

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

April 27, 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/APPOINTMENTS

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.

PRESENTATIONS:

1. Proclamation – Child Abuse Prevention Month 1
2. Proclamation – Mental Health Month. 3
3. Presentation of Certificates for Graffiti Removal – Chief Purvis (ORAL)

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

III. 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 9

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

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

1.	Approval of Minutes – Regular Meeting – 4/13/10	5
2.	Report of Investments for February 2010.	30
3.	Notice of Completion for Project No. 2007-40, Landscape Improvements to Sunset Reservoir.	40
4.	Resolution No. 2010-26, Approving the Measure “A” Five Year Capital Improvement Plan.	44
5.	Resolution No. 2010-28, Authorizing An Appropriation of Funds From the Measure “A” Street Fund for Street Improvements on Sun Lakes Boulevard in the Amount of \$17,132.70.	58
6.	Resolution No. 2010-29, Approving the Reprogramming of Unused Fiscal Year 2009-2010 Community Development Block Grant (CDBG) Program Funds to the Repplier Park Bowl Improvements File No. 5.BN.10-09	62
7.	Resolution No. 2010-30, Approving the Purchase of One (1) 2010 Ford Escape Hybrid Vehicle for the City of Banning Electric Utility Department from Redland Ford in the Amount of \$31,348.40 including taxes and fees	66
8.	Resolution No. 2010-31, Approving the Third Amendment to the Professional Services Agreement with Metcalf & Eddy, Inc. for Project No. 2001-02, Design and Construction Management for the 8 Million Gallon Water Reservoir	69
9.	Resolution No. 2010-32, Approving Emergency Repair to Water Well No. 10.	73

- Open for Public Comments
- Make Motion

IV. REPORTS OF OFFICERS

1. Resolution No. 2010-27, Amending a List of Capital Improvements to be Completed with Proceeds from the City of Banning Financing Authority Revenue Bonds (Electric System Project) Series 2007.
Staff Report
- 76
- Recommendation: That the City Council approve Resolution No. 2010-27, amending the list of capital improvements to be completed with proceeds from the City of Banning Financing Authority Revenue Bonds (Electric System Project) Series 2007, attached herewith as Exhibit “A”.**

V. ANNOUNCEMENTS/REPORTS *(Upcoming Events/Other Items if any)*

- City Council
- City Committee Reports
- Report by City Attorney
- Report by City Manager

VI. 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 (6/10)
3. Massage Ordinance (ETA 6/8/10)
4. Reporting Guidelines
5. Consider Sister City Relationship with Township in Haiti
6. Grand Jury Report

VII. CLOSED SESSION

1. City Council will meet in closed session pursuant to Government Code Section 54956.9 (a) regarding pending litigation - Brar vs. City of Banning.
 - A. Opportunity for Public to Address Closed Session Items.
 - B. Convene Closed Session

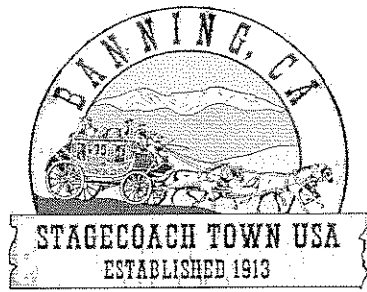
VIII. ADJOURNMENT

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



PROCLAMATION

WHEREAS, children deserve a safe, stable and permanent home in order to become productive members of our society; and

WHEREAS, child abuse is found in families of all social and economic classes and every racial and ethnic group; and

WHEREAS, child abuse impacts the entire community and finding solutions depends on community involvement to nurture family growth and inspire future generations; and

WHEREAS, effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, religious organizations, law enforcement agencies and the business community; and

WHEREAS, through the continued work of volunteers, parents, community partners, policy makers and professionals, child abuse may be eradicated, giving our children a bright, successful future; and

WHEREAS, Prevent Child Abuse Riverside County works in collaboration with the Department of Public Social Services to educate the public to reduce the incidence of child abuse and provide other services to help alleviate its effects; and

WHEREAS, all citizens should become more aware of child abuse and its prevention within the community, and become more involved in supporting parents to raise their children in a safe, nurturing environment.

NOW THEREFORE, BE IT RESOLVED, that I, Robert E. Botts, Mayor of the City of Banning along with the City Council do hereby proclaim the month of April 2010, as "CHILD ABUSE PREVENTION MONTH" and urge all the residents to become more aware of this Nationwide problem and to take the necessary actions to prevent child abuse in their communities.

IN WITNESS WHEREOF, I have set my hand and caused the seal of the City of Banning, California to be affixed this 27th day of April, 2010.

ATTEST:

Marie A Calderon, City Clerk

Robert E. Botts, Mayor

From: Veronica Rodriguez [vrodriquez@pcariverside.org]
Sent: Monday, March 15, 2010 11:10 AM
To: Marie Calderon
Subject: Proclamation for Child Abuse Awareness Month
Attachments: ~\$10 PROCLAMATION - April's Child Abuse Prevention Month.doc

Marie Calderon,

Child abuse remains a serious problem in our communities throughout Riverside County. Successful prevention and intervention requires the commitment of the entire community to nurture the growth of safe and stable families and ensure the welfare of future generations.

In the calendar year 2007, the Department of Public Social Services received 24,168 referrals. The greatest type of abuse investigated was neglect (51%). All children under age of 18 are at risk; however, children under five are at greater risk for child abuse.

Prevent Child Abuse Riverside County (PCARC) is the county's designated lead agency in child abuse and neglect prevention, promoting strong families, positive parenting, and safe children through advocacy, public awareness, and coordination of community programs and services. We are comprised of individuals from public and private agencies and concerned members of the community.

As part of PCARC's mission of advocacy, we encourage community involvement and participation, especially during April which is Child Abuse Prevention Awareness Month.

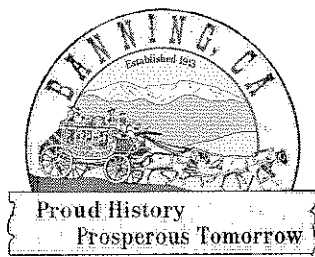
We would like to request a proclamation from your City Council to help us kickoff the awareness of child abuse and the efforts to help prevent child abuse in our communities. I would like to request to be added to your agenda for the April 27, 2010 City Council Meeting. I have attached a draft of the proclamation to this e-mail.

Thank you very much for your attention towards this matter. Please feel free to contact me if you have any questions or need additional information.

Thank You,

*Veronica Rodriguez
Prevent Child Abuse, Riverside County
1945 Chicago Ave, Suite B-South
Riverside, CA 92507
Office- (951) 686-5581
Cell- (951) 500-8156*

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PROCLAMATION

WHEREAS, mental health is critical for our well-being and vitality as well as that of our families, communities; and

WHEREAS, the World Health Organization found that mental illnesses are the number one cause of disability in the United States and, collectively, are the most prevalent health problem in America today – more than cancer, and heart disease combined; and

WHEREAS, one in 10 children has a serious mental disorder that can lead to school failure, physical illness, substance abuse and even suicide; and

WHEREAS, according to the 2009 County of Riverside Homeless Count, there are more than 11,191 homeless adults and children on a given day; and according to the same count, nearly 38.69% of the homeless were children under the age of 18 living with a homeless parent; and according to the same count, nearly one-third reported symptoms of mental illness; and

WHEREAS, the City of Banning has made a commitment to community-based mental health care for all residents; and

WHEREAS, the Mental Health America, the National Council for Community Behavioral Healthcare and their national partners observe Mental Health Month each May to raise awareness and understanding of mental illness.

NOW THEREFORE, I, Robert E. Botts, Mayor of the City of Banning, along with the City Council, do hereby proclaim May 2010 as “MENTAL HEALTH MONTH” in the City of Banning and call upon all citizens, government agencies, public and private institutions, businesses and schools to recommit our community to increasing awareness and understanding of mental illness, improving the array of mental health services for consumers of all ages, and expanding the supply of affordable, supportive housing for people living with mental illness.

IN WITNESS WHEREOF, I have set my hand and caused the seal of the City of Banning, California to be affixed this 27th day of April, 2010.

ATTEST:

Marie A Calderon, City Clerk

Robert E. Botts, Mayor

February 22, 2010

Honorable Mayor Bob Botts
99 E. Ramsey Street
Banning, CA 92220

SUBJECT: PROCLAMATION FOR MAY IS MENTAL HEALTH MONTH 2010

Dear Honorable Mayor Bob Botts:

This letter is sent to you to request your assistance in creating public awareness of mental health issues in your community by issuing a proclamation from the City of Banning recognizing **MAY IS MENTAL HEALTH MONTH**.

Since 1949, Mental Health Month has opened the eyes of the American public to the importance of mental health and the reality of mental illnesses. Initiated as a weeklong public education campaign, it instantly enjoyed the involvement of many mental health associations and other groups across the country. The observance soon grew into a month's worth of activities, and Congress officially designated the month of May as Mental Health Month.

For your convenience, I am enclosing a suggested proclamation that you may wish to use. If at all possible, we would like to have the proclamation issued at your last City Council meeting in April or your first meeting in May. We will make arrangements for a member of the Riverside County Mental Health Board to be present to accept the proclamation on behalf of the Department of Mental Health. We wish to be placed on the City Council agenda and slotted for a three or four minute presentation prepared by the attending Mental Health Board member.

We hope that you and the members of your City Council will participate in helping to eliminate the stigma of mental illness in your community by proclaiming May is Mental Health Month. Your proclamation will be displayed in one of our local mental health clinics in honor of your contribution to public awareness.

If you have any questions or need further information, please contact Jane McCoy at (951) 358-4603.

Sincerely,

Jerry A. Wengerd, Director
Department of Mental Health

Attachment

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

04/13/10
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Botts on April 13, 2010 at 6:38 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: Andrew Takata, City Manager
David J. Aleshire, City Attorney
Zai Abu-Bakar, Community Development Director
Duane Burk, Public Works Director
Hoyl Belt, Human Resources Director
Jeff Stowells, Battalion Fire Chief
Fred Mason, Electric Utility Director
Heidi Meraz, Community Services Director
Dr. John McQuown, City Treasurer
Marie A. Calderon, City Clerk

Mayor Botts asked for a silent invocation and invited the audience to join him in the Pledge of Allegiance to the Flag.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/APPOINTMENTS

PUBLIC COMMENTS—*On Items Not on the Agenda*

Inge Schuler said she had a concern again about the minutes. If you really read the minutes, they are a summary and she doesn't think that is a good idea because a lot of these things are just rambling and you don't know who said what and it changes the point of view from you, to he, to they and you have no clue actually what is going on. If you compare that with the excerpts from the minutes that you have at the end of your packet dated April 25, 2006, it is so delightful to read the clarity, the conciseness and accuracy of what actually happened. Please compare the two types of minutes. Ingle stated that she has the same concern with the CRA minutes and she has no idea what is going on if she has to rely on the minutes. She is not sure if this is supposed to be a legal document and if it is, she doesn't know what kind of thing we can get out of this. You need to address this. The choice of language is often not clear.

Mayor Botts said that he will ask the City Manager to look into this but the Council voted not to have verbatim minutes because we have the DVD and the videos that take every word and we should probably revisit that.

Ellen Carr, 471 W. George Street addressed the Council speaking for Tender Loving Critters and the critters of the area. She said that we are all getting a sinking feeling that nothing is going to happen and she is certainly not happy about it and this is a sorry situation. Last week in her neighborhood a cat was killed because dogs are running loose and if it is in the middle of the night there is no one to call and if you call Riverside County, that is not considered an emergency. Things are not what they should be. It seems like the City Council and Riverside County are not communicating. We have a wall and unfortunately all these animals are squashed against this wall in limbo. We have got to do something together.

Ralph Alexander Jr., 1515 N. Almond Way addressed the Council stating that there is a problem on Phillips and Ramsey Street. If you are going south on Phillips and you come to the stop sign, you have a blind corner there due to all the trucks. It looks like a truck stop from Phillips down to Hathaway. We have diesels that are parked on the street and it is very disruptive to all of us. He said that our officers are doing a fine job in other areas but we need to get to that area.

Paul Freeman, 5033 Vintage Circle and Ron Sanders addressed the City Council stating that the First Annual Community Evangelist Outreach will be held at Repplier Park Playhouse Bowl on June 26, 2010 from 2 to 5 p.m. This event also has already been approved and they have received a permit to have this event. Everyone in the Pass Area is welcomed to attend and it is an evangelistic outreach to present the gospel and will be done in a neutral setting. Several churches in the area are coming alongside to assist. He went over the various activities that will be included in this event which will also include music and speakers. They are inviting any local businesses that would be willing to at least help them with advertising where they can go into their shops or businesses and display event flyers and posters and they are also in need of volunteers. It is their desire to impact lives for Jesus Christ which will in turn impact the city with better citizenship for the City of Banning and also the Pass Area. For more information they can contact Ron at 951-741-0700 or they can contact him at 951-769-3387.

Vera Macias, 385 W. Wilson addressed the Council stating that she has lived in Banning all of her life and this is the first time that the animal shelter has been closed this long. She said that she had volunteered at the shelter for 13 years and they also had a flood when Darrell was there but they got together along with his office and field help and they cleaned the place up and it was closed for two days and it cost the City not one cent. If there is mold down there, it is because the County is too lazy to clean it up. This is the worst animal service that we have ever had and she has never known it to be closed this long. Darrell was one of the best animal guys you had and this wouldn't be happening if he was here. Mrs. Macias spoke about two incidents in trying to help people with issues that they were having with their dogs and the treatment they received through the County. The animal shelter needs to be opened up again and running.

