

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

February 9, 2010
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

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.

PRESENTATIONS:

1. Presentation on League's Proposition by Dave Willmon (ORAL)

III. CONSENT ITEMS

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

Motion: That the City Council approve Consent Item 1 through 7
Items to be pulled _____, _____, _____, _____ for discussion.
(Resolutions require a recorded majority vote of the total membership of the City Council)

1.	Approval of Minutes – Special Meeting – 01/12/10	1
2.	Approval of Minutes – Regular Meeting – 01/12/10	4
3.	Approval of Minutes – Regular Meeting – 01/26/10	23
4.	Ordinance No. 1419 – 2 nd Reading: an Ordinance of the City Council of the City of Banning, California, Extending Urgency Ordinance No. 1406 for An Additional 10 Months and 15 Days and Extending the Interim Development Sign Regulations for the Placement of Freestanding Freeway Oriented Signs	37
5.	Resolution No. 2010-08, Amendment to Resolution No. 2009-55, Memorandum of Understanding (MOU) Between the International Brotherhood of Electrical Workers (IBEW) -Local 47 General Employees Unit and the City of Banning Amending a Side Letter of Agreement to the MOU with the IBEW – General Employees	45
6.	Resolution No. 2010-09 – Initiating Proceedings for the Vacation of a Portion of Val Monte Street from Ramsey Street to Interstate 10 and Adjacent Alleys and Setting the Date, Time, and Place for the Public Hearing	49

- Open for Public Comments
- Make Motion

IV. PUBLIC HEARINGS

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

1.	Ordinance No. 1420 – Approving Zone Text Amendment No. 09-97506 to Amend Municipal Code Section 17.44.010 Pertaining to Table 17.44.010 Review Authority for Tentative Parcel Maps and Amendments to Municipal Code Title 16 Subdivisions.	
	Staff Report	60
	Recommendation: That the City Council adopt Ordinance no. 1420.	

Mayor asks the City Clerk to read the title of Ordinance No. 1420:

"An Ordinance of the City Council of the City of Banning, California, Approving Zone Text Amendment No. 09-97506, to Amend Municipal Code Section 17.44.01, Pertaining to Table 17.44.010 Review Authority for Tentative Parcel Maps and Amendments to Municipal Code Title 16 Subdivisions."

Motion: I move to waive further reading of Ordinance No. 1420

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1420 pass its first reading.

V. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Schedule Meetings with Our State and County Elected Officials
2. Set New Date for Joint Meeting with Banning School Board *(Date to be determined)*
3. Massage Ordinance *(ETA 4/27/10)*
4. Budget Workshop *(ETA 3/9/10)*
5. Information of rotation of mayor position and also direction election of the mayor. *(ETA 3/9/10)*
6. Look at Council Assignments for a set term *(ETA 3/9/10)*
7. Reporting Guidelines *(ETA 4/13/10)*

VI. 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 Thursday, 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

01/12/10
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Botts on January 12, 2010 at 4:30 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 J. Aleshire, City Attorney
 Kirby Warner, Interim Finance Director
 Zai Abu-Bakar, Community Development Director
 Fred Mason, Electric Utility Director
 John McQuown, City Treasurer
 Marie A. Calderon, City Clerk

PRESENTATIONS

1. Presentation by the San Gorgonio Memorial Hospital – Kay Lang

Interim City Manager introduced Mark Turner, CEO of the San Gorgonio Memorial Hospital and Kay Lang former CEO and is now handling the project at the hospital. The City has had a lot of interaction with the hospital and they appreciate the work that they do and the cooperation and communication with the hospital.

Mark Turner addressed the Council stating that he has been with the organization for about six months now. They appreciate the time tonight to be able to present the construction project that they have going on at the hospital and what they had done so far, what they will be doing in the near future. He said that he is the Chief Executive Officer for the hospital and ultimately responsible for the project that they have going on but this evening he will have Kay Lang for CEO of the hospital during the 1990's who is helping them out as the Project Manager on behalf of the district overseeing this construction project.

Mrs. Lang addressed the Council stating that they appreciate this opportunity to update the Council on what is happening over at the hospital. She gave a little bit of context of what they are doing and why they are doing it and a little bit of the history and what they have done so far and what they have yet to do.

She gave some history starting in 1944 and stated that this hospital came about because a group of citizens from both Banning and Beaumont got together and were trying to decide what kind of a memorial they should build for veterans who had died in WWI and WWII and they decided it should be a living memorial and therefore a hospital fit that description. So starting a long, long time ago this was thought of as a living memorials to the veterans of our communities. In 1947 the hospital district was formed which is a taxing entity to raise the funds to build the hospital and the hospital was actually opened March 4, 1951 with 34 medical surgical beds and 10 obstetrics beds. Over the next 30 years additional beds were added and in 1990 there was a reorganization of the hospital. The hospital had always been governed by the district elected board members and in 1990 it was felt that there was a need for more community involvement so they created a not for profit organization and leased the operation of the hospital to that non-profit organization and that is called San Gorgonio Memorial Hospital. The five-member elected district can be thought of as kind of the landowners and they have all of the property. The tenant is this operating entity which has the five elected members sitting on it but they also reached out into the community and they included a physician, the chief of staff, as well as, eight members from the community. So it is actually a 13-member board that runs the hospital and governs the day to day activities, patient care, finances, etc. The district is still the owner and they are still the ones responsible for this particular project. The same year Brim Healthcare was hired and has been managing this hospital since 1990. In 1991 they had the 40th Anniversary of the hospital and they re-dedicated the hospital to all of the veterans who have passed away in wars since WWII. In 2003 the new maternity center was opened and that was the last new patient beds that they have had in this hospital.

Mrs. Lang gave a brief update on the mandate for the upgrade. She said that in 1971 there was the Sylmar earthquake and several people were killed and some of them were in hospitals. About 7 years later OSHPD (Office of Statewide Health Planning and Development) was created. It is an organization that oversees hospitals and you do not build a hospital in the state of California unless you follow all of the OSHPD rules. The goal is that you want the hospital to be the last building standing and functioning within a community. Deadlines for the upgrade have been extended and right now they are looking at a 2015 deadline and they have just applied for a FEMA type survey that would potentially grant them occupancy and operation until 2030. The Board decided in 2004 to look at what kind of a long-term plan they needed for the community hospital. In 2004 the master sight planning began and it was complete in 2005 and it provided the direction the direction with the aging plant to meet all of the current seismic requirements and also address the patient care goals. At the same time in 2005 the hospital hired the consulting firm of Tramatola to look at the amount of bond that could be supported by the community to do these physical plant upgrades. They determined that there was a 66% likelihood that the community would in fact support a bond measure of \$108 million dollars. In April 2006 the bond measure did pass and in October 2006 the City of Banning approved their specific plan. They had their first real cost estimate at that point in time and they was a pretty big discrepancy and it looked like it was going to cost at least \$147 million at that point to really build what they really needed to be build but they persevered and they are continuing to go and follow the plans and continue to look at the long term perspective. They know that they do not have funds right now for the entire patient tower but what they are building is very good and is high quality and will last many, many years into the future.

Mrs. Lang said that the first phase of their project consisted of their helipad and was completed in 2007. They had a new access road built off of Ramsey Street. They only transport only the

level of patient that cannot be cared for at the hospital to a higher level of service. Some of the severe traumas get transported out. In 2008 they started the cooling tower and she explained further about that phase and it cost \$1.8 million to complete. The next phase is Phase 1B and that is the one that they are building right now and it is two-story and is their central plant. It will house their boilers, chillers, and emergency generators. It is being built with the capability to service not only what they are building right now but the patient tower into the future. The future patient tower is another additional 120 beds, six-story building, new operating rooms, etc. They also have a utility tunnel coming out of that building which will go over to their new intensive care unit, emergency department, as well as to the new patient tower. The construction of the central plant is going to be completed in February 2011. They are also doing some landscaping right now along with looking at signage for the campus and the parking lots have all been redone.

Mrs. Lang said that is all of the infrastructure work that they are working on and the exciting part is to come and should start within the month and that will be the new emergency department and intensive care unit. The emergency department will have 23 beds plus 5 rapid care beds. Two of those will be major trauma units, one is a locked room for mental health patients and two isolation rooms. The second floor will be a new intensive care unit with 16 private rooms. Three of them are isolation rooms. They have nursing stations between every two rooms. They have already upgraded their computer system and basically a paperless medical record that they are going towards. They will be doing a kitchen remodel inside their current facility. Following that they will look at remodeling the emergency department and making that materials management and moving them over and then they will be looking at other needs within the facility. She said that they just opened the bids for their new emergency and intensive care unit last month and most of the contracts have been awarded and the bids came in at \$12 million dollars less than the estimated cost and that is great news. Mrs. Lang said that they still have to buy moveable equipment and furnishings and that will have to be done through fundraising efforts because they cannot use their bond money for those items. They don't have a clear answer for funding for the patient tower and they know that they have to do that and that will come in the future. She appreciates the working relationship with the City and staff and it has been great.

There was some questions and discussion in regards to parking, street access to the hospital, construction going on now, completion of the new emergency room and intensive care unit, kitchen remodel, turn pocket access to the hospital off of Ramsey Street, and heliport use.

ADJOURNMENT

By common consent the meeting adjourned at 5:08 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.

**MINUTES
CITY COUNCIL
BANNING, CALIFORNIA**

01/12/10
REGULAR MEETING

A regular meeting of the Banning City Council and a joint meeting of the Banning City Council and the Banning Utility Authority was called to order by Mayor Botts on January 12, 2010 at 6:44 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 J. Aleshire, City Attorney
Kirby Warner, Interim Finance Director
Duane Burk, Public Works Director
Hoyl Belt, Human Resource Director
Leonard Purvis, Chief of Police
Phil Holder, Police Lieutenant
Zai Abu-Bakar, Community Development Director
Fred Mason, Power Contracts and Revenue Administrator
John Jansons, Redevelopment Manager
John McQuown, City Treasurer
Marie A. Calderon, City Clerk

The invocation was given by Interim City Manager Sam Racadio. Mayor Botts invited the audience to join him in the Pledge of Allegiance to the Flag.

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

PUBLIC COMMENTS – *On Items Not on the Agenda*

Bill Dickson 5700 W. Wilson addressed the Council speaking on behalf of Hispanic Chamber of Commerce thanking the Council and everyone who helped for their support of their 7th Annual Toy Distribution that was held in December.

Fred Sakurai, 4985 Bermuda Dunes addressed the Council to thank the Banning Police Department on their quick work in arresting the suspects in regards to the recent vandalism. He

also encouraged people to volunteer to work at the Banning Police Department and also said there are other places where people can volunteer to help the City.

Charlene Sakurai, 4985 Bermuda Dunes addressed the Council in regards to some events that will be happening. On Jan. 16th from 2-5 p.m. there will be an artist reception for Bridgette Adams Greb. This will be held at the Banning Center for the Arts, 130 N. San Gorgonio. On Feb. 13th there will be a women's luncheon in regards to women's heart health at the Banning Cultural Alliance (Banning Women's Club) from 11:30 a.m. to 1:30 p.m. Cost is \$12.00. You can register by calling 922-4911. Also at the Passcom meeting that was held today they unanimously approved a resolution to support the League of California Cities efforts to get a measure on the ballot to prevent the State from taking monies from each one of the cities and it has happened and will happen some more.

Anita Worthing, 182 Salt Creek, Beaumont addressed the Council in regards to Pass Area Supporting Service-members. They will have a free Veterans and Family Workshop on Saturday, Jan. 30th from 9 a.m. to Noon at the Beaumont Civic Center. There will be people there to answer questions about VA benefits and other things. They encourage everyone from the Pass Area to attend and that would include active and retired veterans because some things have changed.

Davita Parnell Sheppard 584 W. Indian School Lane invited the Council to their Black History Program that the Fountain of Life Church will be having the last week in February. It is a good educational program familiarizing people about Negro history. As she has studied this she has found out that there are more things that she didn't know and what she would like to do is try to expand it more into the community because many Negro inventions were made. In the near future she would also like to put on a Black History Parade in the community and would like the City to keep this in mind and try to help implement that.

Amy Herr, 964 Dorothy Anna addressed the Council in regards to the animal shelter and their adoption of an animal. She gave kudos to the shelter and said it was a wonderful experience. Also the Boys & Girls Clubs of the San Gorgonio Pass will be having the 2nd Annual Martin Luther King Jr. Day of Service with a neighborhood clean-up at Roosevelt Williams Park on January 18th from 10 a.m. to 1 p.m.

Mayor Botts said at this time they will move up the closed session item along with the consent item that is scheduled near the end of the meeting.

CLOSED SESSION

City Attorney said that the City Council will meet in closed session pursuant to Government Code Section 54957 with regarding a personnel issue with regard to final selection of the new City Manager.

City Council went into closed session at 7 p.m. and returned to regular session at 7:05 p.m. with no reportable action.

CONSENT ITEM

1. Authorizing the Mayor to Execute the Contact with the New City Manager.
(Staff Report – Sam Racadio, Interim City Manager)

City Manager stated that City Manager Brian Nakamura gave his resignation in August 2009 and a nation wide recruitment was made and he thanked Human Resources Director Hoyl Belt and Rita Chapparosa with the recruitment. Fifty very qualified applications were received. He along with two City Managers from the Inland Empire, one retired city manager and the Human Resources Director narrowed it down to the top 10. This was taken to the City Council and they narrowed it down to the top 7. On December 15th interviews were held and they came up with the number one candidate. Mayor Botts and Mayor Pro Tem Hanna did research on the candidate and received very positive feedback. Mr Racadio said that he has personally known the applicant for a number of years and he is highly qualified and he thinks he is a perfect match for Banning.

Motion Machisic/Hanna to approve the contract with the new City Manager Andrew (Andy) Takata. Motion carried, all in favor.

Mr. Takata addressed the City Council and thanking them for the opportunity to work for a great community like the city of Banning. He said that he has 16 years of experience as a city manager. He said it is a great opportunity for Banning as well as himself and he thinks the Council will not be disappointed with their choice.

Mayor Botts thanked Interim City Manager with conducting the search. He stated that Mr. Takata will start February 15, 2010.

Report by City Attorney

City Attorney stated that with reference to this item he and Andy Takata did under the direction of a Council sub-committee negotiate the contact. There is an actual written contract and it was not put out with the agenda materials but it is available for the press or members of the public.

Report by Interim City Manager

Interim City Manager stated that there will be a Joint Meeting with the Morongo Band of Mission Indians on Jan. 20th starting at 11:30 a.m. the Casino Morongo Resort and Spa. Also there are some pressing issues in regards to the contract with the County of Riverside in regards to the animal shelter and there is a need to form an ad hoc committee to work with Interim Finance Director Kirby Warner to address those issues.

Mayor Botts appointed Councilmembers Robinson and Machisic to serve on that ad hoc committee. There was Council consensus.

CORRESPONDENCE: There was none.

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

Councilmember Franklin –

- Thanked everyone and all the organizations that provided holiday activities. There was a lot going on around town for both children and adults. She thanked everyone who worked to give our community a wide variety of things to do. She thanked everyone who either donated, volunteered for sponsored a family for Holiday Wish. They were able to help over 160 families this year and they went through Thanksgiving through two days before Christmas.
- She complimented Central School on being named to the 2009 Honor Roll by the California Business for Education Foundation for their high academic achievement.
- On Friday she attended the VFW Annual Award Ceremony and our officer of the year was Terry Felizardo.
- Yesterday she went to the Perris Paratransit Facility Grand Opening. This is a bus and metrolink stop that is open now and they are planning to have metrolink there by 2012. One of the nice things is that they have illustrations by Walt Disney illustrator Ward Kimball and it is a unique recognition because Walt Disney does not let their illustrations go out into the public and they let this gentleman's work be shown throughout the facility.
- Saturday she attended a meeting called "You Need a Budget" and it was a presentation put on by the Community Action Partnership. It is a program to help you to be able to control your money.
- She thanked those that worked on the League of California Cities Dinner last night. There was a tour of the new police facility and a presentation by the League Representative Dave Willmon and she asked the Council if they were willing to accept his challenge of "100 signatures & \$100 pledge by the Council that we can forward to the League. The issue has to do with the State continuing to take money away from the local level and they attack our Redevelopment Agency, our General Fund, as well as, transportation funds. **There was Council consensus to the pledge.**
- Passcom had a presentation dealing with the H1N1 virus. It was a good presentation put on by the County Public Health and they gave several ideas about prevention.
- Transportation NOW last Friday they talked about how to increase transit riders in our area and they are looking for seniors who ride the bus or students either at the high school or college level to come and participate at some of the meetings because they are trying to get more people to stop driving their cars and ride the bus. Along with that she is going to ask for an item on a future agenda which is a "Go Pass System" for our area which is the Mt. San Jacinto College District. This is a successful program that has been in place in other areas and we are trying to bring out here and we can use some of our State funding for people to be able to ride the bus free if they are students at the local college. What we want to do is to be able to coordinate the Banning and Beaumont bus services with RTA so that a person who is a part time or full time student is able to ride the bus anywhere and they just don't have to be going to school but they can ride the bus system free. We are looking to see if we can use our AB 2766 funds and for RTA it would cost our City \$298 for the academic school year of 2010/11. After that the students actually vote to see if they include that in their academic fees.
- On Monday, Jan. 18th if you do volunteer with the Boys and Girls Club we are asking you to come and donate a little bit of blood. They are having their Third Annual Blood of the Martyr Blood Drive from 10 a.m. to 3 p.m. at the First Missionary Baptist Church, 332 N. Allen Street.

