each of these project areas this is the one year goal that staff would recommend. So staff would give us the time frame within that year of when this would be accomplished. She said that all of their concerns would be addressed when the City Manager returns with the specific goals.

There was some discussion in regards to cleaning up the document to be a little more specific of what was actually said at the meeting.

Mayor Botts opened the item for public comments.

Mayor Pro Tem Hanna said that the Council is also looking forward to coming up with a tag line, slogan for the City of Banning and the Council permitted her to write an article for the Record Gazette that was in the paper last Friday asking for ideas. She wanted to encourage people to submit their tag lines to the City. They are looking for positive comments of about a five to seven word statement that would particularly attract new businesses to town and our aim is economic development and we know that is the way out of the structural imbalance that we have in our General Fund. Please email your tag lines to the City Clerk at mcalderon@ci.banning.ca.us

Motion Robinson/Hanna that the City Council accept the Mission and Vision Statements and Annual Goals and Objectives setting policy direction for the City of Banning along with the changes that staff received. Motion carried, all in favor.

ITEMS FOR FUTURE AGENDAS

Mayor Botts said that we are back to our previous system and he would entertain new items and then they can talk about pending items and need estimated times of accomplishment.

Mayor Pro Tem Hanna said regarding pending No. 3 she would suggest removing that item until there is some developer in line that is interested in such a development. The Episcopal Church owns property and they are interested in affordable housing kinds of things but at this point land cannot be assembled so she is asking that it be removed.

Councilmember Machisic said in light of what Councilmember Franklin talked about that we have had some cuts and we are anticipating additional cuts he looks at Item 1 that service clubs would like signage and as far as he is concerned he would consider it, if they want to pay for the signs and installation of it.

Mayor Botts said he brought that to the table in that the service clubs requested to work with the City and it is something many of them would like to move forward with and it could be on City right-of-way and certainly something the City would be involved in.

Councilmember Machisic said that when you talk about the VFW facilities that if it falls within redevelopment, it needs to be considered along with any other projects that we might do.

There was Council consensus to remove Item 3.

Councilmember Franklin said that in regards to the VFW their concern is that they wanted use of the Armory. There have been a lot of emails lately going back and forth as to what is going to be resolved in that arena and hopefully by our next Council meeting they will be able to give a report on that and she forwarded a copy of the last email she received on this to the City

Manager and they are trying to set up a meeting or conference call to see what the outcome is going to be with the Armory. Many people know that they have been trying to see if they can get principal use of the facility and it has been going on for over a year. They have finally gotten a response from the powers that be on the National Guard side but in regards to the VFW they want use of the Armory and they have been made aware that depending on how the conversations go and what the final outcome is with the Armory then they will be apprised of what may or may not be available to them. She doesn't know if it needs to be on this list because it is something that staff is not really going to have to work on.

There was Council consensus to remove Item 5.

Councilmember Robinson said that in regards to Item No. 2 since it is a public safety issue we ought to bring this forward as quickly as they can and he understood that there is going to be a meeting with the hospital but that hasn't occurred and that person has since left the hospital so we need to start that up those conversations again.

Mayor Botts said that he would like to put some timeframes on these items.

City Manager said that in regards to Item No. 2 he is trying to set up a meeting with the hospital at this point and he would be able to do that in the next couple of weeks.

Mayor Pro Tem Hanna said that this is a public safety issue and we have been saying this for over a year. She asked if we know what it costs to do what we need to do. Do we have costs on this? This is no longer a time to try to get together with them when it is convenient kind of thing. This is something that we need to get done.

Councilmember Machisic said that is an important question and are we ready to expend the money on that particular project in light of the reductions we have made. His only concern is talking about new projects when you are cutting budget.

Mayor Pro Tem Hanna said that this is a public safety issue that at least should be considered seriously.

City Manager said part of the issue in dealing with the hospital is that they also have their master plan for the whole development of the hospital and that access was part of this discussion in terms of accessing the clinic and the hospital in making a looped route. So it will require the City to work with them and not just make a determination that we either move the driveway because it does affect their parking and it does impact their circulation so we do have to work with them to come up with a solution realizing that it will require median modifications and also some work on their behalf so they will try to have the discussion as quickly as possible.

Mayor Botts said that he would ask that on behalf of the Council that we have some type of report back by June 1st.

City Manager said that in regards to Item 6 that will come back to the Council by May 26th and the other two he would like to get some time frames from staff.

Mayor Pro Tem Hanna said that in regards to Item 4 she doesn't know what that is about. She asked if it was for the County.

City Manager said that in part it is use of the whole area down there. As you know we have parceled off some of the property for the courthouse and then we have some remaining developable property. There is an interest by the County to acquire some of that land and there is interest by private development so it is basically a comprehensive program that they are working on to determine what would be public and what would be private and the benefits of both. This is probably a big picture discussion that we need to have with the Community Redevelopment Agency and they will be bringing updates to the Agency Board as we move forward with the development processes.

New Items –

Councilmember Franklin said she would like to see added an oral update to the Sunset Grade Separation in regards to funding, planning, what is going on with it and what the next steps are. She said that she had asked about having scheduled meetings with our state and county elected and we have done that in the past and she was hoping they would be able to do that again especially as we are going through these trying times fiscally for everybody.

Mayor Botts said that they would add these items.

Duane Burk, Public Works Director said that he would bring forward to a closed session the item in regards to the Sunset Grade Separation so it would not be part of the public session.

Pending Items –

1. Service Club Signage on Ramsey Street, Gateway project
2. Ramsey Street Left Turn at Beaver Medical
3. Redevelopment Project, Hays and Williams, Land Assembly for Future Development
4. Courthouse Development, Land Assembly for Future Development
5. VFW Facility Needs
6. City Purchasing Policy for Buy Local Program
7. Golf Cart Lane Policy for City of Banning

FUTURE MEETINGS

1. Council Workshop Regarding Tag Lines for the City – May 20, 2009 – 9-10 a.m.
– City Hall Large Conference Room

CLOSED SESSION

City Attorney said that the City Council would meet in closed session pursuant to Government Code Section 54957.6 Conference with Labor Negotiators Employee organization: IBEW -

Utility Unit and IBEW General Unit, CBAM and BPOA. Agency Designated Representatives: Brian Nakamura, David Aleshire, Bonnie Johnson and Hoyl Belt; also pursuant to Government Code Section 54957 with regard to City Manager evaluation and City Attorney Evaluation; and pursuant to Government Code Section 54956.8 to confer with its real property negotiator Brian Nakamura in regards to Mt. San Jacinto College MOU Update.

Mayor Pro Tem Hanna said that there was another one in regards to Morongo Mutual Aid Agreement that was added.

City Attorney said that it was not a closed session item and the City Manager had asked him about it but it would need a closed session justification. City Manager said that he would put it on an upcoming agenda.

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

Meeting went into closed session at 8:15 p.m. and returned to regular session at 10:12 p.m. with no reportable action taken.

ADJOURNMENT

By common consent the meeting adjourned at 10:12 p.m.

Marie A. Calderon, City Clerk

THE ACTION MINUTES ARE A SUMMARY OF ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.



'Ask your heart what is right and follow it.'

Carol's Kitchen

Feeding God's Children



Board of Directors

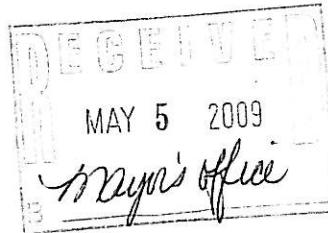
Officers

Jim McConnell, President
 Gene Wood, Vice President
 Rich Asman, Treasurer
 Father Jeff Wilhelm, Secretary

Directors

Ed Barba
 Glenn Bearman
 Ron Kraus
 Rev. Scott Mason
 Paul St. Martin
 Johnny Russo

May 3, 2009



Mr. Bob Botts, Mayor
 99 E. Ramsey
 Banning, Ca. 92220

Dear Mayor Botts and Members of City Council,

On Behalf of Carol's family, our Carol's Kitchen volunteers and myself I want to thank you so much for helping to expedite the dual tasks of re-furbishing the basketball court in Banning and serving our Carol's Kitchen guests at the same time.

This required much co-operation on the part of the Whitmore Construction Co., the Park and Recreation office, the Carol's Kitchen volunteers and the enormous support of the City Council and City Manager.

As you are aware, this is the only meal of the day for many of our guests and we are so grateful that with your encouragement we were able to continue serving during construction. We feel so blessed that we live in Banning where our less fortunate neighbors are not forgotten.

Thank you again for your continued support of our effort to reach out to the people in the Pass area.

If you have any questions or need additional information, please feel free to call me at (951) 845-9202. Again, thank you and we appreciate what you have done for us.

Sincerely,

Jim McConnell

James Alyn McConnell
 Executive Director



carolskitcheninc.org

Feeding and clothing the needy since 1998
 P.O. Box 95 Calimesa, CA 92320 • (951) 845-9202

Carol's Kitchen is

EXHIBIT "A"

14

reg.mtg.-5/12/09

- Tax I.D. #330819778

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

5/20/09
SPECIAL MEETING

A special meeting workshop of the Banning City Council was called to order by Mayor Botts on May 20, 2009 at 9:10 a.m. at the Banning Civic Center Large Meeting Room, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Hanna
Councilmember Machisic
Councilmember Robinson
Mayor Botts

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Dr. John McQuown, City Treasurer
Marie A. Calderon, City Clerk

PUBLIC COMMENTS

There were none.

WORKSHOP DISCUSSION

1) Tag Lines for the City of Banning

Mayor Botts said that we are here for a tag line finalization.

Dorothy Mc Lean asked why it had to be done today.

Mayor Botts said that the Council has been working on this for a couple of years and were supposed to finalize it some time back and it was suggested that it be opened to the public for a couple of weeks to get more input. It will go before the Council for final approval but the recommendation will come from the workshop today.

Mayor Botts said that there were 80 plus proposals and suggestions and to make this manageable his thought was to go around and have each of the Councilmembers and City Treasurer put forth their top three to five tag lines and then they will narrow it down from there.

There was Council consensus to this process.

During the first round the City Councilmembers selected their top three to five choices from the lists of suggestions.

Dorothy Mc Lean said she would still vote for Stagecoach Town U.S.A. To her that would bring people to Banning because families would come. You are talking about history and there are all kinds of things. It is a called card for people to come.

Mayor Botts said he wouldn't disagree and Stagecoach Town is on the list of narrowed choices.

During the second round they narrowed it down from their choices in the first round. The top six were 5A – Small town Feel, Big City Energy; 20A – Historic Values, Modern Opportunities; 25A – a Proud History and a Prosperous Tomorrow; 33A – An Expanding Hub of Opportunity; 50A – Stagecoach Town U.S.A; and 76A – We're not just living it...we're lovin it. Come up to Banning.

Mayor Botts opened the item for public comments.

Dorothy Mc Lean said she looks and these and she wrote in her email that she doesn't want to reinvent Banning. She thinks that Banning is known as Stagecoach Town U.S.A. and thinks that there are a ton of things we could do to capitalize on that instead of starting from scratch and calling it something else. With some of those tag line suggestions she would have no reason to come to Banning. We want to get trade here and we do want people to come and live here but she would not come to Banning if it is said Small Town Feel, Big City Energy. She wouldn't visit Banning for anything. She asked how many Stagecoach towns do you know; she doesn't know of any. She was thinking about Calico Ghost Town and people still go there and there are a lot of people that visit there during the holidays. But it would be a reason for people to come to Banning. It would be a family thing. To her it is a calling card that we could capitalize on. The museum has spent money in fixed up the area.

Councilmember Franklin said that she would advocate for Stagecoach Town U.S.A. mainly because she asked people. She probably asked about 20 people what their thoughts were and those were young people as well as those that have lived here for awhile. She was really surprised because only one person said they didn't care. Everybody else said leave it as Stagecoach Town U.S.A. and the main reason was because it was unique and something different. One person gave her a whole paragraph about building a whole tourism around Stagecoach Town. It is a good way to bring additional revenue to the City that would not require as much as an investment as some of the things we are trying to do. But that Stagecoach Town was a good solid reason for people to move here. One person moved here from a larger city because it was something that was a little bit different. She thinks it is worthwhile listening to the public because she did hear from so many people.

Mayor Pro Tem Hanna said that she literally talked to 20 people or even communication with over 20 people and not one person brought up Stagecoach Town U.S.A. She asked a young person today and he said no. She could see Stagecoach Town U.S.A. if we really invested in it and made it something. For instance Norco is Horse Town U.S.A. Norco invested in it and they have all the trails right in town and it is a whole priority in everything that they do in terms of promoting themselves. Right now, other than the museum which doesn't promote it self and people who live here don't even know it is there. There is nothing in Banning that promotes Stagecoach Town U.S.A. Our discussion today has been that our primary interest in this is promoting Banning as a place for new business. She said that some of the slogans for tag lines that other cities have don't

promote economic development. She likes Expanding Hub of Opportunity. She thinks being a hub is a good thing in terms of business and there is a lot of opportunity in Banning for growth and development and that we are expanding.