Fred Sakurai addressed the Council stating that he is a member of the City of Banning Volunteer Police Department and would like to appeal to any and everyone that would like to help out the City of Banning by becoming a volunteer and to do so you can contact the Human Resources Department at city hall. The only requirement is that you have approximately 20 hours a month to contribute and pass the fingerprinting test which goes through the Department of Justice. You will be trained to become a police volunteer and will be additional eyes and ears of the police department. You will not run down criminals or anything like that but you will help out in the field under the supervision of a sworn officer or you will help out in the office area.

Todd Oldenberg, Legacy Christian Center, 2562 W. Wilson addressed the Council stating that last year with the leadership and guidance from Councilwoman Debbie Franklin and the assistance of some churches they were able to provide about 300 plus backpacks full of supplies to students of the Banning Unified School District. He is kind of jumping the gun to put it out there but need all the time they can get. It is his understanding that over 60% of the children in the Banning Unified School District are on some form of government assistance. There are reports of shared socks and shared underwear. Kids are falling through the cracks so they are making an appeal and it is their goal to make sure that every child that goes to school this upcoming year of 2010 in September with a backpack and all the school supplies, underwear, socks, and whatever they need to be successful. This is our community and the children are our future and we need to invest in them. If you would be interested in assisting Councilwoman Franklin, himself or many of the churches that are endeavoring to make sure that all the kids have the necessary goods to be successful in the next upcoming school year, you can call him at 951-849-3331 or Councilwoman Franklin.

Louise Jay of Cherry Valley addressed the Council stating that she was here on behalf of Ellen Carr and Tender Loving Critters. She said that she hasn't been in a council meeting session for 71 years and that was when she was a little child and her father was presiding; he was the Mayor and this was in the City of Huntington Beach. In those days they had a sea of oil derricks as far as you could see and they had a magnificent fire department because fire was their big problem. They had a chemical that they called foamite and you could spray that on the flames and it would smother it out and fire was a very serious thing. The fire department was the place that you had to have all of your money go to because that represented the safety of your whole town. In that fire department they had a Dalmatian dog called Foamite and Foamite owned the city of Huntington Beach and everybody knew and loved the dog and that is where animals start getting into our hearts. She said that she lives in Highland Springs Village and about one-third of the people have pets and that is a very important part of their lives. We have many dogs wandering around now and they have called for help and help does not come. She doesn't know what advice she can give to the Council but she knows that the Council is in the midst of a conflict with the County and the usual administrative problems that seem to give our government all kinds of tie ups but she is sure the Council can figure a way to work out of it. But if you want support, call her anytime and she will be happy to do whatever she can to help and support the Council.

Charlene Sakurai, 4985 Bermuda Dunes addressed the Council stating that the Fifth Annual Art Hop will be held on May 1st from 10 a.m. to 3 p.m. This is a wonderful day and is for the whole family and there is something for everybody and they will have food, entertainment, music, art and the businesses will all be open. Additionally this year in the City Council Chambers there will be a Lego Master for the kids and will be building something and this will be televised. There will also be an e-waste pickup for electronic equipment that you may want to get rid of. Also coming up is the Banning Disaster Expo that will be held on April 24th from 10 a.m. to 2 p.m. and she would encourage everyone to attend because we all need to be prepared.

CORRESPONDENCE: Nothing at this time.

CONSENT ITEMS

The following items were pulled for discussion: Consent Items 4 and 10 by Mayor Pro Tem Hanna, Consent Item No. 5 by Councilmember Machisic and Consent Item No. 6 by Councilmember Robinson.

1. Approval of Minutes–Special Joint Meeting–3/23/10

Recommendation: That the minutes of the Special Joint Meeting of March 23, 2010 be approved.

2. Approval of Minutes–Regular Meeting–3/23/10

Recommendation: That the minutes of the Regular Meeting of March 23, 2010 be approved.

3. Ordinance No. 1420–2nd Reading: 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.

Recommendation: That Ordinance No. 1420 pass its second reading and be adopted.

7. Notice of Completion for Project No. 2006-07, Construction of the New Banning Police Station.

Recommendation: That the City Council accept Project No. 2006-07 as complete and direct the City Clerk to record the Notice of Completion.

8. Authorization to Fill a Position–Utility Billing Representative.

Recommendation: That the City Council authorizes staff to fill the vacant position of Utility Billing Representative created by an in-house promotion of Jennifer Harrell to Financial Services Specialist.

9. Authorize the City Manager to Review and Approve Filling Positions.

Recommendation: That the City Council rescind Policy 4 from the Supplemental Policies Statements Pertaining to Budget Activity previously approved and authorize the City Manager to review and approve hiring requests.

Motion Hanna/Machisic to approve Consent Items 1, 2, 3, 7, 8 and 9. Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

4. Resolution No. 2010-21, Declaring the Intention to Levy and Collect Assessments Within Landscape Maintenance District No. 1, During the Fiscal year 2010/11, Pursuant to the Landscaping and Lighting Act of 1972 for the Maintenance and Servicing of Landscaping, Approving the Engineer's Report, and Setting the Date for the Public Hearing for the Levy of Said Assessment.

Mayor Pro Tem Hanna said that there is public interest in potentially an advisory committee that could be formed if possible with the Landscape Maintenance District under the rubric of no taxation without representation. She believes that this was raised years ago about an advisory committee but there was no interest.

Duane Burk, Public Works Director said that the Landscape Maintenance District was started about 18 years ago and he hasn't reviewed that ordinance in awhile and said he would look into it and then he could respond to the interested parties.

Mayor Botts opened the item for public comments.

Matthew Clarke, 1036 Charles Street addressed the Council stating that in speaking with many citizens that live specifically within the maintenance district the sort of concept of again, "no taxation without representation" is a general theme here. Most of the homeowners in some of these districts pay between \$100 and \$180 dollars for a special assessment and they simply want to participate in the decision making process. He said what will come up later is a 1.2% increase and we the citizens in that area feel is that enough or too much and they don't know. As part of this process they would like to be able to have access to the source and application of funds within that district that have occurred in the past. If we have a situation where perhaps the curb and gutter, the lights or whatever is on the agenda to be repaired or maybe we need an extra \$50,000 dollars they sort of feel that it should be upon them to make that decision or recommendation to pay those extra amounts. Currently there are citizens willing to participate on such a committee.

Christa Baird, 1036 Charles Street addressed the Council stating that she would like an accounting of past monies and how they were appropriated. One of her main concerns in her particular maintenance district that she is paying for is that on Hathaway Street and on Hargrave when it rains it pours dirt down to where there are no curbs or gutters and it plugs up their sewers and also the streets get flooded out and undermined and they are responsible for maintaining their streets. This is a real concern and something she has mentioned every single winter since they have moved in that area for the last 3 to 4 years. She also has a problem with her street lights being maintained.

Councilmember Machisic asked what services are covered by the landscape maintenance district and was this original agreement signed with the developer and this would be a parallel to something like mello-roos where the homeowner really has no control over it and when they bought the home they agreed to the terms and conditions of the contract.

Mr. Burk said it was for the landscaped areas designated in that district but primarily it is just the landscaping itself in the greenbelt areas. He said that the developer entered into this landscape maintenance district with the City to collect an assessment for the annual maintenance and yes it is something like a mello-roos.

Councilmember Machisic said that there is another important point and even though it wasn't true last year but in the previous years the City has had to contribute to this landscaping contact and to what amount.

Mr. Burk said that the General Fund has absorbed the cost to a tune of \$125,000 annually and this is the second year that it will be in the black.

Motion Hanna/Machisic to approve Consent Item No.4 adopting Resolution No. 2010-21. Motion carried, all in favor.

5. Resolution No. 2010-24, Opposing California State Ballot Proposition 16, New Two-Thirds Vote Requirement for Public Electricity Providers.

Councilmember Machisic said he felt this was an important issue and that the public should be aware of it and he asked through the City Manager if there could be a presentation of this Proposition 16 that will be coming up in June.

Fred Mason, Electric Utility Director addressed this issue stating that basically this proposition is of great concern to all the public utilities here in California. The proposition is sponsored solely by Pacific Gas and Electric (PG&E) the investor owned utility up North and to date they have spent about \$30 million dollars on this campaign. What they are trying to do under the guise of saying it is the "taxpayers right to vote" they are trying to make it so that public utilities cannot expand their service at all. And it is written in such a way that if we had a developer that wanted to build 100 new homes, we couldn't service those homes unless we got a two-thirds vote of our voters. If a commercial project wanted to come on, we couldn't serve that also and if one house was built, we couldn't serve that. It says that you have to be the sole electric provider and we are not because we have some of our services that are provided by Edison such as some of the wells in the canyon and because we are not the sole provider this exception that they have in the proposition does not apply to us. Most public utilities are not sole providers. They all have, due to historical situations, services that are served by investor-owned utilities. PG&E does not want any competition and they are trying to make this a constitutional amendment so that they will never ever, ever have competition again. We cannot allow this to pass and the impacts to Banning would be significant. He said that the City is not allowed to spend any money opposing Proposition 16 but PG&E can spend tens of millions of dollars to get it passed. Basically every city that is affected by this cannot

spend any money to advertise the fact of what their position is. It is a great concern and we need to get the word out.

City Attorney added that as Mr. Mason just mentioned it is an unequal playing field because as you know from going through the transient occupancy tax measure municipalities cannot spend money on campaigning. Municipal utilities cannot do that, whereas the investor owned utilities can such as PG&E have basically unlimited funds. It is uniquely a PG&E issue because in their jurisdiction there have been efforts to organize public municipal utility entities and PG&E have sponsored a lot of money to fight individual campaigns with a majority vote requirement and they have successfully prevented the formation of those entities. He said that he would like to add three whereas clauses to the resolution to make it a little clearer as to what the problems are. In regards to the first whereas clause it basically points out and if you think about the advertising you are hearing it is basically saying this is a matter of protecting people's right to vote. They are not inserting a majority vote requirement; it is a two-thirds vote requirement. What a two-thirds vote requirement says is for every person that wants to vote no you have to get two people to vote yes. So it is actually contrary to a majority voting concept to put in a two-thirds vote requirement. The second whereas this is the advertising that you are hearing on the airwaves that basically says municipalities know nothing about energy issues and they shouldn't be getting involved in something that they know nothing about. Well, obviously the City of Banning knows quite a bit about energy issues and the public utilities that are organized throughout the state are very informed about these issues and the suggestion of the advertising campaign that public utilities know nothing about this subject and serving their customers, that again is really false advertising. And the third whereas clause that he would add is just pointing out that the measure is sponsored by PG&E and it is really done in order to limit competition within their territory. They don't have other private energy companies to compete with and the only potential competition for investor owned power is public power and overall public power delivers its power at lower rates than the investor owned utilities.

Mr. Mason said that the California Municipal Utilities Association, as well as a number of other public utilities, have launched a lawsuit against the Secretary of State basically saying that the Secretary of State needs to remove the measure from the ballot because the signatures were obtained to authorize it through misrepresentation of the information.

Mayor Botts said that he assumes we can send a press release and our resolution to the media. City Attorney said that would be an excellent idea.

Mayor Botts opened the item for public comments.

Inge Schuler resident of Banning addressed the Council stating that she has been aware of this strong-arming of PG&E for quite some time because she has read the editorials. She said it is very interesting how educated people that she has talked to have absolutely no concept of the seriousness of this thing. That it is a constitutional amendment and there we are stuck forever. We need to defeat this and if there are any grassroots efforts she would be willing to support it and get involved. We have until June and time is of the essence to get that done. It is absolutely criminal what PG&E is doing.

Matthew Clarke addressed the Council stating that he shares the opinion of most taxpayers who are tired and tired of paying more and more and more taxes. We are tired of it. We are tired of extending open checkbooks. We are tired of handing from city governments to state governments billions of dollars that don't even get spent in the efforts that we ask them to be spent on. Here is another avenue of yet again a blank check that will be written by other cities and other governments just to blindly spend money and we the taxpayer will have no choice in this. Perhaps the wording may not be what we want and perhaps upon approval, judicial review will rewrite some of the terminology but he thinks the intent and the effort here is that we the taxpayers are tired of issuing the free check. We the citizens are tightening our belts.

Don Smith resident of Banning addressed the Council stating that Banning is a small fraction of the total vote on this proposition. Banning in and of itself is not going to really affect how this proposition turns out. Certainly the law provides that the City can't spend taxpayer money supporting or opposing any specific proposition but as he recalls you are allowed to do some educational issues on an item. At a minimum he thinks that the City should direct staff to put something in the utility bills that will go out in May before the June election that meets that education requirement explaining to them what this proposition is so that we can at least try to have Banning vote in a way that is in Banning's best interest. He believes that if a group of people want to get together and decide that they as a group want to provide themselves power in a way that they believe that they can do that that is cheaper and more efficient than what is currently being provided to them and want to be the decision makers in deciding how that power is run and what it costs, etc. that free enterprise and just the American way should give them that right by a majority vote and not a super majority and he believes that is where PG&E is playing the game. He said that he assumes that everyone has received the literature from PG&E and has heard the radio ads and this is all about giving the people the right to decide; well it isn't. It is trying to take the right away from the people to decide.

Motion Hanna/Robinson to approve Consent Item No. 5, adopting Resolution No. 2010-24 as amended by the City Attorney and to send out educational material to our residents in regards to this proposition. Motion carried, all in favor.

6. Resolution No. 2010-25, Approving a Parking Easement and Covenant Agreement between Paddy O'Reilly's Owners, Mr. and Mrs. Mehas and the City of Banning for Public Parking Use.

Councilmember Robinson said that this is complicated because it involves more than one project and a lot of people have asked when the Beaver turnout lanes will be done and Apex. He asked Mr. Burk for a contracting schedule and if the contractor held his original price because this was awarded back in December.