Councilmember Machisic –

- Said that RCA and WRCOG didn't meet this month.
- 3:00 p.m. tomorrow there will be a Chamber Mixer at Sunset and Westward they will demolish the old house that sits on that lot and in its place they are going to have the start of Mt. San Jacinto College in the Pass.

Mayor Pro Tem Hanna –

- Saturday, Jan. 16th at the Beaumont Women's Club the Pass Historical Society will have a ribbon cutting of their new museum in the Beaumont Women's Club. This will begin at 10:00 a.m.
- The City Council is aware that we agreed to change the date of Stagecoach Days and it will be held the second weekend in September (Sept. 10, 11 and 12). There was a meeting yesterday of representative from Stagecoach Days and United Way because that same day 9/11 is United Way's Day of Caring where they ask for volunteers to come out and work on different projects around the community. They were able to find ways that Stagecoach Days and the United Way Day of Caring will work together. She went over examples of projects that might be happening on that day. You can contact City Hall to get connected to the right people.

Councilmember Robinson –

- Said last night we held an earthquake drill and set the level at 4.3 and at that time we had most of the mayors and council members and city managers over at the new police station and it held up under a 4.3 quake and they actually felt very comfortable and safe in that building. No damage to the new building; a lot of nerves shaken. This event was the League of California Cities Riverside County Division Meeting of Mayors and Council Members.
- The Banning Chamber of Commerce had a Round Table Meeting today and Zai Abu Bakar, Community Development Director and John Jansons, Redevelopment Manager both presented on economic development. It was a very good presentation and well received by the group.

APPOINTMENTS:

1. Appointment to Parks & Recreation Advisory Committee
(Staff Report – Sam Racadio, Interim City Manager)

City Manager gave the staff report as contained in the agenda packet.

Mayor Botts opened the nominations.

Councilmember Machisic nominated Timothy Smith. Councilmember Franklin seconded.

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

Motion Machisic/Franklin to appointed Timothy Smith to the Parks and Recreation Advisory Committee. Motion carried, all in favor.

Mayor Pro Hanna thanked all those that applied. They were good candidates.

2. Appointment to the Economic Development Committee
(Staff Report – Sam Racadio, Interim City Manager)

City Manager gave the staff report as contained in the agenda packet.

The following nominations were made:

Councilmember Franklin nominated Helen Barnes.

Councilmember Machisic nominated Gene Kadow.

Mayor Pro Tem Hanna nominated Krista Baird and Lois Kinder-Preston

Councilmember Robinson nominated David Marshall Kealy and Hal Taylor

Motion Machisic/Robinson that nominations be closed. Motion carried, all in favor.

The following votes were taken:

Barnes: Yes – Franklin and Machisic; No – Robinson, Hanna and Botts

Kadow: Yes – Franklin, Machisic, Robinson, Hanna and Botts

Baird: No – Franklin; Yes – Machisic, Robinson, Hanna and Botts

Preston: Yes – Franklin, Machisic, Robinson, Hanna and Botts

Kealy: Yes – Franklin, Machisic, Robinson, Hanna and Botts

Taylor: No – Machisic; Yes – Franklin, Robinson, Hanna and Botts

Motion Hanna/ Robison to ratify the appointments from the various organizations as follows: Kelly Daly, Banning Unified School District; Dennis Anderson, Mt. San Jacinto Community College District; Bill Landon, Morongo Band of Mission Indians and Brandon Contreras, Pass Area EDA. Motion carried, all in favor.

3. Addendum: City Council Committee Assignments for 2010

Mayor Botts stated that he would go down the list:

Western Riverside Council of Governments – WRCOG: Machisic said he would like to stay on that committee as the assignment and Mayor Pro Tem Hanna said she would be the alternate.

Riverside Transit Agency – RTA: Councilmember Franklin said that she would like to stay on that committee as the assignment. Councilmember Robinson threw in his name for the assignment. Mayor Botts said that the assignment would be Councilmember Robinson.

Councilmember Franklin read a statement for her reasons to continue as the assigned person (see Exhibit "A").

Mayor Botts said he was trying to stay calm for her absolutely ridiculous fabrications of statements and facts. He said that the assignment stands with Councilmember Robinson.

Riverside County Transportation Commission – RCTC: Mayor Botts said that he would be the assignment and Robinson would be the alternate.

Pass Area Transportation NOW Committee: Franklin would stay as the assignment and Robinson would be the alternate.

City Clerk asked Mayor Botts who would the alternate for RTA. Mayor Botts said that would be himself.

Regional Conservation Authority: Machisic, assignment; Hanna, alternate

Tribal Distribution Fund Committee: Machisic

Economic Development Committee Liaison: Robinson, CRA Chairman

Government Access Channel Committee (as needed): Robinson

Public Utility Advisory Committee for City of Banning (as needed): Hanna

TUMF Zone Committee: Machisic, assignment; Franklin, alternate

Southern California Association of Governments (SCAG): Robinson

League of California Cities – Contact and Executive Board Representative: Mayor Botts

External Groups:

Banning Chamber of Commerce: Hanna, assignment; Robinson, alternate

League of California Cities: City Council

San Gorgonio Pass Water Agency: Robinson, assignment; Botts, alternate

Community Action Agency: Franklin, assignment; City Staff, alternate

2x2 Council Working Groups:

Banning Unified School District: Franklin and Hanna

Morongo Band of Mission Indians: Botts and Machisic

Mt. San Jacinto College: Franklin and Robinson

**RECESS REGULAR CITY COUNCIL MEETING AND CALL TO ORDER A JOINT
MEETING OF THE BANNING CITY COUNCIL AND THE BANNING UTILITY
AUTHORITY**

Mayor Botts recessed the regular meeting and called to order a joint meeting to the Banning City Council and the Banning Utility Authority.

CONSENT ITEMS

1. Approval of Minutes – Special Jt. Meeting – 12/08/09

Recommendation: That the minutes of the special joint meeting of December 8, 2009 be approved.

2. Approval of Minutes – Special Meeting – 12/15/09

Recommendation: That the minutes of the special meeting of December 15, 2009 be approved.

3. Approval of Minutes – Special Meeting – 12/21/09

Recommendation: That the minutes of the special meeting of December 21, 2009 be approved.

4. Report of Investments for November 2009

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

5. Approval of Accounts Payable and Payroll Warrants for Month of October 2009

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

6. Approval of Accounts Payable and Payroll Warrants for Month of November 2009

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

7. Ordinance No. 1415 – 2nd Reading: An Ordinance of the City of Banning, Amending the Code of the City of Banning, California, 1965, Title 13.24 Now Entitled Stormwater Code.

Recommendation: That Ordinance No. 1415 pass its second reading and be adopted.

8. Ordinance No. 1417 – 2nd Reading: An Ordinance Adding Chapter 1.30 to Title 1 of the Banning Municipal Code Relating to Legislative Subpoenas, and Adding Section 2.68.040 to Title 2, Chapter 2.68, to Authorize the Issuance of Subpoenas in Personnel System Hearings.

Recommendation: That Ordinance No. 1417 pass its second reading and be adopted.

9. Resolution No. 2010-01, Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2010/2011.

Recommendation: That the City Council adopt Resolution No. 2010-01.

10. Resolutions Authorizing the Amendment of the Fiscal Year 2008-09 Budget to Include Certain Necessary Adjustments and the Fiscal Year 2009-10 Budget to Include Encumbrance Carryovers and Continuing Appropriations of Certain Unexpended Fiscal Year 2008-09 Appropriations and Associated Revenues.

- a) Resolution No. 2010-04, Authorizing the Amendment of Fiscal Year 2008-09 Budget to Include Certain Necessary Adjustments and the Fiscal Year 2009-10 Budget to Include Encumbrance Carryovers and Continuing Appropriations of Certain Unexpended Fiscal Year 2008-09 Appropriations and Associated Revenues.
- b) Resolution No. 2010-01 UA, Authorizing Amendments of the Fiscal Year 2009-10 Water and Wastewater Budgets to Include Encumbrance Carryovers and Continuing Appropriations of Certain Unexpended Fiscal Year 2008-09 Appropriations and Associated Revenues.

Recommendation: That the City Council adopt City Council Resolution No. 2010-04 and Banning Utility Authority Resolution No 2010-01UA.

- 11. Approve the Police Department's Request to Purchase and Install 39 New Computers at the New Police Station in the Amount of \$40,132.21.

Recommendation: That the City Council review and approve the Police Department's request to purchase 39 new Dell OptiPlex 780 computers for installation at the new police station in the amount of \$40,132.21.

- 13. Accept Update on Assembly Bill 920

Recommendation: That the City Council accept this report which reviews the impacts of Assembly Bill 920 on the City and what steps must be taken to ensure compliance with the State's regulatory mandates regarding net metering customers.

- 14. Review and Approve 2008-09 Annual Report of Development Impact Fees.

Recommendation: That the City Council review and approve the 2008-09 Annual Report of Development Impact Fees as required by the Mitigation Fee Act.

Motion Machisic/Hanna to approved Consent Items 1 through 14.

Mayor Botts asked if there were any comments from the public on the consent items.

Larry Higgins, 1550 E. Ramsey addressed the Council in regards to Consent Item No. 12. He said that this is the franchise towing service ordinance that you will be looking at later. He said that he doesn't really have a problem with the ordinance. He has a problem with the way that it is being portrayed to you and right off the bat it would give anyone looking at the document the opinion that the franchise fee that you are receiving is approximately \$17,000 below what the actual cost were. However, the \$87,264 figure that the police department is saying is the cost incurred is actually 2004 figures when the resolution was first brought to you. At that particular point there were more than 1500 cars being towed in that year. Each year as you see in your document that figure has gone down and in the last three years alone it is now 460 cars less than it was at that particular time. The other item not addressed is there is a release fee when a vehicle is towed that the owner of the vehicle has to pay in order to get that vehicle released before they go to the tow company to get their vehicle back. That release fee is not

anywhere reflected in the figures of what the costs were is incurred by the City. One of the particular points is that the California Vehicle Code 12110V says that the City can only charge a fee actual and reasonable costs associated with the program. So you would need to deduct the cost of the release fees from those costs as you go through. So the \$75,000 in franchise fees that you are currently getting probably more than itself paid for the cost of the program during 2009. And he is in hopes that when this ordinance comes to the Council in another month that those figures will reflect what their actually today cost is. The actual cost that the towing company does free service for the City including the 75 plus abandoned vehicles that were towed this year at no cost to the member or the City and that those figures be shown to you so you can realistic look at that and make your judgment.

Councilmember Machisic said one of the things that the City is looking at and we talked about financial problems that we are facing and he thinks one of the things we have to do and if these figures are accurate and your position is that they are not accurate, the City can't afford under the circumstance to subsidize anything in the city. If the number of towed vehicles has dropped dramatically, maybe we have too many companies towing. He doesn't know and maybe that is a valid question because when you go from 1300 to 800 that is a lot less business for each company. He doesn't think he is wrong in drawing that conclusion. He thinks that is important when we get the data back and we need to look at it and analyze it and come up with a solution because every dollar in the General Fund is vital and he doesn't think there are any exceptions.

There was Council consensus to pull this item from the Consent Calendar.

First motion died for a lack of a second.

Mayor Botts pulled Consent Item No. 12 for discussion.

Motion Hanna/Machisic to approve Consent Items 1 through 11 and 13 and 14. Motion carried, all in favor.

12. Receive and File Report on Franchise Tow Service Ordinance

Mayor Botts asked if we are dealing with a total volume of vehicles here and it doesn't matter how many tow companies we have and do we have a reason for the drop.

Lt. West of the Banning Police Department addressed the Council stating that in regards to the number of tows that would probably be attributed to the reduction in staffing not only to the police department but code enforcement also who used to do a lot of AVA tows. Our citations are about on par with last year so our officers are making the same number of stops as far as enforcement activity so the only thing that he can see that would attribute to that number of reductions would have to be due to the cuts in code enforcement who used to be very active in removing abandoned vehicles throughout the city. He said that code enforcement was included with the police department in all the tow contracting but that is pretty much a speculation on his part without having the specific numbers from code enforcement.

Councilmember Machisic said the important thing is that we need some data on this thing and is the 848 accurate when you compare it with two year earlier you are dropping off approximately less than 500 cars. One of the things that he is only looking at is that he thinks we need to look at it and get some data and discuss it. His chief concern is that we have a budget problem and we have to look at anything and everything that this City pays for because we have to make ends meet. He said that Lt. West indicated that possibly code enforcement might be a source of the reduction and he doesn't know that.

Lt. West said that would be correct because they have had significant reductions in force on the code enforcement side and those officers were out there in the field engaging in the activity of towing vehicles regularly. These numbers came directly for their Computer Aided Dispatch (CAD) System and the numbers were tallied the say way each year.

Mayor Botts asked Mr. Higgins if he raised the release fee issue.

Mr. Higgins said he comment was that according to California State Code you can only charge up to what the costs are. You cannot go in excess and the City charges a release fee now to have a vehicle released. Tow companies have a concern in reference to vehicles that are towed for 30-day impound and are released in two or three days versus vehicles that are towed for no drivers license or bad tags or something like that that they can get out that day or the next day. There are issues here that are not being addressed to the tow companies. All he is saying is that the Council needs to have the dollar and cent figure of what it is actually costing us today and know that the release fee that you are charging is somewhere close and the franchise fee set accordingly. He doesn't believe there is a question as to the number of towing companies and they want to stay here and continue to do what they are doing and just want a reasonable fee and be treated reasonable as far as the vehicles that are towed and held on impound.

Mayor Botts said he senses that there is a need for more data and asked the City Manager to work with Lt. West to come back with a better picture of the issues that have been raised.

City Manager said that staff will do this and the purpose of this report was just to update the Council of what they are doing. Currently they are working with the City Attorney's Office on a tow agreement and ordinance and it was staff's intent to bring it back next month but it may be a little bit delayed as they do little more research on it.

Brianna with All American Towing addressed the Council stated that they are just asking that the Banning Police Department get together with the three tow companies currently in the contact and discuss what their cost is for the AVA. They do it at no charge to the City but it does cost them to get rid of the vehicles and it is very costly. They just want to have the opportunity to discuss this before it comes back to the Council.

Motion Hanna/Robinson to approve Consent Item No. 12 to receive and place on file this report on the status of the proposed Franchise Tow Service Ordinance and existing tow service contracts. Motion carried, all in favor.

Mayor Botts adjourned the joint meeting the Banning City Council and the Banning Utility Authority and reconvened the regular City Council meeting.

ORDINANCES- INTRODUCTION

1. Transient Occupancy Tax Implementation Ordinance
(Staff Report – City Attorney)

City Attorney gave the staff report on this item stating that this was adopted as an urgency ordinance so that it would take effect on January 1, 2010. This is just kind of a matter of due diligence to put an ordinance back on to go through first and second reading just in case some day somebody attacks the urgency clause you would still have an ordinance adopted through the normal process and you wouldn't lose more than a month's worth of fees. He said that this is the same ordinance just a precautionary step.

Mayor Botts opened the item for public comments.

Don Smith addressed the Council stating that he was the co-chair of the Measure L Committee and he would urge the Council to follow the City Attorney's suggestion and pass the ordinance.

Mayor asked the City Clerk to read the title of Ordinance No. 1418: City Clerk read: Ordinance No. 1418, An Ordinance of the City Council of the City of Banning, California, Amending Section 3.16.030 and Adding Section 3.16.140 of Chapter 3.16 of the Banning Municipal Code.

Motion Machisic/Franklin to waive further reading of Ordinance No. 1418. Motion carried, all in favor.

Motion Franklin/Hanna that Ordinance No. 1418 pass its first reading. Motion carried, all in favor.

PUBLIC HEARINGS

1. Zone Text Amendment ZTA No. 09-97503 – Second Units
(Staff Report – Zai Abu-Bakar, Community Development Director)

Zai gave the staff report as contained in the agenda packet and stated that staff recommends that the ordinance pass its first reading.

There were some questions in regards to planning assumptions for what our needs are for the wastewater treatment plant, water, electric, etc. and how old is this bill.

Interim City Manager said that staff will look at the planning assumptions and it is a good point.

Mayor Botts asked the City Clerk to read the title of ordinance. City Clerk read: Ordinance No. 1414, An Ordinance of the City Council of the City of Banning, California, Approving Zone Text Amendment No. 09-97503 Amending Sections 17.08.100 and Section 17.44.010, Table 1744.010 of the Municipal Code Pertaining to Second Units.

Motion Hanna/Machisic to waive further reading of Ordinance No. 1414. Motion carried, all in favor.

Motion Machisic/Franklin that Ordinance No. 1414 pass its first reading. Motion carried, all in favor.