Councilmember Robinson said that we came up with a mission statement and a vision statement and a fair test to this is how does this fit that vision statement and mission statement. He doesn't see Stagecoach Town U.S.A. fitting either one of those. We are trying to get beyond the fact that we are a one-word town. We are trying to get business to come in and grow and he doesn't know how Stagecoach Town U.S.A. helps us grow. That is living in the past and he thought the mission was to get over that.

Mayor Botts said he likes A20 and A33. He said as you know there can be messages in every word or every phrase and the historic values to him connotes something that people hang on to and what that means and like Councilmember Robinson said we talked about moving forward in a direction. So "Modern Opportunities" in his mind fits that. We talked about getting away from the "Pass" and this is the Pass Area and we are just going to pass through. We have had discussion about how to we sort of reposition that and hub does that.

Councilmember Franklin asked why couldn't they combine the two. If we find two of them, we can combine them.

Councilmember Machisic said that when he looks at a tag line he looks at who are you targeting. There is no question that there is a part of our community that identifies with Stagecoach Town but at the same we are trying to find a niche for us. We are stuck between Desert Hills shopping mall and the Beaumont shopping so we have to find our niche. We have been developing the downtown and one of things that these developers say, the handful that he has talked to, is that you need to capitalize on the small town feel you have because retail is going to be hard to come by because of where we are located between these two huge complexes. And the complex in Beaumont is only going to get bigger because of the land available. His feeling is that this identify is important like Councilmember Franklin said if you combine a couple of them because people today are looking for something. He said one of the reasons he moved here was because it was a small town and he moved to Sun Lakes for that reason. But at the same time we want to promote that we are going to grow and there is a lot of opportunity here. His feeling is that we have to appeal to several audiences and we have to appeal to them very quickly with a minimum number of words.

Mayor Pro Tem Hanna said that Beaumont is using "small town feel" so we cannot use that. She said that Art Pearlman was one of the people that wanted to encourage us to consider something that implied growth.

Sue Palmer said how about doing a combination like you have all said because she is an old timer and so she definitely has the tradition plus she wants to see the vision of the future. What if we combine some of these things?

There was further discussion in combining some of these tag lines and coming up with something that is unique and it is something different. Something where people will want to come and look at us. There was also some discussion of not promoting Stagecoach Town enough in the past.

After this discussion they came up with two tag lines: 1) Historic Values, Expanding Hub of Opportunity; 2) Proud History, Prosperous Tomorrow.

Councilmember Franklin said that she liked the two suggesting but would suggest using the Stagecoach as our emblem. Like in Riverside you see the Mission Inn on the street sign and you see it on different things; that is their stamp. They are not saying they are the mission city but that is the symbol for Riverside. And if we use the stagecoach as the symbol for the City, we could still have a different tag line but the symbol of the City would still be the stagecoach. If we use the stagecoach and continue to use it as our symbol that brings in the historical value.

Councilmember Robinson said that in what we talked about in the vision statement about pride and opportunities this tag line if it has the word pride in it, will really fit in with our vision statement.

There was further discussion on the tag line.

There was Council consensus to move this forward for adoption “Banning – Proud History Prosperous Tomorrow” with the use of the stagecoach symbol.

Mayor Botts said that if the Council would agree to appointing two people to work with staff to say how does this get printed, how does this get formatted, how do we now market this.

Councilmember Franklin said that she would like to work on this and Mayor Botts said that he would work on this also.

ADJOURNMENT

By common consent the meeting adjourned at 10:05 a.m.

Marie A. Calderon, City Clerk

THE MINUTES OF THIS MEETING 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.

2nd Read.

ORDINANCE NO. 1407

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING ZONE TEXT AMENDMENT NO. 09-97501, TO AMEND SECTION 17.28.040 OF THE MUNICIPAL CODE PERTAINING TO INDUSTRIAL WAREHOUSING AND INDUSTRIAL MANUFACTURING PARKING STANDARDS.

WHEREAS, the Municipal Code allows for zone text amendments consistent with the goals and policies of the General Plan; and

WHEREAS, on April 7, 2009, the Planning Commission held a noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Zone Text Amendment No. 09-97501, and at which time the Planning Commission considered the Zone Text Amendment; and

WHEREAS, at this public hearing on April 7, 2009, the Planning Commission approved Resolution No. 2009-05 recommending approval of Zone Text Amendment No. 09-97501 to the City Council; and

WHEREAS, on May 1st, 2009, the City gave public notice as required under Zoning Code Section 17.68.020 by advertising in the Record Gazette newspaper of the holding of a public hearing at which time Zone Text Amendment No. 09-97501 would be considered; and

WHEREAS, on the 12th day of May, 2009, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Zone Text Amendment No. 09-97501, and at which time the City Council considered the Zone Text Amendment; and

WHEREAS, the City Council has analyzed Zone Text Amendment No. 09-97501, 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 BE IT HEREBY ORDAINED, that 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 Department as provided in the Staff Report dated May 12, 2009, 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:

CEQA: The City Council has analyzed Zone Text Amendment No. 09-97501 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 ordinance will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this action may have a significant adverse effect on the environment; and, therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 2. FINDINGS.

1. The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact:

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states "*A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents*". In addition, the General Plan Land Use Commercial and Industrial Goal 10 states "*The Zoning Ordinance shall include principles, design standards and guidelines which encourage the development of high quality industrial projects*". And; finally, the Economic Development Element Policy 3 states: "*Encourage and promote infill development in orderly and logical development patterns that decrease cost and increase the efficiency of new utilities, infrastructure and public services*". The recommended parking standards for industrial warehousing and industrial manufacturing accomplish those goals by requiring the necessary amount of off-street parking for each specified use.

2. The proposed Zone Text Amendment is internally consistent with the Zoning Ordinance.

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will modify and update development standards pertaining to industrial warehousing and industrial manufacturing parking standards.

3. That the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact:

The City Council has analyzed Zone Text Amendment No. 09-97501 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 ordinance will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment; and, therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. The City Council hereby approves Zone Text Amendment No. 09-97501 as follows:
 - a) Modify Section 17.28.040 of the Municipal Code more specifically Table 17.28.040B by amending the parking standard for industrial warehousing as follows:

Industrial warehousing	For each structure:
1-20,000 sq ft	Minimum of two spaces plus one space per 1,000 sq ft of gross floor area
Over 20,000 sq ft	22 spaces plus one space per 2,000 sq ft for portion over 20,000 sq ft
Trucks	One tractor trailer space per 4 high dock doors

- b) Modify Section 17.28.040 of the Municipal Code more specifically Table 17.28.040B by adding the parking standard for industrial manufacturing as follows:

Manufacturing uses	Minimum of two spaces plus one space per 600 sq ft of gross floor area
Trucks	One tractor trailer space per 4 high dock doors

SECTION 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days after its 2nd reading in accordance with California law.

PASSED, APPROVED, AND ADOPTED this 26th day of May, 2009.

Robert E. Botts, Mayor
City of Banning

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

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

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. 1407 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 12th day of May 2009, and was duly adopted at a regular meeting of said City Council on the 26th day of May 2009, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: May 26, 2009

TO: Honorable Mayor and City Council

FROM: Kahono Oei, City Engineer



SUBJECT: Resolution No. 2009-38, "Approving the City of Banning's Disadvantaged Business Enterprise (DBE) Program Implementation Agreement with the California Department of Transportation (CALTRANS)"

RECOMMENDATION: Adopt Resolution No. 2009-38, "Approving the City of Banning's Disadvantaged Business Enterprise (DBE) Program Implementation Agreement with the California Department of Transportation (CALTRANS)."

JUSTIFICATION: The adoption of Resolution No. 2009-38 is essential in order to obtain and utilize Federal-Aid Highway funds administered by CALTRANS.

BACKGROUND: In order to obtain Federal funding for transportation projects, local agencies within California must comply with the Federal Highway Administration's (FHWA) Disadvantaged Business Enterprise (DBE) requirements. The FHWA's DBE program is currently being administered and monitored in California by CALTRANS.

The FHWA has recently approved the California Department of Transportation's 2009 DBE Annual Overall State Goal of 13.5% which is equally divided (6.75%) into Race Neutral and Race Conscious goals. FHWA's approval requires the implementation of the new DBE program that includes a Race Conscious component (RC DBE Program). CALTRANS and Local Agencies receiving federal-aid funds must begin transitioning to the new RC DBE Program by June 2, 2009.

Local Agencies are required to adopt and execute a new *California Department of Transportation DBE Program Implementation Agreement* (DBE Implementation Agreement). Under the new DBE Implementation Agreement contract goals and Good Faith Efforts are reinstated; however, they are limited to Underutilized DBE's (UDBEs). The findings from a recent Availability and Disparity Study conducted by CALTRANS revealed statistically significant underutilization in four of the six groups presumed to be disadvantaged as defined by the Code of Federal Regulations, 49 CFR Part 26. The four groups include African American, Asian Pacific American, Native American and Women. Contract goals will be limited to these four groups of UDBEs. The City Manager must sign the Implementation Agreement on behalf of the City of Banning, as shown attached as Exhibit "A".

For Federal Fiscal Year 2009-2010, the City of Banning does not expect to utilize Federal funds for construction projects and therefore has not calculated an Annual Anticipated DBE Participation Level (AADPL). AADPL is each local agency's assessment of the level of DBE participation and utilization it expects to achieve on federal-aid contracts awarded in its jurisdiction in a given fiscal year and is split into Race Neutral and Race Conscious portions. The AADPL is calculated using a method approved by CALTRANS which takes into account DBEs and UDBEs practicing project specific trades and located within the historical market area for the City of Banning's Public Works construction projects.

FISCAL DATA: Not applicable.

RECOMMENDED BY:

Duane Burk
Duane Burk
Director of Public Works

REVIEWED BY:

Bonnie J. Johnson
Bonnie J. Johnson
Finance Director

APPROVED BY:

Brian Nakamura
Brian Nakamura
City Manager

RESOLUTION NO. 2009-38

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA,
APPROVING THE CITY OF BANNING'S DISADVANTAGED BUSINESS ENTERPRISE
(DBE) PROGRAM IMPLEMENTATION AGREEMENT WITH CALTRANS**

WHEREAS, the City of Banning is a recipient of Federal-Aid Highway Funds from Federal Highway Administration (FHWA) programs administered by the California Department of Transportation (CALTRANS); and

WHEREAS, the FHWA has required that all recipients of Federal-Aid Highway Funds submit a revised DBE plan in the form of the DBE Program Implementation Agreement for Local Agencies, incorporating new Federal DBE regulations, to CALTRANS for approval; and

WHEREAS, it is essential that the Implementation Agreement with CALTRANS be approved by the City Council in order to utilize Federal-Aid Highway Funds for transportation projects.

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

Section I. Adopt Resolution No. 2009-38, "Approving the City of Banning's Disadvantaged Business Enterprise (DBE) Program Implementation Agreement with the California Department of Transportation (CALTRANS)," as attached as Exhibit "A".

Section II. Authorize the City Manager to execute the Disadvantaged Business Enterprise (DBE) Program Implementation Agreement with CALTRANS, and this authorization will be rescinded if the parties do not execute the Implementation Agreement within sixty (60) days of the date of this resolution.

PASSED, APPROVED AND ADOPTED this 26th day of May, 2009.

Bob Botts, Mayor
City of Banning

APPROVED AS TO FORM AND
LEGAL CONTENT:

City Attorney

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-38 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of May, 2009 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

CALIFORNIA
DEPARTMENT OF TRANSPORTATION
DISADVANTAGED BUSINESS ENTERPRISE
PROGRAM
IMPLEMENTATION AGREEMENT
FOR
CITY OF BANNING

CALIFORNIA DEPARTMENT OF TRANSPORTATION DISADVANTAGED BUSINESS ENTERPRISE IMPLEMENTATION AGREEMENT

For the City of Banning, hereinafter referred to as "RECIPIENT."

I Definition of Terms

The terms used in this agreement have the meanings defined in 49 CFR § 26.5.

II OBJECTIVE/POLICY STATEMENT (§26/1. 26/23)

The RECIPIENT intends to receive federal financial assistance from the U. S. Department of Transportation (DOT) through the California Department of Transportation (Caltrans), and as a condition of receiving this assistance, the RECIPIENT will sign the California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement (hereinafter referred to as Agreement). The RECIPIENT agrees to implement the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan (hereinafter referred to as the DBE Program Plan) as it pertains to local agencies. The DBE Program Plan is based on U.S. Department of Transportation (DOT), 49 CFR, Part 26 requirements.