Mr. Burk said that what staff is asking the Council to approve tonight is the parking easement and covenant agreement between Paddy O'Reilly's (Mr. and Mrs. Mehas) and the City of Banning for public parking. The project was awarded and bid in December 2009 and he has been working with the property owners to get this covenant in place. He said that there are three scopes of work with this and one is the road between Ramsey Street and Wilson and on

the north side is Apex. Also included in that was eight road dedications from different property owners and that took a little bit of time and at the last City Council meeting the Council accepted those dedications. Staff has been working with the contractor, Larry Jacinto Construction of Mentone and they have held their numbers and have been very understanding. The other part of the project is the Beaver turn pockets and staff will be addressing the alignment of those. Mr. Burk said that the pre-job meeting is tomorrow and hopefully they will be moving forward with the construction schedule and breaking ground soon.

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

Motion Robinson/Hanna to approve Consent Item No. 6, adopting Resolution No. 2010-25. Motion carried, all in favor.

10. Larry D. Smith Correctional Facility Wastewater Permit Fees.

Mayor Pro Tem Hanna said that there is a question from the same resident regarding Fair Oaks Ranch and how their wastewater system is linked, if at all, to the correctional facility.

Mr. Burk said that the entire distribution system for the sewer collection is all interconnected at one point in time however what we have here tonight is that staff is asking the Council to receive the information and to memorialize the agreement that was made with the County. The County did an expansion and some fees were calculated which was part of the staff report and what came out of the fees was a challenge from the County not on the water side but on the wastewater collection side. Staff had some meetings with them and agreed to put sewer meters in to see what the actual impacts were based on what our schedule is. So the City has billed the County this dollar amount which is before the Council and we are asking the Council to agree that we will monitor not only the inflow of the water but the effluent leaving and then the City will come up with a calculation at the end and if we are right, the County will pay the total amount of the fee and if we are not correct, the fee will be adjusted. Basically it doesn't impact Fair Oaks Ranch and they pay the same fees at the time the City adopted the impact fee.

Mayor Pro Tem Hanna asked how is it linked.

Mr. Burk said that the major trunk line for the city is south on Porter so all the sewer flows toward the south so they are not really directly connected but they are indirectly connected.

Mayor Botts opened the item for public comments.

Matthew Clarke said that his concern with the effluent in the wastewater was that previously it had been noted in the project requirements of Fair Oaks Ranch that monies were paid extra for specific sewer lines to be installed. We residents paid those funds and now we get effluent waste from the jail expansion to the tertiary system sitting to the east and his question is would it be utilizing those pipes that we had to pay extra to get installed because if they do pass those pipes, then in some way, shape or form, is there some form of rebate owed to the residents.

Mr. Burk said actually the Fair Oaks Development that faced on Charles Street between Hargrave and Hathaway when the development went through the sewer line was in need of repair on Charles Street so conditions for that developer were to upgrade the sewer line on Charles Street and within the development. He believes that they passed a fee amongst the houses that were impacted with this sewer line and that is the sewer line that Mr. Clarke is talking about. This sewer that we are talking about does not impact Fair Oaks Ranch.

Motion Machisic/Hanna to approve Consent Item No. 10 to receive and file this report. Motion carried, all in favor.

ORDINANCES - INTRODUCTION

1. Ordinance No. 1422—An Interim Ordinance Establishing a Temporary Moratorium on the Permitting of Tattoo & Piercing, Fortune Telling, Push-cart Vendors, and Hookah (Smoking) Lounge Land Uses Pending the Review and Possible Amendment of Zoning Regulations Applicable to Such Uses.
(Staff Report—Zai Abu Bakar—Community Development Director)

Zai Abu Bakar gave the same report as contained in the agenda packet. She stated that the reason for adopting the moratorium is because within the last six months they have received a lot of requests from the prospective businesses that want to establish this type of uses in our community. Staff has researched the current code and also the previous code to see how these uses were permitted and they could not find any justification as to how the use was permitted to begin with and that is why staff is asking for the moratorium. In regards to the push-carts the question was brought before the Council about establishing hot dog stands at the Department of Motor Vehicles and staff spoke with Mr. McCallum and said in order to address some of these issues because the code doesn't address it staff needs to bring it before the Council to get policy direction. She said that they would also have to address the issue city-wide and not just at a specific location and the same thing would apply to Hookah lounges. Staff needs to study these uses and they took a snap shot of surrounding communities to see how they address it but that is just a snap shot and they have not talked to staff member in the other communities. Staff is asking the Council to adopt the ordinance for 45 days and most likely staff will have to come back to the Council for an extension because they believe that they cannot complete the study within those 45 days and then staff will come back to Council for an additional 10 months and 15 days.

Councilmember Robinson asked how we determine what a push-cart is. When we have the street fairs and the different vendors we do have carts out there with food and different sundry items that they sell. Is that going to fall under that moratorium?

Zai stated that it probably would be and that is why we have to look at it carefully. Currently in the municipal code addresses push-carts under temporary uses.

Mayor Botts asked if we pass this moratorium when does it go into effect and obviously we need to make sure that it doesn't impact the Art Hop on May 1st.

City Attorney said as drafted he thinks it applies to all push carts after the effective date and it is effective immediately. He asked if the Council wanted to put in a provision exempting events put on by the City.

City Manager said it should be under a temporary use permit.

City Attorney asked the Council if they want to exempt all special use permits or events sponsored by the City. Mayor Botts said the answer was yes.

Mayor Pro Tem Hanna asked why we have to do this. Why do we have to have a moratorium on push carts for 45 days or 90 days or whatever? You can still do the same study and you can still come back and we can discuss how we want to regulate it in the future but why make the change right now.

City Attorney said you can certainly if you want to take some use out of the moratorium and not be subject to that and that would be okay and we would continue under what our existing rules are. He thinks the concern was that the push-cart situation is also something the City has not looked at previously and on the interim basis the staff recommendation was not to permit them while it went through the study. He said that 45 days passes very quickly and after the first 45 days a moratorium can be extended for ten and half months. It is not the case if on some of these uses it became clear what the regulations ought to be more quickly. Some uses could come out of the moratorium more quickly than other uses. But back to the main question, staff could either put into this an exemption that when special events are approved by the City or drop the push-carts out all together.

City Attorney said he would add a section stating: "Notwithstanding any other provision hereof, push-cart food units will be permitted as a temporary use at special events sponsored or authorized by the City."

There was some further discussion in regards to enforcement of regulations in regards to push-carts.

Mayor Pro Tem Hanna said that the remarks made about tattoo and piercing are kind of antiquated. There is a whole culture out there and there are millions of people who love tattoos and they are done safely and so forth so she doesn't think that we should see this just from one perspective. Also in regards to the tattoo parlor on First Street it went out of business and another tattoo parlor wanted to go into it and they were told by the City that would not be permitted. She thought that if it was an existing use continued in the same site, that it could continue and is that not correct.

City Attorney said that he doesn't know the specifics of that situation but there is a potential argument that the even though the use was established if it was illegally establish, it gains no non-conforming rights. His conversation with the Planning Director is that it is a little unclear to us as to whether tattoo parlors are actually currently permitted.

Mayor Pro Tem Hanna said that they had a business license.

City Attorney said that a business license can be granted; it's not a zoning entitlement. Again, perhaps the prior staff had a different interpretation and he is not sure that he is prepared to opine on that.

Mayor Botts opened the item for public comments.

Matthew Clarke said in the last six months there has been a growing problem in other municipalities and that is the establishment of medical marijuana businesses opening at a rapid rate basically unchecked. As part of this study he wanted taken into consideration businesses that wish to sell medical marijuana. In terms of the push-carts he knows that the food handlers in the simplest of restaurants and fast-food establishments are made to get food handling certifications from Riverside County Department of Health and that if we do license these push carts, that those vendors be required to live up to the same guidance and regulations that other business establishments are made to follow.

Don Smith said that he has lived in town for a long time and when he moved here a long, long time ago we had a tattoo parlor and a fortune teller. He agrees with the City Attorney that as staff changes there has been a change in how the rules and regulations of the zoning code are being interpreted. However, if staff is uncomfortable in knowing what conditions they should assert when approving these businesses, then we probably should give them a reasonable length of time to come up with what those conditions should be. He knows that the law says 45 days and then the rest of the year but for most of these rather common businesses except medical marijuana, these others would become pretty common place businesses. Staff shouldn't feel that they need to take that length of time and you should encourage them to come back sooner because these are businesses that have time deadlines and owners of buildings that are trying to get renters and we shouldn't make them wait for no reason other than the law gives us that length of time. He would encourage the Council to give staff instructions to come up with what they think the guidelines should be but instruct them to do so with all haste. He said that regarding tattoos he doesn't have one and he doesn't understand why everybody under the age of forty has one. It has not only become the social norm; it's become quite socially acceptable so we shouldn't chase them out of town if we are going to try to come up with a diverse, active, hip downtown, jump to the assumption of our ages that that is the type of businesses we don't want in a good neighborhood. He thinks society has gone past us and that paradigm is no longer true.

Inge Schuler resident of Banning addressed the Council stating that she concurs with Councilmember Hanna and her comments at the beginning as to why we actually need this. Also, she would concur with Don Smith's comment. She said that basically she doesn't care for tattoo and piercing and she has seen them in the high schools and they would probably set off all kinds of alarms but anyway she doesn't see any problem with any of these. We want to encourage business and some of these businesses have become quite common place and here we are talking about family-oriented environment. Well families do this and they go together and have their tattoos. In regards to fortune telling these are hard times and people want to know whether this is going to turn around. What harm do they do? They have their license

and they pay taxes. We are always concerned about taxes, jobs and all this other stuff and here we are restricting all of this; it is not necessary. Push-cart vendors as was pointed out have health requirements, make sure they have a license, make sure that they have their permits, etc. and regulate it within the existing things. In regards to smoking we are so moralistic. We don't permit any of these things. She said that she doesn't smoke and is allergic to it and she doesn't like it however, she thinks it is a legal substance and what is going to be next, coffee. We are restricting, restricting because we don't agree with it. She doesn't really see this as a big problem and if we want to have somewhere and not in the downtown maybe but nearby have a Hookah lounge, so be it and it can be handled by a conditional use permit. Other communities are doing it and are we that high and mighty here in Banning that we can be actually a little bit more tolerant of these things.

William Dickson, 5700 W. Wilson addressed the Council stating that he was not against push-carts but if you look at the average business and the restrictions and the requirements that we put on someone to open a business in town he would think that we would need to hold them to the same standard and he is wondering how do we collect sales tax on these. Do they get exempt from paying taxes to the City? He thinks those are things we have to look at because we make sure that all of our businesses have to pay sales tax and all those other things.

Mayor Botts said as often happens when we just have a simple issue that staff needs a little clarification on we all jump ahead and put our opinions in. He would read that justification of the zoning code is currently silent and does not address these general uses and he thinks that is why we are here and staff is asking for some direction. He would like to see the Council move forward with this and include push-carts with the exception that we would exempt any approved event by the City. We need to address all of the issues with push-carts. He said that in response to the other gentleman's question we did pass an ordinance prohibiting medical marijuana shops in our city. Also, for clarification under the comparison table Beaumont does allow Hookah Lounges and it was indicated that they did not.

Mayor Botts closed the item for public comments.

City Attorney said that he would add a section stating: "Notwithstanding any other provision hereof, push-cart food units will be permitted as a temporary use at special events sponsored or authorized by the City."

Motion Machisic/Robinson to move approval of the recommendation to adopt Ordinance No. 1422 and as modified by the City Attorney.

Mayor Pro Tem Hanna stated that push-cart vendors also deal with non-food vendors so she just wanted to say if it is merchandise or any other element, it is also included.

City Attorney said what it talks about is the unrestricted sale and the distribution of food, beverages, merchandise or services from push-cart food units so that is the term that is used in the ordinance.

Mayor Pro Tem Hanna said it probably shouldn't have had food in the second phrasing because we want to allow merchandise carts in these special events as well.

City Attorney said it could be. He was just trying to be consistent with the way it was written.

Mayor Botts said that is everyone's understanding.

Motion carried, all in favor.

Mayor Botts asked the City Clerk to read the title of Ordinance No. 1422. City Clerk read: An Interim Urgency Ordinance of the City of Banning, Establishing a Temporary Moratorium on the Permitting of Tattoo & Piercing, Fortune Telling, Push-Cart Vendors, and Hookah (Smoking) Lounge Land Uses Pending the Review and Possible Amendment of Zoning Regulations Applicable to Such Uses, to Become Effective Immediately and as amended.

Motion Hanna/Robinson to waive further reading of Ordinance No. 1422. Motion carried, all in favor.

Motion Machisic/Franklin that Ordinance No. 1422 be adopted. Motion carried, all in favor.

REPORTS OF OFFICERS.

1. Option for Direct election Versus Appointment of Mayor and Mayoral Committee
Appointment Procedures: Alternatives, Advantages and Disadvantages
(Staff Report- David J. Aleshire, City Attorney)

City Attorney said that this issue was actually brought up from comments by a couple of Councilmembers with one asking that we look at the issue dealing with rotation of the office of Mayor and another Councilmember asking that we look at the process whereby Councilmembers are appointed to committees. He said that they have also done a comprehensive memo that deals with the subject of the directly elected mayor and also deals with appointments to commissions. He said that their firm is still actually new in this City so they have not actually gone through the codes and ordinances dealing with commission appointments and so forth and wanted to deal with it comprehensively. He said he was not going to talk about the directly elected mayor. It is discussed in the memo and was not the subject of what you wanted to deal with and if somebody wants to ask him a question about that, he will deal with it.