REPORTS OF OFFICERS

1. Supplemental Policy Statements to Budget Activity for the Eighteen Month Period Ending June 30, 2011.

(Staff Report - Kirby Warner, Interim Finance Director)

Mr. Warner gave the staff report as contained in the agenda packet. He said some of the things that have happened since his last report that would probably reinforce that report would be information that staff has received now from the Riverside County Assessor's Office saying that the amount of property reevaluations and appeals, etc. will probably have property assessment evaluations and thus property tax levels linger for a while. We will probably see according to the Governor's budget proposal that he has seen today, as well as, some of the indications in the Christmas season we may see some boost back in the sales taxes and it is probably to be expected and we will probably see the most benefit to Banning from the portion we get from the Premium Outlet Mall that we have a sharing agreement with. However, on the negative side of this he wanted to remind everybody that as we start through these policies that he is going to provide that there are some expenditure items that will be before the Council in regards to negotiations with employee groups, PERS rates are going up, and on-going issues with animal control. Even though he did not spell them out last time the Council will need to be aware of them. Mr. Warner went through each of the policies as outlined in the staff report.

Councilmember Franklin said in regards to Policy 4, when you talk about vacated positions or departmental reorganization are you including with that the idea that we will get a recommendation from the City Manager regarding what we should or shouldn't do.

Mr. Warner said yes, the City Manager would certainly be bringing a recommendation to the Council. More than likely you will follow the recommendation because it is probably going to be within that same framework when this policy is in place that these decisions are being made. Again it is for highlighting it to the Council, the public and the employee groups and makes it a very open and public process.

There was Council and staff discussion in regards to these policies such as recommendations from the City Manager in regards to positions,

Mayor Pro Tem Hanna said that she doesn't agree with Policy 4 and she doesn't have a problem with the hiring freeze being in effect but that all hiring requests, any personnel action that would increase costs have to come to the Council. She thinks that is the wrong way to go and thinks it is micromanagement. She would love to have the City Manager report to us what changes he is

making but she is just very concerned. She would be fine with this if they changed City Council to City Manager.

Mr. Warner said that he doubts very seriously that he was even considering the Council adding positions at this point. He really thinks that is going to be very difficult during this time frame and that will only come to the Council because it has to and he would probably take that off the table. What he was suggesting was that these were highlighting potential areas to save without automatically refilling a position that might happen. These are hard decisions and he explained how it makes it more public and keeps it highlighted before the Council.

Mayor Botts said that he does share Mayor Pro Tem Hanna's opinion and we do get lobbied on many things. We are hiring a City Manager to make the tuff decisions and we simply say balance the budget. Yes, we ought to have a salary freeze and needs to be in place and we need to ask our existing and new city manager to carry out that policy. Clearly we need it very transparent in a monthly report without delay that comes to the Council with every change in staff.

Councilmember Machisic said he thinks Policy 4 is important in that if you look at the budget a vast majority of the money is in people and you have to control the cost of personnel. He would imagine that the budget is 75% people in salaries and benefits, etc. It is super important and you can get out of kilter very quickly when you hirer a couple of people.

There was more Council discussion in regards to Policy No. 4 in regards to the Council making the decisions on personnel instead of the City Manager making the decisions.

Interim City Manager Racadio said that he and Mr. Warner talked about these issues in great detail and this one is a particularly unique one. These are some pretty tough polices to implement. As has been stated these are truly unusual times. He said this was not intended to take away the authority of the City Manager. As Kirby mentioned new positions are approved by the Council anyway and has to be done in the budget. The City Manager cannot create a new position. Departmental reorganizations normally go to the Council also under normal circumstances. What is unusual in this proposal and the issues that you are talking about right now is a vacated position. When a position is budgeted in the budget and it is vacated, under normal circumstances it is the City Manager's determination if we are going to fill that position. He thought was in bringing it to the Council in this way was that because times are so unusual that maybe there ought to be more evaluation, more analysis than the City Manager going and saying let's fill it. It is going to require more analysis and yes, it is going to slow down the process. But in these times we are still facing a structural deficit whether it is \$800,000 to \$1 million a year or \$1.2 or \$1.4 million it is a moving target and will continue to be a moving target but staff will focus it down as they get closer to it. But under those circumstances he thought it was a good idea to require that there be a more detailed analysis on filling a vacated position. You could certainly just leave in the first sentence and that would achieve part of the goal to maintain the hiring freeze but they felt it was important going forward having more analysis even on the vacated existing positions.

Mr. Takata said he is at a disadvantage because he hasn't gone through what you have through the budget so it is really tough for him to comment on that. But he would say if you decided to keep

the sentence the whole way and he felt it wasn't working for him, then he would come back to the Council at that point in time and explain why.

Interim City Manager said that maybe on this particular issue or maybe on the whole thing you give it a sunset because we are not always going to be in these times and maybe this policy will be in effect for a year and a half or two years and then come back to the Council and if it doesn't come back then it automatically goes back to how it was before.

Mr. Warner said as long as Policy #1 occurs he would assume that the other policies are not necessary. But his understanding would be that this was for the 18 month period leading up to and getting to that balanced budget. You are looking at over the next 18 months about \$1.8 million of deficit and he thinks it will actually be higher than that given some of the things that he knows now and some of the additional things that we are done. We will going to cover some of that based on the Council's action from last time with leftover money from the lease payments that come from the projects and we are going to pay debt services and so we are going to cover about one million two hundred and fifty of it and as you recall that left an amount that we talked about that was probably going to be higher but would structural. So until that \$1 million dollars a year of structural deficit is done and Policy #1 is the one that is supposed to take care of that, these policies would be in place.

There was some Council and staff discussion in regards to the structural deficit, timing of policy statements and possibly waiting until new city manager comes on board.

Mayor Botts left at 8:40 p.m.

Mayor Pro Tem Hanna opened the item for public comments.

Don Smith addressed the Council stating that Policies 1, 2 and 3 are common sense and if the Council had been doing them in past years we wouldn't be in this position. In fact Policy #1 is generous in giving you another 18 months to get to the balanced budget. With Policies 4 and 5 we are either going to go in opposite directions. Policy #5 tells you how you are going to raise more revenue to solve this problem. He said he has no problem with doing a study so that you have all of your options but if the Council and staff think that they can have a utility tax and hide it as this fee transfer without the public objecting to massive increases in water and sewer rates you are probably mistaken. Perhaps some degree of the money could come from that but if you actually think you are going to get \$1.5 million dollars from that he wouldn't suggest it. That brings you to expenses and Councilmember Machisic is correct that 75% of all of the expenses of the General Fund is either in the form of salaries or benefits of employees. The only way to have meaningful cuts in the General Fund is going to be through staff reductions and where those staff reductions are and whether or not they are even viable and perhaps we are going to have to go to a vote of the people for some other revenue raising matter because there is a certain level of staffing that we are going to have to maintain in order to have the services we have to have. But if the only way to really reduce expenses which is what you want to do is to cut expenses, then your only opportunity to do that is going to be every time there is a vacancy position to actually have a discussion of is this where we are going to save another hundred thousand dollars or is that a position we cannot live without. That is your only option really to cut expenses and so you guys have to have those

meetings and have to have the manager bring that to you because that is a policy decision that he going to want you to be involved with because it affects service levels.

Mayor Pro Tem Hanna closed the item for public comments.

Motion Franklin to go ahead with the staff's recommendations with the understanding with our new city manager coming on board that if he has an issue with it, he can bring it back.

Motion dies for a lack of a second.

Councilmember Machisic said if we adopt these things he would assume each of these things are going to come back with a recommendation from the city manager. If a position is open, the city manager is going to talk to the department heads and they are going to suggest an alternate plan to replace it because it is vital or not vital or they are going to combine a position or something. He said he depends on staff to look at the situation and give him that kind of recommendation. He said he cannot make it because he doesn't know what goes on it each of the departments. With any of these things that come to him he is going to say what is your recommendation. He expects all these things will come with a recommendation.

Mayor Pro Tem Hanna said it sounds like you are supporting Councilmember Franklin's motion. Councilmember Machisic asked her to repeat Councilmember Franklin's motion.

Mayor Pro Tem Hanna repeated the motion that Councilmember Franklin wanted to recommend approval of these five policies. Councilmember Machisic seconded the motion. Motion carried, with Councilmember Robinson voting no and Mayor Botts absent.

ITEMS FOR FUTURE AGENDAS

New Items –

Mayor Pro Tem Hanna would like to have a budget workshop. Also there will be no Budget Ad Hoc Committee and the Council will work on the budget as a whole. She would also like to see a rotating mayor and even the possibility of direct election of the mayor. There was Council consensus to getting information in regards to a rotating mayor and also the direct election of a mayor. The Council would like to look at all options. She also addressed the concerns with the Council committee appointments/assignments. There was discussion and consensus to look at committee appointments for a term instead of the Mayor making appointments. Mayor Pro Tem Hanna said that she would like to have these things looked into now instead of waiting for later.

City Manager said that he would look into the "Go Pass Program" with Mt. San Jacinto College and get information from Councilmember Franklin.

Pending Items –

1. Schedule Meetings with Our State and County Elected Officials
2. Set New Date for Joint Meeting with Banning School Board *(Date to be determined)*

3. Massage Ordinance (ETA 1/26/10)

Future Meetings

There will be a Special Joint Meeting with the Morongo Band of Mission Indians on January 20, 2010 at 11:30 a.m. at the Casino Morongo Resort & Spa Board Room.

ADJOURNMENT

By common consent the meeting adjourned at 8:55 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.

Mayor -

You will state tonight that you will make a change in committee assignments for the RTA board because you believe it is in the best interests of the city. I am challenging this premise for the following reasons:

1 - I have and always will work in the best interests of the residents and tax payers of my city, Banning, and I will not work for special interests. My commitment to pass area transit had led to my appointment to the RTA Budget & Finance Committee and recently the Operations Committee as well as being named the chair of Pass Area Transportation Now, which works at the grassroots level to improve transit for its riders. We have made several changes, all starting with the building of relationships between all of the local transit entities. Through the completion of a ridership survey we have identified the needs of our current and potential riders and have been systematically working to achieve the goals needed to increase our ridership. The actions have included - moving the bus stop location at Kmart, starting one of the few commuterlinks in the county in Banning, changing routes so that they do not piggy back each other, changed routes to better serve our public school students, especially at the high school, published better route information sheets, and are in the process of publishing one master route map for the entire Pass Transit System which includes Beaumont and Cabazon. We have three new buses on order and they should be here by July. I also helped local agencies obtain surplus buses from RTA. We are also working with RTA to start a trial "Go- Pass" program that will allow Banning students going to MSJC to ride RTA free for one year. This is one of the most desired programs requested by our local students. These things do not happen overnight, and it would not be in the best interest of our riders to make snap changes. We have been able to do these things while working through changes in staff, management and work day reductions. I have been able as a representative for Banning to help increase regional transit ridership to record breaking levels in the last year.

2 - You and Councilmember Robinson have apparently promised Council members of Calimesa that you will create a Joint Powers Authority so that they can have access to transit. You have stated that through the JPA we will achieve economies of scale that will allow for the stretching of current transit dollars to include Calimesa. Calimesa lost transit service last year after repeated attempts to increase their ridership failed through RTA, the largest transit operator in the Inland Empire. I have questioned how Pass Transit, which is much smaller, could possibly carry Calimesa when RTA could not. I have expressed a concern because to try and expand transit services in the manner desired by Calimesa could put operational services and transit funding at risk, the monies that pay for Banning riders.

3 - You have stated that consolidation of transit systems would be better for all. And I definitely agree; consolidating could potentially increase service opportunities and reduce expenses. I do not agree though, at this time without studying all available options, that the only way to achieve this consolidation is through a JPA. At our last transit committee meeting, several transit consolidation alternatives were mentioned. Supervisor Ashley offered to have one of his staff members do an independent study to see what our options are, and the benefits as well as the negatives of each option. I stepped out of the room for an urgent matter, and in my absence, Supervisor Ashley later informed me that you voted against having this study done which would have been at no cost to Banning residents.

When I called to ask you why you voted against having an independent study done free of charge to see what could be best for all of the Pass area, you refused to return my call. I have to ask, why are you willing to put the few dollars available to transit for Banning riders at risk for another city? I am willing to see what the study shows and seriously consider the recommendations, whatever they may be. That is what a committee member is supposed to do. Are you willing to do the same?

4- My role as a Banning councilmember is to work on behalf of Banning residents. You and Councilmember Robinson have made promises to another city that could have negative impacts to Banning riders. I am concerned that you and Council member Robinson are making promises without knowing the financial and operational costs to Banning. I question your motives in removing me from this committee and replacing me with some one who will rubberstamp your ideas without counting the cost for Banning residents.

5 - RTA has paid for my transit education through dollars that are no longer available for board members. I have spent many hours becoming educated in transit matters. For you to put someone else in this position would mean that person would need to become educated also. Who will pay that cost? Who else on this council has made the commitment I have to learn not only the administrative side of transit but also the human side. I make a point of riding buses, both locally and regionally – has anyone else? I not only worked on the survey, but I go out and talk with people who drive and ride the buses – has anyone else on the council done the same? When was the last time anyone else on the council rode a Banning city bus?

And lastly, as I pondered your changing this committee assignment, the question comes to mind – what is the real reason for the change? Is it because you only want someone on the committee who will rubberstamp your ideas? Is it because you and Councilmember Robinson appear to have placed the needs of another city above those of the needs of Banning residents by promising them you will have me replaced so they can get what they want for their city? Is it because this is retaliation for not voting for the special interests that you favor? Or is it because I am not willing to arbitrarily look out for the needs of another city, placing it before the needs of Banning? I would like a response to my questions so the public will know your true reasons for making this change.

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

01/26/10
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Pro Tem Hanna on January 26, 2010 at 6:43 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

COUNCIL MEMBERS ABSENT: Mayor Botts

OTHERS PRESENT: Sam Racadio, Interim City Manager
David J. Aleshire, City Attorney
Kirby Warner, Interim Finance Director
Duane Burk, Public Works Director
Hoyl Belt, Human Resource Director
Leonard Purvis, Chief of Police
Zai Abu-Bakar, Community Development Director
Heidi Meraz, Community Services Director
Fred Mason, Power Contracts and Revenue Administrator
Marie A. Calderon, City Clerk

The invocation was given by Chris Johnson, Calvary Chapel of the San Gorgonio Pass. Council Member Machisic invited the audience to join him in the Pledge of Allegiance to the Flag.

Mayor Pro Tem Hanna announced that Mayor Botts is recovering at home and he is doing very well and we wish him well and our prayers are with him.

PUBLIC COMMENTS/CORRESPONDENCE/APPOINTMENTS/
PRESENTATIONS/ANNOUNCEMENTS

Report by City Attorney – There was none.

Report by City Manager

Interim City Manager reported:

- He wanted to make everyone aware of a grant that we received from the Southern California Association of Governments (SCAG) for some work to be done on Paseo San Gorgonio's specific plan in the amount of \$106,824.00. He congratulated Zai Abu-Bakar,

Community Development Director who put a lot of work in to getting this and it is for downtown traffic, parking and things related to green house gas.

- On February 5, 2010 at 10:00 a.m. the dedication of the new Banning Police Station and Emergency Center will take place.
- February 23, 2010 there will be a workshop taking a comprehensive look at our water, wastewater and recycling programs.
- Staff will be having by the end of this week the first of our Quarterly Project and Activity Report by departments.

PUBLIC COMMENTS – On Items Not on the Agenda

Fred Sakurai, 4985 Bermuda Dunes addressed the Council stating that about a year and a half ago the City Council mandated that there would be a Citizens Advisory Panel on Renewable Energy. At that time he submitted his name as wishing to become a member of that panel and to the best of his knowledge not a thing has been done with that panel and he would still like to serve on that panel if and when it is formed. On a related item a couple of months ago there were comments made by Mr. Mason who said that there was a couple of wind turbine ideas for generating wind power and there were going to be a couple of these put up at the utility yard to test and see the efficiency at different heights, etc. He wondered if there would ever be a report on that and how that project was going.

Carolyn Johnson addressed the Council stating that she has a wish that the Council would consider replacing Councilwomen Franklin back in the position that she has worked hard and long and well. Last time she was here the Mayor removed her and placed himself there and she had a question for the Mayor asking, "Do you believe that what you did was politically acceptable to remove Councilwomen Franklin from the position that she worked so hard at and then place yourself there and not have it appear questionable?"

Mayor Pro Tem Hanna said that the Mayor did not place himself in that position but did appoint Councilmember Don Robinson.

Don Smith resident of Banning said he was here today as a member of the Riverside County Fair Board. He wanted to remind everyone that the Riverside County Fair and National Date Festival is about to begin and runs from February 12th through the 21st. The first five hours on Feb. 12th are free entry but need to get there before 3 p.m. If you want more information about the calendar and entertainers, etc. you can go the website at worldwideweb.datefest.org.

CORRESPONDENCE: There was none.

ANNOUNCEMENTS/COUNCIL REPORTS:

Councilmember Robinson –

- He said he attended the RCTC meeting as the alternate for Mayor Botts and the consent calendar was approved in a single vote but he picked out item 8-G, Resolution No. 10-001 certifying that the Riverside County has resources to fund projects in fiscal years 2010/11 through 2015/16, Transportation Improvement Program and affirming commitment to

implement all projects in that program. He said that he also received projections and he handed these off to the Finance Director for the funds that will be given to the City from local streets and roads and an allocation for transit reserves. He said that will be used in our budget process for 2010/11. Also on Jan. 28 and 29 there will be a workshop that he will be attending at least in part.