It is the policy of the RECIPIENT to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also their policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts.
- To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts.
- To ensure that their annual overall DBE participation percentage is narrowly tailored, in accordance with applicable law.
- To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in DOT-assisted contracts.
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

III Nondiscrimination (§26.7)

RECIPIENT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR, Part 26 on the basis of race, color, sex, or national origin. In administering the local agency components of the DBE Program Plan, the RECIPIENT will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

IV Annual DBE Submittal Form (§26.21)

The RECIPIENT will provide to the Caltrans District Local Assistance Engineer (DLAE) a completed *Local Agency DBE Annual Submittal Form* (Exhibit 9-B) by June 1 of each year for the following Federal Fiscal Year (FFY). This form includes an Annual Anticipated DBE Participation Level (AADPL), methodology for establishing the AADPL, the name, phone number, and electronic mailing address of the designated DBELO, and the choice of Prompt Pay Provision to be used by the RECIPIENT for the following FFY.

V Race-Neutral Means of Meeting the Overall Statewide Annual DBE Goal (§26.51)

RECIPIENT must meet the maximum feasible portion of its AADPL by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts).

Race-neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
3. Providing technical assistance and other services;
4. Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);
5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of types of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
8. Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

VI Race Conscious Means of Meeting the Overall Statewide Annual DBE Goal (§26.51(d))

RECIPIENT must establish contract goals for Underutilized Disadvantaged Business Enterprises (UDBEs) to meet any portion of your AADPL you do not project being able to meet using race-neutral means. UDBEs are limited to these certified DBEs that are owned and controlled by African Americans, Native Americans, Women, and Asian Pacific Americans.

VII Quotas (§26.43)

RECIPIENT will not use quotas or set-asides in any way in the administration of the local agency component of the DBE Program Plan.

VIII DBE Liaison Officer (DBELO) (§26.25)

RECIPIENT has designated a DBE Liaison Officer. The DBELO is responsible for implementing the DBE Program Plan, as it pertains to the RECIPIENT, and ensures that the RECIPIENT is fully and properly advised concerning DBE Program Plan matters. [Specify resources available to the DBELO; e.g., the DBELO has a staff of two professional employees assigned to the DBE program on a full-time basis and two support personnel who devote a portion of their time to the program.] The name, address, telephone number, electronic mail address, and an organization chart displaying the DBELO's position in the organization are found in Attachment #1 to this Agreement. This information will be updated annually and included on the DBE Annual Submittal Form.

The DBELO is responsible for developing, implementing, and monitoring the RECIPIENT's requirements of the DBE Program Plan in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to determine projected Annual Anticipated DBE Participation Level.
4. Ensures that bid notices and requests for proposals are made available to DBEs in a timely manner.
5. Analyzes DBE participation and identifies ways to encourage participation through race-neutral means.
6. Participates in pre-bid meetings.
7. Advises the CEO/governing body on DBE matters and DBE race-neutral issues.
8. Provides DBEs with information and recommends sources to assist in preparing bids, obtaining bonding and insurance.
9. Plans and participates in DBE training seminars.
10. Provides outreach to DBEs and community organizations to fully advise them of contracting opportunities.

IX Federal Financial Assistance Agreement Assurance (§26.13)

RECIPIENT will sign the following assurance, applicable to and to be included in all DOT-assisted contracts and their administration, as part of the program supplement agreement for each project.

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract, or in the administration of its DBE Program, or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR, Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE Program, as required by 49 CFR, Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.). [Note – this language is to be used verbatim, as it is stated in §26.13(a).]

X DBE Financial Institutions (§26.27)

It is the policy of the RECIPIENT to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Information on the availability of such institutions can be obtained from the DBELO. The Caltrans' Disadvantaged Business Enterprise Program may offer assistance to the DBELO.

XI Directory (§26.31)

RECIPIENT will refer interested persons to the Unified Certification Program DBE directory available from the Caltrans Disadvantaged Business Enterprise Program's website at www.dot.ca.gov/hq/bep.

XII Required Contract Clauses (§§26.13, 26.29)

RECIPIENT ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

A. CONTRACT ASSURANCE

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate.

[Note – This language is to be used verbatim, as is stated in §26.13(b). See Caltrans Sample Boiler Plate Contract Documents on the Internet at www.dot.ca.gov/hq/LocalPrograms under "Publications."]

B. PROMPT PAYMENT

Prompt Progress Payment to Subcontractors

The local agency shall require contractors and subcontractors to be timely paid as set forth in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10-days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Prompt Payment of Withheld Funds to Subcontractors

The local agency shall ensure prompt and full payment of retainage from the prime contractor to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed and accepted. This shall be accompanied by including either (1), (2), or (3) of the following provisions [local agency equivalent will need Caltrans approval] in their federal-aid contracts to ensure prompt and full payment of retainage [withheld funds] to subcontractors in compliance with 49 CFR 26.29.

1. No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
2. No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

3. The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

XIII Local Assistance Procedures Manual

The RECIPIENT will advertise, award and administer DOT-assisted contracts in accordance with the most current published Local Assistance Procedures Manual (LAPM).

XIV Transit Vehicle Manufacturers (§ 26.49)

If FTA-assisted contracts will include transit vehicle procurements, RECIPIENT will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26, Section 49.

XV Bidders List (§26.11(c))

The RECIPIENT will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its DOT-assisted contracts. The bidders list will include the name, address, DBE/nonDBE status, age, and annual gross receipts of the firm.

XVI Reporting to the DLAE

RECIPIENT will promptly submit a copy of the Local Agency Bidder/Proposer-UDBE Commitment (Consultant Contract), (Exhibit 10-O(1) "Local Agency Bidder/Proposer-DBE Commitment (Consultant Contract)") or Exhibit 15-G(1) "Local Agency Bidder-UDBE Commitment (Construction Contract) to the DLAE at the time of award of the consultant or construction contracts.

RECIPIENT will promptly submit a copy of the Local Agency Bidder-DBE Information (Exhibit 15-G(2) "Local Agency Bidder-DBE (Construction Contracts) – Information" or Exhibit 10-O(2) "Local Agency Proposer/Bidder-DBE (Consultant Contracts)-Information" of the LAPM) to the DLAE at the time of execution of consultant or construction contract.

RECIPIENT will promptly submit a copy of the Final Utilization of DBE participation to the DLAE using Exhibit 17-F "Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" of the LAPM immediately upon completion of the contract for each consultant or construction contract.

XVII Certification (§26.83(a))

RECIPIENT ensures that only DBE firms currently certified by the California Unified Certification Program will participate as DBEs on DOT-assisted contracts.

XVIII Confidentiality

RECIPIENT will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information consistent with federal, state, and local laws.

By _____
(Signature)

Phone Number: (951) 922-3101

Brian Nakamura, City Manager
City of Banning

This California Department of Transportation's Disadvantaged Business Enterprise Program Implementation Agreement is accepted by:

[Signature of DLAE] Date: _____

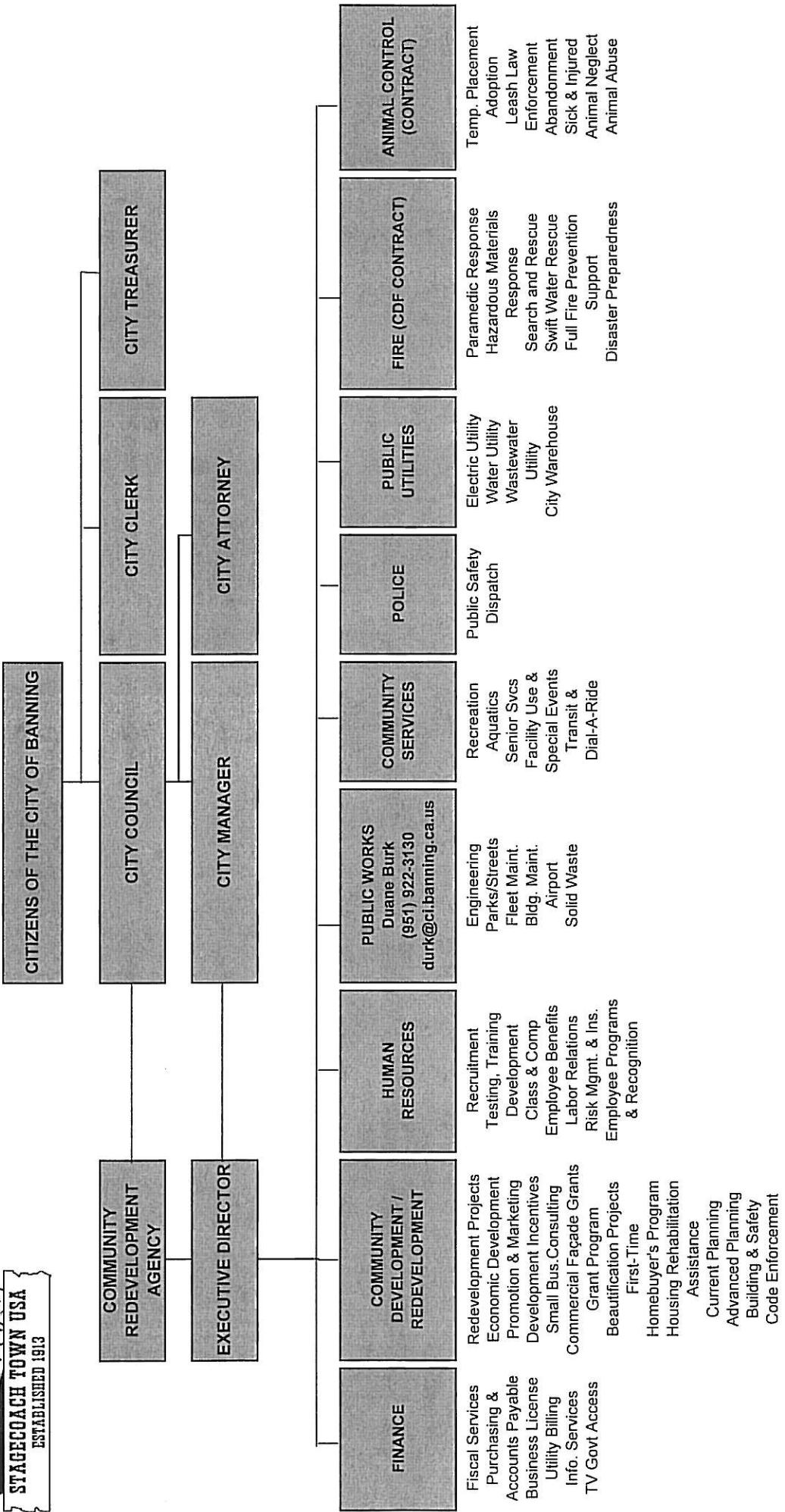
[Print Name of DLAE]

Distribution: (1) Original – DLAE
(2) Signed copy by the DLAE – Local Agency

(Updated: March 4, 2009)

CITY OF BANNING

ORGANIZATIONAL CHART



**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: May 26, 2009

TO: Honorable Mayor and City Council

FROM: Kahono Oei, City Engineer



SUBJECT: Resolution No. 2009-39, "Approving the Measure 'A' Five Year Capital Improvement Plan"

RECOMMENDATION: Adopt Resolution No. 2009-39, approving the Measure "A" Five Year Capital Improvement Plan as presented.

JUSTIFICATION: The City is required to submit a Five Year Capital Improvement Plan annually to the Riverside County Transportation Commission (RCTC) in order to receive Measure "A" funds.

BACKGROUND: Voters in Riverside County approved Measure "A" in 1988, which authorized the Riverside County Transportation Commission to impose an additional one-half percent (0.5%) sales tax for the next 20 years to be used for improvements of state highways, public transit systems, and local streets. In 2002, voters in Riverside County approved a 30-year extension of the one-half percent sales tax for transportation improvements.

RCTC has estimated that the City of Banning will receive Measure "A" Funds totaling \$2,332,000.00 as follows for the next five years:

<u>Year</u>	<u>Estimated Amount</u>
2010	\$430,000.00
2011	\$439,000.00
2012	\$456,000.00
2013	\$485,000.00
2014	\$522,000.00

Each City in Riverside County is required by the RCTC to submit a Five Year Capital Improvement Plan (CIP), as approved by its governing board, to indicate how Measure "A" funding is to be utilized over the next five years. The list of street locations under the Five-year CIP is attached as Exhibit "A".

In addition, the City is required to submit a list of Estimated Street Expenditures for FY 2008/2009, which has been prepared by the Finance Department and is attached as Exhibit "B". The Maintenance of Effort Certification, attached as Exhibit "C", must be signed by the City Manager and submitted to the RCTC along with the Five-Year CIP.

The program is intended for local transit systems, street pavement rehabilitation, and public street improvements at various locations as attached herein. The priority list of street locations can be changed by the City Council during the design stage or at the time of award of the construction contract.

FISCAL DATA: The estimated revenue for the City of Banning's Measure "A" Program was provided by the RCTC. The actual amounts will be determined during each Fiscal Year.