City Attorney said that in regards to the subject of the rotational mayor their memo has a summary of the principal points of their findings and he summarized those. First of all, for general law cities which Banning is, the position of Mayor is basically a ceremonial position. The Mayor does not have significantly more power than other Council members. However, just the fact of the Mayor being the presiding officer obviously puts the Mayor in a very significant position in terms of directing the meeting and how matters are considered and under Roberts Rules of Order the Mayor basically makes those determinations unless a majority of the Council were to overrule that. Cities have a whole variety of ways of filling the office of mayor and other

than the directly elected Mayor position which is created by statute and election in the community, the office of Mayor is ultimately determined by three members of the Council. It becomes an appointed position and it is the Council itself that has the power to appoint that officer as their presiding officer. Some cities have created a rotational system. What that basically means is that on some basis and probably the most frequent bases would be an annual. The office of mayor, the incumbent of that office moves out of the office and some other council member moves into the office. There are cities that have written rules as to how that rotation will occur and there are other cities that do it basically by tradition and in an unwritten manner. Whether there is a written policy or whether it is just tradition how you do it, the fact of the matter is, that with three Council votes the system can be thrown out and be done a different way. He said that some cities that have had a written policy kind of believe that if they go through the trouble of establishing that, it gives it a little more staying power.

City Attorney went over the advantage and disadvantages of the rotational mayor system. He said that if the Council wants to talk about the rotation you would need to decide whether you want rotation or not and then if you do, we would have to talk about issues like how often, do you want it written or just an understanding, what are the offices included, are we just going to include just the Mayor and the Vice Mayor or do you want to include the Agency offices and then we would have to talk about what should the order be of the rotation. So if you want to move into that conversation that is what we would have to deal with.

City Attorney said in regards to the issue of making appointments to basically Council committees or representatives to different entities and so forth, your adopted policy the way he reads it, it seems to talk about that the appointment is basically by the Mayor with the approval of the Council. In effect, the way he reads that language it means that the Mayor nominates but he or she cannot fill the position unless the rest of the Council concurs so if the rest of the Council does not approve of the nominee they can vote that down. Again, that is just in the Council's policy. There is another part of the policy that sort of talks about something different but he thinks that it has probably intended to deal with the commission appointment issue and that basically said that each Councilmember got to make an appointment. When you look at your commissions you had some commissions that basically said that by appointment of each Councilmember. What they found out was that in 2006 the Council had a whole staff report on how appointments ought to be handled. It basically said that appointments to the commissions will be done the same way it is done with the Planning Commission and the Planning Commission basically says it is with the approval of the Council. So it basically doesn't give anybody the right to nominate or start the process, it just requires the whole Council to have agreement. In this staff report the staff recommendation was that this be applied to all commissions and he thinks that was the Council's intent and that is what the City Clerk has been doing however, he doesn't think that the ordinances ever got corrected to be consistent with that staff report. So in addition to the rotational Mayor issue he thinks that the Council needs to deal with two other issues. You need to indicate whether in terms of the appointment to Council committees where he is construing your rules to be Mayor nominates and Council has to consent is that okay and you want to continue with that or do you want to change it. And then the second issue with respect to making appointments to commissions is it still your intent to abide by what you did in 2006 in which case his office will go back and correct the ordinances to be consistent with that.

Councilmember Franklin said the City Attorney also has in the report information in regards to directly elected Mayor by the people and she would like the City Attorney to summarize some of that information also.

City Attorney said there are several code sections in State Law that provide that even in a General Law City you may put a question to the voters as to whether to have directly elected Mayor. This can be put forward at any regular election and the voters would be asked the question of whether they would like to directly elect the Office of the Mayor. There is a second question that you are required by the statute to put on in that same election and that is whether the term of office of the mayor would be a two year term or a four year term. If you had a directly elected Mayor there are two other things that are different than the normal General Law City and one is that there is the ability of paying the directly elected mayor more money than the compensation to other council members. The second thing that is different is under a directly elected regime the statute is actually very specific about how the appointing process occurs and it actually specifies that it would be the process where the Mayor nominates and the rest of the council has to approve. The City Attorney explained further about the directly elected system and how it works in some cities that he represents and he would say to his mind that there is a very strong disadvantage of that system and that disadvantage is that whenever you ask the voters whether you want a two year term or a four year term, he has never had the voters select the four year term. They always prefer the two year term. The disadvantage of the system is that what happens when you set that up right now we have three council members up in one election and two up in the other so if you go to a directly elected mayor, well the mayor's term is up every two years and so the other two council seats align so that two of them are up at one time and then four years later the other two are up so the mayor's seat is up with two council members and then in the next election the mayor's seat is up again with the other two council members. What that means is that there are always two council members who are not up for election, who are incumbents who can run against the mayor for the mayor's seat. So this creates a dynamic where every two years some incumbent councilmember is running against the mayor and it just creates the opposite of trying to get all the council people working together. It creates a lot of instability on the council to have the mayor's seat up every two years.

City Attorney said one last point the other thing is if that incumbent councilmember is elected to the mayor's seat, then you have a vacancy and then you have to figure how to fill that seat which could mean you have to have another election to fill the vacated seat by the incumbent councilmember that got elected to be the mayor.

Mayor Botts opened the item for public comments.

Matthew Clarke addressed the Council stating that the City Attorney had mentioned that no matter what is decided this could be wiped out completely and started over from scratch again by three new council men or women. One of the ramifications of the citizenry is that they can put this up on the ballot and they themselves determine that they want X, Y and Z and what is the power of the Council to override that vote of the citizenry as compared to just three city council men or women saying no we don't want rotation this time but five years from now we do. What

if the citizens put something on the ballot and say no we want this system and what are the ramifications.

City Attorney said an initiative measure that was put on the ballot and voted by the citizens can only be amended by another initiative measure approved by the citizens.

Councilmember Franklin said if we were to select the directly elected mayor could the ordinance include, if it were passed by the voters, a piece that would say that if a sitting councilmember was elected as mayor, that the next person or something to the effect of the next person with the next highest votes would then get into that seat so it would not create the need for another election.

City Attorney said if we were a Charter City, the answer is clearly yes. It is not quite clear with a General Law City since there is nothing in the State statutes that creates that option. He is not aware of a General Law City that has adopted that provision. It makes perfect sense but he would have to look in more detail to be sure of that.

Fred Sakurai, 4985 Bermuda Dunes addressed the Council stating the system is not broke; why fiddle with it. We have had a half hour of discussion saying what we can and cannot do and changes that we would have to make. We are working fine as it is. We have a new Mayor every two years and if a Councilmember is on the Council for that period and does fine, great. She or he will be elected to the office of Mayor. As far as the appointments he thinks that most of them know what led to that issue. He thinks that five adults would get together and determine who works on what commission or committee and settle on something. Why fiddle with something that works.

Christa Baird, 1036 Charles Street addressed the Council stating that she disagrees and she is not so sure that it really does work. She thinks rotating it is a great thing. She said that she has seen people, at least as it seemed to her, that people were ditched or not given an appointment or whatever and it seemed to her to be a personal means instead of for the benefit of the City. If we could get passed some of that personal type of issues by rotating the positions and appointments, we maybe able to do deal with the matters at hand more efficiently.

Mayor Botts closed the item for public comments.

Mayor Botts asked if there was interest in rotational appointment of the Mayor.

Councilmember Franklin said that she is more interested in the directly elected Mayor mainly because that allows the public to have more say and she thinks as it is important as people are becoming more and more interested in what is going on in the world and our city. They should have the option of saying whether or not they want a directly elected Mayor and with the election coming up in November that could be done in a way that would not cost the City additional money because we already have an election coming up.

Mayor Botts said that he would concur with what was said and would like to go down that path with much more information on the directly elected mayor. Councilmember Robinson concurred.

Mayor Pro Tem Hanna said she thinks that in a General Law City such as ours that the city is going to make the most progress if the Council works together if we decide on what we want to support as a team and push forward on that. Anything that differentiates one of us from that team group effort is a problem for her and it is an illusion to think that someone is the Mayor and is therefore going to be able to do something. They can't unless they have support. She believes that being a mayor is an opportunity to offer leadership and she believes that each Councilmember is equally capable of providing that and should be given the opportunity. Since she has been on the Council since 2003 we have had people, in her estimation, who have offered good leadership, strong leadership in difficult times and people who have not and we have survived. She believes that it should be rotational and that each position would be in the rotation and that it would be done by seniority with those who have served as Mayor in their most recent terms going to the bottom of the list. She thinks that would really be to the benefit of the City that we could move forward and make progress.

Councilmember Franklin said what she is hearing Mayor Pro Tem Hanna say is that people should not have the right to make that decision for themselves.

Mayor Pro Tem Hanna said yes, she would agree. She thinks that by giving them that opportunity it is promoting the notion that the Mayor is somehow important when in fact the Mayor is important as a Councilperson. The Mayor cannot do anything in and of themselves. If you were Mayor of Banning as a directly elected Mayor but you couldn't get two people to support a sister city relationship with Haiti, it is not happening.

Councilmember Franklin said she doesn't think that just because you say a person is a directly elected that they would necessarily be any different than any Councilmember that is directly elected because if they don't have any more rights, then their vote is still going to be the same and it doesn't matter whether they agree or disagree on any issue. If a person is directly elected by the people, at least we would know that is who the people are actually saying this is who we want as the face of the City.

Mayor Botts asked Councilmember Franklin if it was her intent that we would try to do this for the November election if possible.

Councilmember Franklin said if it is possible and it is her understanding if there are any costs, it is very minuscule.

Mayor Pro Tem Hanna said if this could be put on the ballot for November for a directly elected mayor, would we at the same time have a campaign for a directly elected mayor so if they vote yes, then someone becomes mayor or would that happen in two years time.

City Attorney said he is not sure about that and thinks that it would probably come in the next election because when it is time for filing your statements and so forth it is not an office that exists.

City Attorney said he gave the Council the general information and now if he is to come back with more information on the directly elected mayor we would be talking about the actual ordinance, what it would look like, what election we would be talking about, election costs, etc.

Councilmember Machisic said that he sees some of these signs around campaigns from different politicians and they talk about less is better. If we go ahead and add another layer, there is going to be an expense for a general election and there is going to be one every couple of years. As far as he is concerned one of the things that we need to do as a Council is to work closer together and eliminate personal concerns that we have for the good of the City. He thinks that a rotational process is the way to go. Each of us have been elected on our own and we are not independent of anything and he feels that by being elected people have enough confidence in you that you should be able to take your share of responsibility at some point in time. As an example the biggest City in California, if you look at what is happening in Los Angeles that shows you some of the things that are happening and the Mayor and the Council are in an impasse. The mayor is elected by everybody, the council is elected by different divisions within that city and the mayor cannot do anything without council approval and the same would be true here. He would like to think of the Council in a town of our size as being more collegial and he would like to see less politicking. He thinks that is one of the problems that we have had with the mayor's position is that there is some political intrigue in the background and would like to see it eliminated so that we can least move ahead with the city and not be worried about who is going to be Mayor.

Mayor Botts said that there are three people that are supporting direct election of the mayor. He said that in regards to appointments is the Council of the understanding as the City Attorney indicated in regards to the 2006 approval by the City Council to say that it is advise and consent and that the Mayor comes up with a list and looks for approval by the Council.

Mayor Botts opened the item up for comments on the direct election of the mayor.

Don Smith said that he agrees with what the City Attorney said that no matter how you decide whether to do rotational or not to do rotational or doing it in writing or don't do it in writing that the next Council could have its own opinions and do it the way they want which is the way he thought it should be and each Council needs to be comfortable with how it picks its chairman that we call the Mayor. However, we suddenly got off that topic and said instead now we are now going to take a survey, an informal vote, as to whether we should be moving forward with a general election of the mayor which he has a stronger opinion about than whether they should or should not be rotational and he thought the City Attorney did a real good job of the pros and cons of each way. In a perfect world where there were no politics and what he had was five governing people working together for the betterment of Banning, direct elections would be fine but we know that there is politics involved. And now what we are going to have is for sure if we have a directly elected mayor, every two years we are going to have a majority of the Council up for election with special elections to follow when the Council people are running against each other for the job of mayor which we all know will happen. Suddenly we have this group that has this

really minor annoyance of who gets to be the king and people get their feelings a little hurt when they are not chosen but they get by that quickly and start once again working together and there is not really any politics involved in who is going to be the mayor. If you have a direct election there is going to be an amazing amount of politics involved in who is going to be the next mayor that is going to directly impact the ability of this Council and future Councils to work together and actually accomplish things in a timely manner. Think about it and it is not just you. If you do this, it is twenty years from now with people we don't know running against each other for a whole year attacking each other and then coming up here having to be collegial with each other. It is probably not going to work.

Matthew Clarke said unless I remind you City Council our founding fathers establish a government that had three components—a legislative branch, executive branch and a judicial branch. To invoke and say that one of those branches is an unnecessary layer; shame on you. To be able to say that the will of the people would not be necessary; no, that is wrong. And to criticize probably one of the top three greatest cities in this world, the City of Los Angeles, because they have disparity between its mayor and city council he doesn't see the City of Banning with a one billion dollar budget, he doesn't see the City of Banning with 10,000 policeman out front, he doesn't see the City of Banning with one of the probably best fire departments in the world. So to criticize the City of Los Angeles for having a mayor may not be all that wise to do. Keep in mind that it is a government by the people, for the people, of the people and not of the council, by the council, for the council.

Charlene Sakurai said you are the will of people whether you directly elect a mayor or not; you are all directly elected. The one thing that she wants and expects with the full knowledge that everyone has different talents and strengths is competence. That is the one thing that we all expect. We have different ways of measuring it sometimes but that is what we want and that is what she expects. If you rotate the mayor, if you spin to it, if you get elected to it, that is the one thing that she wants. After listening to the legal opinions and everybody else's opinions it seems like the thing that would cause the most disruption on a routine basis is the constant elections and the jockeying to be a part of that. But in the long run she is going to vote for who she thinks is competent and that is what she expects once everybody is up there and she doesn't think she is alone in that.