- He attended with Councilmembers Machisic and Franklin the Mt. San Jacinto College "Bringing Down the House" and Sunset and Westward to clear the way for the college to place modular buildings on their property to commence the construction of a 50 acre campus in partnership with Banning's Redevelopment Agency.
- He attended with Councilmembers Hanna and Franklin the dedication of a portion of the quad at Susan B. Coombs Intermediate School. This was a partnership of G.R.E.A.T. (Gang Resistance Education and Training), local contractors and workers, local suppliers and our own Banning Police Department.
- He attended with Councilmembers Machisic and Franklin and a sizeable number of City staff the Special Joint Meeting of the Banning City Council and the Morongo Band of Missions Indians Tribal Council. Councilmember Machisic was voted to be acting Mayor for this meeting. Updates were presented by consultants from Germania of the I-10 Bypass South Project and costs projections were given and possible cost savings were presented. Director Burk and the City's airport consultant updated the group on the current status on the Airport FBO and development opportunities of the airport. Councilmember Maurice Lyons was named as the Tribal representative to meet with the City's two-person committee for current uses and extended uses of the airport. Tribal Council Members updated the Banning City Council on the status of interstate internet gambling opportunities they are pursuing to eliminate illegal gambling on the internet and keep gambling dollars in the United States and not going to offshore or foreign country accounts.
- He attended the Sun Lakes Country Club Homeowners Association representing the Council for the Mayor and Mayor Pro Tem. He presented an update of Banning projects and fielded questions from the audience including the speed limit differences between the northbound and southbound lanes of Highland Springs.
- On January 28th through February 27th there will be an art gallery exhibit at the Haven with an opening night presentation on January 28th between 5:30 and 8:30 p.m. Artist Thomas Nichols will be featured and will be present during all the events. A portion of the proceeds goes to Happy Faces Foster Family Agency.
- Art Hop will be partnered with the Recycling Fair to be held on May 1, 2010.

Councilmember Franklin –

- She said that several of them attended the Banning Chamber of Commerce Installation of their Board of Directors on January 21st.
- On January 22nd she attended the League of Cities Policy Committee on Community Services. There were several presentations and one had to do with the status of the State budget and it was told the budget is probably a lot worse than what is being told and they are anticipating that it will take about five years to dig out of that. They also talked about Disaster Volunteer Corps which is going to be a program statewide and anticipate having \$45 million for the program and more information will become available from the State as to how we might be able to tap into some of those funds.

- She attended the Soroptimist International 63rd Birthday Bash in Beaumont and it was well attended by women and men from both Banning and Beaumont.
- On January 25th she had an opportunity to ride with Detective Avila for the day. He was taking over the entertainment district and she really wanted to commend him because his relationship with the business owners, as well as, many of the residents in the area was very well received in terms of the communications he was able to have with them and they were very welcoming to him because they all knew each other on a first named basis.
- On Friday, January 29th there will be a Earned Income Tax Credit Workshop featuring State Controller John Chaing and it will be held at Cal Baptist. It is opened for anyone that would like to attend and it is free. You can call 955-4900 for more information.
- On Saturday, January 30th there will be the Veterans Workshop sponsored by Pass Area Supporting Service Members. It will be held from 9 a.m. to Noon at the Beaumont Civic Center on 6th Street. They are encouraging anyone who is a veteran or relative to a veteran or a surviving spouse of a veteran to be able to come out and get your questions answered. It is a free event.
- The Canaan Church is having an Agape Luncheon and tickets are available through their church.
- Put on your calendar April 24th for the 5th Annual Disaster Preparedness Expo at the Community Center and it will be combined this year with the BPAL Read to Ride Expo.

Councilmember Machisic –

- He said that he and Duane Burk spent all day last Friday at WRCOG in regards to the 210 Goal Setting Workshop.
- He attended the San Gorgonio Pass Historical Society Museum of History located at 306 East 6th Street. They had their grand opening on January 16th. They are trying to start a local museum. One thing that he found out not being a native of Banning was that at one point in time there was a naval hospital in Cherry Valley. It is a great start for a local museum and as the older people pass away you need to collect that history to keep it alive. It is free and they have some shows coming up on February 11th – Virginia Sick will talk on the Gilman Family and Pass History, March 11th – Bob Rochelle will talk on Precious Gems and Minerals; and April 8th – Marc Hendon will talk on Wyatt Earp and the Pass Area.
- Banning Unified School District will dedicate they athletic facility on March 10, 2010 at 10 a.m. – groundbreaking.

Mayor Pro Tem Hanna –

- She stated that the Pass Historical Society Museum is located, if you don't recognize the address, at the Beaumont Women's Club now under Beaumont Parks and Recreation.
- The grand opening of the Banning Police Station it will be taped and be on our Public Access Channel in case you cannot attend the event.

PRESENTATIONS:

1. Status of the fixed Base Operator (FBO) for the Banning Municipal Airport – presented by Cory Hazlewood, C & S Engineers, Inc.

(Staff Report – Duane Burk, Public Works Director)

Mr. Burk gave some information and turned the presentation over to Cory Hazelwood with C&S Engineering.

Mr. Hazelwood addressed the Council stating that as you know we have gone through several different scenarios to get to this process. Back in May 2009 they completed a business model alternative for the airport. They went out and gave a couple of different alternatives for the City to look through and decide on what was the best interest based on the current situation and what the demands would be and what the expectations were for possible operators and the airport. Based on that they developed a Master Lease Holder RFP which was sent out to several different publication sites as well as on the City's website and also direct mail to several different local operators and to Northern California, Nevada and Arizona area operations which they consider the Southwestern Association of Airports. After receiving no response of interest for the Master Lease Holder RFP they went back and worked on developing an FBO Operator RFQ which was one of the other alternatives they had considered at the time and he went over the publication and mailing process. At this point they have not received any back but have received a lot of interest after the RFQ closed which is not unheard of based on a lot of situations out there. They have not received a true response for a fixed base operator for the City of Banning. He went over comparable airports in similar situations with a few in the Southern California and the Arizona area. He said that folks have had actual FBO's drop off airfields so obviously having someone come into an airfield is tough given the economic times. Several of the FBO's that they have called around the area have all been down in operation costs and that includes fuel, maintenance and possibly aircraft sales but as a whole they are down around 30% to 40% which is not a likely situation in the general aviation industry. This is not standard on every airport across the country and some airports are not having this situation but it happens to be a fact in certain areas.

Mr. Hazelwood said this is probably the first time that they have every solicited for an RFQ and received no responses. They are a little uncertain as to why so they went back through and looked for any information that wasn't provided and since the response times were last week they haven't have a lot of time to digest everything but what they are going to be doing through the next week is to make some debriefs with some of the interested folks that they sent the RFQ's to and try to get some information from them in seeing what the situation is and why they wouldn't be of interest. The next steps to consider would be to re-advertise the RFQ and lengthen the response time, change some of the language and broaden advertisement. He said that while the RFQ is out they will put together some information on fuel branding suppliers. One of the disadvantages for the airport at this time is not having 24-hour fuel service. That may be some of the critical path for some of these operators coming in, however they wanted to leave that open-ended knowing that some of them could come in and bring in their own branding agencies and their own 24-hour service but in order to prepare they thought they would start to look at the branding agencies that are out there so the City could ultimately work directly with them if an FBO operator does not solicit for the operations of the facility and they would also like them to look at the Jet A considerations. The other consideration would be to advertise for a commercial hangar lease and continued to have your individual at the terminal building operating there but also have the 24-hour fuel

service and see if there is any interest for maintenance, maybe an avionics operation but just go out with a separate RFQ for commercial operator in that facility which would be more advantageous to an individual or a commercial operation. They will be getting this re-advertisement out on Feb. 15th with a 90-day or 100-day response time, then analyze the results and consider the options.

Councilmember Machisic said if we put these improvements in, if someone is going to run the overall airport at some point in time, would that be an advantage in eventually getting an FBO.

Mr. Hazelwood said he thinks it would be an advantage because they don't have to put in any capital costs into working with a supplier to do that. So that would be an advantage to have a 24-hour automated system already in place.

Duane Burk added that this is kind of in parallel so staff's recommendation is to re-advertise but at the same time they will go back and dissect some of the interested parties that were involved and tell them how they are going to run this in parallel and at the same time meet with and the Ad Hoc Committee and the Tribal Liaison to go over this and bring C&S Engineering out and discuss possibly some ideas that were brought up at the table at the January 20th meeting. He said that there have actually been a lot of things going on in parallel as we do this.

Mayor Pro Tem Hanna opened the item for public comments.

Bert Vos addressed the Council stating that he has been flying for 61 years with the last 20 out of Banning Airport. The airport seems to be adrift with nobody running it. We have a man there 8 hours a day, 7 days a week and sometimes he sells 5 gallons of gas or sometimes 50. You have priced yourself out of the business. He said he can go to Big Bear and buy gas for \$1.00 a gallon less and when you are buying 50 to 60 gallons it is a worthwhile trip and he can go other places and do the same thing. Who is going to buy gas in Banning when you have to pay that kind of money? The hangars pay off because you have those hangers. But you have a man sitting there 8 hours a day, 7 days a week in a chair reading the paper, visiting and Mr. Vos said he goes there and visits and he also bought 20 gallons of gas last Saturday because he didn't want to fill up because his plane is for sale. You talk about coming in at night and the approach lights have not been working for months and nobody has fixed them. Who wants to make an approach at night at an airport that is practically dark? In the 20 years that he has been here flying out of this airport he thinks this is about the third study that has been made on what to do. He was on the Airport Commission when they had one years ago. At that time they had a proposal and the City spent about \$100,000 on that study. He said no businessman is really running the airport and you need someone to run it.

Carolyn Johnson said she hates to hear this about our airport because when she came here in 1977 they informed her that our airport was placed out there in case of a disaster and if a plane needed to make an emergency landing that Banning was a place it could land. When she worked at the hospital there was triage operation and they talked about our disaster area.

with the railroad tacks, the freeways and wildfires. She really hates to hear that about the airport that it has been let to ruin.

Gary Abbott, Airport Operator and Manager for Hesperia Airport addressed the Council stating that he heard about the meeting tonight in the newspaper and said he was here eyeballing the fuel. When he took over Hesperia Airport in early 2005 he had about 3 tie-down tenants, no businesses except for his own, no fuel, and a café just staring up. They have built it up to about 90% occupancy with the cheapest aviation fuel in Southern California and they achieved that by bringing volume, bringing tie-downs and hangers to bring people back to the airport. One thing led to another in regards to other pilots and they all come in and get the affordable fuel. They have very discounted tie-down fees and his motto was that he needed to be cheaper than the County set fees and he has accomplished that. Again he has attracted other flyers from other county airport facilities to come to Hesperia to fill up. That volume is what Banning Airport needs and it really does work. Make it absolutely affordable for the flyers. It is a very expensive hobby but we love to do it and we love to spend our money on it and the people will bring the dollars. He said that he has just finished bringing fuel to Santa Barbara Airport and Banning is one he looked at a long time ago but it was not open at the time.

2. BPAL – Shop with a Hero Program Presentation
(Staff Report – Leonard Purvis, Chief of Police)

Chief Purvis said addressed the Council and brought forward Sgt. Alex Diaz who is very involved in BPAL. He said that BPAL (Banning Police Activities League) has been in existence now for three years and their main program is run every Saturday at the Nicolet Middle School in the gymnasium. They usually have between 70 to 90 youth who show up at the gym throughout the school year from 10 a.m. to 2 p.m. They have sports activities, skateboarding, hip hop dance, tennis and just a lot of fun things for them to do. They noticed that there was a gap where the Boys and Girls Club was able to provide activities for children Monday through Friday and there was this gap on Saturday so they felt they would fill that gap and feel they have been very successful doing so. They also get pizza on Saturdays when they come in sponsored by Carol's Kitchen through Johnny Russo's. What they have also brought is a program called "Shop With a Hero" and Sgt. Diaz who used to work for the San Diego Police Dept. brought that program with him which was called "Shop With a Cop" but Banning couldn't use that title because it is copyrighted. The last two years it was sponsored in Banning and now Banning and Beaumont police departments have now teamed up and they sponsor 20 children each from each community. They are children who have excelled in school, shown improved behavior whether it is at school or in the community, have done community service or have just set themselves apart even in the BPAL program throughout the year and they wanted to reward them. He said and his wife and daughter also volunteer every Saturday along with himself. He said that his brother-in-law came out and filmed the "Shop With a Hero Program" that was held on December 5, 2009. At this time the video was shown for the Council and audience. He thanked Chris McCallum with Dreamakers Limousine, who provided the limousines, and also thanked Council Member Franklin who part of the BPAL Board and she was in attendance. He said that in 2008 it was hosted in Banning and in this year Beaumont hosted the event. He said that each kid gets \$100 dollars

in \$1 dollar bills and they go over to eat and they are taken in limos with police escort over to the Wal-Mart and they have a great time shopping. This is something very positive and they are really happy that they can do it. He thanked the Council and everyone in the community for supporting it and making it a great day.

CONSENT ITEMS

Mayor Pro Tem said that staff would like to pull Consent Item No. 6 for discussion.

1. Approval of Minutes – Regular Meeting – 12/08/09.

Recommendation: That the minutes of the regular meeting of December 8, 2009 be approved.

2. Report of Investments for December 2009

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

3. Approval of Accounts Payable and Payroll Warrants for Month of December 2009.

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

4. Ordinance No. 1414 – 2nd Reading: An Ordinance of the City Council of the City of Banning Approving Zone Text Amendment No. 09-97503 Amending Section 17.08.100 and Section 17.44.010, Table 17.44.010 of the Banning Municipal Pertaining to Second Units.

Recommendation: That Ordinance No. 1414 pass its second reading and be adopted.

5. Ordinance No. 1418 – 2nd Reading: An Ordinance of the City Council of the City of Banning, California, Amending Section 3.16.030 and Adding Section 3.16.140 of Chapter 3.16 of the Banning Municipal Code.

Recommendation: That Ordinance No. 1418 pass its second reading and be adopted.

7. Support the Amendment to the California Conservation and Recreation Act.

Recommendation: That the City Council support the Amendment to the California Desert Conservation and Recreation Act and authorize staff to submit a letter of support to the Office of U.S. Senator Dianne Feinstein.

8. Resolution No. 2010-06, Making Certain Finding that the City's Water Efficient Landscape Ordinance is as Effective as the States Model Water Efficient Landscape Ordinance (MWELO) In Connection with AB 1881 Water Conservation in Landscaping Act.

Recommendation: That the City Council adopt Resolution No. 2010-06, making certain findings that the City's water efficient landscape ordinance is as effective as the State's Model Water Efficient Landscape Ordinance (MWELO) in connection with AB 1881 Water Conservation in Landscaping Act.

Motion Machisic/Robinson that Consent Items 1 through 5 and 7 and 8 be approved. Mayor Pro Tem Hanna opened the item for public comments. There were none. **Motion carried, all in favor with Mayor Botts absent.**

6. Authorization to Fill a Vacant Position – Buyer

Interim City Manager said that he would have Kirby Warner come up and talk to this. He said that staff has changed their recommendation on this item. As with the Council's new policy last meeting all positions being hired whether they are just replacing someone or a brand new position have to come to the City Council.

Mr. Warner said that the Buyer has submitted his resignation and is going on to a different job. At first staff thought about filling this position and as they talked about it and he thought about it he would like to change the recommendation to actually hold the authorization to fill it until after the budget discussion. And the reason for that is that they are trying to get a temporary person to keep the service going and they are not sure if they are going to get a qualified individual to do that but they will try. However, to hire a permanent position at this point knowing the difficult times and decisions the Council is going to have to face as we go through the budget doesn't seem to be a viable option right now. And without a buyer, we are going to have decentralized buying which means each of the departments will have to take on a larger role along with the manager in the department. When this comes before the Council again if it is to be filled at some later time, it will be with the other departments supporting and saying it is a necessary service. Most of it is General funded with means that is going to be the area that you are going to be looking for a lot of money, quite frankly, in terms of making the budget, so staff would like to make the authorization not be given at this time to fill it and will hold off on a permanent basis and will try to get a temporary in if they can in the interim to continue this service.

There was some staff and Council discussion as to this being a full or part time position, items of this kind shouldn't be on the consent agenda, centralized and decentralized buying, ways to utilize technology to do some of the tasks or to eliminate some of the tasks to be done, and level of best practices.

Motion Machisic/Franklin to adopt new recommendation not to fill the vacant position of Buyer and fill it with a temporary person if possible to continue this service. Motion carried, all in favor with Mayor Botts absent.

PUBLIC HEARINGS

1. One Year Temporary Suspension of Fifty Percent (50%) in Development Impact Fees for Residential and Non-Residential Development.
(Staff Report – Sam Racadio, Interim City Manager)

Interim City Manager said that they received a request from Tommy Thompson, Director of Governmental Affairs, BIA (Building Industry Association) Riverside Chapter that this issue be continued until the Mayor is back.

Mayor Pro Tem Hanna said they are not sure when Mayor Botts will be back and there was consensus of the Council to move forward.

