

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

September 22, 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

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

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

Report by City Attorney

Report by City Manager

- Recognition – Bonnie Johnson, Finance Director

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.

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

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.

III. A. CONSENT ITEMS

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

Motion: That the City Council approve Consent Item 1 through 8

Items to be pulled _____, _____, _____, _____ for discussion.

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

1.	Approval of Minutes – Regular Meeting – 08/25/09	1
2.	Approval of Minutes – Regular Meeting – 09/08/09	27
3.	Approval of Accounts Payable and Payroll Warrants for Month of August 2009	41
4.	Ordinance No. 1411 – 2 nd Reading: An Ordinance of the City Council of the City of Banning, California, Amending Chapter 2.36 of the Banning Municipal Code Regarding Establishment of the Banning Economic Development Committee	43
5.	Resolution No. 2009-79, Awarding an Agreement to Layne Christensen Company of Fontana, California in the amount of \$74,493.69 for the Mechanical Equipment Repairs for Water Well No. 3	48
6.	Resolution No. 2009-80, Participating in the County of Riverside Mortgage Credit Certificate (MCC) Program	52
7.	Award a contract for the purchase of one (1) 924H Wheel Loader for the City of Banning Water Dept. to Johnson Machinery in the amount not-to-exceed \$133,613.75	57
8.	Update on the Renewable Energy Program	58

- Open for Public Comments
- Make Motion

IV. REPORTS OF OFFICERS

1.	Sam Racadio, Interim City Manager
	A. Street Naming and Renaming
	Recommendation: That the City Council provide direction to staff as to the criteria for street naming and renaming and that staff return to the Council with a resolution detailing the criteria for adoption at a later date.

V. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Service Club Signage on Ramsey Street, Gateway project (*ETA 10/13/09*)
2. Local Economic Stimulus Program (*ETA 10/27/09*)
3. Golf Cart Lane Policy for City of Banning (*ETA 10/13/09*) *Pending Beaumont Policy Development*
4. Schedule Meetings with Our State and County Elected Officials
5. Set New Date for Joint Meeting with Banning School Board (*Date to be determined*)
6. Policy for Naming of Street and also Parks – Policy and Procedures (*ETA 9/22/09*)
7. Update on the Sunset Grade Separation and the Highland Springs Interchange. (*ETA 10/13/09*)
8. Additional Splash Pad at Repllier Park Aquatics Center (*ETA 10/13/09*)
9. Budget Study Session on balancing the budget (*ETA 11/10/09*)
10. TOT Ordinance Implementation, i.e. 105 going to 12% (in the future) (*ETA 11/10/09*)

VI. CLOSED SESSION

1. Pursuant to Government Code Section 54957.6 Conference with Labor Negotiators and Employee organization: BPOA
Agency Designated Representatives: Sam Racadio, David Aleshire, Bonnie Johnson and Hoyl Belt
2. Potential Litigation pursuant to Government Code Section 54956.9.
 - A. Opportunity for Public to Address Closed Session Items.
 - B. Convene Closed Session

VII. 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].

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

08/25/09
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Botts on August 25, 2009 at 6:58 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: Sam Racadio, Interim City Manager
David Aleshire, City Attorney
Bonnie Johnson, Finance Director
Duane Burk, Public Works Director
Hoyl Belt, Human Resource Director
Zaiton Abu-Bakar, Community Development Dir.
Leonard Purvis, Police Chief
Phil Holder, Police Lieutenant
Heidi Meraz, Community Services Director
Fred Mason, Electric Utility Director
Nicole Mihld, Purchasing Manager
Chuck Thurman, Electrical Operations Manager
Marie A. Calderon, City Clerk

The invocation was given by Pastor Tate Crenshaw, Life Point Church. Councilmember Robinson invited the audience to join him in the Pledge of Allegiance to the Flag.

PUBLIC COMMENTS/CORRESPONDENCE/ANNOUNCEMENTS

Report by City Attorney – There was none.

Report by City Manager – There was none.

At this time Mayor Botts introduced Interim City Manager Sam Racadio. He stated that Mr. Racadio was the City Manager for the City of Banning back in 1985 to 1988 and then a new city formed in Highland and he went to help form this new city and he was there for 18 years and did an outstanding job. We are pleased to have him as our Interim City Manager and will be here for about 5 or 6 months while a search is being conducted for a new city manager.

PUBLIC COMMENTS – On Items Not on the Agenda

Bill Dickson, 5700 W. Wilson addressed the Council stating that they are coming up on their last concert in the Park Bowl Concert Series. There has been incredible attendance. He invited everyone to this concert featuring Reba McEntire and Dolly Parton. He also asked that everyone donate to this concert series so that they can keep this running for next year.

Fred Sakurai, 43000 Dillon Road addressed the Council regarding the police volunteers. He is here to try to encourage every able-bodied citizen of this area to help ease the budget by volunteering to become a volunteer with the Banning Police Department. All you need to do is to put in 20 hours a month and you get a provided uniform and you become an extra eyes and ears for the department. They are concentrating on indoor work at this time and you can get an application through the Human Resources Department at city hall.

Charlene Sakurai. 43000 Dillon Road addressed the Council regarding a Breast Cancer Awareness event coming up on Sunday, Sept. 27th from 1 to 5 p.m. at the Banning Community Center. The Banning Cultural Alliance is doing this in partnership with Banning Community Services. They have two chefs coming from the desert Jovanna Cruz and Katherine King and they will be preparing some healthy foods. They will also an oncologist speaking, there will be a representative from Michelle's House in Hemet that provides services to breast cancer patients and the highlight of the day will be a one woman, one-act play called "Jonna's Body, Please Hold." Jonna Tamases is a three-time cancer survivor and this is her story. The cost is \$18 and you can call 951-922-4911. Last Friday they hung the politicians in the gallery and they are still hanging and it was a great success and a wonderful reception and it includes work from Mayor Bob Botts, Councilmember Don Robinson and former Councilman Bill Jenkins.

Sue McConnell, 930 N. Murray addressed the Council regarding an incident that happened on August 18th when a City worker entered her property behind gates and was in her driveway and he was checking out one of their vehicles, a pickup truck, wanting to know if it was registered, did it run and why was it dirty if it ran and he was told to wash it. She wanted to know if there was an ordinance for this and why would this occur and what would be the reason. She felt that this was ridiculous because there are other issues in her area that need to be looked at that are much more serious.

Mayor Botts asked Ms. McConnell to get in touch with the City Manager to work with her to find out what the facts were and who it was and staff will work with her on this issue.

Chuck Katz, 1101 N. First Street addressed the Council stating that on July 31st he received a courtesy notice from the City for Municipal Code Section 17.28.1030G which is vehicle not parked on paved surface. He said that he has parked his vehicle in this space for 29 years on dirt with gravel and rock. He said he has his truck and his wife's car is parked on the carport on concrete and this is concrete pads going up to that driveway and his house was built in 1937 and he has lived there for 30 years. He said that his yard was on the garden tour for ten years and his place is immaculate. He said that he has called about fire enforcement issues in Banning based on that but nothing has ever been done and those homes still have weeds and such. He said that he adhered to the courtesy notice and he spoke with Tim Steenson and told him that he moved his

vehicle to the street. He said that 60% to 75% of the homes in Banning have gravel, dirt or unpaved surfaces for their driveways and if they do have a paved surface for their garage there are too many vehicles because now they have multi-families so there are anywhere from 3 to 6 cars parked on a property. These cars are now moved to the street and that causes issues with mail delivery. He said he lost his job three and half years ago and this is going to cost him somewhere in the range of \$1,500 and \$2,000 to pave his driveway. He gave some information of people being in violation as he drove around Banning including some Councilmembers and their relatives. Also in regards to Stagecoach Days and where they park is all dirt. So he would like to see if he is going to get cited and he has to adhere to doing driveways he thinks that the businesses that have been conducting their business and service business also need to pave their areas of parking including churches.

Mayor Botts asked Mr. Katz to get in touch with the City Manager regarding his issue.

CORRESPONDENCE: There was none.

ANNOUNCEMENTS/COUNCIL REPORTS:

Mayor Botts reported –

- That he received a letter from the Dept. of Motor Vehicles stating that due to furloughs they will be closed the first, second and Third Fridays of each month.

Mayor Pro Tem Hanna reported –

- Cool Summer Nights will be held on Friday on San Gorgonio Ave. and this Friday will be Classic Autos starting at 5:00 p.m.

Councilmember Machisic reported –

- Regional Conservation Authority (RCA) is now on a four day week due to furloughs and will be closed on Friday.
- He passed out to the Council a survey that was done in Riverside County and circulated and will be available out on the counter for public viewing.
- The TUMF network is being revised because of the economic situation and just recently at the last meeting the TUMF program was cut on roads for \$654 million. There are some projects that were formerly approved that they have eliminated. Luckily one of the City's projects is still on the books and that is the Sunset Grade Separation.
- WRCOG is also on a four day work week.

Councilmember Franklin reported –

- She said that she along with Councilmember Robinson and the City Clerk had an opportunity to go to the ribbon cutting for the Gilman Ranch at it was very nice to see that the building where they have their wagons is now air-conditioned and the nice gate that you see on Wilson Street but they are really working on the whole area. It was nice to see how much effort the County has put into the facility and Supervisor Ashley said they are working to include this as part of the historical trail project that they are working on for the County.

- Thank you to everyone who participated in the Back to School Supply Project. Due to community support and especially our churches and many independent people, residents and some businesses that wanted to remain anonymous they were able to purchase and fill 300 backpacks our students and they were passed out in less than two hours last Friday.
- Thank you to everyone that supported the Pass Area Supporting Soldiers and packed boxes this past Saturday and they were able to collect enough donations to pack and mail 43 boxes to our troops. They are also looking for names and addresses of anybody who is serving overseas from the Pass Area or is related to somebody in the Pass Area.
- In November there will be a workshop for veterans to help them get information regarding services that are available to anybody who is a veteran of our military services.
- On Sept. 19th the United Way Day of Caring in the Pass Area will take place and the kickoff location is the parking lot of the Bank of Hemet in Beaumont but this is a time when the community is able to come out and volunteer for one of several organizations and they will include the Soroptimist House of Hope, HELP, the San Gorgonio Child Care Consortium and also there will be a street cleanup. For those that are interested you can call 951-697-4710.
- There is going to be a presentation of the many faces of Willie Boy on September 26th at the Gilman Ranch and the cost is \$20.00 and the time is 9 a.m. to 3 p.m. It will include speakers, lunch, and tour of the house and screening of the move Tell Them Willie Boy is Here.

CONSENT ITEMS

Councilmember Franklin pulled Consent Item No. 10.

1. Approval of Minutes – Special Joint Meeting – 06/30/09

Recommendation: That the minutes of the Special Joint Meeting of June 30, 2009 be approved.

2. Approval of Minutes – Regular Meeting-07/28/09

Recommendation: That the minutes of the Regular Meeting of July 28, 2009 be approved.

3. Ordinance No. 1408 – 2nd Reading: An Ordinance of the City Council of the City of Banning, California, Amending Section 3.24.140(B) of the Banning Municipal Code Regarding Local Preference Pursuant to the City's Purchasing System.

Recommendation: That Ordinance No. 1408 pass its second reading and be adopted.

4. Ordinance No. 1410, 2nd Reading: An Ordinance of the City Council of the City of Banning, California, Adopting a New Ordinance to Prohibit, Within the City of Banning, the Burning, Thermal Conversion, or Partial Thermal Conversion of Any Class of Sewage Sludge or Bio-Solids to Ash.

Recommendation: That Ordinance No. 1410 pass its second reading and be adopted.