Councilmember Hanna said in regards to appointments she has seen mayors in the past in Banning gain a whole lot of power because the Council acceded that power to the mayor. Mayor Botts had to leave a meeting that was just before his surgery and she brought up kind of spontaneously to the rest of the Council to look at this appointment system because she was noticing kind of a power creep which we started with this 2006 memo with the Mayor making the appointments and we may have had votes at one point and then it went to lets have a consensus and then it went to essentially I am making the appointment. That is how it kind of happened and she would like to encourage that we go back to what we have in writing that we actually have to have a vote of the Council to approve or disapprove any mayoral recommendation for an appointment.

Mayor Botts said that he concurs with that and that has been his approach.

City Attorney said in regards to commissions the language right now is that Council approves. so you have to get three votes of the Council and nobody has any special power to nominate and so the intent would be that is the system of the Planning Commission and we would extend that to all the commissions and make sure everything conforms and is that correct. **There was Council consensus that was correct.**

Mayor Pro Tem Hanna said she had mentioned to the City Manager that at one point they also approved a Design Review Committee that was going to be different than any other committee as part of the development process and the Design Review Committee for example was the only committee that we would allow people who are not residents of Banning to be a part of. That was never realized or developed and she would like to have staff take a look at that and see whether in fact we did approve it and if we did, does staff want to recommend proceeding with it or should we drop it.

City Attorney said that they could look into the background and report back to the Council.

Councilmember Franklin said if we are cleaning things up she would like to see if they could also talk about all the other committees so that we know which committees are actually active, how often they meet, how we are going to get feedback from those committees because in looking at the list that we have here, she didn't even know they had some of these committees. Also at the same time look at whether or not we would want to increase the number of committees we have because we have had a lot of talk about whether or not to have an airport commission or other groups and is this even an appropriate time to be looking at that.

City Attorney said he is clear on how they are going to deal with commissions. On the issue of appointments to Council committees is the intent that the process be the same as with the commissions that it is the whole Council or would it be the process that he construes it to be under the policy manual that it is the Mayor with the consent of the Council. **There was Council consensus that it would continue with the Mayor with the consent of the Council.**

ANNOUNCEMENTS/REPORTS (Upcoming Events/Other Items if any)

Mayor Botts said that there were no Council reports at the beginning of the meeting and a list of the announcements has been displayed all evening on the screen. The Council made a decision to put all reports at the end of the meeting and also the Council would not go into everything they do and every where that they have been and list out every event. The announcement will be displayed at the meeting hard copies would be available at the back of the room and posted on Channel 10. The Council is looking at ways to be more efficient and move the meetings along.

City Council

Mayor Botts—

- He said that we are leading most every city in the state of California on our census participation. In regards to our little bet with the Mayor and Council of Beaumont they are currently at 63% and we are at 71% participation. Friday is the last day to mail your census

form in and for those that do not someone from the Census will be knocking at your door to get information. It is important for both cities that everyone participate.

- He said that there is kind of an emergency situation in regards to appointments and he would like to make an appointment that we did not fill and that would be for an alternate member to the Southern California Association of Governments and Councilmember Hanna said that she would be willing to fill that position and if we could do that, then there are some financial benefits in doing this.

There was Council consensus to add this item to the agenda. The Council voted 5/0 to have Councilmember Hanna as the Alternate Member to SCAG (Southern California Association of Governments).

Councilmember Franklin said it was brought to her attention that some people are sight impaired and they cannot read the announcements and she is asking is it the intent of the rest of the Council not to give any kind of oral presentation or not.

Mayor Botts said that if it becomes a problem and there is feedback then we could do something at that time.

Councilmember Franklin--

- She attended a meeting with the League of California Cities with the Community Services Department last Friday and there were a couple of items that were brought up and one had to do with a bill moving through the Legislature in regards to increasing the number of syringes that people can get from 10 to 30 and the committee decided to vote for non-support of that item. The second thing talked about was to support communities supporting First 5 keeping the money that has been voted on by the public three times for healthy children between the ages of 1 to 5. There is a senator who is trying to get the money taken from First 5 and put into the General Fund and it is moving through Senator Cox. We want to encourage people to understand how important it is that we follow through with what people have already voted on three times that we keep First 5 money under Prop 10 still in supporting healthy children. The third item they talked about was having to do with the Good Samaritan Sudden Cardiac Survival Act and that is SB 1281 and we want to have excluded from the current requirements that if there is a defibrillator in a public or private place that it does not require that whoever uses or installs it has to have everybody employed trained and then have to keep maintenance. The issue is that right now people may be really reluctant to include more defibrillators in public places or private businesses because of the training and maintenance. What has been determined was that because the technology has made them so user-friendly you don't have to worry about people being trained any more. What this means to us as residents is that if there are more defibrillators in public places that could save lives. This is being supported but a second piece of that was to ask every city to consider being a part of 'Project Heartbeat' and that is where we would try as a city to make sure that in every public building that we have partnering with our schools and partnering with anybody who might be willing to have a defibrillator put in place where people would have access to them. The cost would run between \$500 and \$1,500 per defibrillator. She thought this would be interesting to bring back to our City and if the Council was in consensus to ask staff to look into it a little bit more to see what would be involved because

they talked about how many lives are actually saved by these being available and because they are easy to use.

There was Council consensus to have the City Manager look at it and see whether it is worth staff looking into it.

Councilmember Machisic--

- He said that he has been appointed to an Audit Committee through RCA (Regional Conservation Authority) and they are doing their first audit in five years. He wanted to report back that they audited the City of Banning as far as RCA funds and it said the fees collected were recalculated and agreed to the amount collected without exception. The fees for building permits were remitted to the Authority on a timely basis without exception. He complimented staff on doing a fine job.
- He said that there is a bill on the Governor's desk, AB 183, which would authorize a credit of the lesser of 5% of the purchase price of a qualified principle residence or \$10,000 for purchases made between May 1, 2010 and on or before December 31, 2010.
- He and Duane Burk attended a workshop for WRCOG (Western Riverside Council of Governments) and in it they were trying to determine what the priorities of the committees were and he went through the list of priorities in order of importance and it included: transportation, water issues, economic development, legislation, education, planning and health care. WRCOG is going to establish seven committees and all the members of the Executive Committee will on one or two of these committees and will come up with recommendations for a regional project. Additionally, there is a Five Year Annual Report that the Council will be receiving. Through the fees that WRCOG has charged homes they have authorized projects up to \$518 million dollars.

Mayor Botts welcomed Heidi Meraz, Community Services Director, back because she has been out for some time and the Council is glad she is back and doing better in getting well.

Report by City Attorney

No reports at this time.

Report by City Manager

- In regards to the animal shelter staff is still working with the County in regards to the issues with charges for animal care and right now everything is still going to Thousand Palms and they want to move everything to San Jacinto. Besides that the City is working with the City of Beaumont and Calimesa. Staff is looking at our facility to see what kind of condition it is in and how we can bring it up so that it is once again in a good condition to bring animals back and if that happens, we may end up contracting with a different contractor than the County.
- In regards to parking on Ramsey, which one member of the public addressed this evening, staff is looking to see how far these trucks can park. Basically there may not be enough clearance right now so we may redline it up to a certain point so that vehicles can inch out and have a better visual. Also the police will be looking at this also because there have been

reports of people doing maintenance on their trucks in the middle of the street and that is not allowed according to the ordinance.

- He reminded everyone in the audience that if they have weeds, they have to be cleared from your house 100 feet or up to your property line. So in other words if your property line is only 75 feet, that is how far you have to clear weeds as opposed to 100 feet. This is the fire safety message today.
- In regards to Val Monte, staff is still working with the developer to work the street issue out and then staff will talk to the residents that live on Val Monte.
- It was a very good Special Olympics course run for the law enforcement which started in front of our new police facility and it was an excellent run.
- He also spent some time with the Hmong community at their meeting and it was very interesting.

ITEMS FOR FUTURE AGENDAS

New Items—

Councilmember Machisic said that each of the Councilmembers has received a bulletin from the California Redevelopment Association and it talks about a plan. Even though this is the City Council meeting he would like the Council to discuss this at the CRA meetings because last year the State took \$2.05 billion dollars from cities in California and we want to do whatever we can to protect that money and he would like to have that as a discussion item at the Community Redevelopment Agency meeting in the future.

Pending Items—

1. Schedule Meetings with our State and County Elected Officials
2. Set New Date for Joint Meeting with Banning School Board (6/10)
3. Massage Ordinance (ETA 6/8/10)
4. Reporting Guidelines
5. Consider Sister City Relationship with Township in Haiti
6. Grand Jury Report

Councilmember Hanna said that she doesn't know what Item No. 4 under Pending Items is referring to.

City Clerk stated that Councilmember Franklin wanted to know if there were reporting guidelines as far as someone reporting back that certain things or steps were done on a project and how we are following that in regards to the development process.

CLOSED SESSION

City Attorney stated that the City Council will meet in closed session to deal with two matters and one is labor negotiations and the other is potential litigation.

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

Meeting went into closed session at 9:08 p.m. and returned to regular session at 9:17 p.m.

City Attorney reported that the City Council met in closed session and a status report was given on a potential litigation matter and also a status report was given on labor relations and no reportable action was taken on either item.

ADJOURNMENT

By common consent the meeting adjourned at 9:20 p.m.

Marie A. Calderon, City Clerk

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

CITY COUNCIL AGENDA

Date: April 27, 2010

TO: City Council

FROM: Kirby Warner, Interim Finance Director

SUBJECT: Report of Investments for February 2010

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

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

BACKGROUND: This report includes investments on hand at the end of February 2010. As of February 28, 2010, the City's operating funds totaled \$68,304,593. Included in operating funds is \$3,290,195 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of February 28, 2010 approximately 41% of the City's unrestricted cash balances were invested in investments other than LAIF.

Presented are three months of Investment Reports. February is a first issue, while December and January are included to provide multiple months of statements for comparison.

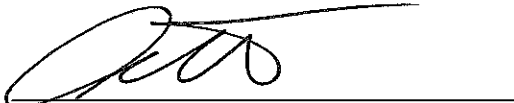
FISCAL DATA: The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) decreased to 0.557 % in February. The average rate for all investments in February was 1.018%.

RECOMMENDED BY:



Kirby Warner
Interim Finance Director

APPROVED BY:



Andy Takata
City Manager

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

	Amount
<u>Petty Cash</u>	2,305

Bank Accounts

	Interest Rate	Amount
Wells Fargo Bank	0.000%	145,421
Wells Fargo Bank-Investment Account	0.100%	869,347
Bank of America-Airport	0.300%	5,989
Bank of America-Parking Citations	0.300%	4,673
Bank of America-CNG Station	0.300%	3,936

Money Market and Bank Account Sub-Total 1,029,367

Government Pools

Local Agency Investment Fund: Account #1 0.557% 31,244,147

Account #2 Operating Amount 6,370,698

Account #2 CRA Bond Cash Bal 3,290,195

Local Agency Investment Fund: Account #2 0.557% 9,660,893

Government Pool Sub-Total 40,905,040

Operating Cash Balance 41,936,711

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 0.050% 1,275,722

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 1.808% 25,092,159

Operating Funds Total 68,304,593

Fiscal Agent

	Amount
BNY Western Trust Company	539,035
US Bank	56,054,278

Fiscal Agent Total 56,593,313

City of Banning Investment Report

February 28, 2010

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
145,421	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	145,421	n/a	145,421
869,347	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	869,347	n/a	869,347
5,989	Bank of America-Airport	n/a	0.30%	daily	varies	5,989	n/a	5,989
4,673	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,673	n/a	4,673
3,936	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,936	n/a	3,936
Sub-total								1,029,367
<u>Government Pools</u>								
31,244,147	L.A.I.F. account #1	n/a	0.557%	daily	varies	31,244,147	n/a	31,244,147
9,660,893	L.A.I.F. account #2	n/a	0.557%	daily	varies	9,660,893	n/a	9,660,893
								40,905,040
<u>Investments-US Bank/Piper Jaffray</u>								
6,000,000	Federal Farm Credit Banks	n/a	2.125%	9/23/2011	3/24/2008	6,000,000	0	6,005,460
3,000,000	Fedl Natl Mig Assn	n/a	2.050%	12/30/2011	12/23/2008	3,000,000	0	3,002,820
11,170,000	Federal Farm Credit Banks	n/a	2.000%	1/30/2012	6/12/2009	11,170,000	0	11,194,909
3,000,000	Federal Farm Credit Banks	n/a	1.350%	1/20/2012	1/7/2010	3,000,000	0	3,010,320
1,878,650	Money Market	n/a	0.000%	daily	varies	1,878,650	0	1,878,650
US Bank/Piper Jaffray Average Rate=								25,092,159
Average Rate All=								1.018%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 14, 2009. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 228 days and does not include Bond Reserve Fund Investments.