Interim City Manager introduced the item and gave some background. He said that this item is related to development impact fees and the possibility of suspending those for a period of time. He continued his staff report as contained in the agenda packet. It is staff's recommendation that we not do the deferral at this point but continue our program of deferral incentives for new development both commercial and residential.

There was some Council and staff discussion in regards to this item and concerns as to getting something started and motivated, and fees charged on the five development impact fees.

Mayor Pro Tem Hanna opened the public hearing for comments from the public.

Bill Blankenship representing Riverside County Building Industry Association, 3891 11th Street, Riverside addressed the Council stating that there have been a number of cities in Western Riverside County that have lowered their fees as stated in the report. There are also 19 school districts that have lowered their fees. The County of Riverside has cut their fee in half by 50%, as well as, the TUMF fee being cut in half by 50%. If one single family housing permit or four was pulled in your city that is not a lot and why they have gone to every city in Western Riverside County asking them to lower their fees is to create some synergy to create jobs. In the town next door, they pulled over 300 permits. In other cities like Menifee, they have pulled over 300 permits which accounted for almost a third of the entire permits pulled in the entire county of Riverside so they will tell you it has been a great success lowering the fee. The brand new city next door to Menifee, Wildomar, only pulled 80 permits and they chose not to lower their fees. He said that the BIA believes there is a direct correlation in lower fees and creating job opportunities and putting people back to work. He thinks that Banning has seen in your own downtown the great synergy that you are having in what an investment means to your downtown and how it is making a difference there. He is not guaranteeing that if you lower your fee tonight by half that a million people are going to come to your town but he believes more will come or more will look at their projects especially since the TUMF fee has been reduced by 50% and especially since your school district has lowered their fees. He thinks that if you bring that all together you have an opportunity. He would like the Council to consider continuing to defer fees and let us have some time with your staff and let's talk about this because they have not had that opportunity. It is a positive recommendation that comes to Council versus a recommendation that came tonight not to do it. They believe there is great benefit and it has made a difference in communities that have actually done it.

Councilmember Franklin said when you talk about other cities having reduced their fees have they said how they have picked up that cost because the cost for the public improvements are still there. How are they covering that?

Mr. Blankenship said there are several things and first off when you build infrastructure today it doesn't cost nearly as much as when you last adopted your development impact fee study. The County did an analysis when they lowered their impact fees and they determined across the board that they had a 30% reduction in the cost to build facilities today versus when they last increased their development impact fees study which was in 2005. Also under AB 1600 when a fee study comes before an elected body to adopt that fee you are given a number and that is a maximum defensible number that you can charge and many times municipalities charge something less or they decide to grandfather a subset of permits in or decide to lower a subset of permits and charge a full amount to another subset. So there is flexibility in there and that is what these other cities and municipalities and the County have all considered in lowering their fees is that they do have the latitude to do that and especially today. It does cost a lot less to build infrastructure.

Victor Dominguez, 1038 Magnolia, Beaumont addressed the Council stating that as a local contractor reducing the fees in his opinion has worked for their community in Beaumont. It has worked for him personally and a lot of his contracting buddies. Reducing fees in Banning could give local business owners from all service aspects whether it be plumbers, contractors or window cleaners it is a trickle down effect and it makes Banning more marketable to different developers and different investors. This helps everybody. He said from a construction point of view, from a local contractor he definitely sees a trickle down effect and how reducing the fees can motivate some investors to start developing and building in our cities.

Mayor Pro Tem Hanna closed the public hearing at this time.

There was some further discussion in regards to keeping the deferment fee in place and having BIA talk with staff.

Motion Machisic/Franklin to delay this to a future to a future point in time after consultations with BIA and have staff return with their analysis and proposal. Motion carried, all in favor with Mayor Botts absent.

2. Adoption of Ordinance No. 1419 to Extend Urgency Ordinance No.1406 for an Additional 10 months and 15 days for Interim Sign Regulations for the Development and Placement of Freeway-Oriented Signage Located along the Interstate (I-10) Freeway in the city of Banning.
(Staff Report – Zai Abu-Bakar, Community Development Director)

Zai gave the staff report as contained in the agenda packet and is recommending that the Council adopt Ordinance No. 1419.

Councilmember Robinson said so we haven't had any applications for a sign placement since they adopted Ordinance No. 1406. Does the sign that we approved at the San Gorgonio Inn fall into this category?

Zai said that the Council will recall that a couple of months ago the Banning Business Center proposed a digital sign but after review they couldn't accept the application at this time. In regards to the sign at the San Gorgonio Inn the original thought was to retrofit that sign and that probably wouldn't apply.

Mayor Pro Tem Hanna opened the public hearing on this item for public comment. Seeing none, she closed the public hearing.

Mayor Pro Tem Hanna asked the City Clerk to read the title of Ordinance No. 1419: City Clerk read: Ordinance No. 1419, An Ordinance of the City Council of the City of Banning, California, Extending Urgency Ordinance No. 1406 for an Addition 10 Months and 15 Days and Extending the Interim Development Sign Regulations for the Placement of Freestanding Freeway Oriented Signs.

Motion Robinson/Machisic to waive further reading of Ordinance No. 1419. Motion carried, all in favor with Mayor Botts absent.

Motion Machisic/Franklin that Ordinance No. 1419 pass its first reading. Motion carried, all in favor with Mayor Botts absent.

REPORTS OF OFFICERS

1. Appointment of Economic Development Committee Members To Staggered Terms.
(Staff Report – Sam Racadio, Interim City Manager)

Interim City Manager said that at the last meeting staff should have instructed the Council to appoint the five members to staggered terms. Per the ordinance the Council has to appoint three with four-year terms and two with two-year terms. At this time names were pulled for the various terms: Four Year Term - Gene Kadow, Lois Kinder-Preston and David Kealy and Two Year Term - Krista Baird and Hal Taylor.

Motion Franklin/Robinson to approve the terms as pulled for the Economic Development Committee. Mayor Pro Tem Hanna opened the item for public comments. There were none. Motion carried, all in favor with Mayor Botts absent.

ITEMS FOR FUTURE AGENDAS

New Items –

Councilmember Machisic said that he ran into a situation last Thursday night in which he had a letter for the Chief of Police and the front door was locked and he went to the phone and the phone was dead. He went back again the next morning around 10:00 a.m. and the phone was still dead. He said that when he spoke to the Chief and a Lieutenant they said one of the practices of Verizon was that if a police department needs repairs on their telephone they have

to get in line just like every other resident in the city. He would like to know if the City Manager can make contact with Verizon and explain this policy.

Councilmember Franklin said that as we are talking about our budget workshop and how we are spending our funds and one of her concerns has been what kind of reporting we are getting back whenever we grant monies out or we give monies out. So she wanted to know if the rest of the Council would be agreeable to putting on the agenda some kind of guidelines being set whenever we are putting money out into the public and we are expecting some kind of a product back that we have guidelines as to what kind of reporting is needed when people are reporting back to the Council such as with owner participation agreements, façade grants or any kind of monies that are going into the community where we are expecting a product back.

Mayor Pro Tem Hanna said of course there are lots of variations so it would have to account if we give to the Playhouse Bowl versus Stagecoach Days or whatever it might be.

Councilmember Franklin said she sees some ambiguity in some of the reports that the Council gets and she doesn't see consistency and would like to see that we have consistent guidelines if you are getting money from whether it is CRA or the City that you know that this is what you have to do when you are reporting back about those funds.

There was some discussion on this for clarification. **There was some Council interest on this issue coming back.**

Mayor Pro Tem Hanna said we had on a Council agenda last year about doing a speed study for Sun Lakes Boulevard and that speed study was done and the traffic engineer, as the Council knows, is recommending that the speed be changed from 35 mph to 25 mph which would then permit the possibility or at least allow the possibility of golf carts being able to travel on Sun Lakes Boulevard from Sun Lakes to the Albertsons Shopping Center. At a meeting with Lt. West he looked at the law and said it did not appear that a golf cart transportation plan was needed that in fact because it is within a mile of two golf courses that was a possibility with a resolution or ordinance. She would like to recommend that staff look into this and return with their recommendations.

Councilmember Machisic said that in regards to this study he hasn't seen it and he heard it from an individual that the speed limit was 25. Mayor Pro Tem Hanna said it was emailed to the Council. Some of the other Councilmembers did not receive it.

Interim City Manager said he would make hard copies for the Council and the issue that Mayor Pro Tem Hanna raised is something that staff needs to do some more investigation on and staff will look into it.

Pending Items -

1. Schedule Meetings with Our State and County Elected Officials
2. Set New Date for Joint Meeting with Banning School Board *(Date to be determined)*
3. Massage Ordinance *(ETA 4/27/10)*
4. Budget Workshop *(ETA 3/9/10)*

5. Information of rotation of mayor position and also direction election of the mayor. (ETA 3/9/10)
6. Look at Council Assignments for a set term (ETA 3/9/10)

ADJOURNMENT

By common consent the meeting adjourned at 8.34 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.

2d. Read.

ORDINANCE NO. 1419

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, EXTENDING URGENCY ORDINANCE NO. 1406 FOR AN ADDITIONAL 10 MONTHS AND 15 DAYS AND EXTENDING THE INTERIM DEVELOPMENT SIGN REGULATIONS FOR THE PLACEMENT OF FREESTANDING FREEWAY ORIENTED SIGNS

WHEREAS, the City of Banning ("City") has long recognized the use and value of freeway oriented signage for business development along Interstate 10; and

WHEREAS, prior to September 25, 2007 the City sign ordinance allowed the use and placement of freestanding freeway oriented signs subject to location, height, size and sign area requirements; and

WHEREAS, historically the use of signage has been utilized by merchants and citizens as a significant form of business development; and

WHEREAS, the use of such signage resulted in decreased visibility and non-uniformity in appearance and location of signage along the Interstate 10 corridor; and

WHEREAS, on September 25, 2007, the City of Banning adopted Ordinance No. 1377 amending sections 9009.06(G), 9109.11 (2) (f) of the Banning Municipal Code which provides for (1) the creation of six (6) sign districts, (2) grouping of individual signs onto seven (7) large freeway oriented signs of similar size and shape, and (3) the establishment of new size and height regulations without any limitation on the type of businesses allowed to have signage.

WHEREAS, the purpose of creating "sign districts" was to preserve the aesthetics of the City, create uniformity and improve sight visibility of freeway oriented signs and establish new size and height regulations; and

WHEREAS, to date there has only been one request for additional freeway oriented signage; and

WHEREAS, the adoption of Ordinance No. 1377 precluded the approval of any freeway oriented signs subsequent to September 25, 2007, and by its purpose and language likewise prevents the placement of any new signage that is not within a sign district; and

WHEREAS the City has not begun to implement the use of "sign districts" and has no other options available to merchants for freeway oriented sign placement; and

WHEREAS, the City recognizes that the implementation of "sign districts" which require the removal of existing non-conforming freeway signs and construction of new "sign districts", presents significant financing challenges and could only be accomplished in the current economic environment at considerable cost to the City and/or businesses operating within the City; and

WHEREAS, in light of the severely declining economy within the State of California in general, and the City of Banning specifically, the City Council believes that the current standards set for the use of signage may not appropriately take the economy, welfare and concerns of businesses and citizens into consideration, and pose an immediate and current threat to the public health, safety or welfare; and

WHEREAS, the City does not wish to immediately implement the "sign district" concept, wishes to study it further, and finds that in the interim it is in the best interest of the City, its citizens and businesses to allow new freeway oriented signs subject to location, height, size and sign area requirements consistent with pre-September 25, 2007 sign ordinances; and

WHEREAS, the City Council approved and adopted Interim Urgency Ordinance 1402 on February 10, 2009, and Ordinance No. 1406 in response to growing concerns by the Council about the economic viability of creating "sign districts", and their potential negative impact on the financial welfare of citizens and businesses in the current economy; and

WHEREAS, the City Council desires to respond to the concerns of its citizens regarding the economic impact of freeway oriented signage on local businesses and believes that it is in the best interest of its citizens to put forth a sign ordinance that addresses the immediate concerns of businesses desiring to advertise; and

WHEREAS, the City Council desires that staff undertake a comprehensive study and analysis of possible public and private funding sources for later implementation of "sign districts" along the Interstate 10 corridor; and

WHEREAS, Government Code Sections 65858, 36934, and 36937 expressly authorize the City Council to adopt an urgency ordinance and to impose interim regulations that are applicable to freeway oriented signage, until updated regulations are adopted; and

WHEREAS, Government Code section 65050 allows the City Council to extend Interim Urgency Ordinance No. 1406 adopted on March 24, 2009; and

WHEREAS, on January 15, 2010, the City published a public hearing notice for Ordinance No. 1419 to extend Interim Urgency Ordinance No. 1406 in the Record Gazette newspaper in compliance with state law and Section 17.68 of the Banning Zoning Ordinance; and

WHEREAS, on January 26, 2010, the City Council held the a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to the adoption of Ordinance No. 1419 to extend Interim Urgency Ordinance No. 1406 for an additional 10 months and 15 days; and

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

SECTION 1. Above-Recitals. The above recitals are true and correct.

SECTION 2. Effectiveness of Ordinance. Ordinance No. 1419 to extend Interim Urgency Ordinance No. 1406 is hereby extended for an additional ten (10) months and fifteen (15) days from and after the date of adoption of Ordinance No. 1419, pursuant to the authority conferred upon the City Council by Government Code section 65858 and in accordance with the provisions of Government Code section 65090.

SECTION 3. Urgency Declaration. The City Council finds and determines that the City's current standards for freeway oriented signage cannot be immediately implemented because to do so would pose a severe and significant economic hardship on the City, residents and businesses thereby creating a current and immediate threat to the public health, safety or welfare. Thus, the City Council directs staff to continue to undertake a comprehensive study and analysis of development standards to be applied to freeway-oriented signage, identification of possible public and private funding sources for later implementation of "sign districts" along the Interstate 10 corridor, and development of new freeway oriented sign standards. The study shall be completed within a reasonable time.

SECTION 4. Urgency Findings. In adopting Ordinance No. 1419 extending Interim Urgency Ordinance No. 1406, the City Council finds and determines that the extension of Interim Urgency Ordinance No. 1406 is necessary to protect the public safety, health, and welfare, as those terms are defined in Government Code Section 65858(a), for the reasons set forth below in this Section 4.

(a) The City Council of the City of Banning has determined that the current economy, as well as community and merchant concerns about the economy and ability to generate interest and advertise businesses within the City through freeway oriented signage, has resulted in an urgent need to re-evaluate the immediate implementation of Section 17.36.110 (B) (6) subsections a-j of the Banning Municipal Code, Sign Ordinances and Regulations, and their direct effect upon the public safety, health, and welfare.

(b) The City Council of the City of Banning has determined that the use of freeway oriented signage has a direct relationship and impact on the City's ability to generate revenue, which in turn affects the general welfare and economic well being of the residents of the City of Banning.

(c) The City Council of the City of Banning has determined that without extending the proposed ordinance, there will be an immediate, negative, and detrimental impact on the welfare of the City.

(d) The City Council of the City of Banning has determined that there is a need to further study what impact, if any, a "sign district" has on the public safety, specifically on those traveling through the City of Banning on Interstate 10 and who reside near the freeway.

(e) The City Council of the City of Banning has determined that the use of freeway signage is an important aspect of the success of freeway oriented businesses and that freeway oriented signs provide positive benefits to motorists as they easily advertise businesses along the freeway to prospective customers.

SECTION 5. Interim Regulations. From and after the adoption of Ordinance No. 1419 extending Interim Urgency Ordinance No. 1406, and until the adoption of revised regulations, the Planning Commission and the City Council shall authorize the Community Development Department to consider requests for freeway oriented signage in accordance with the following regulations:

(a) The consideration of freeway oriented signage shall be permitted in accordance with Banning Municipal Code 17.36 to the extent consistent and applicable to the adoption of this urgency ordinance.

(b) Banning Municipal Code Chapter 17.36.110 (B) (6) subsections a - j, shall be amended to read as follows:

6. Freeway-oriented freestanding sign. A freestanding sign proposed to be located and designed in such a manner as to be viewed by the freeway traveling public and limits its advertising to such services as food, lodging and automotive services shall be subject to the following regulations:

- a. Said business must be a freeway-oriented business, as determined by the Planning Commission.
- b. Said business must be easily accessible to a freeway off-ramp, as determined by the Planning Commission.
- c. Said sign shall not block another freeway oriented freestanding sign. The applicant shall be responsible for providing the Planning Commission with evidence to assure satisfactory compliance with this requirement.
- d. Said sign shall be located in a planter area not less than fifty (50) square feet with one dimension being at least four (4) feet, unless from the evidence presented to the Planning Commission it can be determined that the area is not visible from Ramsey Street, or the absence of the planter shall not be detrimental to the appearance of the area.
- e. Said sign shall not exceed an overall height of fifty-five (55) feet.
- f. Said sign shall not exceed one hundred and seventy-five (175) square feet per display face (a variance not to exceed an additional fifty (50) square feet may be possible providing the applicant meets the requirements for a variance as outlined in Article 17 of the Municipal Code.