5. Resolution No. 2009-64, Authorizing the Appropriation of General Account Funds for the P.O.S.T. Law Enforcement Command College Program in the Amount of \$2,245.00, Which Will Be Reimbursed to the City of Banning Through the California Commission on Peace Officer Standards and Training Upon Completion of Each Session Completed by Lt. Holder.

Recommendation: That Resolution No. 2009-64 be adopted.

6. Resolution No. 2009-65, Authorizing the Appropriation of General Account Funds for the P.O.S.T. Sherman Block Supervisory Leadership Institute Program in the Amount of \$8,866.00, Which Will Be Reimbursed to the City of Banning Through the California Commission on Peace Officer Standards and Training Upon Completion of Each Session.

Recommendation: That the City Council adopt Resolution No. 2009-65.

7. Resolution No. 2009-71, Authorizing the Acceptance of the FY 09 Gang Resistance Education and Training Grant with Funding for a Portion of the G.R.E.A.T. Police Officer's Salary, Along with Related Supplies in the Amount of \$42,593.

Recommendation: That the City Council adopt Resolution No. 2009-71.

8. Resolution No. 2009-72, Authorizing A One Time Appropriation from the City's General Fund to the Police Department's Clothing and Accoutrements Account in the Amount of \$4,893 to Purchase Bulletproof Vests.

Recommendation: That the City Council adopt Resolution No. 2009-72.

9. Resolution No. 2009-75, Rescinding Resolution No. 2009-12 to Amend the Classification & Compensation Plan for the City of Banning.

Recommendation: That the City Council adopt Resolution No. 2009-75, amending the City of Banning's Classification Plan to revise the classification of Public Works Director to incorporate the Water/Wastewater functions and raise the salary from range 88 to 96 effective July 28, 2009. Also create the classification of Electric Utilities Director.

11. Report of Investments for June 2009.

Recommendation: That the City Council review and place these required monthly Reports of Investments on file.

12. Approval of Accounts Payable and Payroll Warrants for Month of July 2009.

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

Motion Hanna/Machisic to approve Consent Items 1 through 9 and 11 and 12. Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

10. Resolution No. 2009-77, Awarding the Purchase of One (1) Chevrolet Tahoe 2 WD Hybrid for the City of Banning Police Department and Appropriating the Necessary Funds for the Purchase in a total amount of \$51,667.00.

Councilmember Franklin said that she needed to abstain on this item since she sits on the Board for B.P.A.L.

Motion Hanna/Robinson to approve Consent Item 10 to approve Resolution No. 2009-77. Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor with Councilmember Franklin abstaining.**

PUBLIC HEARINGS

1. Consideration of an adjustment to the City of Banning's Electric Utility Rates.

(Note: This item will be continued to September 8, 2009)

Mayor Botts explained that this was scheduled for a public hearing to discuss the issues dealing with our Electric Utility Company and potentially an increase in rates. Subsequent to the posting there was discussion that perhaps there should be a workshop and presentation by staff. The public hearing will be continued to September 8, 2009. The goal was to allow plenty of discussion and public time for this important issue.

Mayor Botts opened the public hearing for comments from the public.

Gary Hironimus, 620 N. 12th Street addressed the Council stating that after looking at the proposed rate a little closer while 4 cents per kilowatt hour doesn't sound like much of an increase people need to realize that is a 36% increase in our baseline rate and added to the increase in the second tier results in the average bill increasing nearly 25%. The consultant's presentation in your packet compares Banning to Edison and you cannot compare Banning to Edison because Edison is an investor-owned utility. He looked at the rates in Riverside and Banning's bottom tier rate is already 6% higher than Riverside and this increase would jump that to 45% higher. In the second tier rates Banning is currently 23% higher and would jump to 27%. In fact Riverside's top rate their third tier is still 10% lower than Banning's existing middle rate. There is no proposal to increase Banning's third tier rate and that is good because that rate is 79% higher than Riverside's third tier. To make matters worse each of Riverside's tiers allow for higher baseline usage before bumping up to that next level. So using the consultant's representation of average usage a Banning resident is already paying 18% more than Riverside and would pay 35% more under this proposal. He also would question the average usage stated by the consultant. He said he has a modest 1400 square foot home with no air-conditioner at all, a fairly new refrigerator and every single light bulb is CFL yet his average consumption is significantly higher than what the consultant lists as average. In this economy people have had their pay cut, hours cut, mandatory furloughs and many have lost their jobs entirely; we are struggling to make ends meet and many homes are in foreclosure. He understands that Banning is facing budget issues but we all are and

the City has done a commendable job so far addressing that issue but it cannot all be done on the backs of its citizens.

City Clerk read a letter from Maxine Grey, 472 N. 6th Street who could not stay for the rest of meeting (see Exhibit A).

Mayor Botts continued the public hearing to September 8, 2009.

STUDY SESSION

1. Study Session Regarding Consideration of an adjustment to the City of Banning Electric Utility Rates.
(Staff Report – Fred Mason, Electric Utility Director)

At this time Mr. Mason gave his power-point presentation on the results of the electric rate study that was conducted as well as the recommendations that came out of that analysis. (see Exhibit B).

There were some questions and comments raised by the Council in regards to subsidies between rate classes and what does Edison have, energy conservation and decoupling, capacity purchases, and the amount of money spent on low income reimbursements.

Mr. Mason responded to the questions and comments that were raised. He also stated this rate increase will not affect the low income customers if they are on the BEAR Program or if you qualify for low income you can call the Public Benefit Office at 849-5224.

There was further staff and Council discussion on the issue in regards to reducing purchases from out of the area, long term contracts, creation of the third tier, and how do people find out what they are actually paying on their bill.

Mr. Mason said that people can call the Electric Utility at 922-3260 or can call Customer Service at 922-3185 to get further information on their bills. In regards to the rebates you can go on line to the City's website to download the application or call 849-5224 to get the information mailed to you.

Mayor Botts opened the item for public comments.

Steven Gregory, 1736 G Court addressed the Council stating that as a 12 year citizens of Banning he had the opportunity about a year and a half ago to move away and he chose to stay in Banning because he saw some really good things happening and he was pleased with some of the progresses that have been so slow in coming. However some of the decisions that he has heard in recent weeks from the Council he is a little nervous about with this being one of them. Last year he became ill to the point where he could not work and was diagnosed with terminal illness and was so sick that he could not leave his room. What he had to do was to keep his home reasonably cool with the medications he was on so with that he wrapped up a \$750 dollar electric bill. He is

not saying that is Banning's fault but what he is saying is that he would ask the Council tonight when was the last time you struggled to pay your light bill. Keep that in mind when you make your decisions. This \$23 dollars that is being talked about here like the gentleman pointed out may push some of them over the edge because they are not working and struggling. He would ask the Council to really think this through.

Councilmember Hanna said she wondered if this gentleman might be eligible for medical lifeline. Mr. Mason said that Medical Lifeline provides 500 kilowatt hours of additional lifeline for medical conditions and would need to have their doctor provide a medical report basically outlining what the requirements area and they could get approved through customer service for that program.

REPORTS OF OFFICERS

1.A Resolution No. 2009-70, Approving the Airport Improvement Program (AIP) Grant Agreement Offer With the Federal Aviation Administration (FAA) for Project No. 2009-01, Airport Drainage Improvements and Lincoln Street Improvements.
(Staff Report – Duane Burk, Public Works Director)

Mr. Burk gave the staff report giving background on this item.

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

Motion Robinson/Machisic that the City Council 1) adopt Resolution No. 2009-70, Approving The Airport Improvement Program (AIP) Grant Agreement Offer from the Federal Aviation Administration (FAA) for Project No. 2009-01, Airport Drainage Improvements and Lincoln Street Improvements, 2) Authorize the City Manager to execute the Grant Agreement Offer and upcoming Grant Agreement with the Federal Aviation Administration (FAA), and 3) Authorize the Finance Director to appropriate FAA Phase I grant funds in the amount of \$429,693.00 and FAA Phase II grant funds in the amount of \$561,536.00 to the Airport Fund Account No. 600-5100-435-93-42. Motion carried, all in favor.

1.B Resolution No. 2009-76, Awarding the Construction Contract and Approving the Professional Services Agreement for Surveying Services for Project No. 2009-01, Airport Drainage Improvements and Lincoln Street Improvements, Federal Project No. 3-06-0018-008-2009, Subject to the Final Execution of the Federal Aviation Administration Phase II Grant in the Amount of \$561,536.00.
(Staff Report – Duane Burk, Public Works Director)

Mr. Burk said that this is the second part to the first item he presented.

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

Motion Hanna/Botts that the City Council 1) adopt Resolution No. 2009-76, Awarding the Construction Contract for Project No. 2009-01, "Airport Drainage Improvements and Lincoln Street Improvements," to Matich Corporation of San Bernardino, California, for an amount of "Not to Exceed" \$993,399.00, Subject to the Final Execution of the Federal

Aviation Administration Phase II Grant in the Amount of \$561,536.00, and rejecting all other bids, 2) Authorizing an additional ten-percent (10%) construction contingency in the amount of \$99,340.00 to be used for additional work that arises from unforeseen conditions, 3) Approving the Professional Services Agreement for Surveying and Construction Staking Services with S.D. Engineering and Associates of San Bernardino, California, for an amount of "Not to Exceed" \$24,500.00 and an additional \$25,500.00 for Inspection and Material Testing Services, and 4) Authorizing the Director of Finance to appropriate funds from the Measure "A" Funds to Account No. 600-5100-435-93-42, in the amount of \$91,510.00. Motion carried, all in favor.

- 2.A Resolution No. 2009-73, Authorizing the Acceptance of State Funds in the Amount of \$176,145.57 from the State of California Department of General Services for the Purpose of Procuring a "New Generation 9-1-1 System" and Associated Hardware.
- 2.B Resolution No. 2009-74, Authorizing the Acceptance of State Funds in the Amount of \$64,542.62 from the State of California Department of General Services for the Purpose of Procuring New 9-1-1 Dispatch Consoles.
(Staff Report – Phil Holder, Lieutenant)

Lieutenant Holder gave the staff report on Resolutions No. 2009-73 and 2009-74.

There was some Council and staff discussion in regards to this equipment.

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

Motion Robinson/Hanna that the City Council adopt Resolution No. 2009-73, authorizing acceptance of funding from the State of California Department of General Services California 9-1-1 Emergency Communication's Office in the amount of \$176,145.57 for the purchase of an upgraded "NEXT GENERATION 9-1-1 System" for the police department's communication center; and Resolution No. 2009-74, authorizing acceptance of funding from the State of California General Services California 9-1-1 Emergency Communication's Office in the amount of \$64,542.62 for the purchase of new 9-1-1 dispatch consoles for the police department's communication center. Motion carried, all in favor.

- 3.A Economic Development Committee.
(Staff Report – City Manager)

City Manager stated that the two recommendations are on page 124 of the agenda packet listed as B 1 and 2.

Mayor Botts gave some background information on this committee and their purpose. There was further Council and staff discussion in regards to the membership for this committee which included not having a Council Member on the committee, they should all be voting members, consideration of having someone on the committee representing the college, someone from EDA along with someone from Banning Unified School District and the Morongo Tribe, that applications go out to existing members, and that members should live or work in Banning.

City Attorney said if you are designating these four organizations do we vary the rule that you have to live in the city. Are we going with these four organizations and then they have an automatic spot and they get to pick the person or their representative. There was discussion. **City Attorney said then there is consensus that they, the organization, can recommend and the Council will appoint and no they do not have to be residents of the city those people from those specific organizations.** There was consensus to what was stated by the City Attorney.

There was more discussion in regards to the size of the committee the consensus was 5 and 4 for a total of 9 members on the committee.