RECOMMENDED BY:



Duane Burk
Director of Public Works

REVIEWED BY:



Bonnie J. Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

RESOLUTION NO. 2009-39

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,
CALIFORNIA, APPROVING THE MEASURE "A" FIVE YEAR CAPITAL
IMPROVEMENT PLAN**

WHEREAS, in 1988, Riverside County voters approved a 0.5% sales tax (Measure "A") over a 20-year span to be used toward improvements of state highways, local transit systems, and public streets; and

WHEREAS, in 2002, Riverside County voters approved a 30-year extension of the Measure "A" 0.5% sales tax; and

WHEREAS, each City in Riverside County is required by the Riverside County Transportation Commission (RCTC) to submit a Five Year Capital Improvement Plan (attached as Exhibit "A"), as approved by its governing board, to indicate how Measure "A" funding is to be utilized over the next five years; and

WHEREAS, the RCTC has estimated that the City of Banning will receive a total of \$2,332,000.00 in Measure "A" funds over the next five years; and

WHEREAS, the program is intended for local transit systems, street pavement rehabilitation and public street improvements at various locations, and the priority list of street locations can be changed by the City Council during the design stage or at the time of award of the construction contract.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning, that Resolution No. 2009-39, "Approving the Measure 'A' Five Year Capital Improvement Plan," is hereby adopted.

PASSED, APPROVED and ADOPTED this 26th day of May, 2009

Bob Botts, Mayor

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-39 was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 26th of May, 2009.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

Resolution No. 2009-39

EXHIBIT “A”

MEASURE “A” FIVE YEAR CAPITAL IMPROVEMENT PLAN

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE "A" LOCAL FUNDS PROGRAM
FISCAL YEAR 2010-2014**

Agency: City of Banning

Page: 1 of 5

Prepared By: Arturo Vela

Phone No. (951) 922-3130

Date: May 8, 2009

**Citywide Street 1 1/2"
Asphaltic Concrete (A.C.) Overlay Program**

ITEM NO.	YEAR 2010 STREET LOCATION – FROM / TO	TOTAL COST (\$1,000)	MEASURE "A" FUND (\$1,000)
1.	Hoffer Street: Alessandro Road to Hargrave Street	100	100
2.	Theodore Street: Alessandro Road to Hargrave Street	100	100
3.	Allen Street: Hoffer Street to George Street	50	50
4.	Cherry Street: Hoffer Street to George Street	50	50
5.	Hoffer Street: Paseo Del Sol to 8 th Street	130	130
	TOTAL	430	430

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE "A" LOCAL FUNDS PROGRAM
FISCAL YEAR 2010-2014**

Agency: City of Banning

Page: 2 of 5

Prepared By: Arturo Vela

Phone No. (951) 922-3130

Date: May 8, 2009

**Citywide Street 1 1/2"
Asphaltic Concrete (A.C.) Overlay Program**

ITEM NO.	YEAR 2011 STREET LOCATION – FROM / TO	TOTAL COST (\$1,000)	MEASURE "A" FUND (\$1,000)
1.	Repllier Road: Durward Street to Hargrave Street	65	65
2.	King Street: Hoffer Street to 8 th Street	99	99
3.	Joshua Palmer Way: Highland Springs Avenue to Apex Avenue	105	105
4.	Via Panorama: Wilson Street to End	50	50
5.	Paseo Del Sol: Wilson Street to End	50	50
6.	20 th Street: Nicolet Street to Wilson Street	70	70
	TOTAL	439	439

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE "A" LOCAL FUNDS PROGRAM
FISCAL YEAR 2010-2014**

Agency: City of Banning

Page: 3 of 5

Prepared By: Arturo Vela

Phone No. (951) 922-3130

Date: May 8, 2009

**Citywide Street 1 1/2"
Asphaltic Concrete (A.C.) Overlay Program**

ITEM NO.	YEAR 2012 STREET LOCATION – FROM / TO	TOTAL COST (\$1,000)	MEASURE "A" FUND (\$1,000)
1.	Alessandro Road: Theodore Street to Hoffer Street	70	70
2.	Florida Street: Indian School Lane to Theodore Street	30	30
3.	Nicolet Street: Hargrave Street to Hathaway Street	136	136
4.	Indian School Lane: 8 th Street to San Gorgonio Avenue	120	120
5.	Apex Avenue: Ramsey Street to Joshua Palmer Way	30	30
6.	Nicolet Street: Sunset Avenue to McGovern Avenue	70	70
	TOTAL	456	456

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE "A" LOCAL FUNDS PROGRAM
FISCAL YEAR 2010-2014**

Agency: City of Banning

Page: 4 of 5

Prepared By: Arturo Vela

Phone No. (951) 922-3130

Date: May 8, 2009

**Citywide Street 1 ½"
Asphaltic Concrete (A.C.) Overlay Program**

ITEM NO.	YEAR 2013 STREET LOCATION – FROM / TO	TOTAL COST (\$1,000)	MEASURE "A" FUND (\$1,000)
1.	George Street: Hargrave Street to Hathaway Street	130	130
2.	Lincoln Street: Sunset Avenue to 22 nd Street	170	170
3.	40 th Street: George Street to Jacinto View Road	40	40
4.	41 st Street: Wilson Street to Jacinto View Road	75	75
5.	14 th Street: George Street to Williams Street	70	70
	TOTAL	485	485

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE "A" LOCAL FUNDS PROGRAM
FISCAL YEAR 2010-2014**

Agency: City of Banning

Page: 5 of 5

Prepared By: Arturo Vela

Phone No. (951) 922-3130

Date: May 8, 2009

**Citywide Street 1 1/2"
Asphaltic Concrete (A.C.) Overlay Program**

ITEM NO.	YEAR 2014 STREET LOCATION - FROM/TO	TOTAL COST (\$1,000)	MEASURE "A" FUND (\$1,000)
1.	Williams Street: 8 th Street to 16 th Street	135	135
2.	12 th Street: George Street to Williams Street	68	68
3.	Nicolet Street: Sunset Avenue to Sunrise Avenue	210	210
4.	Murray Street: Repplier Road to Indian School Lane	37	37
5.	Martin Street: Repplier Road to Indian School Lane	37	37
6.	Jacinto View: Evans Street to Hathaway Street	35	35
	TOTAL	522	522

2010-2014 GRAND TOTAL	2,332	2,332
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EXHIBIT “B”

**ESTIMATED STREET EXPENDITURES
FY 2008/2009**

**ESTIMATED STREET EXPENDITURES AND RELATED SOURCES OF FUNDS
FOR FISCAL YEAR ENDED JUNE 30, 2009**

ESTIMATED STREET EXPENDITURES

Gas Tax Street Fund	1,332,780
Less transfers out and loan repayments	<u>82,522</u>
	1,250,258
AB 2928	0
Prop 1B	454,736
Measure "A" Fund	875,296
Less transfers out and loan repayments	<u>45,159</u>
	830,137
SB 300 Street Fund	0
Article 3 Sidewalk Fund	141,842
CDBG Fund Street Expenditures	0
Landscape Maintenance Fund	260,525
Traffic Control Facility Fund	233,475
Air Quality Improvement Fund	0
Engineering Department Expenditures on Streets (20%)	151,143
Parks Department Expenditures on Streets (Maintenance of medians, etc.)	<u>5,000</u>
	<u>3,327,116</u>
Total Budgeted Street Expenditures	

ESTIMATED STREET SOURCES OF FUNDS - NON-DISCRETIONARY

Gas Tax Funds	485,000
AB 2928	0
Prop 1B	454,736
Interest earnings on Gas Tax Funds	8,000
Measure "A" Fund	830,137
Article 3 Sidewalk Fund	141,842
CDBG Fund Street Expenditures	0
	<u>1,919,715</u>
Total Estimated Non-Discretionary Funds	

ESTIMATED STREET SOURCES OF FUNDS - DISCRETIONARY

SB 300 Street Fund	0
Landscape Maintenance Fund	125,432
Ramsey/HIGHLAND Home Signal Fund	0
Air Quality Improvement Fund	0
Traffic Control Facility Fund	233,475
Spl Assmt District-Wilson St	0
Wilson Median Fund	0
General Fund and other money	<u>1,048,494</u>
	<u>1,407,401</u>
Total Estimated Discretionary Funds	

Total Estimated Sources of Funds for Street Purposes 3,327,116

EXHIBIT “C”

MAINTENANCE OF EFFORT CERTIFICATION

**MAINTENANCE OF EFFORT
CERTIFICATION STATEMENT**

The undersigned hereby agrees and certifies for the CITY OF BANNING (the “Agency”) that sales tax transportation funds received pursuant to Ordinance No. 88-1 of the Riverside County Transportation Commission (Measure “A”) shall be used in compliance with the Commission’s Maintenance of Effort Guidelines, and that the Agency shall not use such funds to replace discretionary local funds previously expended by the Agency for local transportation purposes. The Agency hereby acknowledges that the failure of the Agency to continue such local expenditure shall result in a reduction or loss of Measure “A” funds.

Dated: _____

Brian Nakamura, City Manager

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: **May 26, 2009**

TO: **Honorable Mayor and City Council**

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

SUBJECT: **Resolution No. 2009-40, “Approving the Professional Services Agreement for Project No. 2009-02, ‘Design of the New Repplier Park Playhouse Bowl’”**

RECOMMENDATION: Adopt Resolution No. 2009-40:

- I.** Approving the Professional Services Agreement for Project No. 2009-02, “Design of the New Repplier Park Playhouse Bowl” with Williams Architects, Inc. of Upland, California, in an amount “Not to Exceed” \$457,388.00.
- II.** Authorizing the Director of Finance to appropriate the approved Community Development Block Grant (CDBG) program funds including a 10% contingency to cover any unforeseen requirements. Additional funding from the Parkland Development fund is necessary in order to cover the existing shortfall until future FY 2010/11 grant funds are approved by the Riverside County Economic Development Agency (EDA).

JUSTIFICATION: It is essential to hire an experienced professional architectural/engineering firm to design the new Repplier Park Playhouse Bowl in order to meet CDBG program grant requirements.

BACKGROUND: Over the past three years, Engineering Division staff has obtained CDBG funds for Project No. 2009-02 “Design of the New Repplier Park Playhouse Bowl” in the amount of \$439,434.00, to improve facilities at Repplier Park Playhouse Bowl, from the U.S. Department of Housing and Urban Development (HUD).

The existing Repplier Park Playhouse Bowl has been utilized for many years and requires significant upgrades including items such as seating, electrical, restrooms, lighting, landscaping, irrigation and so forth, in order for the City of Banning to continue to provide high quality community service events and entertainment for its residents.

The Master Plan for Repplier Park was last updated in December, 1990. Currently, the City is working on revising the entire City Parks Master Plan; however, the redesign of the park bowl was not included in this update. A new Master Plan shall include: three schematic drawings of alternatives along with a narrative of each choice, CEQA and NEPA documents for the selected option including the environmental checklist and all associated studies (noise, traffic, historical significance, etc.). The Park Bowl design concepts shall be presented to, and reviewed by City staff, the Parks and Recreation Committee, Planning Commission, and City Council for approval prior to the completion of the design plans and specifications.

The architectural/engineering services to be provided by the consultant for both phases shall include: a review of existing information; preparation of a new Master Plan for Repplier Park; grading plan, lighting plan, plumbing plan, architectural plans, landscape and irrigation plans; environmental documents (per CEQA and NEPA requirements) and reports (soils, hydrology, acoustics, etc.); demolition plans of the existing Playhouse Bowl and the complete design of a new Playhouse Bowl (preparation of specifications, plans, and cost estimates); bid phase assistance; progress meetings, presentations, and plan reviews with the City of Banning will also be required.

On February 20, 2009, Request for Proposals (RFPs) were sent to several architectural/engineering consulting firms and on March 27, 2009, three proposals were received by the Engineering Division. The proposals were evaluated by an Evaluation/Selection Committee for completeness, the proposed project team, project management, understanding, and project approach, responsiveness to the RFPs, and technical competency. The committee also evaluated each consultant's familiarity with the City of Banning and with experience in architectural/engineering design of public facilities and preparing all required studies. Proposals received for the project were ranked as follows:

Rank Name of Consultant

1. Williams Architects, Inc., Upland, CA
2. RJM Design Group, Inc., San Juan Capistrano, CA
3. Miller Architecture, Inc., Redlands, CA

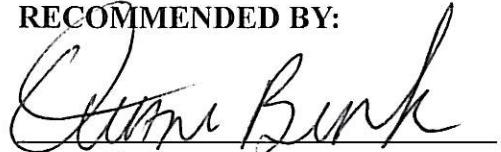
Upon review of the proposals, it was determined that Williams Architects, Inc is the most qualified firm for the project, as per the guidelines set forth in the Request for Proposals.

Government Code, Section 4526, and Riverside County EDA guidelines require that the selection of professional services of an engineering firm shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required and that the services should be provided at a fair and reasonable price to the public agencies.