SECTION 6. CEQA Finding. The City Council hereby finds that there is no possibility that the adoption of Ordinance No. 1419 extending Interim Urgency Ordinance No. 1406 will have a significant effect on the environment. This finding is supported by the following facts: (1) this ordinance authorizes the undertaking of feasibility and planning studies; and (2) any development which may occur pursuant to the interim standards will not be approved until a complete environmental evaluation of the proposed project has occurred. This Ordinance is therefore exempt from California Environmental Quality Act review pursuant to Title 14 California Code of Regulations, Section 15262.

SECTION 7. Grandfathering. Adoption of Ordinance No. 1419 extending Interim Urgency Ordinance No. 1406, shall only apply to sign applications for new freeway oriented signage for development projects that have been issued a Certificate of Occupancy by the City subsequent to September 25, 2007. This Interim Urgency Ordinance and extension thereof, shall not apply to any project which has been previously approved by the City or its constituent boards, commissions or officials so long as such approvals remain valid, nor shall it apply to any application for discretionary land use development entitlements, or zoning variances which were approved and that were issued a Certificate of Occupancy by the City prior to the effective date of this Interim Urgency Ordinance.

SECTION 8. Vote Required for Adoption of Ordinance. This Ordinance No. 1419 to extend Interim Urgency Ordinance No. 1406 is enacted pursuant to the authority conferred upon the City Council of the City of Banning by Government Code Section 65858, 36934 and 36937, and shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council.

PASSED, APPROVED, AND ADOPTED AS AN URGENCY ORDINANCE this 26th day of January, 2010.

Robert E. Botts, Mayor
City of Banning

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

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

41

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1419 to extend Interim Urgency Ordinance No. 1406 was duly adopted at a regular meeting of the City Council of the City of Banning, held on the 26th day of January, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTACHMENT 2

Urgency Ordinance Status Report

43

**REPORT ON MEASURES TAKEN TO ALLEVIATE THE CONDITIONS
THAT LED TO THE ADOPTION OF URGENCY ORDINANCE NO. 1406**

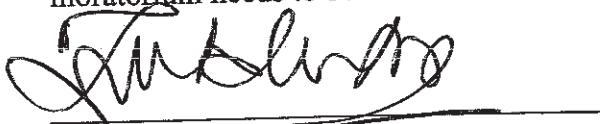
January 14, 2010

On March 24, 2009, the City Council adopted Urgency Ordinance No. 1406 extending urgency ordinance No. 1402 for an additional 10 months and 15 days and extending the interim development sign regulations for the placement of freestanding freeway oriented signs declaring a moratorium on the development of freeway oriented sign districts. The City Council desires that staff undertake a comprehensive study and analysis of possible public and private funding sources for later implementation of "sign districts" along the Interstate 10 corridor.

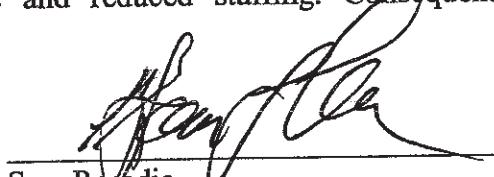
Upon adoption of Urgency Ordinance No. 1406, and in order to address the existing conditions that led to the adoption of the Ordinance, the Planning Division has initiated the following efforts:

- Assessment of whether there are additional state, federal or local funding sources available to subsidize the development and implementation of sign districts; and
- Analysis of whether based upon the current economic conditions within the City, the continued implementation of sign districts unduly restricts or hampers business development, or has a significant negative impact on current businesses operating within the City.
- Initiated a survey of cities within the surrounding area that currently have existing freeway oriented sign districts to determine the effectiveness of sign districts in clearing up "sign blight", and as a business development tool; and
- Initiated internal discussions regarding any pending applications for freeway oriented signage to determine if additional regulatory requirements are necessary prior to implementing sign districts.
- Initiated a parcel by parcel survey of existing vacant parcels and number of freeway oriented signs currently existing in the community.

The gathering of information and analysis of data to determine the best way to regulate the freeway-oriented signs is on-going. Extensive review and consideration of the information is required and a comprehensive analysis could not be completed within the time frame outlined in Ordinance No. 1406 due to budget constraints and reduced staffing. Consequently, the moratorium needs to be extended.



Zai Abu Bakar
Community Development Director



Sam R. Radford
Interim City Manager

**CITY COUNCIL AGENDA
CONSENT CALENDAR**

DATE: February 9, 2010

TO: Mayor and City Council

FROM: Hoyl E. Belt, Human Resources Director

SUBJECT: Adopt Resolution No. 2010-08 - Amendment to the International Brotherhood of Electrical Workers (IBEW) – General Employees Side Letter to Memorandum of Understanding

RECOMMENDATION: Adopt Resolution No. 2010-08 amending a side letter of agreement to the Memorandum of Understanding (MOU) with the IBEW – General Employees.

JUSTIFICATION: The amendments to the IBEW General Employees MOU through Resolution No. 2010-08 are necessary in order to change furlough days schedules of two City Bus Drivers.

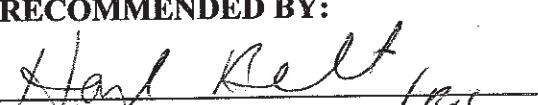
BACKGROUND: Due to the economic downturn, the City is forced to make reductions throughout the entire budget. Council has directed Staff to Meet & Confer with IBEW General Employees Unit in good faith to make necessary reductions to employee's salary and benefits to meet budget obligations.

On June 23, 2009, an agreement was adopted with IBEW-General Employees Unit, a 5% reduction in salaries and reduction of 38 hours were in the work week. This was accomplished by the city closing for business every Friday beginning July 17, 2009 and continuing each Friday through June 30, 2010.

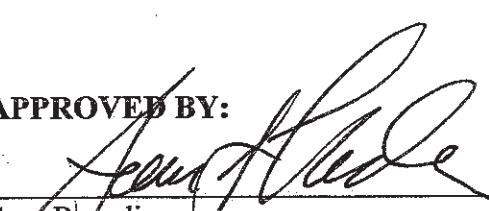
Due to the demands of the city, staff is requesting that the furlough day be changed from Friday to Monday for two Bus Drivers to cover the Friday bus routes. This will be accomplished through a volunteer process, but if no one volunteers, then they will be assigned by reverse Departmental seniority. The City and Union have agreed to these changes until the conclusion of the furloughs.

FISCAL DATA: There is no fiscal impact to the budget.

RECOMMENDED BY:


Hoyl E. Belt
Human Resources Director

APPROVED BY:


Sam Racadio
Interim City Manager

45

RESOLUTION NO. 2010-08

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
APPROVING AMENDMENT TO RESOLUTION NO. 2009-55, MEMORANDUM OF
UNDERSTANDING BETWEEN THE INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS-LOCAL 47 GENERAL EMPLOYEES UNIT AND THE
CITY OF BANNING**

WHEREAS, the City of Banning has recognized the International Brotherhood of Electrical Workers – General Unit (IBEW-General Unit) as the bargaining unit representing a group of its employees; and,

WHEREAS, the City conducted Meet and Confer Sessions with the bargaining unit in good faith to make necessary changes to the work hours of certain employee's hours in order to meet the demands of the City.

WHEREAS, the City and the IBEW have successfully negotiated an Amended Memorandum of Understanding ("MOU") according to the guidelines of the Meyers-Milias-Brown Act ("MMBA") and the City's Employer-Employee Relations resolution ("Resolution No. 2007-41");

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

SECTION 1:

1. That the City Council approves the Amended MOU, a copy of which is attached hereto and by this reference made a part hereof; and
2. That the Mayor is authorized to execute the side letter to the agreement

PASSED, APPROVED AND ADOPTED this 9th day of February, 2010 at Banning, California.

Robert E. Botts, Mayor
City of Banning, California

APPROVED AS TO FORM AND
LEGAL CONTENT

David Aleshire, Attorney
Aleshire & Wynder, LLP

ATTEST:

Marie A. Calderon
City Clerk of the City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2010-08 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of February, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**SIDE LETTER OF AGREEMENT
OF THE MEMORANDUM OF UNDERSTANDING BETWEEN THE
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS-LOCAL 47
GENERAL EMPLOYEES AND THE CITY OF BANNING FOR THE PERIOD
OCTOBER 1, 2007 TO SEPTEMBER 30, 2011**

The City of Banning and the International Brotherhood of Electrical Workers, Local #47 ("Union") have met and conferred and reached an understanding regarding terms and conditions of employment as governed by Article 11. HOURS OF WORK in the Memorandum of Understanding Between the International Brotherhood of Electrical Workers-Local 47 General Employees Unit October 1, 2007 through September 30, 2011 (the "MOU"). The PARTIES have reached the following understanding and hereby amend their MOU as follows:

"ARTICLE 11 – HOURS OF WORK

11.4 - The City and Union agree that the work schedule for Bus Driver employees will be changed in order to meet the demands of the City. Furlough days for two (2) full time Bus Drivers will be observed on Mondays in lieu of Fridays and hours will be set by the Department Head. The selection of bus drivers for the Monday furlough day will be on a voluntary basis, but if no one volunteers, then they will be assigned by reverse Departmental seniority."

All other provisions of the MOU remain unchanged.

FOR THE CITY OF BANNING

FOR IBEW-GENERAL

Robert E. Botts, Mayor

Ron Bengochea, IBEW Representative

Representative

48

CITY COUNCIL AGENDA

DATE: February 9, 2010

TO: Honorable Mayor and City Council Members

FROM: Duane Burk, Director of Public Works

SUBJECT: **Resolution No. 2010-09 – Initiating Proceedings to Vacate a Portion of Val Monte Street and Adjacent Alleys.**

RECOMMENDATION: Adopt Resolution No. 2010-09, initiating proceedings to vacate a portion Val Monte Street from Ramsey Street to Interstate 10 and adjacent alleys; and, setting the date, time, and place for the public hearing as March 9, 2010, 6:30 p.m., in the Council Chambers at 99 E. Ramsey Street.

BACKGROUND: On July 21, 2009, the Community Development Department received a written request from the applicant (Joseph E. Bonadiman & Associates of San Bernardino, California) to vacate a portion of Val Monte Street from Ramsey Street to the Interstate 10 and the adjacent alleys. The applicant's client, Inland Behavioral and Health Services, Inc. of San Bernardino, California, desires to use the vacated area as a part of a future health clinic project.

The applicant is proposing to construct a 9,000 square foot medical and dental office on a 1.16 acre parcel at 1070 E. Ramsey Street immediately adjacent to Val Monte Street. The proposed facility will provide health services to low-income families and seniors in the Pass area. The proposed health clinic project area consists of four parcels, Assessor's Parcel Numbers 541-200-009; 541-200-010; 541-200-015; 541-200-016 totaling approximately 1.15 acres. Three of the parcels consist of Lot 16, Lot 17 and a portion of Lot 15 of the Hunter's Val Monte Tract recorded in 1930. The fourth parcel to the west consists of a portion of Block 174 of the Banning Colony Lands map recorded in the 1880's. The applicant is requesting the vacation of Val Monte Street, Lot A and Lot C (the alleys adjacent to Lots 15, 16 and 17) so that these unused portions of land may be added to the project development area. On December 1, 2009 the Planning Commission approved Conditional Use Permit #09-803 (see Attachment 3) authorizing the health clinic project. Condition of approval #60 requires that the applicant provide proof to the City Engineer that the area in question has been vacated prior to issuing permits.

The area proposed to be vacated is a strip of undeveloped land approximately 50 feet wide by 250 feet in length. In its present condition it is an unpaved road providing vehicle access for a few parcels of land on the south side of Ramsey Street. The adjacent alleys to the west of Val Monte Street are not being used. That portion of Val Monte Street and adjacent alleys proposed for vacation are more particularly described in Exhibit A (legal description), and Exhibit B (plat map) of Resolution No. 2010-09. The

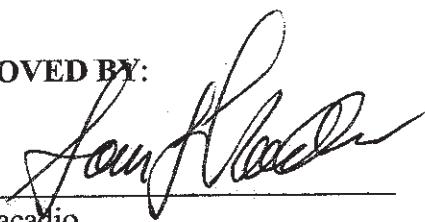
City is also proposing a reservation of a public utility easement and private access easement as part of the street vacation process in order to maintain the existing utilities, and continue to provide private access for the abutting properties. A location/vicinity map is included with the report for reference.

Streets and Highways Code § 8300 et seq., the Public Streets, Highways, and Service Easements Vacation Law (the "Law"), requires that where a city's general plan covers the area in which the street to be vacated exists, then it cannot proceed to vacate the street until the location, purpose, and extent of the vacation has been submitted to the City's Planning Commission for consideration of consistency with the General Plan (Streets and Highways Code § 8313(b) & Gov. Code § 65402). On December 1, 2009, the Planning Commission, by adoption Resolution No. 2009-09, considered this request and determined that the proposed street vacation is consistent with the General Plan in accordance with Streets and Highways Code § 8313(b) and Government Code § 65402.

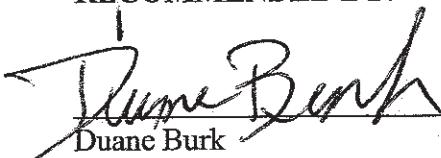
The next step in the vacation process as stated in the Streets and Highways Code (§ 8320) requires that proceedings be initiated by the legislative body and the date, time, and place for a public hearing be set. The process includes publishing a public notice in a local newspaper and the posting of the site prior to the public hearing.

FISCAL DATA: There is no fiscal impact associated with adoption of this resolution. However, should the applicant complete the proposed project, the project will generate revenues to the City in the form of one-time building permit fees as well as annual property taxes.

APPROVED BY:


Sam Racadio
Interim City Manager

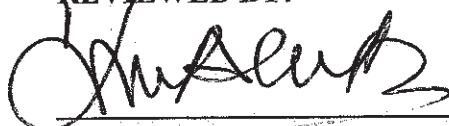
RECOMMENDED BY:


Duane Burk
Director of Public Works

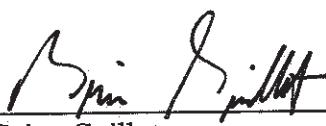
REVIEWED BY:


Kirby Warner
Interim Finance Director

REVIEWED BY:


Zai Abu Baker
Community Development Director

PREPARED BY:


Brian Guillot
Assistant Planner

Attachments:

1. Resolution No. 2010-09
Exhibit A legal description and Exhibit B plat.
2. Location/vicinity map.
3. CUP #09-803 Site plan and elevations.

Attachment 1

(Resolution No. 2010-09 including Exhibit A
legal description and Exhibit B plat)

RESOLUTION NO. 2010-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA INITIATING PROCEEDINGS FOR THE VACATION OF A PORTION OF VAL MONTE STREET FROM RAMSEY STREET TO INTERSTATE 10 AND ADJACENT ALLEYS AND SETTING THE DATE, TIME, AND PLACE FOR THE PUBLIC HEARING.

WHEREAS, the City of Banning received a written request to vacate that roadway commonly known as Val Monte Street from Ramsey Street to Interstate 10 and the adjacent alleys to the west more particularly described as shown in attached Exhibit A legal description and Exhibit B plat made a part by this reference; and

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

WHEREAS, on December 1, 2009, the Planning Commission adopted Resolution No. 2009-09, finding that the vacation of Val Monte Street between Ramsey Street and Interstate 10 and associated alleys is consistent with the City of Banning's General Plan and recommending that the City Council vacate Val Monte Street between Ramsey Street and Interstate 10 and associated alleys;

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

SECTION 1. The City Council hereby declares its intention to vacate that portion of Val Monte Street between Ramsey Street and Interstate 10 and associated alleys more particularly described in attached Exhibit A legal description and Exhibit B plat; and, reserve a public utility easement and a private access easement to the owners of real property abutting Val Monte Street more particularly described in attached Exhibit A legal description and Exhibit B plat, all made a part of this resolution by this reference.

SECTION 2. The City Council hereby sets the date, time, and place of the public hearing as March 9, 2010, at 6:30 p.m., in the Council Chambers at 99 E. Ramsey Street.

SECTION 3. The City Council hereby orders the City Clerk to publish and post notice of the public hearing pursuant to Streets and Highways Code (§8322 and §8323).

PASSED, APPROVED, AND ADOPTED this 9th day of February, 2010.

Robert E. Botts, Mayor
City of Banning

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

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-46, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of February, 2010.