3.B Approval of Employment Agreement for Interim City Manager

Motion Hanna/Robinson that the City Council approve the contract for Interim City Manager Sam Racadio. Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

ITEMS FOR FUTURE AGENDAS

New Items –

Councilmember Franklin said she would like to have an update on where we stand with the Sunset Grade Separation and also on the Highland Springs Interchange.

Pending Items –

1. Service Club Signage on Ramsey Street, Gateway project (ETA 9/8/09)
2. Local Economic Stimulus Program (ETA 9/08/09)
3. Golf Cart Lane Policy for City of Banning (ETA 9/8/09) *Pending Beaumont Policy Development*
4. Schedule Meetings with Our State and County Elected Officials
5. Set New Date for Joint Meeting with Banning School Board (ETA 9/09) *(Date to be determined)*
5. Policy for Naming of Street and also Parks – Policy and Procedures (ETA 9/08/09)

CLOSED SESSION

City Attorney said that the City Council would go into closed session pursuant to Government Code Section 54957.6 labor negotiators with the Banning Police Officers Association (BPOA); and the matter of Potential Litigation-Proposed Settlement pursuant to Government Code Section 54956.9 (a) & (b) - State of California et al., ex rel. Nora Armeta v. James Jones Company, et al, Los Angeles Superior Court, Case No. BC 173487 (A lawsuit under the California False Claims Act in which the City of Banning is a Real Party in Interest) and City of Banning et al. v. James Jones Company et al., Los Angeles Superior Court, Case No. BC 321513; and potential litigation pursuant to Government Code Section 54956.9.

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

Meeting went into closed session at 9:04 p.m. and returned to regular session at 9:47 p.m. with no reportable action.

ADJOURNMENT

By common consent the meeting adjourned at 9:47 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.

Mayne Gory
472 N. 6TH St.
Banning

Public Hearing
8-25-09

I oppose the Electric Rate Hike. I have been a Banning resident for 36 years and have always paid my City of Banning utility bill on time. I oppose the rate hike because my Social Security check of ~~\$762.00~~ is my only income. The latest news is that Social Security will not raise checks next year and will raise the amount they take out for Medicare each month. This will result in my check being less than it is now ~~for~~ for next year. I hope other people in my income level will oppose the rate increase also. Thank You.

Council Chambers - 99 E. Ramsey
Banning Civic Center 6:30 PM

Banning Electric Utility

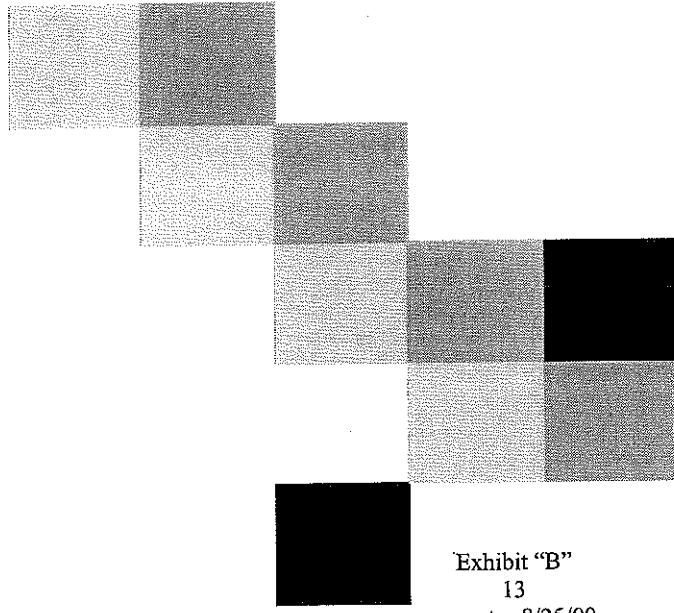


Exhibit "B"
13
reg.mtg.-8/25/09

Electric Rate Study & Recommendations

Presented by
Fred Mason, Electric Utility Director

Electric Rate Study

- Utilized tools developed by Navigant Consulting during previous rate analysis
- Evaluated Residential, Commercial and Industrial (Time-of-Use) rates
- Ensured no subsidies exist between rate classes
- Compared against Edison rates
- Recommend an effective date of 10/1/2009

14

Why is a Rate Increase Needed?

- The Distribution System required capital improvements resulting in a significant increase in Debt Service expense
- Loss of load: Due to the economic crisis and energy conservation mandates -- revenues dropped by 6 percent (\$1.2 Million) in the past year, and more losses are projected
- Regulatory requirements have directly increased annual Power Resource costs by over \$1 Million

Regulatory Requirements

- Requires 33% renewable resources, regardless of energy requirements
- Requires Resource Adequacy (RA) Capacity be purchased based on the “annual” peak demand resulting in 10 times the required amount being procured for the months of October – April
- Requires that 55% of capacity come from “local” resources – resulting in \$1 Million in unnecessary RA Capacity purchases

Electric Rate Component %

The electric rate components made up the following percentages of the total cost in FY 07-08:

- Generation/Wholesale Power 56%
 - Transmission 10%
- Distribution System O&M 15%
- Administration & Overhead 10.5%
- General Fund Transfer 8.5%
 - (Increased to 10% in FY09-10)

Rate Increase Mitigation

- Reduced the Electric budget deficit from \$6.3 Million to \$4.6 Million by cutting all discretionary operating expenses
- Reduced Employee expense by eliminating 15% of the Electric Utility workforce and cutting salaries by 5%
- Budget cuts resulted in a 27% reduction in the required rate increase

Proposed Rate: Residential

- Proposed rate increase will not affect Low-Income customers
- Medical Lifeline customers will continue to receive the additional baseline allocation
- Recommend increase of \$.04 per kWh to Baseline rate and \$.006 per kWh to 2nd Tier
 - no change to Third Tier rate
- The maximum increase to any customer will be \$16.47 per month in the winter and \$27.97 per month in the summer

Average Residential Bill

440 kWh Usage – Winter (March)				735 kWh Usage – Summer (August)			
	Current	Proposed		Current	Proposed		
Customer Charge	\$ 3.00	\$ 3.00		\$ 3.00	\$ 3.00		
Energy	\$ 59.36	\$ 72.47		\$ 95.52	\$ 118.90		
Street Lighting	\$ 2.00	\$ 2.00		\$ 2.00	\$ 2.00		
Total Bill	\$ 64.36	\$ 77.47	<u>Increase</u>	\$ 100.52	\$ 123.90	<u>Increase</u>	\$ 23.38
		\$ 13.11					

Conservation Tips

- A/C is the #1 energy user in the home, use ceiling fans to offset or enhance A/C use, and be sure to set the thermostat at/or above 78 degrees
- A typical electric space heater can cost more than \$150 per month to use, wear a sweater or add an extra blanket instead
- Inefficient refrigerators can use up to 5 times more electricity than Energy Star rated units, adding over \$30 per month to a customer's bill

Proposed Rate: Commercial

Small General Service (strip mall stores, small offices and shops, etc.):

- Recommend increase of \$.035 per kWh - based on the average monthly usage of 1,162 kWh, the average customer bill will increase \$40.67 per month

Proposed Rate: Commercial

Large Demand Service (Restaurants,
grocery stores, school sites, etc.):

- Recommend increase of \$.04 per kWh
on the Energy rate and \$3.50 per kW
on the Demand rate

Proposed Rate: Industrial Time-Of-Use (TOU)

- Rate is for customers that exceed 500 kW demand (there are currently only 6 accounts in this class)
- Recommend average increase of \$.01 per kWh
- Demand rates are unchanged except for the winter Non-time Related rate, which is recommended to increase \$.25 per kW

Other Municipal Utilities

- Many of the twelve municipal utility SCPPA members have found it necessary to implement similar rate increases

Future Rate Recommendations

- Staff will continue to monitor the Utility's expenses and revenues and report any rate impacts to the Council as needed
- Staff will perform a formal rate analysis on an annual basis
- Proposed regulatory mandates in the California energy market may result in increased expenses requiring a more significant future rate adjustment

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

09/08/09
REGULAR MEETING

A regular meeting of the Banning City Council and a Joint Meeting of the Community Redevelopment Agency was called to order by Mayor Botts on September 8, 2009 at 6:35 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street Banning, California. The following information comprises the agenda for a regular meeting of the City Council and a

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Sam Racadio, Interim City Manager
David Aleshire, City Attorney
Duane Burk, Public Works Director
Zaiton Abu-Bakar, Community Development Dir.
Leonard Purvis, Police Chief
Heidi Meraz, Community Services Director
Fred Mason, Electric Utility Director
Chuck Thurman, Electrical Operations Manager
Marie A. Calderon, City Clerk

Mayor Botts asked everyone in their own way to remember 9/11. Mayor Pro Tem Hanna invited the audience to join her in the Pledge of Allegiance to the Flag.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/ANNOUNCEMENTS

Report by City Attorney – There was none at this time.

Report by City Manager – There was none at this time.

PUBLIC COMMENTS

Bill Dickson, 5700 W. Wilson addressed the Council congratulating the City of Banning, Park and Recreation and the Playhouse Bowl Committee for putting on four fabulous shows this year. He also addressed the upcoming 52nd Annual Stagecoach Days that will be held October 1st through the 4th and also other community events that will be held that week starting on September 28th with the Kiwanis Pancake Breakfast, September 28th.

Don Smith, resident of Banning stated that she has been asked to Co-Chair the Good for Banning Yes on Measure L Campaign. He said that Measure L will be on the November 3, 2009 ballot and it is an election to increase the TOT, which is a tax paid by visitors staying for less than 30 days in one of the hotels or motels, to be at a competitive rate with other towns in Southern California. It is anticipated that this tax will raise for the City an additional \$275,000 a year and he explained why this would be good for Banning. If you would like to contact him he can be reached at 951-849-3489. He said that they will be having a fundraiser to run this campaign on Thursday, September 10th from 6 to 9 p.m. at the White House at the top of 22nd Street and the tickets are \$50 per person. They can be purchased at the Banning Chamber of Commerce or you can give him a call.

Ben Osborn, 5245 W. Plain Field had some questions in regards to some of the property acquisitions that the City has been involved with in the last year and funding coming from redevelopment funds or City funds. He said the San Gogonio Inn and the Dodge Dealership were redevelopment and then you bought a new police station and now it is being sold and that seems odd to him.

Mayor Botts said that if he was talking about the police facility to the west when it is now it is a rented building while the new police facility is being built right now next door to City Hall.

Mr. Osborn said that there was work being done on a waste processing plant near Hargrave and said there were costs involved with the studies, the lawyers and the planning, etc. and was that redevelopment as well. Mayor Pro Tem Hanna said that was paid by the developer.

Gary Hironimus, 620 N. 20th Street addressed the Council regarding the minutes of the City Council meetings not being available. He noticed that on tonight's agenda the minutes are not available from the last meeting two weeks ago. He said earlier this year there was a meeting that he wanted to see what had happened and it took seven weeks and three meetings later to get a copy of those minutes. He has a hard time believing that any of the Council Members could have remembered in enough detail after this time to legitimately approve those minutes. Under the Brown Act, the Bradley Keen Act and the California Open Records Act all three make it clear that minutes of regular meetings are supposed to be available to the public for viewing in a reasonable amount of time and what he defines as a reasonable amount of time he wonders. In his opinion seven weeks is way too long and the minutes of two weeks ago should have been on this agenda.

Tim Smith, 5095 Meadow Way addressed the Council stating that he wanted to bring to the attention of the Council the lack of parks on the west side from Sunset to Highland Springs. There is one small community park in one of the new neighborhoods and that is it. He felt the west side needs something more substantial like a sports park where families, kids, adults, and dogs can go and exercise and have fun together because all the kids have to do around there is ruin the monument signs and neighborhoods and rest homes and graffiti Smith Creek. It would be nice to have some alternatives.

Mayor Botts said that there will be a parks master plan community forum on October 15th at the Banning Community Center at 6:00 p.m. and it would be appropriate for anyone that has comments to attend that forum.