If approved, it is anticipated that Project No. 2009-02, "Design of the New Repplier Park Playhouse Bowl" will commence immediately.

FISCAL DATA: The proposed Professional Services Agreement for the design of Project No. 2009-02, "Design of the New Repplier Park Playhouse Bowl," is for an amount "Not to Exceed" \$457,388.00. Staff is requesting an additional 10% contingency be added to the project budget to cover unforeseen additional studies or design work for a total project amount of \$503,127.00. The available CDBG funds for this project amount to \$439,434.00. An appropriation exists in the amount of \$150,000 in the Parkland Development Fund, Account No. 451-3600-461.90-37 (Repplier Park Improvement), and \$63,693.00 of that will be used to cover the shortfall. Staff has discussed, with the Riverside County EDA, and anticipates that future CDBG funds may be available to restore improvement funds utilized for design costs.

RECOMMENDED BY:



Duane Burk
Director of Public Works

REVIEWED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

RESOLUTION NO. 2009-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE PROFESSIONAL SERVICES AGREEMENT FOR PROJECT NO. 2009-02, "DESIGN OF THE NEW REPLIER PARK PLAYHOUSE BOWL"

WHEREAS, the existing Repplier Park Playhouse Bowl has been utilized for many years and requires significant upgrades in order for the City of Banning to continue to provide high quality community service events and entertainment for its residents; and

WHEREAS, it is essential to select an experienced consultant to design the Repplier Park Playhouse Bowl; and

WHEREAS, Community Development Block Grant (CDBG) program funds from the U.S. Department of Housing and Urban Development were obtained by Engineering Division staff through the Riverside County Economic Development Agency (EDA) to improve the facilities at Repplier Park Playhouse Bowl; and

WHEREAS, Request for Proposals were sent to several architectural/engineering consulting firms that have experience in designing public facilities and three responded with proposals to the Engineering Division; and

WHEREAS, proposals were evaluated by an Evaluation/Selection Committee and Williams Architects, Inc. was ranked as the most qualified architectural/engineering firm based upon the criteria listed in the Request for Proposals for the project; and

WHEREAS, CDBG funds for this project are available in the amount of \$439,434.00 and future additional FY 2010-2011 funding is anticipated to be approved by Riverside County EDA to cover the shortfall which will currently be covered by Parkland Development funds in the amount of \$63,693.00.

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

Section I. The Professional Services Agreement for the Design of Project No. 2009-02, "Design of the New Repplier Park Playhouse Bowl" is hereby awarded to Williams Architects, Inc. of Upland, California, in the amount of "Not to Exceed" \$457,388.00.

Section II. The Director of Finance is authorized to make the necessary budget adjustments in order to utilize Community Development Block Grant funds and Parkland Development funds for a total amount of \$503,127.00 which includes a 10% contingency.

Section III. The City Manager is authorized to execute the contract agreement with Williams Architects, Inc. of Upland, California. This authorization will be rescinded if the contract agreement is not executed by the parties within sixty (60) days of the date of this resolution.

PASSED, ADOPTED AND APPROVED this 26th day of May, 2009.

Robert E. Botts, Mayor
City of Banning

ATTEST:

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

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

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-40 was adopted by the City Council of the City of Banning at the Regular Meeting thereof held on the 26th day May of 2009.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: **May 26, 2009**

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

FROM: **Bonnie Johnson, Finance Director**

SUBJECT: **Resolution No 2009-42 Approving an Advance to the San Gorgonio Child Care Consortium in the Amount of \$25,000**

RECOMMENDATION:

Council adopt Resolution No 2009-42 approving a short-term loan to the San Gorgonio Child Care Consortium which would be funded on July 1, 2009 and expire September 30, 2009, in the amount of \$25,000.

JUSTIFICATION:

State funding to the Consortium is granted once the Governor signs the State Budget. Actual receipt of the funding has often been delayed until August or later, from the State program which provides funding to the local child care facility. The Consortium provides full day childcare services to approximately one hundred and forty-five (145) children. Forty-nine (49) of these slots are funded from the State program.

BACKGROUND/ANALYSIS:

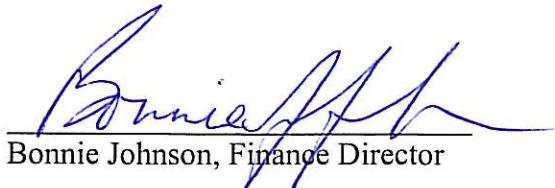
For the past fifteen years, the City has provided a short-term interest free loan to allow the Consortium to continue operations pending its first payment from the State. In the current fiscal year the loan was funded on July 1, 2008 and repaid on October 14, 2008.

A copy of the correspondence submitted by the Consortium is included for reference as *Exhibit A*. Resolution 2009-42 has been prepared for City Council's consideration and is also included with this staff report.

FISCAL DATA:

The proposed funding source is the General Fund. The loan would be interest free for three-months. The General Fund is projected to lose approximately \$117 of interest earnings assuming the funds were invested for three months at the LAIF's current yield of 1.869%.

RECOMMENDED BY:



Bonnie Johnson, Finance Director

APPROVED BY:



Brian Nakamura, City Manager

RESOLUTION NO. 2009-42

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BANNING AUTHORIZING A LOAN IN THE AMOUNT OF \$25,000 TO THE SAN
GORGONIO CHILD CARE CONSORTIUM**

WHEREAS, State funding to the San Gorgonio Child Care Consortium does not occur until the Governor signs the State Budget; and

WHEREAS, actual receipt of the funds has often been delayed until August or later from the State program which provides funding to the local child care facility; and

WHEREAS, the City Council desires uninterrupted services which might otherwise result from cash flow constraints; and

WHEREAS, there exists a cash flow shortage for the program,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF BANNING,**

City Council hereby authorizes and directs the Finance Director to advance the sum of \$25,000 to the San Gorgonio Child Care Consortium as an interest free short-term loan, funded on July 1, 2009 and due no later than September 30, 2009.

PASSED, APPROVED, AND ADOPTED this 26th day of May 2009.

Robert Botts, Mayor
City of Banning

APPROVED AS TO FORM AND
LEGAL CONTENT:

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION

I, MARIE A. CALDERON, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-42 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 26th day of May, 2009 by the following vote, to wit:

AYES:

NOES:

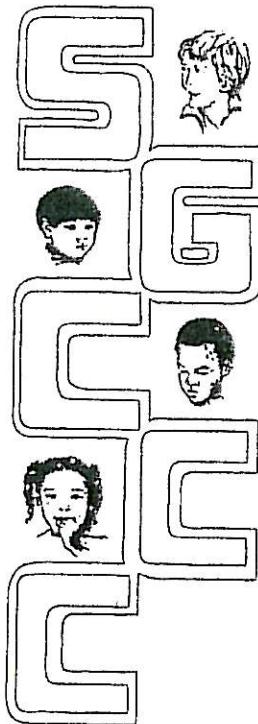
ABSTAIN:

ABSENT:

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

MAY 08 2009

City Manager's Office



SAN GORGONIO CHILD CARE CONSORTIUM
671 North Florida Suite A. Banning, CA 92220
Telephone (951)849-2930/ (951) 849-2739
Fax (951)849-2262

May 7, 2009

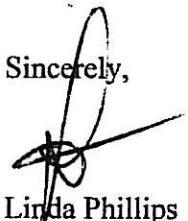
City Manager
City of Banning
99 E. Ramsey
Banning, CA 92220

Dear City Manager;

San Gorgonio Child Care Consortium is asking for a loan of \$25,000.00. This loan is needed due to the fact that the State budget may not be signed in time to get us through the summer months. We are asking for \$25,000.00 to help us keep the center running through this hard time. These funds will help hold the center until the State Department of Education's first allocation check is made for the new Fiscal Year 2009/2010.

Thank you in advance for your help in this matter.

Sincerely,


Linda Phillips

President
Deborah Franklin

Vice President
Marion Johnson

Finance Officer
T.J. Moody

Secretary
Dorothy Mc Lean

Beverly Davis

Clara Soward

Joseph Curtis

Ann Peace

Dawn Rust

Emeritus
E. Brigitte Page



United Way of the Inland Valleys
Member Agency



EXHIBIT "A"

CITY COUNCIL AGENDA CONSENT

Date: May 26, 2009

TO: Honorable Mayor and City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Public Improvements Acceptance and Performance/Labor and Material Bond Release for Barbour Street Industrial Park

RECOMMENDATION: Accept the public improvements and release 100% of the Faithful Performance/Labor and Material Bond for Barbour Street Industrial Park.

JUSTIFICATION: It is essential to release the bonds now that the public improvements have been constructed, inspected and deemed in conformance with the approved plans and specifications.

BACKGROUND: Barbour Street Industrial Park is located on the southwest corner of the intersection of Hathaway Street and Barbour Street. Prior to the City Council approval, the developer is required to post a Performance/Labor & Material Bond for an amount equal to the cost of constructing all public improvements according to the approved plans and specifications.

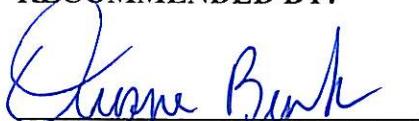
On September 23, 2008 City Council accepted portion of the public improvements and the release of a portion, approximately 40%, of the Faithful Performance/Labor and Material Bond.

As of April 2009 the developer has completed the public improvements which have been deemed in conformance with the approved plans and specifications. The bond amount being released is as follows:

<u>Bond No.</u>	<u>Bond Amount</u>	<u>Previous Release Amount</u>	<u>Bond Amount Being Released</u>	<u>Remaining Bond Balance</u>
5029153	\$483,044.00	\$195,000.00	\$288,044.00	\$0.00

FISCAL DATA: Not applicable.

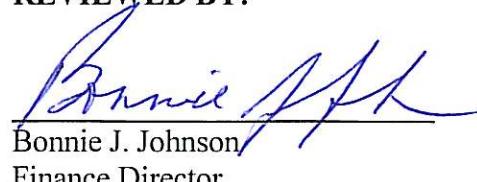
RECOMMENDED BY:



Duane Burk

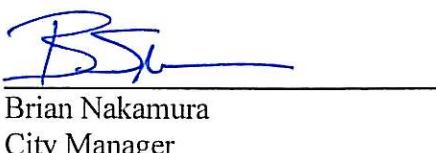
Director of Public Works

REVIEWED BY:



Bonnie J. Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: **May 26, 2009**

TO: **Honorable Mayor and City Council**

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

SUBJECT: **Notice of Completion for Project No. 2008-08, “Phase II Improvements to the Banning Community Center Gym”**

RECOMMENDATION: That the City Council accept Project No. 2008-08, “Phase II Improvements to the Banning Community Center Gym,” as complete and direct the City Clerk to record the Notice of Completion.

JUSTIFICATION: The contractor has completed the work as per the approved specifications.

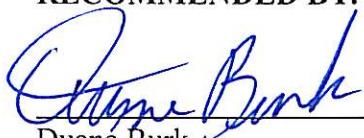
BACKGROUND: On December 10, 2008 the City Council adopted Resolution No. 2008-122, “Awarding the Construction Contract for Project No. 2008-08, ‘Phase II Improvements to the Banning Community Center Gym,’” to Whitmore Construction, Inc. of Banning, California.

The scope of work under this project included the renovation of the gymnasium at the existing Community Center building. The principal items of work included: framing of the walls and installing insulation, enclosing wall framing at top portion of existing walls with drywall, and upgrading electrical outlets; installing new hi-low drinking fountain; painting the interior walls and exposed piping of the gymnasium; replacing the gym carpeting with a new “Tile Flex” sports flooring, installing floor sockets for new volleyball net, providing two exit sign/emergency lights; replacing subpanel and installing new 600 amp NEMA panel, installing new 2” conduits with sweeps, installing new electrical conduits and a gas line through the roof, replacing existing lights with impact resistant ceiling mounted 2’ by 4’ fluorescents; and other miscellaneous work necessary for a complete and finished project. On April 28, 2009 Change Order No. 1 was approved under City Council Resolution No. 2009-31. The extra items included additional electrical work, replacement of the old steel doors and hardware with steel craft 20 gauge doors at the main entrance to the gym, and replacement of eight skylights with new aluminum curb dual pane clear skylights.

FISCAL DATA: The original contract amount for this project was \$153,297.00 with a final contract amount of \$171,392.90. Due to unforeseen conditions, a Change Order was necessary in the amount of \$18,095.90, which is approximately 11.8% of an increase from the original contract amount.