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City of Banning Investment Report

February 28, 2010

Individual Investments with Fiscal Agent

TRUSTEE		Bond	Bond Reserve		Minimum	Interest	2/28/2010
Bond Issue Description	Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Reserve Requirement	Feb-10	Market Value
BNY WESTERN TRUST COMPANY							
1997 Admin Building COPs Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.010%	11/1/2020 daily	522,375	*	522,562 16,473
US BANK							
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market	0.200%	daily	265,580	4.65	265,622
		US Bank Mmkt 4-Ct	0.280%	daily			14
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 4-Ct	0.300%	daily	190,323	48.29	189,588
2003 CRA Tax Allocation Bonds	2028	US Treasury Bill	4.560%	1/28/2010	971,763	0.00	*
		US Bank Mmkt 4-Ct	0.300%	daily		38.41	1,012,421
		US Bank Mmkt 4-Ct	0.290%	daily		54.85	55
Surplus Fund		US Bank Mmkt 4-Ct	0.025%	daily			8
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	US Bank Mmkt 4-Ct	0.300%	daily		1,381.15	5,231,198
		Cdars Federated Treasury Oblig Fd.-9AMMF98F1	0.000%	daily			3,441,207
Reserve Fund		Reliance TR Co Cdars CD #0140029695-7AMCD1FD1	0.750%	5/20/2010			3,500,000
Special Fund		US Bank Mmkt 4-Ct	0.300%	daily	1,880,751	478.59	1,876,057
Surplus Fund		US Bank Mmkt 4-Ct	0.300%	daily		131.19	131
		US Bank Mmkt 4-Ct	0.320%	daily			9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		US Bank Mmkt 4-Ct	0.320%	daily		0.01	28
Principal Account		US Bank Mmkt 4-Ct	0.300%	daily		0.01	33
		US Bank Mmkt 4-Ct	0.300%	daily		936.80	3,677,748
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		US Bank Mmkt 4-Ct	0.300%	daily		0.74	2,919
Principal Account		US Bank Mmkt 4-Ct	0.300%	daily		0.02	88
Reserve Fund		US Bank Mmkt 4-Ct	0.300%	daily	2,310,710	589.19	2,313,075
Project Fund		US Bank Mmkt 4-Ct	0.300%	daily		2,555.35	10,032,057
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES							
Reserve Fund		US Bank Mmkt 4-Ct	0.300%	daily		0.04	163
		Reliance Trust Company # 9AMGGBEZ7	3.650%	11/17/2011	2,961,500		3,016,509
Acquisition & Construction		Cdars Federated Treasury Oblig Fd.-9AMMF98F1	0.000%	daily			123,865
		US Bank Mmkt 4-Ct	0.300%	daily		413.37	1,617,677
		Reliance Trust Co C D #7AMCD5063	0.400%	11/26/2010			8,036,457
		Reliance TR CO Cdars #0140029703- 7AMCD1FE9	0.750%	5/20/2010			3,250,000
		Reliance Trust Co C D #7AMCD49F7	0.500%	11/18/2010			8,000,000
		Cdars Federated Treasury Oblig Fd.-9AMMF98F1	0.000%				467,348
*Paid Semi-Annually-Deposited into Money Mkt Account						Total	6,632.66
							56,593,313

*Paid Semi-Annually-Deposited into Money Mkt Account

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

2,305

Bank Accounts

Interest

Rate

Amount

Wells Fargo Bank

0.000% 475,747

Wells Fargo Bank-Investment Account

0.100% 3,885,153

Bank of America-Airport

0.300% 3,423

Bank of America-Parking Citations

0.300% 3,403

Bank of America-CNG Station

0.300% 3,232*Money Market and Bank Account Sub-Total*

4,370,957

Government Pools

Local Agency Investment Fund: Account #1

0.558% 31,244,147

Account #2 Operating Amount 4,152,278

Account #2 CRA Bond Cash Bal 3,508,615

Local Agency Investment Fund: Account #2

0.558% 7,660,893*Government Pool Sub-Total*38,905,040**Operating Cash Balance****43,278,302**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.050%

1,426,876Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

1.808%

25,110,992***Operating Funds Total*****69,816,171****Fiscal Agent**Amount

BNY Western Trust Company

539,035

US Bank

56,227,434***Fiscal Agent Total*****56,766,469**

City of Banning Investment Report

January 31, 2010

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
475,747	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	475,747	n/a	475,747
3,885,153	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	3,885,153	n/a	3,885,153
3,423	Bank of America-Airport	n/a	0.30%	daily	varies	3,423	n/a	3,423
3,403	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,403	n/a	3,403
3,232	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,232	n/a	3,232
Sub-total								4,370,957
<u>Government Pools</u>								
31,244,147	L.A.I.F. account #1	n/a	0.558%	daily	varies	31,244,147	n/a	31,244,147
7,660,893	L.A.I.F. account #2	n/a	0.558%	daily	varies	7,660,893	n/a	7,660,893
								38,905,040
<u>Investments-US Bank/Piper Jaffray</u>								
6,000,000	Federal Farm Credit Banks	n/a	2.125%	9/23/2011	3/24/2008	6,000,000	0	6,012,900
3,000,000	Fedl Natl Mig Assn	n/a	2.050%	12/30/2011	12/23/2008	3,000,000	0	3,006,570
11,170,000	Federal Farm Credit Banks	n/a	2.000%	1/30/2012	6/12/2009	11,170,000	0	11,206,303
3,000,000	Federal Farm Credit Banks	n/a	1.350%	1/20/2012	1/7/2010	3,000,000	0	3,006,570
1,878,650	Money Market	n/a	0.000%	daily	varies	1,878,650	0	1,878,650
US Bank/Piper Jaffray Average Rate=								25,110,992
Average Rate All=								0.986%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 14, 2009. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 234 days and does not include Bond Reserve Fund Investments.

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City of Banning Investment Report

January 31, 2010

Individual Investments with Fiscal Agent

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve	Bond Maturity Date	Minimum Reserve Requirement	Interest Jan-10	1/10/2010 Market Value
BNY WESTERN TRUST COMPANY								
1997 Admin Building COPs Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.010%	11/1/2020 daily	522,375		*	522,562 16,473
US BANK								
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market US Bank Mmkt 4-Ct	0.200% 0.280%	daily daily	265,580		5.28	265,618 14
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 4-Ct	0.300%	daily	190,323		48.28	189,539
2003 CRA Tax Allocation Bonds	2028	US Treasury Bill US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct	4.560% 0.300% 0.300% 0.025%	1/28/2010 daily daily daily	971,763		21,021.68 *	0 1,014,759 256,467 8
Surplus Fund								
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007								
Redevelop Fund	2037	US Bank Mmkt 4-Ct Cdars Federated Treasury Oblig Fd.-9AMMMF98F1 Reliance TR Co Cdars CD #0140029695-7AMCD1FD1 US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct	0.300% 0.000% 0.750% 0.300% 0.300% 0.320%	daily daily 5/20/2010 daily daily daily			1,835.16 478.48 0.05	5,229,816 3,336,669 3,500,000 1,878,401 613,873 9
Reserve Fund								
Special Fund								
Surplus Fund								
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund		US Bank Mmkt 4-Ct	0.320%	daily			0.01	28
Principal Account		US Bank Mmkt 4-Ct	0.300%	daily			0.01	33
		US Bank Mmkt 4-Ct	0.300%	daily			913.10	3,676,811
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund		US Bank Mmkt 4-Ct	0.300%	daily			0.74	2,918
Principal Account		US Bank Mmkt 4-Ct	0.300%	daily			0.02	88
Reserve Fund		US Bank Mmkt 4-Ct	0.300%	daily		2,310,710	589.05	2,312,486
Project Fund		US Bank Mmkt 4-Ct	0.300%	daily			3,312.43	10,029,502
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES								
Reserve Fund		US Bank Mmkt 4-Ct	0.300%	daily			0.04	163
Acquisition & Construction		Reliance Trust Company # 9AMGGBEZ7 US Bank Mmkt 4-Ct Reliance Trust Co C D #7AMCD5063 Reliance TR CO Cdars #0140029703- 7AMCD1FE9 Reliance Trust Co C D #7AMCD49F7	3.650% 0.300% 0.400% 0.750% 0.500%	11/17/2011 daily 11/26/2010 5/20/2010 11/18/2010	2,961,500		413.37	3,016,509 1,617,265 8,036,457 3,250,000 8,000,000
Total								56,766,469

*Paid Semi-Annually-Deposited into Money Mkt Account

36

Summary Schedule of Cash and Investments

Operating Funds		<u>Amount</u>
<u>Petty Cash</u>		2,305
<u>Bank Accounts</u>	Interest	
	Rate	Amount
Wells Fargo Bank	0.000%	445,834
Wells Fargo Bank-Investment Account	0.100%	7,351,110
Bank of America-Airport	0.300%	3,444
Bank of America-Parking Citations	0.300%	3,243
Bank of America-CNG Station	0.300%	3,436
<i>Money Market and Bank Account Sub-Total</i>		7,807,066
<u>Government Pools</u>		
Local Agency Investment Fund: Account #1	0.569%	31,196,602
Account #2 Operating Amount		(1,412,681)
Account #2 CRA Bond Cash Bal		3,565,144
Local Agency Investment Fund: Account #2	0.569%	2,152,463
<i>Government Pool Sub-Total</i>		33,349,065
Operating Cash Balance		41,158,437
<u>Restricted Operating Funds at Riverside Public Utilities</u>		
Highmark U.S. Government Money Market Fund	0.050%	1,411,988
<u>Other Investments</u>		
Investments-US Bank/Piper Jaffray - See Page 2	1.738%	25,099,705
Operating Funds Total		<u>67,670,130</u>
<hr/>		
Fiscal Agent		<u>Amount</u>
BNY Western Trust Company		539,035
US Bank		57,323,358
Fiscal Agent Total		<u>57,862,394</u>

City of Banning Investment Report

December 31, 2009

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
445,834	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	445,834	n/a	445,834
7,351,110	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	7,351,110	n/a	7,351,110
3,444	Bank of America-Airport	n/a	0.30%	daily	varies	3,444	n/a	3,444
3,243	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,243	n/a	3,243
3,436	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,436	n/a	3,436
Sub-total								7,807,066
<u>Government Pools</u>								
31,196,602	L.A.I.F. account #1	n/a	0.569%	daily	varies	31,196,602	n/a	31,196,602
2,152,463	L.A.I.F. account #2	n/a	0.569%	daily	varies	2,152,463	n/a	2,152,463
								33,349,065
<u>Investments-US Bank/Piper Jaffray</u>								
6,000,000	Federal Farm Credit Banks	n/a	2.120%	9/23/2011	3/24/2008	6,000,000	0	6,019,920
3,000,000	Fedl Natl Mig Assn	n/a	2.040%	12/30/2011	12/23/2008	3,000,000	0	3,008,430
11,170,000	Federal Farm Credit Banks	n/a	2.000%	1/30/2012	6/12/2009	11,170,000	0	11,204,180
1,500,000	Federal Farm Credit Banks	n/a	1.550%	7/7/2011	7/7/2009	1,500,000	0	1,500,150
3,367,025	Money Market	n/a	0.000%	daily	varies	3,367,025	0	3,367,025
US Bank/Piper Jaffray Average Rate=								25,099,705
Average Rate All=								0.955%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 14, 2009. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 230 days and does not include Bond Reserve Fund Investments.

38

City of Banning Investment Report

December 31, 2009

Individual Investments with Fiscal Agent

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Interest Dec-09	12/31/2009 Market Value
TRUSTEE							
BNY WESTERN TRUST COMPANY							
1997 Admin Building COPs Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.010%	11/1/2020 daily	522,375	*	522,562 16,473
US BANK							
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market	0.200%	daily	265,580	10.81	265,612
		US Bank Mmkt 4-Ct	0.280%	daily			14
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 4-Ct	0.300%	daily	190,323	46.71	189,491
2003 CRA Tax Allocation Bonds	2028	U S Treasury Bill	4.560%	1/28/2010	971,763	*	991,980
		US Bank Mmkt 4-Ct	0.300%	daily		5.61	22,753
		US Bank Mmkt 4-Ct	0.300%	daily		0.04	146
Surplus Fund		US Bank Mmkt 4-Ct	0.025%	daily			8
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	US Bank Mmkt 4-Ct	0.300%	daily		652.98	7,202,536
		Cdars Federated Treasury Oblig Fd.-9AMMF98F1	0.000%	daily			3,336,669
		Reliance TR Co Cdars CD #0140029695-7AMCD1FD1	0.750%	5/20/2010			3,500,000
Reserve Fund		US Bank Mmkt 4-Ct	0.300%	daily	1,880,751	462.93	1,877,922
Special Fund		US Bank Mmkt 4-Ct	0.300%	daily		0.05	185
Surplus Fund		US Bank Mmkt 4-Ct	0.320%	daily			9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		US Bank Mmkt 4-Ct	0.320%	daily		2.16	28
Principal Account		US Bank Mmkt 4-Ct	0.300%	daily		1.04	33
		US Bank Mmkt 4-Ct	0.300%	daily		187.03	3,675,898
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		US Bank Mmkt 4-Ct	0.300%	daily		10.19	2,918
Principal Account		US Bank Mmkt 4-Ct	0.300%	daily		2.75	87
Reserve Fund		US Bank Mmkt 4-Ct	0.300%	daily	2,310,710	569.93	2,311,897
Project Fund		US Bank Mmkt 4-Ct	0.300%	daily		4,486.25	10,025,189
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES							
		US Bank Mmkt 4-Ct	0.300%	daily		163.08	163
Reserve Fund		Reliance Trust Company # 9AMGGBEZ7	3.650%	11/17/2011	2,961,500		3,016,509
Acquisition & Construction		US Bank Mmkt 4-Ct	0.300%	daily		401.05	1,616,852
		Reliance Trust Co C D #7AMCD5063	0.400%	11/26/2010			8,036,457
		Reliance TR CO Cdars #0140029703- 7AMCD1FE9	0.750%	5/20/2010			3,250,000
		Reliance Trust Co C D #7AMCD49F7	0.500%	11/18/2010			8,000,000
*Paid Semi-Annually-Deposited into Money Mkt Account						Total	57,862,394

39

CITY COUNCIL AGENDA

Date: April 27, 2010

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Notice of Completion for Project No. 2007-40, "Landscape Improvements to Sunset Reservoir"

RECOMMENDATION: Accept the Project "Project No. 2007-40, "Landscape Improvements to Sunset Reservoir" as complete and direct the City Clerk to record the Notice of Completion.

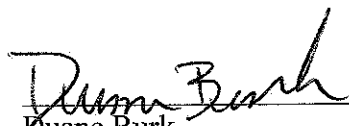
JUSTIFICATION: The Contractor has completed the work as per the plans and specifications.