Fred Sakurai addressed the Council stating that he was a civilian volunteer at the Banning Police Department and said he may have misspoken at the last meeting and said as volunteers they do not set up traffic control or crowd control barricades. They are under the guidance of regular sworn police officers and assist them. At this time they are looking for office help and would like to have four others to assist in manning the front desk at the police station and answering non emergency calls and they are asking for 20 hours a week, you get a nice uniform. You can apply at the Banning City Hall through the Human Resources Department.

Vince Sternjacob, 1029 Paseo Del Sol addressed the Council stating that he had a couple of issues and the Council could either study or comment later. He had questions in regards to encouraging and supporting neighborhood watch programs throughout the city, expectations on the follow-up responses when a complaint is submitted to the City code enforcement personnel, maintenance and repairs on City-owned trees along the parkways in front of private residences, are steps being taken to beautify the street medians or better maintenance on some of the tree-lined streets we have, he never heard back on a suggestion he submitted to the City regarding sponsoring a student intern type of program to beautify some of those things that are run down in the city that a regular employee may not have time to do, and also several months ago he mentioned at the City Council meeting the intention to enhance the time allocated for the replacement of the Fire Marshal, Ted Yarbrough that passed away, to dedicate more time towards disaster preparedness and the Council was supposed to look into this matter with Cal Fire and has that been done.

Mayor Botts asked Mr. Sternjacob to contact the City Manager in regards to these questions.

Chuck Katz, 1101 N. First Street addressed the Council stating that it is now common knowledge and rumored that the City is more than \$1 million in bond debt and he wants to know when did the citizens of Banning lose the right to vote on bond issues and how that money would be spent or whether or not it would be spent on certain issues. Also with all the money that is being spent obviously we are in debt and we don't have the slightest idea how much more money we are in debt by using all the consultations that we have been getting outside and such yet money still seems to be getting shifted to the Cultural Alliance and to different places such as that and he is wondering how it is that we have no money and that this money is being used for those particular issues. We have other issues such as the need for code enforcement people on the street, need people to assist in fire hazard problems and things like that and that has been down sized and yet the Cultural Alliance is getting money for issues to do with culture but still how does that protect us in our community when we are now going to be facing water issues, etc. He said that he spoke to Tim Steenson in regards to the issue between First Street and Linda Vista with regards to the eucalyptus trees that were planted by the City years and years ago which are defoliating and dropping bark and limbs and are sticking up 35 to 40 feet over the electric wires and the electric wire was pulled off his house twice in the thirty years that he has lived there. This is place where fire engines cannot get into very easily, the flood control channel is getting blocked

with debris and materials and if we do end up with rain, all of our flood control channels are going to be flooded and a lot of damage is going to occur. This needs to be looked into.

Mayor Botts asked Mr. Katz to direct his questions in writing to the City Manager who will follow up on those.

CORRESPONDENCE: There was none.

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

Councilmember Franklin reported –

- Day of Caring for work in the community on Sat., Sept. 19th and you can call 951-697-4710 for more information.
- Attended Transportation Now Meeting last week and they had a presentation from Sunline Transit which handles the Desert and a concern in this area had to do with a connection from Cabazon to Palm Springs and unfortunately what was reported because of the feasibility study there has not been enough interest at this time for a connection going east.
- At Passcom Meeting there was a presentation from the Office of Emergency Services and what was stressed was to remind people that every household has to be prepared on their own and not to expect the government to come in and to be self-sufficient they recommend 7 to 10 days of supplies of medicine, food and water for yourself and your animals. Also if you have a cell phone that you would like to have registered with the early-warning notification system that you go to the County website and log that number in. If a persons would like to know what is happening in regards to any kind of emergency in the County you can go online to the countyofriverside.us or rvc.fire.org and they have running commentaries at all times when there is an emergency.

Mayor Pro Tem Hanna reported –

- Sept. 19th and 20th, Pass Area Performing Artists will have a one man show “Give Hell Harry” on President Truman and you can call the Cultural Alliance for information.
- Sept. 21st Habitat for Humanity will have a fundraising golf tournament.
- Kiwanis is having the Pancake Breakfast on Sept. 26th from 7 to 11 a.m. as part of Stagecoach Days
- Sept. 27th the Desert Edge Challenge 5K/10K walk/run will be held
- Sept. 27th – In the Pink, 1 to 5 p.m. at the Banning Cultural Alliance
- Sept. 30th Banning Rotary will have the Spaghetti Dinner in cooperation with Habitat for Humanity from 4 to 7 p.m. and tickets are \$7.00. Also that evening is the grandparents of the year awards.
- Oct. 3rd is the Stagecoach Days Parade starting at 10 a.m.

Mayor Botts reported –

- Supervisor Marion Ashley called a meeting amongst Banning, Beaumont and Calimesa and RCTC and RTA to have a discussion on Pass Transit and he and Councilmember Franklin attended that meeting in Riverside. They had significant discussion on transit

issues particularly as they relate to the Pass. They all agreed to have continuing discussions on these transit issues.

CONSENT ITEMS

Mayor Botts pulled Consent Item No. 5.

1. Report of Investments for July 2009

Recommendation: That the City Council receive and place these required monthly Reports of Investments on file.

2. Accept the Right-of-Way Dedication from Habitat for Humanity for Street Improvements at Assessor's Parcel No. 541-094-019 – 443 N. Hathaway.

Recommendation: Accept the Right-of-Way dedication from Habitat for Humanity for Street Improvements at Assessor's Parcel Number 541-094-019, as described in Exhibit "A" and Exhibit "B", and direct the City Clerk to accept and record said dedication.

3. Accept the Right-of-Way Dedication from Habitat for Humanity for Street Improvements at Assessor's Parcel No. 541-094-022 – 1563 E. Nicolet.

Recommendation: Accept the Right-of-Way dedication from Habitat for Humanity for Street Improvements at Assessor's Parcel Number 541-094-022, as described in Exhibit "A" and Exhibit "B", and direct the City Clerk to accept and record said dedication.

4. Sole Source Purchase from Applied Research Associates, Inc. for the Pointman Ground Vehicle Reconnaissance Robot in the amount of \$31,528.16.

Recommendation: Review and approve the Police Department's request to waive the formal bidding process and award a contract to Applied Research Associates, Inc. to purchase the Pointman Ground Vehicle Reconnaissance Robot in the amount of \$31,528.16.

Motion Franklin/Robinson to approve Consent Items 1 through 4. Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

5. Formation of Census Complete Count Ad Hoc Committee.

Mayor Botts said he pulled this item stating that this has been on the agenda and they have all agreed how important the Census is number one for the general purposes that we do a census in America but for each individual as a subdivision of government we get money back based upon the number of people that are counted in our city. There are always multiple issues that people don't like census or afraid the government is going to use the information wrong or for any number of reasons so there is a national effort to make sure that we try to have a very accurate census. He asked the City Manager to talk about the program.

City Manager said that Census Complete Ad Hoc Committee was something requested by the Census Bureau and Zaiton Abu Bakar, Community Development Director has put together background information on this and it will be composed of seven members with one representing government, one education, one faith-based organization, two from the media, one community based individual and one business representative. He said that an ad will be in the newspaper about this committee and if anyone is interest or has names they can contact Zaiton.

Motion Machisic/Franklin to approve Consent Item No. 5, that the City Council form a Census Complete Count Ad Hoc Committee comprised of seven (7) members representing the following agencies/organizations: government, education, faith-based, media (2 members), community based, business and direct staff to advertise for interested residents to apply for positions Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

JOINT MEETING

Mayor Botts recessed the City Council meeting to a Joint Meeting of the Community Redevelopment Agency and the City Council and called the meeting to order turning it over Chairman Robinson.

A-1. CRA Resolution No. 2009-20, Approving the Sale of Real Property (APN: 541-146-003) to the State of California for the Development of the Mid-County Justice Center.
(Staff Report – Duane Burk, Public Works Director).

Mr. Burk addressed the Agency Board and Council stating that he would address the issues as they relate to the property itself and the Agency Counsel would address the Community Redevelopment Agency law. Mr. Burk gave the staff report as contained in the agenda packet and asked the Board adopt CRA Resolution No. 2009-20, approving the sale of real property (APN 541-146-003) to the State of California for the amount of \$1,009,380.00 and recognize the public summary report findings required by the Health and Safety Code Section 33433.

City Attorney Aleshire said that he handed out to the Council two revised resolutions which incorporates some additional information in terms of the findings. One is a revision of the resolution concerning the actions required by the Agency and also a second resolution was provided which is a resolution by the City. The City's action is to actually consent to the Agency going forward with this transaction. Mr. Aleshire went over what the legal basis of the actions that the Agency Board and Council will be taking.

Boardmember Machisic asked the City Attorney where we rank in court houses being built.

There was some Board and staff discussion in regards to this building being built and being the first jurisdiction to do this type of project. There was also some discussion in regards to the infrastructure improvements that were done especially in regards to the storm drain and the fact that it was built to the standards of the master plan for Riverside County Flood Control and that will be dedicated to them and they will maintain it in perpetuity. Also the funding for this project and the purchase this property came from Agency funds.

Chairman Robinson opened the item for public comments.

Edward Miller addressed the Board stating that this is a fantastic project and very exciting. His one concern is the question has the State allocated the money for the property and for the construction.

City Attorney said that the State has informed them that they are prepared to put the money into escrow and proceed. Also the money to construct the overall project is allocated. Mr. Burk added that the court already has a project manager and they have hired an architect and have an engineering firm and their goal is to break ground in June 2010.

Gary Hironimus, 620 N. 20th Street addressed the Board stating that on page 48 there is a list of improvement estimates for 311 E. Ramsey and it listed a total of about \$520,000 for those improvements with \$30,000 for Banning Electric and \$250,000 for Southern California Edison (SCE) and he is trying to figure out why so much and what does SCE have to do with property within the city limits of Banning when they don't serve the property.

Mr. Burk said that \$250,000 for the Edison electric is for the overhead line that is in the center of that property that feeds the City of Banning's substation south of I-10 freeway. That is the main feeder coming in and primarily the idea is that they would have to relocate or underground that span of wire that goes through the property. Also the agreement with the courts is to bring all the utilities to the property. This issue will come back to the Council as they move along with the courts.

Mayor Botts asked the City Clerk to read the title of the Council resolution. City Clerk read: Resolution No. 2009-78, Consenting to the Sale of Real Property (APN 541-146-003) by the Redevelopment Agency of the City of Banning to the State of California for the Development of the Mid-County Justice Center and Making Certain Determinations in Connection Therewith.

Motion Machisic/Franklin that the City Council adopt Resolution No. 2009-78, Motion carried, all in favor.

Chairman Robinson asked the City Clerk to read the title of the Agency resolution. City Clerk read: CRA Resolution No. 2009-20, Approving the Sale of Real Property (APN 541-146-003) to the State of California for the Development of the Mid-County Justice Center.

Motion Hanna/Botts that the Community Redevelopment Agency adopt CRA Resolution No. 2009-20. Motion carried, all in favor.

The joint meeting of the Community Redevelopment Agency and the City Council was adjourned.

Mayor Botts reconvened the regular meeting of the Banning City Council.

PUBLIC HEARINGS

1. Resolution No. 2009-69, Approving the Proposed Electric Rate Schedules
(Staff Report – Sam Racadio, Interim City Manager)

City Manager stated that at their meeting of August 25th Fred Mason, Electric Utility Director, gave a very comprehensive presentation at the public study session. He said if there are any questions from the Council or the public now would be the appropriate time to do that.

There was some staff and Council discussion in regards to emails and questions from people in regards to this electric rate increase and also questions in regards to assistance for those people with low incomes, those on social security and those people with certain medical conditions. People can call the Public Benefit Office at 849-5224 to ask questions or can go on line to get an application and program guidelines.