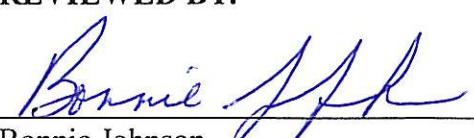
SIGNATURES NEXT PAGE

RECOMMENDED BY:



Duane Burk
Director of Public Works

REVIEWED BY:



Bonnie Johnson
Director of Finance

APPROVED BY:



Brian Nakamura
City Manager

1 WHEN RECORDED MAIL TO:

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

7
8 FREE RECORDING:

9 Exempt Pursuant to
10 Government Code §6103

11
12
13 NOTICE OF COMPLETION

14 PHASE II IMPROVEMENTS TO THE BANNING COMMUNITY

15 CENTER GYM

16 PROJECT NO. 2008-08

17
18 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the
19 City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of
20 the Civil Code of the State of California, and is hereby accepted by the OWNER, the City
21 of Banning, pursuant to authority conferred by the City Council this May 26, 2009, and
22 the grantees consent to recordation thereof by its duly authorized agent.

23
24 That the OWNER, the City of Banning, and Whitmore Construction, Inc. of Banning,
25 Calif., the vendee, entered into an agreement on December 10, 2008, for Phase II
26 Improvements to the Banning Community Center Gym. The scope of work under this
27 project included the renovation of the gymnasium at the existing Community Center
28 building. The principal items of work included: framing of the walls and installing
29 insulation, enclosing wall framing at top portion of existing walls with drywall, and
30 upgrading electrical outlets; installing new hi-low drinking fountain; painting the interior
31 walls and exposed piping of the gymnasium; replacing the gym carpeting with a new
32 "Tile Flex" sports flooring, installing floor sockets for new volleyball net, providing two
33 exit sign/emergency lights; replacing subpanel and installing new 600 amp NEMA panel,
34 new 2" conduits with sweeps, installing new electrical conduits and a gas line through the

1 roof, replacing existing lights with impact resistant ceiling mounted 2' by 4' fluorescents;
2 and other miscellaneous work necessary for a complete and finished project.

3

4 (1) That the work of improvement was completed on April 30, 2009, for
5 Project No. 2008-08, "Phase II Improvements to the Banning Community Center Gym."

6 (2) That the City of Banning, a municipal corporation, whose address is
7 Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is completing work
8 of improvement.

9 (3) That the said work of improvement was performed at 789 North San
10 Gorgonio Avenue, the Banning Community Center.

11 (4) That the original contractor for said improvement was Whitmore Inc.,
12 State Contractor's License No. 445152.

13 (5) That Performance and Payment bonds were required for this project .

14

15 Dated: May 26, 2009

16 CITY OF BANNING
17 A Municipal Corporation

18

19

20

21 By _____
22 Duane Burk
23 Director of Public Works

24

25 APPROVED AS TO FORM:

26

27

28

29

30 David J. Aleshire, Aleshire & Wynder , LLP
31 City Attorney

JURAT

State of California
County of Riverside

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 2009 by _____ proved to me on this basis of satisfactory evidence to be the person(s) who appeared before me.

(S e a l)

Notary Public in and for said County
and State

STATE OF CALIFORNIA)

) ss

COUNTY OF RIVERSIDE)

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

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

City Clerk of the City of Banning

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: May 26, 2009

TO: City Council

FROM: Bonnie Johnson, Finance Director

SUBJECT: Approval of Accounts Payable and Payroll Warrants for Month of April 2009

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 2009

The reports are:

Expenditure approval lists	
April 1, 2009	290,131.89
April 9, 2009	1,808,216.60
April 15, 2009 Manual Check	880.00
April 16, 2009	565,878.22
April 21, 2009 Manual Check	1,062.48
April 23, 2009	314,809.86
April 30, 2009	225,442.98
May 14, 2009	5,776,796.17 (April Month End)
Payroll check registers	
April 1, 2009 Manual Check	561.61
April 10, 2009	7,783.54
April 10, 2009 Manual Checks	16,477.40
April 24, 2009	9,174.96
April 24, 2009 Manual Check	301.00
April 30, 2009 Manual Check	8,320.85
Payroll direct deposits*	
April 10, 2009	334,546.74
April 24, 2009	345,341.90

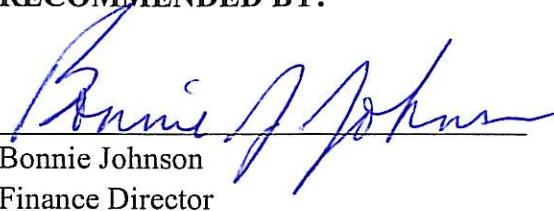
As you review the reports, if you have any questions please contact the Finance Department so that we can gather the information from the source documents and provide a response.

* Included on the March month end expenditure approval list of 05/14/2009.

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

Report Prepared by: Robin Anderson, Accounts Payable

RECOMMENDED BY:



Bonnie Johnson
Finance Director

APPROVED BY:

Brian Nakamura
City Manager

PAYROLL

DIRECT DEPOSIT TOTALS

PAY PERIOD ENDING	DIRECT DEPOSIT DATES	DIRECT DEPOSIT AMOUNTS
04/03/2009	04/10/2009	\$334,546.74
04/17/2009	04/24/2009	\$345,341.90

MANUAL CHECKS ISSUED

CHECK DATE	CHECK #	CHECK AMOUNT
04/01/2009	6250	Garcia R \$561.61
04/10/2009	6274	Schlensker \$115.74
04/13/2009	6275	Hansen \$189.28
04/13/2009	6276	Harapan \$247.43
04/13/2009	6277	Holmes, C \$172.83
04/13/2009	6278	Perry, V \$361.06
04/13/2009	6279	Merrit \$130.14
04/13/109	6280	De La Cruz \$2,542.89
04/14/2009	6281	De La Cruz \$204.15
04/20/2009	6282	Hansen \$12,513.88
4/24/2009	6305	West, M \$301.00
4/30/2009	6306	Earhart, J \$8,320.85
		\$25,660.86

Report only the amounts that actually paid during the month.

109, 12:43:20

Check Register
BIWEEKLY
Pay Date 4/10/09

Page 1
Pay Period B
3/23/09 To 04/05/09

Check Payee	Social Security	Check Number	Amount
ALIF. STATE DISBURSEMENT UNIT		6254	285.69
RANCHISE TAX BOARD		6255	30.00
ALIF. STATE DISBURSEMENT UNIT		6256	396.50
RANCHISE TAX BOARD		6257	695.13
ALIF. STATE DISBURSEMENT UNIT		6258	243.00
417FD STATES TREASURY		6259	100.00
IVERSIDE COUNTY SHERIFF		6260	616.14
VILA, VINCENT V	575	6261	2,678.98
Total Checks		8	5,265.44

109, 12:43:20

Check Register
9/80 BIWEEKLY
Pay Date 4/10/09

Page 2
Pay Period B
3/20/09 To 04/03/09

Check Payee	Social Security	Check Number	Amount
RANCHISE TAX BOARD		6262	35.00
UNITED STATES TREASURY		6263	100.00
IVERSIDE COUNTY SHERIFF		6264	412.22
CHILD SUPPORT		6265	181.10
UE, GER	4220	6266	253.74
RANCHISE TAX BOARD		6267	38.93
ILLER, KIMBERLY A	5288	6268	207.22
RANCHISE TAX BOARD		6269	75.00
ALIF. STATE DISBURSEMENT UNIT		6270	149.53
ELASCO, JOSE L	8691	6271	633.26
IVERSIDE COUNTY SHERIFF		6272	135.00
ALIF. STATE DISBURSEMENT UNIT		6273	95.08
Total Checks		12	2,518.10

**CITY COUNCIL AGENDA
PUBLIC HEARING**

DATE: May 26, 2009

TO: Honorable Mayor and City Council

FROM: Kahono Oei, City Engineer

(A)

SUBJECT: Resolution No. 2009-36, "Confirming a Diagram and the Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2009/10"

RECOMMENDATION: The City Council adopt Resolution No. 2009-36:

- I. "Confirming a Diagram and the Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2009/10," pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code.
- II. Authorizing and directing the City Clerk to file the diagram and assessment with the Riverside County Assessor/County Clerk-Recorder's Office.

JUSTIFICATION: The adoption of Resolution No. 2009-36 is essential to confirm the assessments for the Fiscal Year 2009/10 update of Landscape Maintenance District No. 1 ("the District").

BACKGROUND: In accordance with the "Landscaping and Lighting Act of 1972" of the Streets and Highways Code, the City Council adopted a resolution ordering the formation of Landscape Maintenance District (LMD) No. 1 by adopting Resolution No. 1990-59 on August 14, 1990. An additional five tracts and three tentative tracts were annexed (Annexation No. 1) into LMD No. 1 when the City Council approved Resolution No. 2005-36 on May 10, 2005. A map displaying the District is attached herewith as Exhibit "A". On January 13, 2009, the City Council adopted Resolution No. 2009-02, and initiated proceedings to update the District for the next fiscal year and ordered the preparation of the Engineer's Report. Subsequently, on April 14, 2009, the City Council adopted Resolution No. 2009-27, approving the Engineer's Report and setting the date for the public hearing to levy and collect the assessments. Resolution No. 2009-36, if approved, will confirm the assessments for the Fiscal Year 2009/10. The schedule updating Landscape Maintenance District No. 1 is shown on the attached Exhibit "B", and the Notice of Public Hearing is shown on the attached Exhibit "C".

FISCAL DATA: The new assessments for a single-family dwelling now ranges from \$93.49 to \$189.47, as reflected in the Engineer's Report approved by the City Council on April 14, 2009. An increase of 3.53 %, based on the average Consumer Price Index (CPI) over the previous fiscal year for the Los Angeles-Riverside-Orange County area as reported by the U.S. Department of Labor, is incorporated in the proposed assessments. Total revenues from the proposed 2009/10 Fiscal Year assessments for the Landscape Maintenance District are approximately \$129,083.00. The

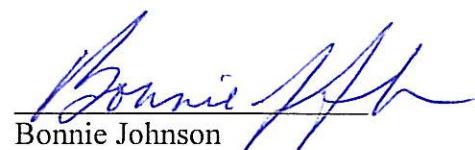
estimated budget for Landscape Maintenance District No. 1 for Fiscal Year 2009/2010 is approximately \$134,728.00. This estimated shortfall will be funded by existing unallocated fund balance in the LMD fund. It should be noted that significant savings occur due to the fact that the entire LMD No.1 is managed in house by the Public Works Department staff.

RECOMMENDED BY:



Duane Burk
Director of Public Works

REVIEWED BY:



Bonnie Johnson
Director of Finance

APPROVED BY:



Brian Nakamura
City Manager

RESOLUTION NO. 2009-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, CONFIRMING A DIAGRAM AND THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN THE CITY OF BANNING'S LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2009/10, PURSUANT TO THE PROVISIONS OF PART 2 OF DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE

WHEREAS, the City Council of the City of Banning has by its Resolution No. 2009-02 initiated proceedings for the levy and collection of assessments for the 2009/10 Fiscal Year for Landscape Maintenance District No. 1, pursuant to the terms and provisions of the "Landscaping and Lighting Act of 1972," being Part 2 of Division 15 of the California Streets and Highways Code; and

WHEREAS, the City Council has ordered the preparation of the Engineer's Report, and the City Engineer has prepared and filed with the City Clerk a report pursuant to law for the City Council's consideration, and subsequently thereto the City Council adopted its Resolution No. 2009-27, approving the report of the Engineer and declaring the intention of the City Council to order the levy and collection of assessments to pay for the costs and expenses of maintaining and servicing existing and proposed public landscaping facilities in the City of Banning for the Fiscal Year commencing July 1, 2009 and ending June 30, 2010.

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

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

Section 2. Following notice duly given by publication, the City Council has held a full and fair public hearing regarding the levy of the proposed assessment within Landscape Maintenance District No. 1 for the Fiscal Year commencing July 1, 2009 and ending June 30, 2010, to pay for the costs and expenses of maintaining and servicing existing and proposed public landscaping and storm drain facilities installed and constructed within public places in the City of Banning, pursuant to the terms and provisions of the "Landscaping and Lighting Act of 1972," being Part 2 of Division 15 of the California Streets and Highways Code. All interested persons were offered the opportunity to hear and be heard regarding protests and objections to the levy and collection of the proposed assessment against lots or parcels of real property within City of Banning, Landscape Maintenance District No. 1. All protests and objections to the levy and collection of the proposed assessments for the Fiscal Year commencing on July 1, 2009 and ending on June 30, 2010, are hereby overruled by the City Council.

Section 3. The City Council hereby orders the maintenance and servicing of the existing and proposed public landscape facilities installed and constructed in public places in the City of Banning and hereby confirms the diagram and assessment set forth in the Engineer's Report.

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

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

Section 6. The assessment is levied for the purpose of paying the costs and expenses of maintaining and servicing existing and proposed public landscaping facilities installed and constructed in public places in the City of Banning for the Fiscal Year commencing on July 1, 2009 and ending on June 30, 2010.

Section 7. The adoption of Resolution No. 2009-36 constitutes the levy of an assessment for the Fiscal Year commencing on July 1, 2009 and ending on June 30, 2010.