AYES:

NOES:

ABSENT:

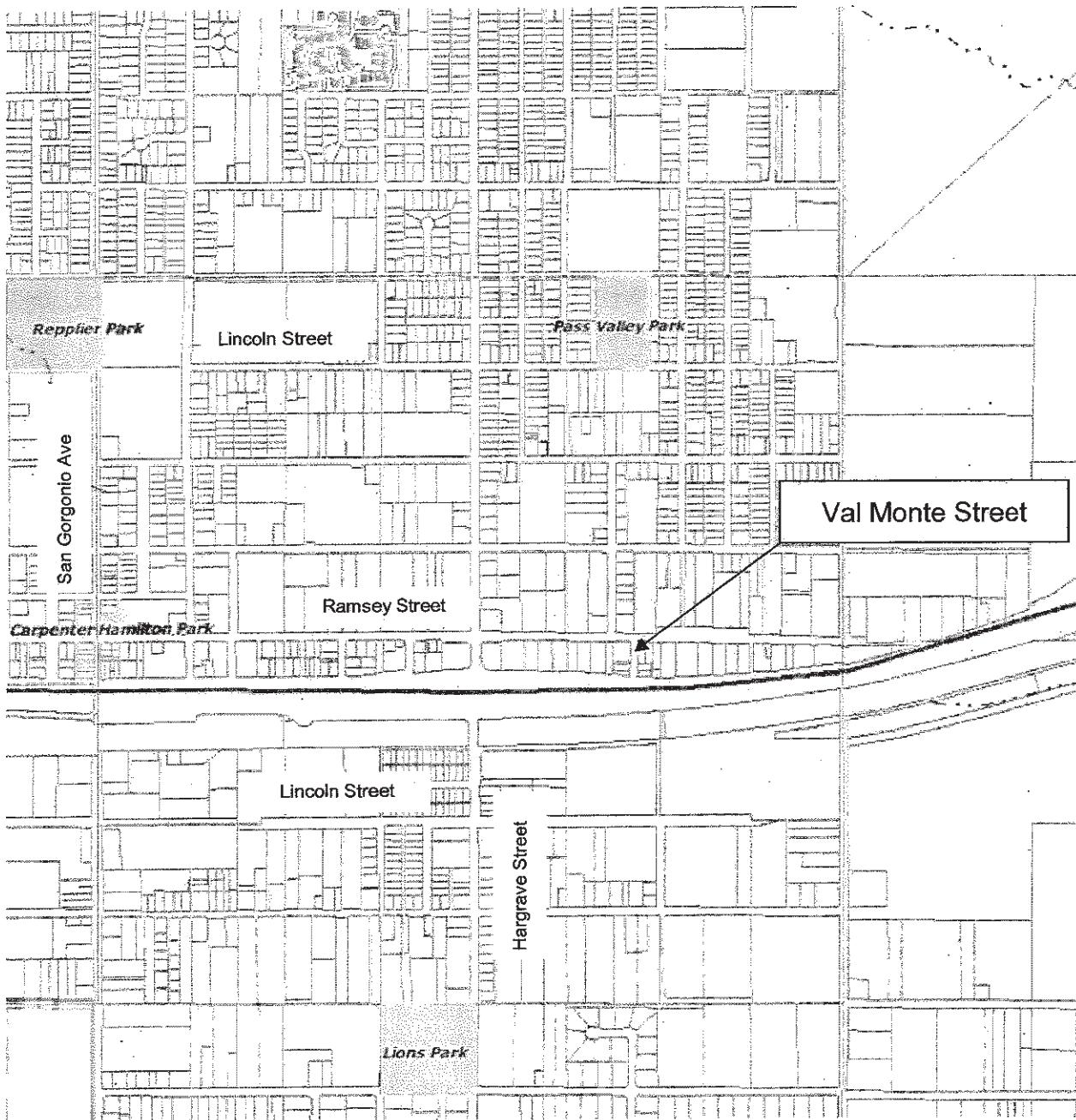
ABSTAIN:

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

54

Attachment 2

(Location/vicinity map)



Location Map

Val Monte Street Vacation

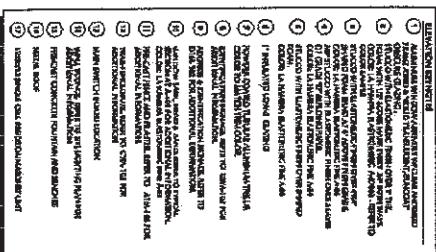
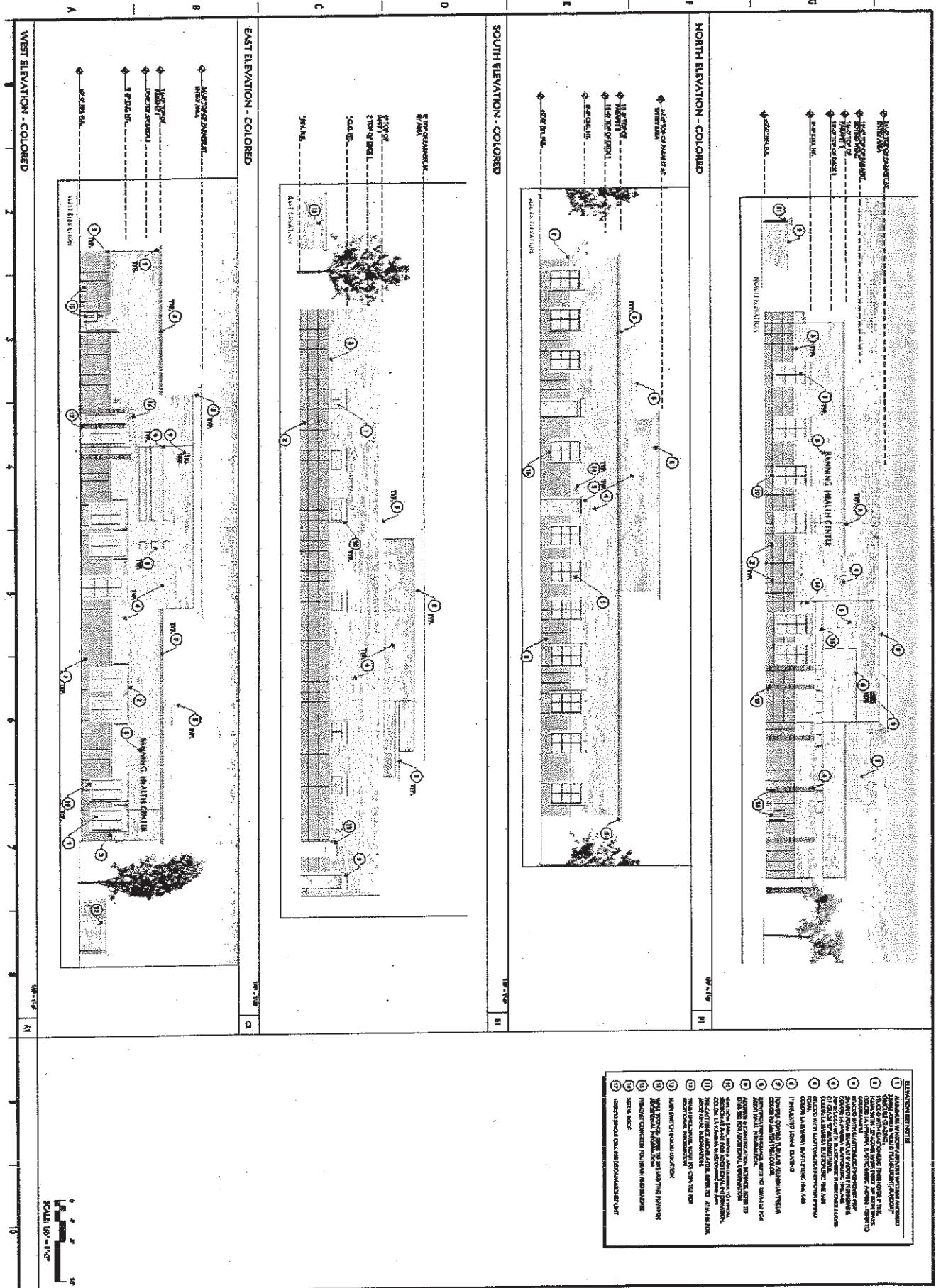


Not to Scale

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Attachment 3

(CUP #09-803 site plan and elevations)



A-903

SCALE 1⁶" = 0¹5"

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BEHAVIORAL &
BANNING

HEALTH SERVICES
HEALTH CENTER
1100 BROADWAY, SAN FRANCISCO, CALIFORNIA 94103
ELEVATOR

INC.
R
D
ONS

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Victor R. Fabionari
Architect
LICENSE NO. C127706
4315 E. Clinton Ave.
Pleasanton, California 94563
(925) 422-4303 FAX (925) 225-4141

39

**CITY COUNCIL
PUBLIC HEARING**

DATE: February 9, 2010

TO: Honorable Mayor and City Council Members

FROM: Sam Racadio, Interim City Manager

SUBJECT: **Ordinance No. 1420 – Approving Zone Text Amendment No. 09-97506 to Amend Municipal Code Section 17.44.010 Pertaining to Table 17.44.010 *Review Authority* for Tentative Parcel Maps and Amendments to Municipal Code Title 16 *Subdivisions*.**

RECOMMENDATION: The Community Development Department recommends that the City Council adopt Ordinance No. 1420 approving Zone Text Amendment No. 09-97506 to amend municipal code Section 17.44.010 pertaining to Table 17.44.010 *Review Authority* for tentative parcel maps and amendments to municipal code Title 16 *Subdivisions*.

JUSTIFICATION: Section 66474.10 of the Subdivision Map Act requires that subdivision maps include a review by the City Engineer.

BACKGROUND/ANALYSIS: The Subdivision Map Act (Government Code Section 66410 et seq.) is the primary regulatory control governing the division of property in California. It defines a Tentative Map as “a map made for the purpose of showing the design and improvement of a proposed subdivision and the existing conditions in and around it and need not be based upon an accurate or detailed final survey of the property.” If approved and a final map is filed, a Tentative Parcel Map results in the creation of two to four parcels and may include a remainder parcel that is not divided for the purpose of sale, lease, or financing. Tentative Tract Maps provide for the subdivision of five or more parcels.

Table 17.44.010 *Review Authority* of the Zoning Code establishes the review authority for approving various development applications. Presently, the table designates the Community Development Director with review authority to approve Tentative Parcel Maps (subdivisions creating four or fewer lots). Planning Commission is designated review authority for recommendations to City Council for approving Tentative Tract Maps (subdivisions creating five or more lots).

In accordance with the requirements of the Subdivision Map Act, approval of Final Maps requires the review of engineering or surveying data; therefore, it follows that the procedure for the review and approval of all tentative maps, including tentative parcel maps, include a process where the City Engineer provides a report to Planning Commission. The existing process for approval of tentative parcel maps does not include a review by the City Engineer. In order to consolidate the review procedures and provide the City Engineer with the opportunity to review

60

the engineering or surveying data on the maps, it is recommended that the review authority for Tentative Parcel Maps also follow the same procedure as that for Tentative Tract Maps. Therefore, Table 17.44.010 is recommended to be amended as follows:

Table 17.44.010
Review Authority

	Community Development Director	Planning Commission	City Council
Home Occupation Permits	X		
Interpretations (Zoning Ordinance)	X		
Interpretations (General Plan)			
Temporary Use Permits	X		
Minor Modifications	X		
Minor Exceptions	X		
Variances		X	
Design Review			
Residential:			
1-4 Dwelling Units	X		
5 or more Units		X	
Commercial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Industrial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Public Facilities & Open Space:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	

61

Miscellaneous:			
Antennae		X	
Fences and Walls	X		
Conditional Use Permits		X	
Lot Line or Boundary Adjustment	X		
Reversions to Acreage		X	
<i>Tentative Parcel Maps</i>		X*	X
Tentative Tract Maps		X*	X
Final Maps			X
Specific Plans		X*	X
General Plan Amendments		X*	X
Zoning Ordinance Amendments		X*	X
Development Agreements		X*	X
Landscape Plans	X		
Surface Mining and Land Reclamation		X*	X
Sign Permits/Program	X		

Note: When an item indicates more than one permitting entity, the determination as to which authority (entity) is used, is based upon the intensity of the proposed use.

* Planning Commission recommends to the City Council for final determination.

If approved, Chapter 16.08 *Tentative Map – Four Lots or Less*, and Section 16.16.010 *Preparation Generally*, of the Subdivisions Code shall also be amended to reflect the change in review authority from the Community Development Director to Planning Commission. Therefore, Title 16 *Subdivisions* is recommended to be amended as follows:

Amend Section 16.08.030 as follows:

16.08.030 Report of city engineer.

Prior to the consideration by the planning commission of a tentative parcel map, the city engineer shall make a report in writing to the planning commission or community development director as to any recommendations in connection with the tentative parcel map and its bearing on particular functions. Failure to so report shall be deemed approval on the part of the city engineer only.

62

Add Section 16.08.050 as follows:

16.08.050 Planning commission action and record.

Action to recommend approval, conditional approval or disapproval of such tentative parcel map shall be taken not later than fifty days following the filing of the tentative parcel map with the secretary to the planning commission. Within not to exceed ten days following the action by the planning commission upon any tentative map, the secretary of the commission shall transmit a copy of the record pertaining to such action to the subdivider and the city council.

Add Section 16.08.060 as follows:

16.08.070 Report of council's action.

Following the filing of the planning commission's report, the city council shall approve, conditionally approve, or disapprove the tentative parcel map within that fifty-day period pursuant to the Subdivision Map Act.

Amend Section 16.16.010 as follows:

16.16.010 Preparation generally.

After approval of the tentative map of a subdivision by the planning commission and approval of the final map or parcel map by the city council, the subdivider may cause a final map or parcel map to be prepared in accordance with a completed survey of the subdivision and in substantial compliance with the approved tentative map, and in full compliance with the Subdivision Map Act and the subdivisions code.

After tentative map approval, final maps are approved by City Council in accordance with the Subdivision Map Act. Table 17.44.010 Review Authority of the Zoning Code designated that final maps require a further recommendation from Planning Commission. Actually, Section 16.16.250 *Certification by planning commission* of the Subdivision Code requires a conformance certification be forwarded to City Council when the final map is approved. Therefore, Table 17.44.010 *Review Authority* for Final Maps is amended to provide review authority for City Council only; an additional recommendation by Planning Commission is not necessary. Therefore, Section 16.16.270 *Examination and endorsement by city engineer* is amended as follows:

16.16.270 Examination and endorsement by the city engineer.

After receiving copies of the final map of a subdivision, the city engineer shall examine or have examined the map as to sufficiency of affidavits and acknowledgments, correctness of surveying data, mathematical data and computations and such other matters as required, checking to insure compliance with the provisions of the Subdivision Map Act, and of this chapter. If the final map is found to be in correct form and the matters shown thereon are sufficient, the city engineer shall endorse his approval thereon and transmit it to the city council.

Planning Commission's Recommendation

On January 5, 2010 the Planning Commission held a noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendments. At this public hearing the Commission indicated that by changing the review authority from the Community Development Director to the Planning Commission, it makes for a better public review process. Therefore, the Planning Commission approved Resolution No. 2010-02 recommending approval of Zone Text Amendment No. 09-97506 to the City Council (see Attachment 2).

ENVIRONMENTAL DETERMINATION

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Department as provided in the Staff Report dated February 9, 2010 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

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

2. Multiple Species Habitat Conservation Plan (MSHCP):

Amendments to the Zoning Code do not relate to any one physical project and are not subject to the MSHCP. Further, projects subject to this resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

64

REQUIRED FINDINGS FOR ZONE TEXT AMENDMENT NO. 09-97506

The Zoning Ordinance requires that each Zone Text Amendment meet certain findings in accordance with Section 17.116.050 in order to be approved by the City Council. The following findings are provided for City Council consideration:

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

Findings of Fact:

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states "*A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents*". Subdivision of land is fundamental to a well planned community and providing the Planning Commission with the opportunity to review and recommend approval of Tentative Parcel Maps is consistent with that goal.

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

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will consolidate the review procedures for all tentative maps both Tentative Parcel Maps (subdivisions creating four or fewer lots) and Tentative Tract Maps (subdivisions creating five or more lots).

3. That the Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact:

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

65

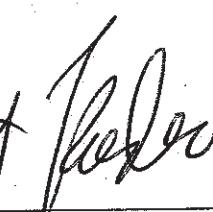
have a significant adverse effect on the environment, and therefore the adoption of this resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

PUBLIC COMMUNICATION

The proposed Zone Text Amendment No. 09-97506 was advertised in the Record Gazette newspaper on January 29, 2010. As of the date of this report, staff has not received any verbal or written comments for or against the proposed Zone Text Amendment.

FISCAL DATA: There is no fiscal impact associated with adoption of this ordinance. However, there are fees in effect for future review of tentative parcel maps. Currently, the fee amount is \$9,811.00. These fees offset the cost of review and approval of tentative parcel maps in compliance with the Subdivision Map Act and City of Banning zoning ordinance.