Councilmember Franklin said that along with the low income assistance program there are other programs available to help people with weatherization and utility assistance and that is through the Community Action Partnership of Riverside and you can call 951-955-4900.

There was also some discussion in regards to energy conservation and the City does offer energy audits for customers.

Mayor Botts reopened the public hearing from August 25, 2009 for public comments.

Edward Miller resident of Banning addressed the Council stating in regard to the electrical rates what he considers un-nerving and suggestive of a lack of proper planning is the reasons given for the proposed increase in the electricity rates. The primary reason stated at the last Council meeting is the decrease in electrical usage by the residents of Banning. He believes there is something fundamentally wrong with that argument. He quoted from several sources regarding electrical rates in the country and said that these facts indicate what he believes is a common sense statement would be a decrease in demand should result in a decrease in rates and not an increase. Furthermore the argument presented by the electric utility that the current rates are unrealistically low does not seem to him to be correct. Mr. Miller went over the City of Banning's rates and the rates he used to pay in Huntington Beach which is served by Edison. The proposed rate increase here in Banning would certainly not give us any advantage over Edison. He believes that the Banning utility has not properly prepared for the expected decrease in usage. He asked that the rate increase be delayed until the City Council has had the utility come back with an evaluation as to how other cities have managed to avoid such an increase as a result of energy conservation and come back with procedures to maintain the current rates.

Gary Hironimus, 620 N. 20th Street addressed the Council stating that two weeks ago he made some comparisons between the rates here in Banning versus those in Riverside and Mr. Mason then made the comment that Riverside had approved a 20% rate increase and that is not exactly right. He said that Riverside approved about an 18% rate increase but that was right about the same time that Banning increased its rates by 15% in 2007. Riverside also phased that in over the course of three years to minimize the immediate effect on their customers. His comparisons were valid and they all ready took into consideration that rate increase. To summarize those using the average Banning resident kilowatt usage that was listed in Mr. Mason's presentation Banning's rate is currently 22% higher than Riverside and will jump to nearly 50% higher than Riverside with its proposed increase. He pointed out that while Banning and Riverside both increased their rates by similar amounts in 2007, Riverside is not proposing any further rate

increases at this point. The problem with a 36% increase on that base rate is that, as Mr. Mason said, the actual percentage of that increase is less the higher your bill goes so people are in effect being punished for conserving. The household that is really conserving their energy will see a larger percentage increase in their bill than someone who doesn't. He said he was an electric energy engineer and he completely understands the numerous regulatory mandates and understands that Banning's electric utility has made a lot of major infrastructure improvements recently and those cost money. But what he does question as both a resident and an engineer is the size of this proposed increase coming right on the heels of the last increase and also the need to implement it all at once. Here in California one in seven households are behind in their mortgage payments and hitting residents with this large of an increase in their energy costs could actually decrease the utility's revenues because foreclosed vacant homes don't generate any revenue to the utility. We know that the utility wants or possibly needs a rate increase and families are struggling so he asks that this Council look at two things and first is the size of this increase and is it really necessary or could it make due with a smaller increase and second, whatever size the increase ends up being why can't it be phased in like most cities and utilities do and that way as the economy slowly improves, households are in a much better position to budget for and absorb those increasing energy costs. If this Council decides that a rate increase is necessary, at least do what you can to minimize the effect on families by phasing it in.

Dorothy Mc Lean, 916 Linda Vista Drive addressed the Council stating that a side from talking about the electric rate she asked that the people who get up to speak from the audience that they speak into the microphone because very often when you sit in the back you hear bits and pieces of what they have to say. We are here because we want to know what is going on. She said it is not true that you transferred money from the electric department revenue to support the General Fund and if you did not make that transfer, would you have to raise electric rates now.

Terry Zupan, 2276 N. San Gorgonio addressed the Councils stating that one of the objections to this rate increase that he would like to give to the Council is that, as the man prior so eloquently spoke, it is the wrong time. He thinks that you really need to consider that after all these years that he has watched the Banning Electric Company have constantly and consistently had higher rates than anyone else and the reason that you don't attract industry to your area is the cost of electric and water. He said that when he put in a new manufacturing plant he went to Calimesa and Banning's rates have always been too high. You easily gave away to the State \$3 million dollars worth of real estate granted the price of it has gone down maybe to the amount it is being sold at but of course that doesn't help other people's real estate values of their commercial property in this area either because you just drove their values down. He thinks the justice center is probably a good thing for this community and it will bring jobs and do a lot for this community and he doesn't know where they will all park and he is sure they will consider this into their environmental studies, etc. and create sufficient parking and traffic flow through the city and that it doesn't create a clog in the downtown area. As far as the electric rates are concerned there are too many poor people in this town and there are more people becoming poor. They cannot handle these types of rates increases. If we have money to give to the State, then we should consider giving money to the people who actually live in the community via cheaper electric rates and not more expensive electric rates.

Don Smith resident of Banning stated that he has paid his share of electric bills and stated that in regards to the work session the Agency Board made some wonderful decisions and he is certainly in support of forming a committee to make sure we get the correct count on the census which will bring money to the General Fund and congratulations on that issue. He believes that the deal with the State even though it costs us money is going to help revitalize the whole town in the long run although in this deal we are losing money and in the long run we are going to find out that property values went up in the area as a result of that construction. He said he wasn't at the last meeting because he was out of the country. He feels that we are moving a little too quickly and most people in town still don't know you are doing this and they are going to come to the next meeting to complain. His biggest concern is that it is wrong for this Council to proceed with an increase until the Council knows how these rates compare to Edison's. He thinks that should be asked for before the Council votes on this because you need to give serious consideration as to whether you are going to be higher than Edison and that is especially true as previous speakers have said regarding the business and industrial rates. They will make their decision on where to build based on what the electric rates are and you need to make sure especially for those ones that you are competitive otherwise all your economic development activities are going to hurt as a result. To some degree this is just like Edison even though you are the same board as the City Council that has its own revenue sources and its own expenses that have to meet each other in order to pay for itself. As the Co-Chair of the Measure L Committee raising these rates this in no way helps the General Fund or hurts the General Fund. The General Fund still provides police and fire services and that is the one that we need money on and he would remind people of these two things even though it is the same body they are not connected and if you are in favor of maintaining your police and fire services, please vote yes on Measure L.

Tim Smith, 5095 Meadow Way, addressed the Council stating that he doesn't appreciate a rate hike especially of this magnitude all at once. It seems the only reason the City should be in the electric utility business is that they can provide lower rates to the city which is a benefit to the citizens. At this point we are substantially higher than Edison and Edison's basic charge is 99 cents and ours is \$3.00. The baseline service for the first 558 kilowatts which is \$14.95 or 15 cents per kilowatt and Edison's is 12 cents per kilowatt. We are at 19 cents for anything over 558 kilowatts and Edison is at 14 cents and we are going to 19.6 or 20 cents per kilowatt so we are substantially higher than Edison. But if we cannot provide cheaper electricity to our city and our citizens, why are we in the electricity business. Has anybody thought of making a proposal to Edison to buy our utility and therefore we can get cheaper rates with Edison. With that money there won't be a deficit and we can move on.

Donna Mann, Driftwood Circle addressed the Council stating that she has already been hit with one huge increase in utilities and was shocked to see her electric bill and she is a single person in the house and doesn't use a whole lot of electricity and is gone during the day and her bill is outrageous. This increase especially at this time is going to pose an extreme hardship not only to herself but to a number of other people that she knows in her neighborhood. It is just the times being what they are and it is going to cause a real hardship and this is a big increase all at once. She asked that it be looked at again as suggested and see if there is any other way and if it is needed, maybe not as big an increase and spreading it out. It is a hardship to individuals and a disincentive for businesses coming into the community.

Ben Osborn, Plain Field Drive addressed the Council stating that his current totally utility bill is \$350 a month during the summer and with global warming it is going to get hotter for longer. Just this past week we had 20 days of over 100 degree temperature. He would really request a reduction in his rates and not an increase. He request that the rate schedule not be approved.

Mayor Botts seeing no one else coming forward closed the public hearing.

Mr. Mason responded to some of the major items that were brought up going over the reasons for the increase such as the capital improvements, compliance with regulatory mandates, and loss of retail sales. He said that this has nothing to do with the market costs of going out and buying wholesale power. He also went over the Edison rates and the Riverside rates. He said that Banning utility has been running at a deficit for over a year and it cannot be phased and this rate increase was needed six to eight years ago. This revenue is needed now in order to operate. Everything was done that they possibly could to reduce the amount and the impact to the rate increase. The revenue requirements basically dictate what the rates have to be in order to operate the utility.

There was more Council and staff discussion in regards to these rates, baseline rates, the tiered rates, legislation, retail sales, bond funds, operating fund, and what other cities are doing now.

Mayor Botts asked if there were any other questions of Mr. Mason.

Chuck Katz addressed the Council stating that he was confused on this whole utility thing and Banning has owned their utilities for years and it seems to him that this is not an issue that just started. We have had a chance to do renewable energy in Banning for years with wind and solar and that hasn't been taken care of and what confuses him is that you are running out of money and as the businesses dissipate away from Banning and as the homes go away from Banning you could increase until the cows come home and you are still going to be out of business. If Banning utility wants to stay in business and not go to Edison then something has to be done to equalize all these different situations that have occurred. He would agree that not all of them are the fault of the utility or the fault of Banning. We are in an economic downturn and that trend is not going to change for awhile. Homes are vacant, fire hazards are existent and all of these situations require maintenance and the City has already downsized and so have the people that live in this community. He said that he has not had a job in three and half years and he is only lucky that his home is paid for. But the thing is if these situations have occurred, they didn't occur overnight and didn't occur in 2007. These are concurrent things that could have been addressed and attended to in a more equal manner.

There was Council response in regards to some of the comments made and some of the responses included comments on raising rates, present day economics, City's energy contacts, public benefits such as solar, coal power ownership, renewable approaches, transfer of electric to General fund, the possibility of more cuts to the General Fund, the issuance of bonds and the creation of the Public Utility Authority, long term decisions for the City, Edison rates, maintenance programs, and balancing of the budget.

Terry Zupan addressed the Council asking why isn't there a consideration after all these years and he has been here for over thirty years and the electric department has always had difficulties not that there not good people running it and maybe it is just economies of scale, why isn't it a consideration to sell the Banning Electric Company and use the proceeds to clean up the budget? Create rates currently lower for the citizens who are probably just wretchedly getting through this economy that we have for the next three years and not burden them with additional high rates. We also have water problems and no one talked about water problems. The wells are going dry and have been going dry for thirty years.

Motion Hanna/Machisic that the City Council adopt Resolution No. 2009-69, Approving the Amended Electric Rate Schedules attached as Exhibit A. Motion carried, all in favor.

REPORTS OF OFFICERS

1. Repealing of Ordinance No. 1371 and Introduction of Ordinance No. 1411 Concerning the Economic Development Committee.
(Staff Report – Sam Racadio, Interim City Manager)

City Manager Racadio gave the staff report in regards to this item.

City Attorney said that he would like some clarification on Section 2.36.040 on page 80 in regards to the Chairperson being a resident because the way that this is now you could have a non-resident be the chairperson of this committee. There was discussion on this item and there was consensus to have the Chairperson and Vice Chairperson either be a resident or own a business in the Banning.

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

Mayor Botts asked the City Clerk to read the title of Ordinance No. 1411. City Clerk read: An Ordinance of the City Council of the City of Banning, California, Amending Chapter 2.36 of the Banning Municipal Code Regarding Establishment of the Banning Economic Development Committee.

Motion Robinson/Hanna to waive further reading of Ordinance No. 1411. Motion carried, all in favor.