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

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

Section 10. The City Clerk is hereby authorized and directed to file the diagram and assessment, or a certified copy of the diagram and assessment, with the Riverside County, Assessor’s Office, together with a certified copy of Resolution 2009-36 upon its adoption.

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

PASSED, APPROVED AND ADOPTED this 26th day of May, 2009.

Robert E. Botts, Mayor
City of Banning

ATTEST

Marie A. Calderon, City Clerk

**APPROVED AS TO FORM
AND LEGAL CONTENT**

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-36 was adopted by the City Council of the City of Banning at the Regular Meeting thereof held on the 26th day of May, 2009, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

EXHIBIT "A"

**LANDSCAPE MAINTENANCE DISTRICT NO. 1
FOR
FISCAL YEAR 2009/2010**

EXHIBIT “B”

TENTATIVE SCHEDULE UPDATING LANDSCAPE MAINTENANCE DISTRICT NO. 1

<u>Item</u>	<u>Council Meeting</u>
Resolution Initiating Update	January 13, 2009
Resolution of Intention (Approve Engineer's Report)	April 14, 2009
Public Hearing and Resolution Confirming Assessment	May 26, 2009

EXHIBIT "C"

**NOTICE OF PUBLIC HEARING
FOR**

**RESOLUTION NO. 2009-36, "CONFIRMING A DIAGRAM AND
THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN
THE CITY OF BANNING'S LANDSCAPE MAINTENANCE
DISTRICT NO. 1 FOR 2009/2010 FISCAL YEAR"**

RECORD GAZETTE

MAY 8, 2009

Record Gazette

PUBLIC NOTICES

CITY OF BANNING
NOTICE OF PUBLIC
HEARING PURSUANT
TO LAW, notice is hereby
given of a Public Hearing
before the City Council of
the City of Banning, to be
heard May 26, 2009, at
6:30 p.m., at the City of
Banning Civic Center, 99
E. Ramsey St., Banning,
California, to consider the
following:

RESOLUTION
NO. 2009-36
Confirming a Diagram
and the Levy and
Collection of
Assessments within the
City of Banning's
Landscape Maintenance
District No. 1 for the
2009/10 Fiscal Year

Information regarding the
foregoing can be obtained
by contacting the City of
Banning, Engineering Division
at (951) 922-3130 or
by visiting City Hall at 99
E. Ramsey St., Banning,
California, between the
hours of 8 a.m. and 5 p.m.
Monday through Friday.

ALL INTERESTED PAR-
TY are invited to attend
said hearing and present
oral or written testimony
on the matter or send their
written comments to the
City Clerk, P.O. Box 998,
Banning, CA 92220. Data
relevant to the Resolution

No. 2009-36 is available
for public review at the of-
fice of the Engineering Di-
vision and City Clerk's Of-
fice for the period of ten
(10) days prior to the Pub-
lic Hearing.

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

BY ORDER OF THE CITY
CLERK OF THE CITY OF
BANNING

Marie A. Calderon

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

DATED: May 4, 2009
Publish the Record
Gazette
No. 3582

5/8, 15, 22, 2009

**CITY COUNCIL AGENDA
PUBLIC HEARING**

Date: May 26, 2009

TO: City Council

FROM: Phil Holder, Lieutenant

SUBJECT: Resolution 2009-37. 2009 Edward Byrne Memorial Justice Assistance Grant

RECOMMENDATION: "The City Council conduct a Public Hearing and accept grant funds provided by the Office of Justice Programs in the amount of \$95,724 to cover overtime costs for police officers participating in Banning Police Activities League (BPAL) activities and training exercises for the department's Emergency Tactical Unit (ETU)."

JUSTIFICATION: The Police Department proposes to use the grant funds to cover overtime costs of police officers participating in BPAL activities and ETU training. The use of grant funds to cover these costs will allow police officers to continue their commitment to the department's youth programs and to maintain a highly trained and skilled tactical team as a resource for the Banning Police Department in the handling of both spontaneous and planned critical incidents.

BACKGROUND: On May 6, 2009 the Banning Police Department submitted its application for the 2009 Edward Byrne Memorial Justice Assistance Grant in the amount of \$95,724. Per U.S. Department of Justice regulations a public hearing must be conducted to allow citizens to make comments on the intended use of the noted grant funds before funding can be approved.

ACTION PLAN: Conduct a public hearing and receive Banning City Council approval to accept the 2009 Edward Byrne Memorial Justice Assistance Grant for overtime costs related to BPAL and ETU.

STRATEGIC PLAN INTEGRATION: Council approval of this recommendation will help facilitate the Police Department's goals of improving the department's image in the community and maintaining its high level of commitment to training.

FISCAL DATA: Accepted Byrne Grant funds will be appropriated to the Police Department's Overtime Account to pay overtime costs of officers' involved BPAL activities and ETU training.

RECOMMENDED BY:



Phil Holder
Lieutenant

REVIEWED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

RESOLUTION NO. 2009-37

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE ACCEPTANCE OF THE 2009 U.S. DEPARTMENT OF JUSTICE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT IN THE AMOUNT OF \$95,724 TO BE USED FOR POLICE DEPARTMENT OVERTIME.

WHEREAS, having completed a public hearing on the proposed use of the 2009 U.S. Department of Justice Byrne Grant; and

WHEREAS, the City of Banning Police Department is responsible for the security and safety of the Citizens of the City; and

WHEREAS, the City of Banning Police Department is committed to bringing together the Police Department, Community, and City Leaders to reduce the crime in the City of Banning; and

WHEREAS, the City of Banning Police Department is committed to working with the children in the community to deter them from gang involvement; and

WHEREAS, the City's procedures requires the City Council to adopt a resolution authorizing the expenditure of funds procured through grants.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning approves the proposed use of the 2009 U.S. Department of Justice Edward Byrne Memorial Assistance Grant in the amount of \$95,724 and upon award of the grant appropriates those funds to the Banning Police Department Overtime Account (001-2200-421-1030). The Finance Department is authorized to make necessary budget adjustments related to these accepted funds.

PASSED, APPROVED, AND ADOPTED this 26th day of May, 2009.

Bob Botts, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT

ATTEST

Aleshire & Wynder, LLP
City Attorney

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. 2009-37 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of May 2009, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
REPORT OF OFFICERS**

Date: **May 26, 2009**

TO: **Honorable Mayor and Members of the City Council**

FROM: **Brian S. Nakamura, City Manager**

SUBJECT: **Adoption of Tagline “Proud History, Prosperous Tomorrow” and Establish and Ad Hoc Committee Consisting of Mayor Botts and Council Member Franklin to Facilitate a Community Effort to Market the Tagline**

RECOMMENDATION:

That the City Council adopt the new tagline “Proud History, Prosperous Tomorrow” to replace “Stagecoach Town USA” and authorize Mayor Botts and Council Member Franklin to serve on an Ad Hoc committee to develop a plan to market the new tagline as well as using a Stagecoach symbol as part of this effort.

BACKGROUND & ANALYSIS:

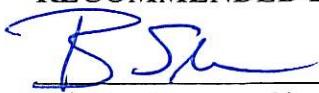
At the May 12, 2009 City Council meeting the City Council adopted its mission and vision statements and objectives for FY 2009/10. In an effort to capture the City’s direction the Council at a May 20, 2009 workshop determined that “Proud History, Prosperous Tomrrow” best defined its current and future direction. In addition, the City Council created an ad hoc committee consisting of Mayor Botts and Council Member Franklin to work with the city staff in developing an appropriate program for marketing of the new tagline.

The process for developing a new tagline began several months ago during a previous City Council workshop. Mayor Pro Tem Hanna led the most recent effort to secure a new tagline for the City by actively seeking public input and tagline suggestions through verbal and written advertising. Mayor Pro Tem Hanna also researched actual taglines from various cities in the Inland Empire and also the top 50 cities in the United States. Attached is a list of more than 80 submitted taglines the City Council considered.

FISCAL IMPACT:

There is little direct fiscal impact, however, in the course of transitioning to our new tagline, official city materials, including, but not limited to street signs, city letterhead, business cards, will include this branding.

RECOMMENDED BY:



Brian Nakamura, City Manager

TAG LINES FOR THE CITY OF BANNING

- Received from April 30 through May 19, 2009

BANNING –

1. Small town feel, big city opportunity
2. Gateway to special living
3. Small town feel, large opportunity
4. Away from it all – Close to everything
5. Small Town Feel, Big City Energy
6. City Energy, Country Living
7. Proud of our Past, Prouder of our future
8. The Pulse of the Pass
9. Head of the Pass
10. Location, Location, Location
11. City of Beginnings and Universal Community
12. Great Beginnings --- Better Tomorrows
13. Yesterday, Today, Tomorrow
Always a Community – Always Beginning
14. Mountain Beauty, Mountainous Opportunity
15. A Better Place to Live
16. A Better Place to Play
17. A Better Place to Do Business
18. A Better Place to Vacation
19. The Pride of the Pass
20. Historic Values, Modern Opportunities
21. People, Pride, Prosperity
22. Positive and Proud
23. Where Old West Pride is Still Alive
24. Home of the Historic Stagecoach Stop
25. A Proud History and a Prosperous Tomorrow
26. Historic Banning: The Proud Intersection of Yesterday, Today, and Tomorrow
27. A Scenic View of Yesterday and Tomorrow
28. Scenic Views of Yesterday and Tomorrow
29. A Community of Excellence
30. Walking on the Sunny Side of the Street
31. We Welcome You!
32. Valley of the San Gorgonio Pass
33. An Expanding Hub of Opportunity
34. Community Empowerment, Land of Opportunity
35. ... is Booming!
36. Boomtown, USA
37. Build here, live here!
38. Small town living, big city energy!
39. Old Values, new energy.

40. Building, Buzzing, booming.

41. Charm of the past, energy of the future

42. Come Grow With Us.

43. Rich history – prosperous future

44. Small Town, Eco-Friendly Environmentally! Free! and Safe!

45. Gateway to Environmentally, Eco-Friendly Town.

46. Small Town But with a “Big Heart” on Environmental Issues.

47. The Small Town of Banning – Historic and Eco-Friendly.

48. Between snow-capped mountains, historic Banning
better the lives of its residents, the appeal of its businesses
and the enjoyment of its visitors.

49. the affordable green city.

50. Stagecoach Town U.S.A. (7 requests to leave it as is)

51. From Stagecoach Stop to Contemporary City

52. From Stagecoach Stop to Modern Municipality

53. Just the right size

54. Hometown feel and that's the way we like it

55. Cozy, comfy and contemporary

56. Mountains, murals, blue skies, clear water....Banning has it all

57. Yesterday a stagecoach town, today a contemporary city, tomorrow...endless
possibilities

58. Our size fits all

59. Stagecoach atmosphere.....Spaceship attitude.....Banning, reaching for the stars

60. Banning is Growth

61. Watch us continue to Grow

62. Banning Represents your Future

63. Small City-Big Growth Plans

64. Local, City and County Growth – It's Your Future

65. Old Town History – New Business Growth

66. Value with a View

67. The Gateway City

68. Diversity, Accessibility, Value

69. Fresh Air, Sweet Water and Big Blue Sky

70. A generous community that's not too big to care.

71. The gateway to great people, opportunities and play.

72. A business friendly city with history, art and culture.

73. A thing of the Pass “Come up to Banning”

74. Pass the Progress please

75. The closer you get, the better we look.

76. We're not just livin it ... we're lovin it. Come up to Banning.

77. The seeds are planted ... Watch us grow –Come up to Banning.

78. Where your future lives.

79. Cool Breezes, Great People, Viable Opportunities

80. Where the San Gorgonio Pass Meets the Desert Valley

81. Stagecoach to starships Banning's got it all

BANNING —

1. Cesspool of California
2. Poop-Pot of California
3. From Stagecoach to Sludge. Now That's Progress!
4. Old and Far Away

Mayor Pro Tem Hanna researched to see what the actual tag lines are for various cities in the I.E. by looking at their web sites.

Moreno Valley: "Where dreams soar!"
Riverside: "City of Arts & Culture"
City of Corona: "The Circle City"
Palm Springs: "The People are the City"
Norco: "Horsetown USA"
City of Perris: "Making the City a greener place to live and work"
Beaumont: "A Progressive City with a Small Town Feel"
Palm Desert "Plan to be Spontaneous"
Cathedral City: "The Spirit of the Desert"
LaQuinta "Gem of the Desert"

Redlands, Yucaipa, Calimesa, Hemet, San Jacinto and Idyllwild did not have apparent tag lines on their web pages.

Your city's tagline: Finding a name you can live with
Our nation's capital city is searching for a new tagline—and it's not alone.

Cities, towns and hamlets across America regularly decide that the tagline they've been using needs to change. The smart ones realize that a tagline is just one piece—and not even the first piece—of the overall development of a brand.

Still, taglines and nicknames are fun. The best also are memorable and actually sell the destination.