APPROVED BY:



Sam Racadio
Interim City Manager

RECOMMENDED BY:



Zai Abu Bakar
Community Development Director

REVIEWED BY:



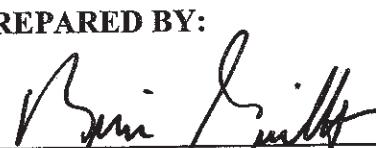
Kirby Warner
Interim Finance Director

REVIEWED BY:



Duane Burk
Public Works Director

PREPARED BY:



Brian Guillot
Assistant Planner

Attachments:

1. Ordinance No. 1420
2. Planning Commission Resolution No. 2010-02 (recommendation)
3. Copy of Chapter 16.08 *Tentative Maps-Four Lots or Less*; and, copy of Section 16.16.010 *Preparation Generally*



Attachment 1

(Ordinance No. 1420)

ORDINANCE NO. 1420

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF BANNING, CALIFORNIA APPROVING
ZONE TEXT AMENDMENT NO. 09-97506, TO
AMEND MUNICIPAL CODE SECTION 17.44.010,
PERTAINING TO TABLE 17.44.010 *REVIEW
AUTHORITY OF TENTATIVE PARCEL MAPS AND
AMENDMENTS TO MUNICIPAL CODE TITLE 16
SUBDIVISIONS.***

WHEREAS, the Zoning Code Chapter 17.116 allows for Zone Text Amendments consistent with the goals and policies of the General Plan; and

WHEREAS, on the 5th day of January, 2010, the Planning Commission held a public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment and at which time the Planning Commission considered and heard public comments on the Zone Text Amendment; and

WHEREAS, on the 5th day of January, 2010, the Planning Commission recommended approval of Zone Text Amendment No. 09-97506 to the City Council as stipulated in Planning Commission Resolution No. 2010-02, and

WHEREAS, the Municipal Code Section 1.04.040 allows amendments to the Code that may be designated as an addition or amendment to, or repeal of, "The Code of the City of Banning"; and,

WHEREAS, on the 29th day of January, 2010, the City also gave public notice by advertising in the Record Gazette newspaper of the holding of a public hearing at which the amendment to the Municipal Code would be considered; and

WHEREAS, on the 9th day of February, 2010, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Zone Text Amendment No. 09-97506 to amend Municipal Code Section 17.44.010, pertaining to Table 17.44.010 *Review Authority of Tentative Parcel Maps and amendments to Municipal Code Title 16 Subdivisions* and at which time the City Council considered the amendments to the Municipal Code; and

WHEREAS, at this public hearing on the 9th day of February, 2010 the City Council considered and heard public comments on the Municipal Code amendments; and

WHEREAS, the City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only

applies to projects that have the potential for causing a significant effect on the environment.

NOW THEREFORE BE IT HEREBY ORDAINED, that the City Council of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1 ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Planning Commission as provided in Planning Commission Resolution No. 2010-02, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

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

2. Multiple Species Habitat Conservation Plan (MSHCP):

Amendments to the Municipal Code do not relate to any one physical project and are not subject to the MSHCP. Further, projects subject to this ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

SECTION 2 FINDINGS.

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

Findings of Fact:

69

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states "*A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents*". Subdivision of land is fundamental to a well planned community and providing the Planning Commission with the opportunity to review and recommend approval of Tentative Parcel Maps is consistent with that goal.

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

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will consolidate the review procedures for all tentative maps both Tentative Parcel Maps (subdivisions creating four or fewer lots) and Tentative Tract Maps (subdivisions creating five or more lots).

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

Findings of Fact:

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

SECTION 3. CITY COUNCIL ACTIONS

The City Council hereby takes the following actions:

1. The City Council hereby approves Zone Text Amendment No. 09-97506 to amend Municipal Code Section 17.44.010, pertaining to Table 17.44.010 *Review*

Authority of Tentative Parcel Maps and amendments to Municipal Code Title 16
Subdivisions as follows:

a) Amend Section 17.44.010 of the Municipal Code more specifically Table 17.44.010 Review Authority as follows:

**Table 17.44.010
Review Authority**

	Community Development Director	Planning Commission	City Council
Home Occupation Permits	X		
Interpretations (Zoning Ordinance)	X		
Interpretations (General Plan)			
Temporary Use Permits	X		
Minor Modifications	X		
Minor Exceptions	X		
Variances		X	
Design Review			
Residential:			
1-4 Dwelling Units	X		
5 or more Units		X	
Commercial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Industrial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Public Facilities & Open Space:			
Occupancy Permit	X		

Tenant Improvements	X		
All other Improvements		X	
Miscellaneous:			
Antennae		X	
Fences and Walls	X		
Conditional Use Permits		X	
Lot Line or Boundary Adjustment	X		
Reversions to Acreage		X	
<i>Tentative Parcel Maps</i>		X*	X
Tentative Tract Maps		X*	X
Final Maps			X
Specific Plans		X*	X
General Plan Amendments		X*	X
Zoning Ordinance Amendments		X*	X
Development Agreements		X*	X
Landscape Plans	X		
Surface Mining and Land Reclamation		X*	X
Sign Permits/Program	X		

Note: When an item indicates more than one permitting entity, the determination as to which authority (entity) is used, is based upon the intensity of the proposed use.

* Planning Commission recommends to the City Council for final determination.

b) Recommend amending Chapter 16.08 *Tentative Map – Four Lots or Less*, Section 16.16.010 *Preparation Generally*, and Section 16.16.270 *Examination and endorsement by the city engineer* of the Subdivisions Code to correspond with the change in review authority as follows:

Amend Section 16.08.030 as follows:

16.08.030 Report of City Engineer.

Prior to the consideration by the planning commission of a tentative parcel map, the city engineer shall make a report in writing to the planning commission or community development director as to any recommendations in connection with the tentative

72

parcel map and its bearing on particular functions. Failure to so report shall be deemed approval on the part of the city engineer only.

Add Section 16.08.050 as follows:

16.08.050 Planning commission action and record.

Action to recommend approval, conditional approval or disapproval of such tentative parcel map shall be taken not later than fifty days following the filing of the tentative parcel map with the secretary to the planning commission. Within not to exceed ten days following the action by the planning commission upon any tentative map, the secretary of the commission shall transmit a copy of the record pertaining to such action to the subdivider and the city council.

Add Section 16.08.060 as follows:

16.08.070 Report of council's action.

Following the filing of the planning commission's report, the city council shall approve, conditionally approve, or disapprove the tentative parcel map within that fifty-day period pursuant to the Subdivision Map Act.

Amend Section 16.16.010 as follows:

16.16.010 Preparation generally.

After approval of the tentative map of a subdivision by the planning commission and approval of the final map or parcel map by the city council, the subdivider may cause a final map or parcel map to be prepared in accordance with a completed survey of the subdivision and in substantial compliance with the approved tentative map, and in full compliance with the Subdivision Map Act and the subdivisions code.

Amended Section 16.16.270 as follows:

16.16.270 Examination and endorsement by the city engineer.

After receiving copies of the final map of a subdivision, the city engineer shall examine or have examined the map as to sufficiency of affidavits and acknowledgments, correctness of surveying data, mathematical data and computations and such other matters as required, checking to insure compliance with the provisions of the Subdivision Map Act,* and of this chapter. If the final map is found to be in correct form and the matters shown thereon are sufficient, the city engineer shall endorse his approval thereon and transmit it to the city council.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every

section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE.

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

PASSED, APPROVED, AND ADOPTED this 9th day of February, 2010.

Robert E. Botts, Mayor
City of Banning

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

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1420 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 9th day of February, 2010, and was duly adopted at a regular meeting of said City Council on the _____ day of _____ 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

75

Attachment 2

(copy PC Resolution No. 2010-02)

RESOLUTION NO. 2010-02

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF BANNING, CALIFORNIA
RECOMMENDING TO THE CITY COUNCIL APPROVAL
OF ZONE TEXT AMENDMENT NO. 09-97506, TO AMEND
MUNICIPAL CODE SECTION 17.44.010, PERTAINING TO
TABLE 17.44.010 *REVIEW AUTHORITY OF TENTATIVE
PARCEL MAPS AND AMENDMENTS TO MUNICIPAL
CODE TITLE 16 SUBDIVISIONS.***

WHEREAS, an application for an amendment to modify Section 17.44.010 of the Municipal Code more specifically Table 17.44.010 and corresponding portions of Title 16 *Subdivisions*:

Applicant:	City of Banning
Authorized Agent:	Community Development Department
Project Location:	City Wide

WHEREAS, the City undertook a comprehensive General Plan and Zoning Ordinance update in 2006; and

WHEREAS, the Municipal Code allows for Zone Text Amendments consistent with the goals and policies of the General Plan; and

WHEREAS, on the 25th day of December, 2009, the City gave public notice as required under Zoning Code Section 17.68 by advertising in the Record Gazette newspaper of the holding of a public hearing at which the amendment to the Zoning Code would be considered; and

WHEREAS, on the 5th day of January, 2010, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment and at which time the Planning Commission considered the Zone Text Amendment; and

WHEREAS, at this public hearing on the 5th day of January, 2010 the Planning Commission considered and heard public comments on the Zone Text Amendment; and

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

NOW THEREFORE, the Planning Commission of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1 ENVIRONMENTAL FINDINGS.

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Department as provided in the Staff Report dated January 5, 2010, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

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

2. Multiple Species Habitat Conservation Plan (MSHCP):

Amendments to the Zoning Code do not relate to any one physical project and are not subject to the MSHCP. Further, projects subject to this resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

SECTION 2 FINDINGS.

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

Findings of Fact:

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states "*A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents*". Subdivision of land is fundamental to a well planned community and providing the Planning Commission with

the opportunity to review and recommend approval of Tentative Parcel Maps is consistent with that goal.

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

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will consolidate the review procedures for all tentative maps both Tentative Parcel Maps (subdivisions creating four or fewer lots) and Tentative Tract Maps (subdivisions creating five or more lots).

3. That the Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact:

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

SECTION 3. PLANNING COMMISSION ACTIONS

The Planning Commission hereby takes the following actions:

1. Recommend Approval of Zone Text Amendment. The Planning Commission hereby recommends approval of Zone Text Amendment No. 09-97506 to the City Council for the following actions:
 - a) Amend Section 17.44.010 of the Municipal Code more specifically Table 17.44.010 Review Authority as follows:

Table 17.44.010
Review Authority

	Community Development Director	Planning Commission	City Council
Home Occupation Permits	X		
Interpretations (Zoning Ordinance)	X		
Interpretations (General Plan)			
Temporary Use Permits	X		
Minor Modifications	X		
Minor Exceptions	X		
Variances		X	
Design Review			
Residential:			
1-4 Dwelling Units	X		
5 or more Units		X	
Commercial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Industrial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Public Facilities & Open Space:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Miscellaneous:			
Antennae		X	

80

Fences and Walls	X		
Conditional Use Permits		X	
Lot Line or Boundary Adjustment	X		
Reversions to Acreage		X	
<i>Tentative Parcel Maps</i>		X*	X
Tentative Tract Maps		X*	X
Final Maps			X
Specific Plans		X*	X
General Plan Amendments		X*	X
Zoning Ordinance Amendments		X*	X
Development Agreements		X*	X
Landscape Plans	X		
Surface Mining and Land Reclamation		X*	X
Sign Permits/Program	X		

Note: When an item indicates more than one permitting entity, the determination as to which authority (entity) is used, is based upon the intensity of the proposed use.

* Planning Commission recommends to the City Council for final determination.

b) Recommend amending Chapter 16.08 *Tentative Map – Four Lots or Less*, Section 16.16.010 *Preparation Generally*, and Section 16.16.270 *Examination and endorsement by the city engineer* of the Subdivisions Code to correspond with the change in review authority as follows:

Amend Section 16.08.030 as follows:

16.08.030 Report of city engineer.

Prior to the consideration by the planning commission of a tentative parcel map, the city engineer shall make a report in writing to the planning commission or community development director as to any recommendations in connection with the tentative parcel map and its bearing on particular functions. The city engineer shall determine whether the proposed subdivision of land into four or less lots is in conformity with law and subdivisions code; and, whether the all the proposed lots will have adequate access to public streets, sanitary sewer lines, water mains, fire hydrants, drainage structures and utilities. The community development director shall determine whether the size of the proposed lots is in conformance with the zoning code. Failure to so report shall be deemed approval on the part of the city engineer only.

Add Section 16.08.050 as follows:

16.08.050 Planning commission action and record.

Action to recommend approval, conditional approval or disapproval of such tentative parcel map shall be taken not later than fifty days following the filing of the tentative parcel map with the secretary to the planning commission. Within not to exceed ten days following the action by the planning commission upon any tentative map, the secretary of the commission shall transmit a copy of the record pertaining to such action to the subdivider and the city council.

Add Section 16.08.060 as follows:

16.08.060 Report of council's action.

Following the filing of the planning commission's report, the city council shall approve, conditionally approve, or disapprove the tentative parcel map within that fifty-day period pursuant to the Subdivision Map Act.

Amend Section 16.16.010 as follows:

16.16.010 Preparation generally.

After approval of the tentative map of a subdivision by the planning commission and approval of the final map or parcel map by the city council, the subdivider may cause a final map or parcel map to be prepared in accordance with a completed survey of the subdivision and in substantial compliance with the approved tentative map, and in full compliance with the Subdivision Map Act and the subdivisions code.

Amended Section 16.16.270 as follows:

16.16.270 Examination and endorsement by the city engineer.

After receiving copies of the final map of a subdivision, the city engineer shall examine or have examined the map as to sufficiency of affidavits and acknowledgments, correctness of surveying data, mathematical data and computations and such other matters as required, checking to insure compliance with the provisions of the Subdivision Map Act,* and of this chapter. If the final map is found to be in correct form and the matters shown thereon are sufficient, the city engineer shall endorse his approval thereon and transmit it to the city council.

82

PASSED, APPROVED AND ADOPTED this 5th day of January, 2010.

Bill Escandel, Vice-Chairman
Banning Planning Commission

APPROVED AS TO FORM AND
LEGAL CONTENT:

Lona N. Laymon
Aleshire & Wynder, LLP
Assistant City Attorney
City of Banning, California

CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2010-02, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 5th day of January, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California

83

Attachment 3

(copy Chapter 16.08 *Tentative Maps-Four Lots or Less; and, Section 16.16.010 Preparation Generally*)

Chapter 16.08

TENTATIVE MAP—FOUR LOTS OR LESS

Sections:

16.08.010 Filing of copies.

16.08.020 Contents.

16.08.030 Action by community development director.

16.08.040 Disposition of copies.

16.08.050 Repealed.

16.08.010 Filing of copies.

Five copies of the tentative map of proposed subdivision of land into four or less lots shall be filed with the community development department. (Code 1965, § 22-22.)
(Ord. No. 1384, § 3.B, 3-5-08)

16.08.020 Contents.

The tentative map shall be in the form of a parcel map, as described in Government Code § 66444 et seq., unless waived by the community development director. (Code 1965, § 22-23.)
(Ord. No. 1384, § 3.B, 3-5-08)

16.08.030 Action by community development director.

The community development director shall determine whether the proposed subdivision of land into four or less lots is in conformity with law and the subdivisions code, and whether the size of the proposed lots is in conformance with the provisions of the zoning code, and whether all the proposed lots will have adequate access to public streets, sanitary sewer lines, water mains, fire hydrants, drainage structures and utilities. The community development director shall approve such tentative map by noting approval thereof by endorsement on the map. (Code 1965, § 22-24.)
(Ord. No. 1384, § 3.B, 3-5-08)

16.08.040 Disposition of copies.

One copy of the tentative map for the subdivision of land into four or less lots shall be re-

tained in the files of the community development department and one copy shall be retained in the files of the city engineer. The third copy shall be returned to the subdivider with proper notations thereon indicating the actions taken. (Code 1965, § 22-25.)

(Ord. No. 1384, § 3.B, 3-5-08)

16.08.050 Repealed.

Editor's note—Section 3.B of Ord. No. 1384, adopted March 5, 2008, repealed § 16.08.050, which pertained to the effect of approval and derived from § 22-26 of the 1965 Code, in its entirety.

Chapter 16.16

FINAL OR PARCEL MAP

Sections:

16.16.010 Preparation generally.

16.16.020 Information to be shown generally.

16.16.030 Index.

16.16.040 Easements.

16.16.050 Surveying data generally.

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

16.16.070 Marginal line.

16.16.080 Outline of exterior boundary line.

16.16.090 Scale.

16.16.100 Sheets to be numbered, etc.

16.16.110 Tract title, etc., to be shown on each sheet.

16.16.120 Title sheet.

16.16.130 Certificate forms.

16.16.140 Title report.

16.16.150 Surveying data for lots.

16.16.160 Data concerning streets, rights-of-way, etc.

16.16.170 How survey to be made.

16.16.180 Existing monuments.

16.16.190 New monuments.

16.16.200 Established lines.

16.16.210 Lot numbers.

16.16.220 When to be filed.

16.16.230 Disposition of copies.

16.16.240 Polyester film copy to be furnished to city engineer.

16.16.250 Certification by planning commission.

16.16.260 Traverse sheets and work sheets.

16.16.270 Examination and endorsement by city engineer.

16.16.280 Dedications for public use.

16.16.290 Improvements—Required.

16.16.300 Improvements—Grades.

16.16.310 Improvements—Plans profiles and specifications.

16.16.320 Improvements—Agreement to complete.

16.16.330 Improvements—Performance bond.

16.16.340 Improvements—Enumeration of minimum improvements.

16.16.010 Preparation generally. ←

After approval of the tentative map of a subdivision by the planning commission or the community development director and approval of the final map or parcel map by the city council, the subdivider may cause a final map or parcel map to be prepared in accordance with a completed survey of the subdivision and in substantial compliance with the approved tentative map, and in full compliance with the Subdivision Map Act and the subdivisions code. (Code 1965, § 22-37.) (Ord. No. 1384, § 3.D, 3-5-08)

16.16.020 Information to be shown generally.

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

- A. The title, date, north arrow, and scale.
- B. The legal description of the land included in the subdivision.
- C. The location and names, without abbreviations, of all:
 1. Proposed streets and alleys;
 2. Proposed public areas and easements;
 3. Adjoining streets;
 4. Street names.
- D. The dimensions in feet and decimals of a foot, or as required by state law.
- E. The dimensions of all lots.
- F. Each lot shall be numbered. Each block may be lettered or numbered. Each lot shall be shown entirely on one sheet.