Motion Hanna/Machisic that Ordinance No. 1411 pass it first reading as amended to include that the Chairperson and Vice Chairperson either be a resident or own a business in Banning. Motion carried, all in favor.

ITEMS FOR FUTURE AGENDAS

New Items –

Mayor Pro Tem Hanna said that several years ago when we completed our swimming pool there was to be an addition of a splash pad and as she understood it was part of the budget and there

was monies in the budget to have it constructed and was to be constructed the next year and now it is two years later and we still don't have it. She would like it as a future agenda item.

Mayor Botts said we still face a significant budget deficit and don't know what it is going to be and we need to balance the budget and have a budget study session. City Manager said that staff is waiting for the final numbers on our audit to see what our carry forward balance is before staff can bring forward some accurate figures and then start doing some planning. The shortfall was \$800,000 to begin with and there is about another \$400,000 in the General Fund that the State is taking so it is a total of \$1.2 million.

Councilmember Franklin said that when they had the discussion on the TOT about maybe having an ordinance that would start us with 10% so that we would be competitive in the area and we didn't finish that discussion and she would like to have that discussion to decide yes or no we agree to start off with the 10% and then move up to 12% when the measure passes. She would like to start working on that so that it is an ordinance that could be in place with the election.

There was some Council discussion and there was consensus to have this discussion in regards to the TOT ordinance dealing with the implementation rate come back on November 10th.

Mayor Pro Tem said that we are scheduled to only have one meeting in November and one Meeting in December and personally she thinks that is a problem and wanted to bring this up for reconsideration. There was Council discussion and it was requested that the City Manager handle this request and discuss it with staff in regards to the meetings for November.

Pending Items –

1. Service Club Signage on Ramsey Street, Gateway project (*ETA 10/13/09*)
2. Local Economic Stimulus Program (*ETA 10/27/09*)
3. Golf Cart Lane Policy for City of Banning (*ETA 10/13/09*) *Pending Beaumont Policy Development*
4. Schedule Meetings with Our State and County Elected Officials
5. Set New Date for Joint Meeting with Banning School Board (*Date to be determined*)
6. Policy for Naming of Street and also Parks – Policy and Procedures (*ETA 9/22/09*)
7. Update on the Sunset Grade Separation and the Highland Springs Interchange. (*ETA 9/22/09*)

CLOSED SESSION

City Attorney stated that the City Council would go into closed session pursuant to Government Code Section 54957.6 Conference with labor negotiators with employee organization BPOA, and pursuant to Government Code Section 54957 personnel matters involving City Attorney evaluation.

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

Meeting went into closed session at 9:00 p.m. and returned to regular session at 10:00 p.m. with no reportable action.

ADJOURNMENT

By common consent the meeting adjourned at 10:00 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.

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: September 22, 2009

TO: City Council

FROM: Bonnie Johnson, Finance Director

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

The reports are:

Expenditure approval lists	
August 6, 2009	1,252,404.50
August 13, 2009	560,828.76
August 13, 2009	21,752.35
August 20, 2009	224,629.40
August 27, 2009	856,022.14
August 27, 2009	20,483.29
September 10, 2009	2,768,239.37 (August Month End)
Payroll check registers	
August 6, 2009 Manual Check	42,916.31
August 13, 2009 Manual Check	2,397.58
August 14, 2009	15,164.36
August 14, 2009 Manual Check	12,879.11
August 27, 2009 Manual Check	13,869.95
August 28, 2009	10,738.11
Payroll direct deposits*	
August 14, 2009	295,295.86
August 28, 2009	301,807.00

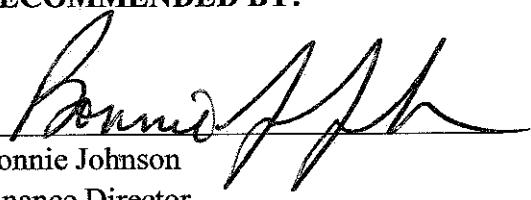
As you review the reports, if you have any questions please contact the Finance Department so that we can gather the information from the source documents and provide a response.

* Included on the August month end expenditure approval list of 09/10/2009.

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

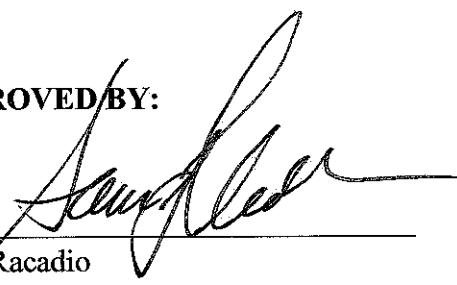
Report Prepared by: Robin Anderson, Accounts Payable

RECOMMENDED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Sam Racadio
Interim City Manager

2nd Read.

ORDINANCE NO. 1411

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF BANNING, CALIFORNIA, AMENDING
CHAPTER 2.36 OF THE BANNING MUNICIPAL
CODE REGARDING ESTABLISHMENT OF THE
BANNING ECONOMIC DEVELOPMENT
COMMITTEE**

WHEREAS, The Economic Development Committee was originally established in 1965 to advise the City Council and Board of the Redevelopment Agency concerning economic development activities in the City.

WHEREAS, over the last two years the Committee has been inactive and a number of the committee offices are currently vacant.

WHEREAS, the City Council intends to reconstitute the Committee and expand its representation to better advise the Council with respect to economic development.

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

SECTION 1. Title 2, Chapter 2.36 ("Economic Development Committee") of the Banning Municipal Code is hereby amended by amending Chapter 2.36 to read, in its entirety, as follows:

"Sec. 2.36.10. Committee Established.

An economic development committee is established in the city. The purpose of this committee is to establish a coordinating entity between the City, its staff and other commissions and committees, and the private sector for the purpose of recruiting and retention of business development and tourism. The committee is charged with the following responsibilities and duties:

A. Participate in the implementation of the city's economic strategic/implementation plan as approved by the city council.

B. Review and advise the city council on proposed economic development projects within the city.

C. Advise the city council on economic development trends and/or programs that may impact the city fiscally or economically.

D. Assist the city council and staff in economic development matters including:

1. recruitment of new retail, commercial and industrial businesses to the city;
2. development of programs and activities to assist in the expansion of existing retail, commercial and industrial companies;
3. development of programs and activities directed toward the retention of existing retail, commercial and industrial businesses;
4. review and research of economic development issues to provide recommendations to the city council relating to such things as tax revenue generating activities including educational outreach to the community;
5. support of the Banning Cultural Alliance's Downtown Revitalization Committee and the related five year strategic plan;
6. provision of advice and counseling with regard to business recruitment and development;
7. coordination of tourism between the city and private sector organizations including assistance in developing a tourism plan to be recommended to the city council for adoption; and
8. serving, when called upon by the city council, as members of a business recruitment team as well as a "red team" for business retention.

Sec. 2.36.020. Membership – voting members.

A. The economic development committee shall be comprised of nine voting members, five appointed by the City Council and four representing designated organizations.

B. Five (5) members of the economic development committee shall be appointed by the city council from the community at-large and shall have a demonstrated interest and experience in business and economic development issues and shall live within the City of Banning.

C. There shall be four (4) members of the economic development committee known as the "organization members" including (i) one representative from the Banning Unified School District, (ii) one representative from the Mount San Jacinto College District, (iii) one representative from the Morongo Band of Mission Indians, and (iv) one representative from the Pass Area Economic Development Association. These members shall be recommended by their respective organizations and appointed by the city council.

Sec. 2.36.030 Terms of office.

A. Upon the effective date of this ordinance, the terms of office of any member of an existing economic development committee shall terminate and the terms of office set forth in this ordinance shall apply to those appointed to serve under the provisions set forth herein.

B. Except as provided in Section 2.36.060 and subsection (C) of this section, terms of office of voting members of the economic development committee after reestablishment of the economic development committee as provided in this ordinance, shall be four (4) years or until a successor is appointed as provided herein.

C. The initial appointment of the members of the economic development committee other than the four organization members under this ordinance shall include three (3) members who shall serve for an initial term of four (4) years and two (2) members who shall serve for an initial term of two years to assure continuity on the committee by the staggering of terms of office. The Council shall designate who serves for which terms.

D. Terms of office of the organization members shall be two years.

Sec. 2.36.040. Officers.

The members of the economic development committee shall elect a Chairperson and Vice Chairperson at the initial meeting of the committee under this ordinance and at the first meeting in February of all subsequent years. Both the Chairperson and Vice Chairperson must be residents of or own a business in Banning.

Sec. 2.36.050. Quorum.

A majority of the members shall constitute a quorum and a majority of a quorum or of the full committee if the full committee is present shall be required for action.

Sec. 2.36.060. Absences and removal.

A. All members of the economic development committee shall serve at the pleasure of the city council and may be removed from office by a four-fifths (4/5ths) vote of the city council at any time with or without cause.

B. Three (3) unexcused absences in any fiscal year shall constitute an automatic resignation of the absent member. Absences may be excused at the discretion of the Chair.

Sec. 2.36.070. Staff Support for Committee.

The Executive Director of the Redevelopment Agency shall serve as the official secretary of the economic development committee and shall provide staff support as needed to the committee.

Sec. 2.36.080. Meetings and Bylaws.

A. The economic development committee shall meet once monthly on the third Thursday at 6:00 p.m. in the City Council Chambers.

B. The economic development committee shall adopt such rules, regulations and bylaws for the conduct of its business as it deems appropriate consistent with the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et seq.) and other applicable law."

SECTION 3. Ordinance 1371 previously adopted by the City Council on June 12, 2007 concerning the Economic Development Committee is hereby repealed in its entirety, and is superseded by this Ordinance.

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 enactment in accord with California law.

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

PASSED, APPROVED, AND ADOPTED this _____ day of September, 2009.

Robert E. Botts, Mayor

ATTEST:

Marie Calderon, City Clerk

APPROVED AS TO FORM:

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 Ordinance No. 1411 was introduced at a regular meeting of the City Council of the City of Banning, California, held on the 8TH day of September, 2009 and was duly adopted at a regular meeting of the City Council held on the _____ day of September _____, 2009, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: **September 22, 2009**

TO: **Honorable Mayor and City Council**

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

SUBJECT: **Resolution No. 2009-79, "Awarding an Agreement to Layne Christensen Company of Fontana, California in the amount of \$74,493.69 for the Mechanical Equipment Repairs for Water Well No. 3"**

RECOMMENDATION: Adopt Resolution No. 2009-79:

- I.** Award an Agreement to Layne Christensen Company of Fontana, California in the amount of \$74,493.69 for the Mechanical Equipment Repairs for Water Well No. 3.
- II.** Authorize the Director of Finance to make necessary budget adjustments and appropriations related to Fiscal Year 2009-2010 Water Division Operational Budget in an amount of \$81,943.06 which includes a 10% contingency.

JUSTIFICATION: Mechanical equipment repairs for Water Well No. 3 are necessary in order to restore water supply to the City's foothill east and main pressure zones and to avoid interruption in service.

BACKGROUND: The City of Banning owns and operates the Water Utility that serves all City of Banning commercial and residential customers. The Water Division operates the water wells and booster pumps that are necessary to provide the water service to all utility customers. It is the Water Division's responsibility to assure that all wells and booster pumps remain in operation in order to prevent water outages within the service area.

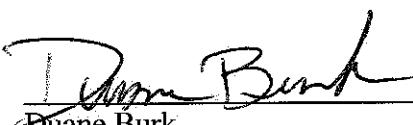
Recently it was discovered that the 1936 Pelton water wheel in Mias Canyon, which produces approximately 1,000 gallons per minute (gpm) of potable water into the City of Banning's domestic water system, malfunctioned resulting in a reduction of water production. When staff became aware of the situation the well was taken out of service and a proposal was solicited from Layne Christensen Company of Fontana, California. Layne Christensen Company is a leader in the water utility industry and has extensive experience with well & pumping equipment, design, and construction. This company has successfully completed numerous projects for the City in the past and is familiar with the City's unique water wheels. In order to determine a scope of work, staff instructed Layne Christensen Company to perform a preliminary investigation of the malfunction.