BACKGROUND: The City Council awarded the construction contract for said project to Rock Bottom, Inc. of Bakersfield, California, at its regular meeting held on June 10, 2008.


The scope of work for the project included the replacement of existing plants, trees, bushes and the irrigation system. Due to a fire that occurred in September of 2006 across the northern area of the City, the replacement of these items was necessary. The project has been completed on January 25, 2010.

FISCAL DATA: The original contract price was \$119,624.96 and the final contract price for the entire project was \$120,232.96 which included a one change order amounting to \$608.00.


RECOMMENDED BY:


Duane Burk
Director of Public Works

REVIEWED BY:


Kirby Warner
Interim Director of Finance

APPROVED BY:


Andrew J. Takata
City Manager

1 WHEN RECORDED MAIL TO:

2
3 City Clerk's Office
4 City of Banning
5 City Hall, 99 E. Ramsey Street
6 Banning, California 92220
7

8 FREE RECORDING:
9 Exempt Pursuant to
10 Government Code §6103
11

12
13
14 NOTICE OF COMPLETION

15 PROJECT NO. 2007-40

16 "LANDSCAPE IMPROVEMENTS TO THE SUNSET RESERVOIR"

17
18 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning,
19 a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of
20 the State of California, and is hereby accepted by the City of Banning pursuant to
21 authority conferred by the City Council this April 27, 2010, and the grantees consent to
22 recordation thereof by its duly authorized agent.
23

24 That the OWNER, the City of Banning and Rock Bottom, Inc. entered into a written
25 Agreement dated July 1, 2008 for the landscape improvements to the Sunset Reservoir.
26 The scope of work for the project included the replacement of existing plants, trees,
27 bushes and the irrigation system. Due to a fire that occurred in September of 2006 across
28 the northern area of the City, the replacement of these items was necessary. The project
29 has been completed on January 25, 2010.
30

31
32 (1) That the Work of Improvement was substantially completed on
33 January 25, 2010, and the Nature of Interest is in fee simple owner.
34

41

33 (2) That the City of Banning, a municipal corporation, whose address is
34 Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is the owner of said
35 Work of Improvement.

36
37 (3) That the said Work of Improvement was performed at the Sunset
38 Reservoir Site, 1202 N. Sunset Avenue, Banning, CA 02223.

39
40 (4) That the original contractor for said improvement was Rock Bottom, Inc.,
41 State Contractor's License No. 646895.

42
43 (5) That the corporate surety on the performance and payment bonds is
44 Pinnacle Surety & Insurance Services.

45
46
47 Dated: April 27, 2010

48
49 CITY OF BANNING
50 A Municipal Corporation

51
52
53
54 By _____
55 Andrew J. Takata
56 City Manager
57

58
59
60 APPROVED AS TO FORM:

61
62
63 _____
64 David Aleshire, Aleshire & Wynder, LLP
65 City Attorney
66

42

1
2 **JURAT**
3

4 State of California
5 County of Riverside
6

7 Subscribed and sworn to (or affirmed) before me on this _____ day of
8 _____, 2010 by _____ proved to me on this basis of
9 satisfactory evidence to be the person(s) who appeared before me.
10

11 (S e a l)

12 _____
13 Notary Public in and for said County
14 and State
15

16 STATE OF CALIFORNIA)

17) ss

18 COUNTY OF RIVERSIDE)
19
20

21 MARIE A. CALDERON, being duly sworn, deposes and says:
22

23 That I am the City Clerk of the City of Banning, which City caused the work to be
24 performed on the real property hereinabove described, and is authorized to execute this
25 Notice of Completion on behalf of said City; that I have read the foregoing Notice and
26 know the contents thereof, and that the facts stated therein are true based upon
27 information available to the City of Banning, and that I make this verification on behalf
28 of said City of Banning. I declare under perjury that the forgoing is true and correct.


29 Executed on _____, 2010 at Banning, California.
30
31

32 _____
33 City Clerk of the City of Banning
34
35
36

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: April 27, 2010

TO: Honorable Mayor and City Council

FROM: Kahono Oei, City Engineer 

SUBJECT: Resolution No. 2010-26, "Approving the Measure 'A' Five Year Capital Improvement Plan"

RECOMMENDATION: Adopt Resolution No. 2010-26, approving the Measure "A" Five Year Capital Improvement Plan as presented.

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

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

RCTC has estimated that the City of Banning will receive Measure "A" Funds totaling \$1,872,000.00 as follows for the next five years:

<u>Year</u>	<u>Estimated Amount</u>
2011	\$351,000.00
2012	\$360,000.00
2013	\$371,000.00
2014	\$385,000.00
2015	\$405,000.00

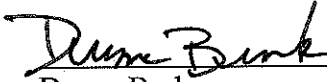
Each City in Riverside County is required by the RCTC to submit a Five Year Capital Improvement Plan (CIP), as approved by its governing board, to indicate how Measure "A" funding is to be utilized over the next five years. The list of street locations under the Five-year CIP is attached as Exhibit "A".

In addition, the City is required to submit a list of Estimated Street Expenditures for FY 2009/2010, which has been prepared by the Finance Department and is attached as Exhibit "B". The Maintenance of Effort Certification, attached as Exhibit "C", must be signed by the City Manager and submitted to the RCTC along with the Five-Year CIP.

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

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


RECOMMENDED BY:


Duane Burk
Director of Public Works

REVIEWED BY:


Kirby Warner
Interim Finance Director

APPROVED BY:


Andy Takata
City Manager

RESOLUTION NO. 2010-26

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

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

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

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

WHEREAS, the RCTC has estimated that the City of Banning will receive a total of \$1,872,000.00 in Measure "A" funds over the next five years; and

WHEREAS, the program is intended to support local transit systems, street pavement rehabilitation and public street improvements at various locations; and

WHEREAS, the priority list of street locations can be changed by the City Council during the design stage or at the time of award of the construction contract.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning, that Resolution No. 2010-26, "Approving the Measure 'A' Five Year Capital Improvement Plan," is hereby adopted.

PASSED, APPROVED and ADOPTED this 27th day of April, 2010

Robert E. Botts, Mayor

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-26 was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 27th of April, 2010.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

EXHIBIT "A"

MEASURE "A" FIVE YEAR CAPITAL IMPROVEMENT PLAN

2011-2015

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE "A" LOCAL FUNDS PROGRAM
FISCAL YEAR 2011-2015**

Agency: City of Banning
Page: 1 of 5
Prepared By: Arturo Vela
Phone No. (951) 922-3130
Date: April 1, 2010

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

ITEM NO.	YEAR 2011 STREET LOCATION – FROM / TO	TOTAL COST (\$1,000)	MEASURE "A" FUND (\$1,000)
1.	Sunset Avenue – Ramsey Street to Wilson Street	175	175
2.	Wilson Street – Sunrise Avenue to McGovern Avenue	176	176
	TOTAL	351	351

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE "A" LOCAL FUNDS PROGRAM
FISCAL YEAR 2011-2015**

Agency: City of Banning
Page: 2 of 5
Prepared By: Arturo Vela
Phone No. (951) 922-3130
Date: April 1, 2010

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

ITEM NO.	YEAR 2012 STREET LOCATION – FROM / TO	TOTAL COST (\$1,000)	MEASURE "A" FUND (\$1,000)
1.	Monroe Street – 22 nd Street to Jefferson	42	42
2.	Jefferson Street – 22 nd Street to Monroe Street	35	35
3.	Wilson Street – McGovern Ave to Mountain Ave	160	160
4.	Wesley Street – Hargrave Street to 1401 E. Wesley St	60	60
5.	Charles Street – Hargrave Street to 1037 E. Charles St	38	38
6.	23 rd Street – Lincoln Street to End	25	25
	TOTAL	360	360

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE "A" LOCAL FUNDS PROGRAM
FISCAL YEAR 2011-2015**

Agency: City of Banning
Page: 3 of 5
Prepared By: Arturo Vela
Phone No. (951) 922-3130
Date: April 1, 2010

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

ITEM NO.	YEAR 2013 STREET LOCATION – FROM / TO	TOTAL COST (\$1,000)	MEASURE "A" FUND (\$1,000)
1.	Ramsey Street – 4 th Street to Hargrave Street	246	246
2.	41 st Street – Jacinto View to Wilson Street	65	65
3.	40 th Street – Jacinto View to George Street	35	35
4.	George Street – 40 th Street to 41 st Street	25	25
	TOTAL	371	371

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE "A" LOCAL FUNDS PROGRAM
FISCAL YEAR 2011-2015**

Agency: City of Banning
Page: 4 of 5
Prepared By: Arturo Vela
Phone No. (951) 922-3130
Date: April 1, 2010

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

ITEM NO.	YEAR 2014 STREET LOCATION – FROM / TO	TOTAL COST (\$1,000)	MEASURE "A" FUND (\$1,000)
1.	Nicolet Street – Sims Street to Sunset Avenue	270	270
2.	2 nd Street – Livingston Street to Williams Street	45	45
3.	3 rd Street – Livingston Street to Williams Street	70	70
	TOTAL	385	385

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE "A" LOCAL FUNDS PROGRAM
FISCAL YEAR 2011-2015**

Agency: City of Banning
Page: 5 of 5
Prepared By: Arturo Vela
Phone No. (951) 922-3130
Date: April 1, 2010

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

ITEM NO.	YEAR 2015 STREET LOCATION - FROM/TO	TOTAL COST (\$1,000)	MEASURE "A" FUND (\$1,000)
1.	Ramsey Street – 8th Street to 22 nd Street	300	300
2.	Hargrave Street – Ramsey Street to Railroad Tracks	55	55
3.	22 nd Street – Ramsey Street to Railroad Tracks	50	50
	TOTAL	405	405

2011-2015 GRAND TOTAL	1,872	1,872
------------------------------	--------------	--------------

EXHIBIT "B"
ESTIMATED STREET EXPENDITURES
FY 2009/2010

ESTIMATED STREET EXPENDITURES AND RELATED SOURCES OF FUNDS
FOR FISCAL YEAR ENDED JUNE 30, 2010

ESTIMATED STREET EXPENDITURES

Gas Tax Street Fund	991,799	
Less transfers out and loan repayments	<u>0</u>	
		991,799
AB 2928		0
Prop 1B		0
Measure "A" Fund	369,540	
Less transfers out and loan repayments	<u>364,520</u>	
		5,020
Article 3 Sidewalk Fund		425,510
CDBG Fund Street Expenditures		0
Landscape Maintenance Fund		149,141
Traffic Control Facility Fund		225,000
Air Quality Improvement Fund		0
Sunset Grade Separation Fund		937,366
Engineering Department Expenditures on Streets (20%)		71,940
Parks Department Expenditures on Streets (Maintenance of medians, etc.)		<u>5,000</u>
Total Budgeted Street Expenditures		<u><u>2,810,776</u></u>

ESTIMATED STREET SOURCES OF FUNDS - NON-DISCRETIONARY

Gas Tax Funds	454,000
AB 2928	0
Prop 1B	0
Interest earnings on Gas Tax Funds	8,000
Measure "A" Fund	5,020
Article 3 Sidewalk Fund	425,510
Sunset Grade Separation Fund	937,366
CDBG Fund Street Expenditures	<u>0</u>
Total Estimated Non-Discretionary Funds	<u><u>1,829,896</u></u>

ESTIMATED STREET SOURCES OF FUNDS - DISCRETIONARY

Landscape Maintenance Fund	149,319
Air Quality Improvement Fund	0
Traffic Control Facility Fund	225,000
General Fund and other money	<u>606,561</u>
Total Estimated Discretionary Funds	<u><u>980,880</u></u>

Total Estimated Sources of Funds for Street Purposes	<u><u>2,810,776</u></u>
--	-------------------------

EXHIBIT "C"

MAINTENANCE OF EFFORT CERTIFICATION

**MAINTENANCE OF EFFORT
CERTIFICATION STATEMENT**

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

Dated: _____

Andy Takata, City Manager

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CITY COUNCIL AGENDA

DATE: April 27, 2010

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Resolution No. 2010-28, "Authorizing an Appropriation of Funds from the Measure 'A' Street Fund for Street Improvements on Sun Lakes Boulevard"

RECOMMENDATION: The City Council adopt Resolution No. 2010-28, "Authorizing an Appropriation of Funds from the Measure 'A' Street Fund for Street Improvements on Sun Lakes Boulevard".

JUSTIFICATION: An appropriation of funds is necessary in order to reimburse the City of Beaumont for street improvements constructed on Sun Lakes Boulevard.

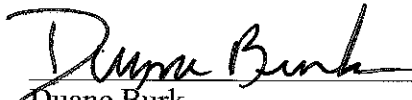
BACKGROUND: Due to development in City of Beaumont near Highland Springs Avenue, it was determined that street improvements were necessary at the Highland Springs Avenue and Sun Lakes Boulevard/First Street Intersection. The necessary street improvements consisted of the installation of a traffic signal and median turn pockets on both Sun Lakes Boulevard and First Street. Since these improvements were triggered by Beaumont's development, the City of Beaumont agreed to fund and obtain said improvements. As a result, in 2009 the City of Beaumont awarded a contract to Hillcrest Construction to install and construct the abovementioned improvements.

The City of Beaumont's scope of work for this intersection consisted of two turn pockets including median islands. On the Banning side of this intersection, a turn pocket median was installed on Sun Lakes Boulevard directing westbound traffic to merge with northbound lanes onto Highland Springs Avenue. On the Beaumont side, a turn pocket median was installed on First Street directing southbound traffic from Highland Springs Avenue to merge with westbound lanes on First Street. Initially, the original specifications designated asphalt as the finish surface for the two turn pocket medians.


During construction the City of Beaumont, for an additional cost, selected an alternative finish surface for the median turn pocket on the Beaumont side which consisted of pouring stamped colored concrete. In order to provide intersection uniformity, Beaumont made the same finish surface available to Banning for the median turn pocket on the Banning side. In order to provide the upgraded finish, the City of Banning agreed to participate and share in the additional cost.