Settling on one can be amusing. Years ago, there was a contest in Nashville to complete the phrase, "I love Nashville because . . ." No one remembers the winner today, but those on the inside of the contest recall their clear favorite that wasn't chosen: "I love Nashville because it's so far from Detroit."

The Washington, D.C., Convention & Tourism Corp. welcomes input during its branding exercise. A newspaper story about the slogan hunt cited suggestions that, while fun, certainly won't win. Among them: "Mistakes Were Made," "Where Attorneys Roam" and "Dude! Where's My Car?"

Eric Swartz, president of TaglineGuru, a California firm that has developed taglines for destinations, companies and products, cites four important points for a destination's tagline.

1. Attributes: Does it express a city's brand character, affinity, style and personality?
2. Message: Does it tell a story in a clever, fun and memorable way?
3. Differentiation: Is it original?
4. Ambassadorship: Does it inspire you to visit there, live there or learn more?

The Top 50 U.S. City Slogans

1. **What Happens Here, Stays Here.**
2. **So Very Virginia.**

Las Vegas, NV

Charlottesville, VA

3. Always Turned On.	Atlantic City, NJ
4. Cleveland Rocks!	Cleveland, OH
5. The Sweetest Place on Earth.	Hershey, PA
6. Rare. Well Done.	Omaha, NE
7. The City Different.	Santa Fe, NM
8. Where Yee-Ha Meets Olé.	Eagle Pass, TX
9. City with Sol.	San Diego, CA
10. Where the Odds Are With You.	Peculiar, MO
11. Where Your Ship Comes In.	Gulfport, MS
12. Soul of the Southwest.	Taos, NM
13. Experience Our Sense of Yuma.	Yuma, AZ
14. The City Was So Nice They Named It Twice.	Walla Walla, WA
15. There's More Than Meets the Arch.	St. Louis, MO
16. Keep Austin Weird.	Austin, TX
17. Where Chiefs Meet.	Meeteetse, WY
18. City with a Mission.	San Gabriel, CA
19. Where the Trails Start and the Buck Stops.	Independence, MO
20. The City That Never Sleeps.	New York City, NY
21. The Aliens Aren't the Only Reason to Visit.	Roswell, NM
22. Lose Your Heart to the Hills.	Kerrville, TX
23. Take Me to the River.	Vicksburg, MS
24. We've Got All the Civilization You Need.	Riverton, WY
25. The Town Without a Frown.	Happy, TX
26. The Town Too Tough to Die.	Tombstone, AZ
27. Where the Stars Come Out to Play.	Fort Davis, TX
28. Rollin' on the River.	Manchester, OH
29. Named for the Turn of a Card.	Show Low, AZ
30. More Than Just a Song.	Shenandoah, TX
31. Where Horses Have the Right of Way.	McKinleyville, CA
32. Only in San Francisco.	San Francisco, CA
33. It's Not the End of the Earth, But You Can See It From Here.	Bushnell, SD

34. Where Nature Smiles for Seven Miles.	Spring Lake, MI
35. Live Large. Think Big.	Dallas, TX
36. Real. America. Up Close.	Rapid City, ND
37. The Richest Place on Earth.	Virginia City, NV
38. With Time for You.	Richmond, MI
39. Newark, on a Roll.	Newark, NJ
40. Where the Trout Leap in Main Street.	Saratoga, WY
41. Life, Celebrated Daily.	Norfolk, VA
42. The Natural Place to Visit.	Sitka, AK
43. People Say We're Old-Fashioned. We Hope So.	Virginia City, MT
44. Where the People Are Warm Even When the Weather Isn't.	Andover, KS
45. Where the Bald Eagle Soars and the Carp Drops!	Prairie du Chien, WI
46. Where History Never Gets Old.	Fredericksburg, VA
47. The Town That Made Tulsa Famous.	Glenpool, OK
48. Get 'Er Done.	Havre, MT
49. Town Without a Toothache.	Hereford, TX
50. Livable, Lovable Lodi.	Lodi, CA

Honorable Mention

You Can Do Better in Cando.	Cando, ND
Twenty Lakes in Twenty Minutes.	Harrison, MI
More Than Just a Pretty Beach.	Encinitas, CA
Something to Remember.	San Antonio, TX
Twice as Nice.	Texarkana, AR

**List of Tag Lines
Discussed at the May 29, 2009
City Council Meeting Workshop**

Tag lines for *Banning...*

1. The Portal to Progress
2. Born for Business
3. Banning is a welcoming community for all ages in a modern managed growth city in a scenic setting
4. Next stage to the future
5. The old and young are welcomed in a historic but modern growing city
6. Community of Action
7. Energized for the Future
8. The affordable green city
9. City of the future
10. Banning – a scenic, friendly city, managing its growth while welcoming people and business
11. The Place to be [because.....]
12. The "Go to" City
13. Pass to the future
14. Banning, a scenic city of managed growth, good for people, good for business
15. A community on the creative edge
16. Some like the tag line we have on some literature – *historic values, modern opportunities*
17. Banning: A way of Life in the Pass
18. Banning: Arts. Work. Life.
19. Banning: Where Arts work in the Pass
20. Banning: Honoring the past, working for the future
21. Banning: The Stagecoach line to the future
22. Gateway to San Gorgonio
23. Gateway to Greatness
24. Gateway to Progress
25. Gateway to a User Friendly Community
26. Gateway to A Special Way of Life
27. Gateway to Great People, Great Work and Great Play
28. Banning – Gateway to San Gorgonio
29. Banning – The Gateway to Special Living
30. Banning – A Place Where Everyone Knows Your Name
31. Banning – Small town feel, big city energy
32. Banning – Business, Arts, Culture, Community
33. Banning – Rich History, Arts, Community
34. Banning – A Cutting Edge Town Supporting Business, Arts, Culture, and History
35. Banning – Community, Business, Arts, and History
36. Building a Better Banning For Residents and Businesses

**CITY COUNCIL AGENDA
REPORT OF OFFICERS**

Date: May 26, 2009

TO: Honorable Mayor and Members of the City Council

FROM: Brian S. Nakamura, City Manager

SUBJECT: Adoption of Resolution No. 2009-41, Finding A Severe Fiscal Hardship
Will Exist If Additional City Property Tax Funds Are Seized And
Additional Unfunded Mandates Are Adopted By The State of
California

RECOMMENDATION:

That the City Council adopt Resolution No. 41, declaring that the State of California will create undue hardship for the City of Banning if additional property tax funds are seized and additional unfunded mandates are adopted.

BACKGROUND & ANALYSIS:

On May 11, 2009, League of California Cities Riverside County Division General meeting, League staff encouraged the support of all its cities to support Resolution No. 2009- 41. Since the early 1990s the state government of California has seized over **\$8.6 billion** of city property tax revenues statewide to fund the state budget even after deducting public safety program payments to cities by the state. In FY 2007-08 alone the state seized **\$895 million** in city property taxes statewide to fund the state budget after deducting public safety program payments.

City will experience a severe fiscal hardship if the recommendation of the Department of Finance to “borrow” \$2 billion of local property taxes is supported by the Governor and the Legislature and should oppose having the Department of Finance borrow or seize any additional local funds, including the property tax, redevelopment tax increment, and the city’s share of the Prop. 42 transportation sales tax; and

FISCAL IMPACT:

The League of California Cities is developing projections for cities at this time and those results will be shared with the City Council as soon as received.

RECOMMENDED BY:



Brian Nakamura
City Manager

RESOLUTION NO. 2009-41

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
FINDING A SEVERE FISCAL HARDSHIP WILL EXIST IF ADDITIONAL CITY
PROPERTY TAX FUNDS ARE SEIZED AND ADDITIONAL UNFUNDED
MANDATES ARE ADOPTED BY THE STATE OF CALIFORNIA**

WHEREAS, the current economic crisis has placed cities under incredible financial pressure and caused city officials to reopen already adopted budgets to make painful cuts, including layoffs and furloughs of city workers, decreasing maintenance and operations of public facilities, and reductions in direct services to keep spending in line with declining revenues; and

WHEREAS, since the early 1990s the state government of California has seized over **\$8.6 billion** of city property tax revenues statewide to fund the state budget even after deducting public safety program payments to cities by the state; and

WHEREAS, in FY 2007-08 alone the state seized **\$895 million** in city property taxes statewide to fund the state budget after deducting public safety program payments and an additional \$350 million in local redevelopment funds were seized in FY 2008-09; and

WHEREAS, the most significant impact of taking local property taxes has been to reduce the quality of public safety services cities can provide since public safety comprises the largest part of any city's general fund budget; and

WHEREAS, in 2004 the voters by an 84% vote margin adopted substantial constitutional protections for local revenues, but the legislature can still "borrow" local property taxes to fund the state budget; and

WHEREAS, on May 5 the Department of Finance announced it had proposed to the Governor that the state "borrow" over \$2 billion in local property taxes from cities, counties and special districts to balance the state budget, causing deeper cuts in local public safety and other vital services; and

WHEREAS, in the past the Governor has called such "borrowing" proposals fiscally irresponsible because the state will find it virtually impossible to repay and it would only deepen the state's structural deficit, preventing the state from balancing its budget; and

WHEREAS, the Legislature is currently considering hundreds of bills, many of which would impose new costs on local governments that can neither be afforded nor sustained in this economic climate; and

WHEREAS, state agencies are imposing, or considering, many regulations imposing unfunded mandates on local governments without regard to how local agencies will be able comply with these mandates while meeting their other responsibilities; and

WHEREAS, the combined effects of the seizure of the City's property taxes, increasing unfunded state mandates, and the revenue losses due to the economic downturn have placed the city's budget under serious fiscal pressure; and

WHEREAS, our city simply can not sustain the loss of any more property tax funds or to be saddled with any more state mandates as they will only deepen the financial challenge facing our city; and

WHEREAS, a number of the City's financial commitments arise from contracts, including long term capital leases and debt obligations which support securities in the public capital markets, that the City must honor in full unless modified by mutual agreement of the parties.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF BANNING has determined that the City will experience a severe fiscal hardship if the recommendation of the Department of Finance to "borrow" \$2 billion of local property taxes is supported by the Governor and the Legislature; and

RESOLVED FURTHER, that the City Council strongly and unconditionally opposes the May 5 proposal of the Department of Finance and any other state government proposals to borrow or seize any additional local funds, including the property tax, redevelopment tax increment, and the city's share of the Prop. 42 transportation sales tax; and

RESOLVED FURTHER, that the City Council strongly urges the state legislature and Governor to suspend the enactment of any new mandates on local governments until such time as the economy has recovered and urges the state to provide complete funding for all existing and any new mandates.

RESOLVED FURTHER, that the City Clerk shall send copies of this resolution to the Governor, our state senator(s), our state assembly member(s) and the League of California Cities.

PASSED, APPROVED AND ADOPTED this 26th day of May, 2009.

Robert E. Botts, Mayor
City of Banning

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

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-41 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of May 2009, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
REPORTS OF OFFICERS**

Date: **May 26, 2009**

TO: **Honorable Mayor and Members of the City Council**

FROM: **Brian S. Nakamura, City Manager**

SUBJECT: **Stagecoach Days City of Banning In-Kind Service Costs Update and Possible Funding Appropriation for FY 2009-10**

INFORMATION/RECOMMENDATION:

The information/recommendation is to 1) to provide City of Banning In-Kind Service Costs for City Council information and 2) provide financial update regarding City Council Contingency for possible appropriation for 2009 Stagecoach Days.

JUSTIFICATION:

One of the primary goals of the City Council is to continually provide support for programs and community functions that sustain, enhance and expand the social and economic conditions within the City of Banning.

BACKGROUND & ANALYSIS:

In FY 2007/08 the City of Banning in-kind services costs totaled approximately \$38,000 which includes public safety services (police and fire), electric and water utilities, and public works services, such as barricades, waste management services and city personnel. Police services in 2007 were approximately \$18,878 and costs for repairing and installing electrical services in Dysart Park increased overall costs for FY 2007/08.

In FY 2008/09 the City of Banning in-kind services costs totaled approximately \$24,000, which includes public safety services (police and fire), electric and water utilities, and public works services, such as barricades, waste management services and city personnel. Police services in 2008 were down from previous year, \$14,924 and utility costs were less due to previous year repairs and installations.

In regards to the balance available under the City Council's "contingency" budget for 2008/09 donations and sponsorships, to date the Council has spent the following:

\$5,121	State of the City
\$1,000	Relay for Life
\$1,000	Easter Egg Hunt
\$200	United Way Sponsorship
\$2,000	Hispanic Chamber Toy Drive
<u>\$1,000</u>	<u>Family Services Association Event</u>
\$10,321	Expended to date
\$9,679	Remaining

FISCAL IMPACT:

\$9,679 remains in the donations/sponsorship contingency fund. Any allocation to Stagecoach days would reduce this amount.

RECOMMENDED BY:



Brian Nakamura
City Manager