When performing this investigation, it was necessary to remove the Pelton water wheel. Due to the age of the equipment, it was determined that replacement parts would be needed such as: grease and oil seals; main thrust bearing; column tube and shaft; and five additional bearings and repairs such as: repair of main shaft; remove pump and disassemble bowl assembly; reshape all bowls and impellers to common dimensions. Upon review of the scope of work, Layne Christensen submitted a proposal in the amount of \$74,493.69.

Public Contract Code Section 22050 authorizes the City of Banning to take corrective actions necessary to respond to an emergency situation without giving a formal bid notice. Section 2.24.040 of the Code defines an emergency as a situation where immediate procurement is essential to protect the public health, safety, or *to avoid interruption in service*. Staff believes the abovementioned repairs are necessary and need to be addressed, as expeditiously as possible, in order to protect public health and safety and to avoid such an interruption in service.

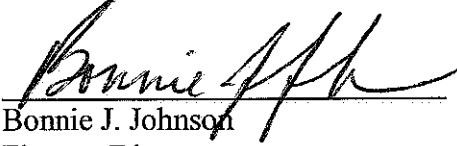
FISCAL DATA: The funds for Water Well No. 3 repairs are available in the FY 2009-2010 Water Division Operation Budget, Wells/Pump Equipment Account No. 660-6300-471.45-06 in the amount of \$81,943.06 which includes a 10% contingency.

RECOMMENDED BY:



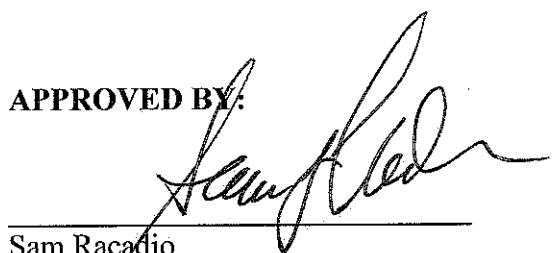
Duane Burk
Director of Public Works

REVIEWED BY:



Bonnie J. Johnson
Finance Director

APPROVED BY:



Sam Racadio
Interim City Manager

RESOLUTION NO. 2009-79

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA,
APPROVING THE MECHANICAL EQUIPMENT REPAIRS FOR WATER WELL NO. 3**

WHEREAS, recently the 1936 Pelton water wheel in Mias Canyon, which produces approximately 1,000 gallons per minute (gpm) of potable water into the City of Banning's domestic water system, malfunctioned resulting in a reduction of water production; and

WHEREAS, Water Well No. 3 was taken out of service and a proposal was solicited from Layne Christensen Company of Fontana, California; and

WHEREAS, Layne Christensen Company is a leader in the water utility industry and has extensive experience with well & pumping equipment, design, and construction and has successfully completed numerous projects for the City in the past and is familiar with the City's unique water wheels; and

WHEREAS, in order to determine a scope of work, staff instructed Layne Christensen Company to perform a preliminary investigation of the malfunction; and

WHEREAS, due to the age of the equipment, it was determined that replacement parts would be needed such as: grease and oil seals; main thrust bearing; column tube and shaft; and five additional bearings and repairs such as: repair of main shaft; remove pump and disassemble bowl assembly; reshape all bowls and impellers to common dimensions; and

WHEREAS, Public Contract Code Section 22050 authorizes the City of Banning to take corrective actions necessary to respond to an emergency situation without giving a formal bid notice; and

WHEREAS, Section 2.24.040 of the Code defines an emergency as a situation where immediate procurement is essential to protect the public health, safety, or *to avoid interruption in service* and Staff believes the abovementioned repairs are necessary and need to be addressed, as expeditiously as possible, in order to protect public health and safety and to avoid such an interruption in service.

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

Section I. The City Council of the City of Banning award an Agreement to Layne Christensen Company of Fontana, California in an amount of \$73,493.69 for the Mechanical Equipment Repairs to Water Well No. 3 and authorize an additional ten-percent (10%) contingency to be used for additional work that may arise due to unforeseen conditions.

Section II Authorize the Director of Finance to make necessary budget adjustments and appropriations related to Fiscal Year 2009-2010 Water Division Operational Budget in an amount of \$81,943.06.

Section III. The City Manager is hereby authorized to execute the Agreement for the Mechanical Equipment Repairs for Water Well No. 3. This authorization will be rescinded if the parties do not execute the contract agreement within thirty (60) days of the date of this resolution.

PASSED, APPROVED, AND ADOPTED this 22nd day of September, 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
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-79, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22nd day of September, 2009.

AYES:

NOES:

ABSTAIN:

ABSENT:

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

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: **September 22, 2009**

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

FROM: **Sam Racadio, Interim City Manager**

SUBJECT: **Approval to Participate in Riverside County Mortgage Certificate Program (MCC) and Adoption of Resolution No. 2009-80, Approving Participation in the Mortgage Certificate Program**

RECOMMENDATION

That the City Council approve Resolution No. 2009-80, which will allow the City to participate in the County MCC Program for mortgage loans available for first-time homebuyers in Banning. Adopting of the attached resolution is necessary for the City to participate in the County's MCC Program.

BACKGROUND

The Riverside County Board of Supervisors has authorized the County Economic Development Agency (EDA) to apply to the California Debt Limit Allocation Committee for an allocation of Mortgage Credit Certificates on or about October 16, 2009, which allows for the City of Banning's participation.

A mortgage Credit Certificate (MCC) entitles qualified home buyers to reduce the amount of federal tax liability on a home mortgage. This tax credit allows the buyer to qualify more easily for a loan by effectively increasing the stated income of the buyer.

The Riverside County MCC Program allows a 15% rate, which can be applied against the interest paid on the mortgage loan. The borrower can then claim a credit on their taxes equal to 15% of the interest paid during the year. Since the taxes paid by the borrower are being reduced, the annual take-home pay is effectively increased. The borrower can still deduct the remaining part of the interest paid as a standard deduction. When underwriting a loan, a lender takes this potential increase in income into consideration and the borrower is able to qualify for a larger loan than would otherwise be possible.

This program can be used with all types of homes, including foreclosures, new and resale single-family and/or manufactured homes, and may be the "extra cushion" future homebuyers will need to purchase in Banning.

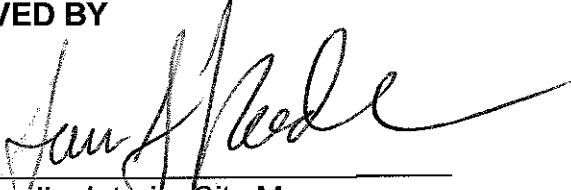
The EDA will be submitting an application for approximately \$13,721,101 on or about October 16, 2009 for applicants acquiring homes within the County. Program guidelines include Income restrictions, as well as limits to the purchase price of the home. Future Banning homebuyers can qualify for the MCC on their own through their lender, even if the City is not proving any down payment assistance.

The City of Banning has participated in the MCC Program in past years. Staff recommends approval of the attached updated resolution, to provide another tool for qualified homebuyers to purchase a home in Banning.

FISCAL DATA

No impact to the City or the Redevelopment Agency budget. Potential buyers can qualify through a lender to receive the MCC from the County.

**RECOMMENDED AND
APPROVED BY**



Sam Racadio, Interim City Manager

REVIEWED BY



Bonnie Johnson, Finance Director

RESOLUTION NO. 2009-80

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,
CALIFORNIA, PARTICIPATING WITH THE COUNTY OF RIVERSIDE
MORTGAGE CREDIT CERTIFICATE (MCC) PROGRAM**

WHEREAS, the Tax Reform Act of 1986 established the Mortgage Credit Certificate Program (“MCC Program”) as a means of assisting qualified individuals with the acquisition of new and existing single family housing; and

WHEREAS, pursuant to Division 31, Part 1, Chapter 3.5, Article 3.4 of the California Health and Safety Code Sections 50197 et seq, local issuers are authorized to issue Mortgage Credit Certificates (“Certificates”) and administer MCC Program; and

WHEREAS, the Board of Supervisors of the County of Riverside adopted Resolution No. 87-564 on December 22, 1987 establishing a Mortgage Credit Certificate Program; and

WHEREAS, the Board of Supervisors of the County of Riverside has authorized the Riverside County Economic Development Agency (“EDA”) to administer the MCC Program pursuant to the applicable federal, state and local policies and procedures, and to enter into those agreements necessary for efficient administration of the MCC Program; and

WHEREAS, the County of Riverside (“County”) will be applying to the California Debt Limit Allocation Committee (“CDLAC”) for a mortgage credit certificate allocation on October 16, 2009 or thereabouts; and

WHEREAS, the City of Banning wishes to participate in the MCC Program administered by the EDA in connection with mortgage loans it will make available for the acquisition of new and existing single-family housing in Riverside County; and

WHEREAS, the adoption of this resolution is necessary to include the City of Banning as a participating unit of general government under County’s MCC program; and

WHEREAS, the City agrees to cooperate with the County of Riverside to undertake the MCC program within City jurisdiction to assist persons or households of limited income to purchase new and existing single family residences located in the city; and

WHEREAS, the City by adopting this Resolution, hereby gives notice of its election to participate in the Riverside County MCC program.

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

The City of Banning agrees:

1. to participate in the MCC Program administered by the EDA in connection with mortgage loans it will make available for the acquisition of new and existing single-family housing in Riverside County;
2. to assist the County of Riverside to market the MCC Program within the city's jurisdictional boundary by publishing a general public notice in the local newspaper at least twice a year.

PASSED, APPROVED, AND ADOPTED this 22nd day of September, 2009.

Robert E. Botts, Mayor
City of Banning, California

**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 the foregoing Resolution, No. 2009-80 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22nd day of September, 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: September 22, 2009

TO: City Council

FROM: Bonnie J. Johnson, Finance Director

SUBJECT: Award a contract for the purchase of one (1) 924H Wheel Loader for the City of Banning Water Department to Johnson Machinery in the amount not-to-exceed \$133,613.75

RECOMMENDATION: "Staff recommends the City Council piggyback on to the City of Tucson, AZ contract #073065-01 and award the purchase of one (1) 924H Wheel Loader for the City of Banning Water Department to Johnson Machinery in the amount not-to-exceed \$133,613.75."

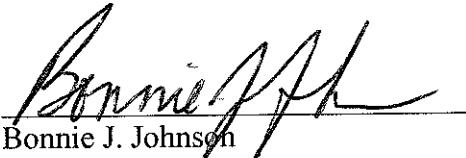
JUSTIFICATION: To provide a 924H Wheel Loader for the Water Department for the City of Banning.

BACKGROUND & ANALYSIS: The Water Department is currently operating with one Intergraded Tractor that is more than twenty (20) years old. This Intergraded Tractor is currently out of service and would cost approximately \$20,000 to repair the transmission only. This repair would only allow the tractor to be commissioned and evaluated for additional repairs that could be needed such as the motor and other major components. The Water Department has several new projects and infrastructure upgrade projects with deadlines they are trying to accomplish. This is a difficult task to accomplish with the antiquated, non-reliable, equipment currently available to the Water Department. The 924H Loader will be equipped to serve as an Intergraded Tractor for the Water Department. Section 18A-13 "D" of the City's Purchasing Ordinance allows the City to enter into agreements with other agencies for the purchase of supplies, services and equipment. In such instances, the procedures of that agency shall satisfy all city requirements for the bid and award of those purchases. The City of Banning can piggyback onto the City of Tucson, AZ contract #073065-01 for the purchase of the 924H Wheel Loader, under their cooperative purchasing provision. This will save the City the cost of the formal bid process and allow us to take advantage of the volume discount afforded to the City through Tucson's cooperative purchasing agreement.

ALTERNATIVES: Solicit sealed bids for the purchase of a 924H Wheel Loader. However, the cost may well be higher due to the smaller quantity and by piggybacking onto The City of Tucson contract we can still take advantage of the volume discount pricing afforded to the City through Cooperative Purchasing.

FISCAL DATA: Sufficient funds are available for the purchase of the 924H Wheel Loader in the Water Department Capital Equipment account #660-6300-471.90-56

RECOMMENDED BY:



Bonnie J. Johnson
Finance Director

Report Prepared By: Nicole Mihld, Purchasing Manager

APPROVED BY:



Sam Racadio
Interim City Manager

CITY COUNCIL AGENDA
CONSENT ITEMS

Date: September 22, 2009
TO: Honorable Mayor and City Council
FROM: Fred Mason, Electric Utility Director
SUBJECT: Update on the Renewable Energy Program

RECOMMENDATION: The City Council accept this report on the progress the City has made towards meeting its Renewable Portfolio Standard (“RPS”) and what steps must be taken in the future to ensure compliance with the State’s regulatory mandates regarding renewable energy.

JUSTIFICATION: Since 2002 there have been a number of legislative bills passed and an Executive Order signed by Governor Schwarzenegger which have provided mandates to electric utilities regarding procurement of renewable energy to serve customer load. The City of Banning (“Banning”) implemented a RPS which reflects the intent of the State mandated regulations, and has taken the necessary measures to ensure the RPS goals are met.

BACKGROUND: Senate Bill 1078 (“SB 1078”) was signed into law on September 12, 2002 and set a RPS goal of 20 percent renewables by 2017. Senate Bill 107 became law on January 1, 2007, and accelerated the State’s RPS goal to 20 percent by 2010. Executive Order S-14-08 was signed by Governor Schwarzenegger on November 17, 2008 and increased the RPS goal to 33 percent by 2020. There is currently legislation pending which will codify the 33 percent requirement set by the Executive Order, and will clarify and/or modify what types of energy are deemed “renewable”.

On March 23, 2004 the Banning City Council approved Resolution 2004-31, which established a RPS with a goal of 20 percent renewables by 2017. On June 26, 2007 the Council passed Resolution 2007-72, which amended the RPS to reflect a goal of 33 percent renewable by 2020.

Banning is a member of the Southern California Public Power Authority (“SCPPA”) and has participated in a number of exercises to solicit and vet proposals for viable renewable energy projects. On April 12, 2005 the Banning City Council approved Resolution 2005-32, which authorized execution of two Long Term Power Purchase Agreements (25 year term) between SCPPA and Banning, for up to 2 megawatts of geothermal energy from two separate generating facilities. Banning began receiving power from the first plant in January 2006, but due to development problems, the second facility was never completed and was subsequently abandoned by the developer, Ormat, Inc. As a result of this, Banning was only receiving up to 1 megawatt of renewable energy, which put the City at about 6 percent renewable.

On March 25, 2008, the Banning City Council approved an Amendment to the Ormat Agreement which ultimately increased the City’s renewable energy entitlement to 3.4 megawatts, which put the City at 20 percent renewable and ensured compliance with the State’s mandate of 20 percent renewable by 2010. However, this compliance came at a very high price. The City is paying over \$2 Million per year for renewable energy which it did not need. The City had existing

power resources to meet its customer's electricity demand requirements, and the City now has excess electricity that it must sell off in the wholesale market, typically at a loss.

Now that the City is in compliance with the State mandate of 20 percent by 2010, it has some time before it needs to look at the 2020 requirement of 33 percent. However, staff continues to evaluate renewable energy proposals and new renewable technologies to maximize its options, and ensure the best and most economical projects for the City.

Currently a lot of attention is being given to solar and wind renewable energy projects. Typically these projects do not meet the City's needs, because they are "intermittent" resources, which means that they only produce energy when the sun shines and the wind blows. Because they are intermittent, they cannot be used to fulfill mandated Resource Adequacy Capacity requirements, and yet they cost just as much or more than renewable technologies that are not intermittent. Because the City is required to purchase additional RA Capacity each year to meet its mandated obligation, it is important that any power resource we purchase meets the eligibility criteria to be counted toward meeting our RA Capacity obligation.

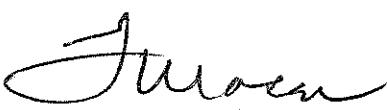
Staff receives inquiries from renewable energy developers on a regular basis, most recently from Pat Oberg of Wind Farm Development, whose team made a presentation to Council during the July 28, 2009 City Council meeting. Many developers are looking for partners to provide project financing, land to build on, or both; or a financially viable counterparty to enter into a binding contract which will enable the developer to obtain financing on a renewable project that may or may not be feasible.

Generally, legitimate developers will contact SCPPA directly, because they realize that they can access all 12 Southern California municipal utilities at one time. However, many of the developers that do not meet the eligibility criteria set by SCPPA (experience, project viability, financial stability, price, etc.) often times start canvassing the Municipalities directly. It is Staff's responsibility to perform thorough due diligence on renewable energy proposals that are presented to the City, and only forward to Council those proposals that are in the City's best interest.

It is important to emphasize that at this point in time the City is not in a position to increase its power resource expense. Any additional renewable energy purchases would require an equivalent increase in rates to cover the added expense. Staff will continue to evaluate renewable energy proposals and new technologies to position the City for increasing its renewable resources starting in approximately 2015. Staff will ensure that the City obtains the best and most economical resources available.

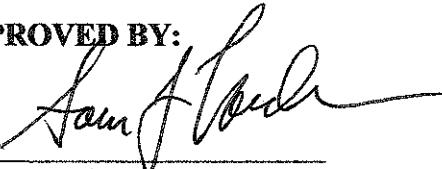
FISCAL DATA: No fiscal impact at this time.

RECOMMENDED BY:


Fred Mason

Electric Utility Director

APPROVED BY:


Sam Racadio

Interim City Manager

**CITY COUNCIL AGENDA
REPORT OF OFFICERS**

DATE: September 22, 2009

TO: Honorable Mayor and City Council

FROM: Sam Racadio, Interim City Manager

SUBJECT: Street Naming and Renaming

RECOMMENDATION:

That the City Council provide direction to Staff as to the criteria for street naming and renaming and that staff return to the Council with a resolution detailing the criteria for adoption at a later date.

BACKGROUND:

Street naming is a pending item previously requested by the City Council. Based on Staff's research, the City Council adopted Resolution No. 1994-46 establishing a policy for the naming of City Parks and Recreation Facilities. The criteria used are as follows:

- a. In recognition of the geographic area in which the park facility is located.
- b. In recognition of historical milestones.
- c. In honor of individuals who have made outstanding contributions to the community, county, state or nation.
- d. In recognition of someone who has donated enough money to build the park or facility.

Street naming could follow the same criteria. However, since there would be a lot more streets that would be created as part of new development, the above criteria may be somewhat inappropriate.

DISCUSSION/ANALYSIS:

Street Naming

Street names are essential for the following reasons:

- a. As navigational aids for a predictable, manageable, and orderly environment, primarily, to enable the residents of the city to describe their location for emergency and basic services for health, safety, and welfare.

- b. To enable the responding emergency and basic service personnel to easily find the location of any resident needing or requesting service.

There would be more streets built in the future compared to parks and recreational facilities. In order to manage such a huge inventory of street names, the City Council should consider the following:

1. Prohibition of certain street names as opposed to “permissive” criteria for street names.

Since the possibility for street naming is unlimited, it is easier to prohibit certain street names as opposed to coming up with a “permissive” criteria. This would allow the developer of the project to name streets as needed. The following are recommended criteria:

- a. Names that are offensive and/or derogatory.
- b. Names that are cumbersome, corrupted, or modified.
- c. Names for public streets that could be construed as commercial advertising.
- d. Names that are cardinal directions, i.e., North Road, Eastford Road, Northstar Drive
- e. Duplicate names, which means that the street in question either has:
 - (1) The identical name to another street; or
 - (2) A name, which because of its pronunciation or spelling, is deceptively similar to another name (i.e., Beach Avenue, Beech Avenue, Peach Avenue)

2. Street names should not change on a continuous road

Street names should not change on a continuous road except circle roads and any streets that make a directional change of approximately 90 degrees. See item #3 below.

3. Provision for street name change when the street changes direction

Streets for a new development are not always continuous; therefore, provision for street name change should be provided. For example, when a street makes an approximately 90-degree change, a name change is permitted.

4. Private streets naming should be consistent with public street naming

New development could have private streets; therefore, they should be subject to the criteria consistent with the public street naming convention.

5. Street names to be included on the Tentative Map, approved by the Planning Commission, and forwarded to the City Council for approval

Street names shall be included on the Tentative Map as required by Section 16.12.050 of the Banning Municipal Code. The list of street names shall be forwarded to the City Council for information.

6. Change in street names prior to recordation of the final map to be approved by the City Engineer.

Should the street name(s) on the approved Tentative Map be changed, the City Engineer shall approve the change prior to recordation of the Final Map.

7. Fees for approval of street renaming prior to recordation of the final map

The Developer/Applicant shall bear the full cost of processing the approval of street renaming prior to recordation of the final map.

Street Renaming

The following is a recommended policy for street renaming for consideration by the City Council.

1. Street renaming shall be approved by the City Council at a public hearing.
2. Hearing Notices shall be sent to all owners of the properties that are located adjacent to the affected street, not less than 10 days prior to the public hearing. Should the total number of owners to whom notice should sent is greater than 1,000, notice shall be given consistent with Section 17.68.B.2.b of the Banning Municipal Code.
3. Hearing notices shall also be published in the newspaper of general circulation per Section 17.68.B.1 of the Banning Municipal Code.
4. Upon approval of the City Council, all affected agencies, such as the Post Office, Banning Unified School District, the Gas Company, County of Riverside Assessor's Office, the Department of Motor Vehicles, and all of the Utility purveyors should be officially notified.
5. The Developer/Applicant shall bear the full cost of processing the approval of street renaming.

This policy is consistent with the City Council's action renaming 5th Street to Joshua Palmer Way in August 2004.

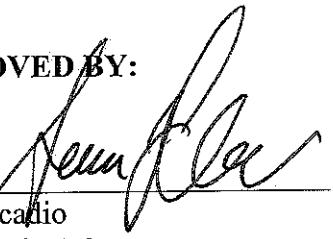
FISCAL IMPACT:

There is no fiscal impact associated with street naming policy. Fees for establishing street names as part of new residential development or renaming the streets prior to recordation of the final map shall be the responsibility of the developer. Should the City Council or decide to rename streets, the costs associated with that action would have to be determined at that time.

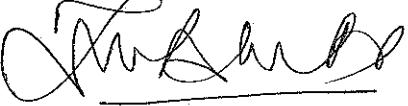
CONCLUSION:

It is respectfully recommended that the City Council provide direction to Staff as to the criteria for street naming and return to the Council with a resolution detailing the criteria for adoption at a later date.

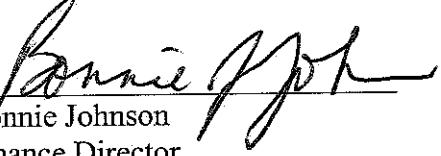
APPROVED BY:


Sam Rácalio
Interim City Manager

PREPARED AND RECOMMENDED BY:


Zai Abu Bakar
Community Development Director

REVIEWED BY:


Bonnie Johnson
Finance Director

REVIEWED BY:


Duane Burk
Public Works Director