FISCAL DATA: An appropriation of funds is necessary from the Measure 'A' Street Fund to Account No. 101-4900-431.93-16 (Measure 'A' Street Improvements) in an amount of \$17,132.70. The Measure 'A' Street Fund balance is approximately \$1,195,124.00.

RECOMMENDED BY:


Duane Burk
Director of Public Works

REVIEWED BY:


Kirby Warner
Interim Finance Director

APPROVED BY:


Andy Takata
City Manager

RESOLUTION NO. 2010-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING AN APPROPRIATION OF FUNDS FROM THE MEASURE 'A' STREET FUND FOR STREET IMPROVEMENTS ON SUN LAKES BOULEVARD

WHEREAS, due to development in City of Beaumont near Highland Springs Avenue, it was determined that street improvements were necessary at the Highland Springs Avenue and Sun Lakes Boulevard/First Street Intersection; and

WHEREAS, Beaumont agreed to fund the necessary street improvements, which consisted of the installation of a traffic signal and median turn pockets on both Sun Lakes Boulevard and First Street, since the improvements were triggered by development in Beaumont; and

WHEREAS, the City of Beaumont's scope of work for this intersection consisted of two turn pockets including median islands, one on the Beaumont side and one on the Banning side which were originally designated to have an asphalt finish surface; and

WHEREAS, during construction the City of Beaumont, for an additional cost, selected an alternative finish surface for the median turn pocket on the Beaumont side which consisted of pouring stamped colored concrete; and

WHEREAS, to provide intersection uniformity, Beaumont made the same finish surface available to Banning for the median turn pocket on the Banning side for a fee \$17,132.70 at which point City of Banning agreed to participate and share in the additional cost.

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

Section I. Authorize an appropriation of \$17,132.70 from the Measure 'A' Street Fund to Account No. 101-4900-431.93-16 (Measure 'A' Street Improvements).

Section II. Authorize the Director of Finance to make necessary budget adjustments related to these funds.

PASSED, APPROVED AND ADOPTED this 27th day of April 2010.

Robert E. Botts, Mayor
City of Banning

APPROVED AS TO FORM AND
LEGAL CONTENT:

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

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-28 was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 27th day of April, 2010 by the following vote, to wit:.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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CITY COUNCIL AGENDA

DATE: April 27, 2010

TO: City Council

FROM: Kahono Oei, City Engineer



SUBJECT: Resolution No. 2010-29, "Approving the Reprogramming of Unused Fiscal Year 2009-2010 Community Development Block Grant (CDBG) Program Funds to the Repplier Park Bowl Improvements File No. 5.BN.10-09"

RECOMMENDATION: Adopt Resolution No. 2010-29, "Approving the Reprogramming of Unused Fiscal Year 2009-2010 Community Development Block Grant (CDBG) Program Funds to the Repplier Park Bowl Improvements File No. 5.BN.10-09," subject to approval by the Riverside County Economic Development Agency (EDA) Board.

JUSTIFICATION: It is essential that the City reprogram funds in order to utilize the available funds.

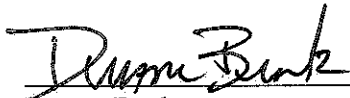
BACKGROUND: The City of Banning obtains federal grant funds annually for various projects and non-profit organizations through the Community Development Block Grant program which is administered by the Riverside County EDA. Upon City Council approval of the projects, the City enters into an agreement with the Riverside County EDA.

Under the EDA's regulations and guidelines, non-profit organizations that receive funding have one year from the approval date to use the grant funds. If the funds are not utilized within this one year period, the funds can revert back to the County unless the City requests the reprogramming of said funds. In order for the City to utilize these funds, the City must reprogram the unused funds to other projects. Since projects are approved by the City Council, the Riverside County EDA requires that the City Council must also authorize the reprogramming of funds.

Staff respectfully requests that the funds originally allocated for the Banning Police Activities Program, File No. 5.BN.11-09 for Fiscal Year 2009-2010 be reprogram to the Repplier Park Bowl Improvements Project, File No. 5.BN.10-09. The unused balance for this program is \$10,000.00. The original allocation was approved by the City Council on December 10, 2008 under Resolution No. 2008-126. Staff recommends to reprogram the funds to be used for Repplier Park Bowl Improvements which is necessary in order to avoid a loss of funding.

FISCAL DATA: The total amount of funds to be reprogrammed to the Repplier Park Bowl Improvements Project, Community Development Block Grant File No. 5.BN.10-09, Account No. 110-5510-461.90-67 is \$10,000.00.

RECOMMENDED BY:



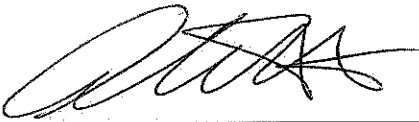
Duane Burk
Director of Public Works

REVIEWED BY:



Kirby Warner
Interim Director of Finance

APPROVED BY:



Andy Takata
City Manager

RESOLUTION NO. 2010-29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE REPROGRAMMING OF UNUSED FISCAL YEAR 2009-2010 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FUNDS TO THE REPPLIER PARK BOWL IMPROVEMENTS FILE NO. 5.BN.10-09

WHEREAS, the City of Banning obtains federal grant funds annually for various projects and non-profit organizations from the Community Development Block Grant (CDBG) which is administered by the Riverside County Economic Development Agency (EDA); and

WHEREAS, under the EDA's regulations and guidelines, the non-profit organizations that receive funding have one year from the approval date to use the grant funds; and

WHEREAS, staff respectfully requests that the funds originally allocated for the Banning Police Activities Program, File No. 5.BN.11-09 for Fiscal Year 2009-2010 be reprogram to the Repplier Park Bowl Improvements Project, File No. 5.BN.10-09; and

WHEREAS, the unused balance for this program is \$10,000.00 and original allocation was approved by the City Council on December 10, 2008 under Resolution No. 2008-126; and

WHEREAS, staff recommends to reprogram the funds to be used for Repplier Park Bowl Improvements which is necessary in order to avoid a loss of funding.

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

Section I. The City Council of the City of Banning hereby authorizes the reprogramming of \$10,000.00 in unused CDBG funds to be used for Repplier Park Bowl Improvements.

PASSED, APPROVED and ADOPTED this 27th day of April, 2010.

Robert E. Botts, Mayor

ATTEST:

Marie A. Calderon, City Clerk

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

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-29, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 27th day of April, 2010 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon
City Clerk of the City of Banning

CITY COUNCIL AGENDA

Date: April 27, 2010

TO: Honorable Mayor and City Council

FROM: Fred Mason, Electric Utility Director

SUBJECT: Resolution No. 2010-30. Approving the purchase of one 2010 Ford Escape Hybrid from Redlands Ford in the amount of \$31,348.40 including taxes and fees.

RECOMMENDATIONS: The City Council adopt Resolution No. 2010-30 Approving the purchase of one (1) 2010 Ford Escape Hybrid for the City of Banning Electric Utility Department from Redlands Ford in the amount of \$31,348.40.

JUSTIFICATION: To provide the City of Banning Electric Utility Department with another alternative fuel vehicle for the department's administrative staff. Vehicles assigned to administrative personnel are driven the most miles and will provide the greatest benefit in the reduction in fuel costs.

Subsequently, this new alternative fuel vehicle will replace the Electric Utility Director's existing vehicle, which will in turn replace the Operations Manager's vehicle. The Operations Manager's 2006 GMC pickup will be placed on the line in the department's fleet, thus retiring a 1990 Ford pick-up with high mileage and maintenance costs.

BACKGROUND: On April 5, 2010, the Banning Electric Utility Department requested quotes from five auto dealerships for one (1) 2010 Ford Escape Hybrid. Request for quotes went out via e-mail to Gosch Ford (Hemet); Palm Springs Ford Lincoln-Mercury (Cathedral City); Raceway Ford (Riverside); Redlands Ford (Redlands) and Yucca Valley Ford Center (Yucca Valley).

The lowest quote returned, Redlands Ford, advised they have one (1) 2010 Ford Escape Hybrid available for delivery at a cost of \$28,818.00 plus taxes and fees. The total cost of the purchase is estimated at \$31,348.40 including taxes and fees. This quote is based on a municipal California Government Price Concession REF# 03118A; REF DATE 6/16/2009.

ALTERNATIVES: Advertise for sealed bids for the purchase of the vehicles. However, the cost may end up being higher.

FISCAL DATA: Funds for this purchase are available in Electric Operations account number 670-7000-473.90-52 in the amount of \$31,348.40.

RECOMMEND BY:



Fred Mason
Electric Utility Director

REVIEWED BY:



Kirby Warner
Interim Finance Director

APPROVED BY:



Andrew J. Takata
City Manager

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RESOLUTION NO. 2010-30

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING APPROVING THE PURCHASE OF ONE (1) FORD ESCAPE HYBRID VEHICLE FOR THE CITY OF BANNING ELECTRIC UTILITY DEPARTMENT IN THE AMOUNT OF \$31,348.40.

WHEREAS, the budget for the City of Banning for the Fiscal Year commencing July 1, 2009 and ending June 30, 2010 was approved and adopted on June 23, 2009; and

WHEREAS, the approved Budget is in accordance with all applicable ordinances of the City and all applicable statutes of the State; and

WHEREAS, the Banning Electric Utility requires the purchase of a vehicle to conduct its operations, and wishes to contribute to a green environment by purchasing an electric hybrid vehicle; and

WHEREAS, funds are available in Electric Operations account number 670-7000-473.90-52 for said vehicle purchase in the amount of \$31,348.40;

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

1. Adopt Resolution 2010-30 approving the purchase of one (1) Ford Escape Hybrid vehicle in the amount of \$31,348.40, and authorize the City Manager or his designee to execute said purchase transaction.
2. Authorize the Mayor to execute Resolution 2010-30. Said authorization shall become void if not executed within 30 days of the effective date of this resolution.

PASSED, APPROVED, AND ADOPTED this 27th day of April, 2010.

Robert E. Botts, Mayor

APPROVED AS TO FORM
AND LEGAL CONTENT

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

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ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-30 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of April, 2010, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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CITY COUNCIL AGENDA

Date: April 27, 2010

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Resolution No. 2010-31, "Approving the Third Amendment to the Professional Services Agreement with Metcalf & Eddy, Inc. for Project No. 2001-02, 'Design and Construction Management for the 8 Million Gallon Water Reservoir'"

RECOMMENDATION: The City Council adopt Resolution No. 2010-31, "Approving the Third Amendment to the Professional Services Agreement with Metcalf & Eddy, Inc. for Project No. 2001-02, 'Design and Construction Management for the 8 Million Gallon Water Reservoir'" in an amount of \$104,180.00.

JUSTIFICATION: The Third Amendment to this Agreement is essential for the proper completion of the 8 million gallon reservoir.

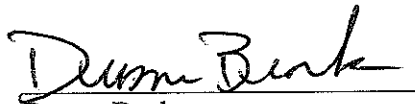
BACKGROUND: On October 25, 2006 the City Council approved the Professional Services Agreement for Project No. 2001-02, "Design and Construction Management for the 8 Million Gallon Water Reservoir" with Metcalf & Eddy, Inc. in the amount of \$896,900.00. Amendment No. 1 was approved by staff and was signed on November 13, 2007 in the amount of \$30,000.00 for the "Habitat Evaluation of the Burrowing Owl at the Brinton Reservoir Site".

On October 14, 2008 Amendment No. 2 in the amount of \$298,635.55 was approved by the City Council extending design and construction management services for two additional months. These additional services included design services for a retaining wall, shoring and pavement; permit processing; preparation of environmental documents; and soils and materials testing.


At this time, staff respectfully requests the approval of Amendment No. 3 in the amount of \$104,180.00. The additional scope of work includes the following: preparation of plans and specifications; construction management services for the remainder of the project; and final testing services for the additional work. The construction of the 8 million gallon reservoir is scheduled to be completed in April of 2010.

FISCAL DATA: Funding for Amendment No. 3 is available in the Fiscal Year 2010 BUA Water Capital Project Fund, Account No. 663-6300-471.95-09 (Reservoirs). If Amendment No. 3 is approved, the new contract total amount will be \$1,329,715.55.

RECOMMENDED BY:


Duane Burk
Director of Public Works

REVIEWED BY:


Kirby Warner
Interim Finance Director

APPROVED BY:


Andy Takata
City Manager

RESOLUTION NO. 2010-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE THIRD AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH METCALF & EDDY, INC. FOR PROJECT NO. 2001-02, "DESIGN AND CONSTRUCTION MANAGEMENT FOR THE 8 MILLION GALLON WATER RESERVIOR"

WHEREAS, on October 25, 2006 the City Council approved the Professional Services Agreement for Project No. 2001-02, "Design and Construction Management for the 8 Million Gallon Water Reservoir" with Metcalf & Eddy, Inc. in the amount of \$896,900.00; and

WHEREAS, Amendment No. 1 was approved by staff and was signed on November 13, 2007 in the amount of \$30,000.00 for the "Habitat Evaluation of the Burrowing Owl at the Brinton Reservoir Site"; and

WHEREAS, on October 14, 2008 Amendment No. 2 in the amount of \$298,635.55 was approved by the City Council extending design and construction management services for two additional months including design services for a retaining wall, shoring and pavement; permit processing; preparation of environmental documents; and soils and materials testing; and

WHEREAS, staff respectfully requests the approval of Amendment No. 3 in the amount of \$104,180.00 for an additional scope of work which includes the following: preparation of plans and specifications; construction management services for the remainder of the project; and final testing services for the additional work; and

WHEREAS, the construction of the 8 million gallon reservoir is scheduled to be completed in April of 2010; and

WHEREAS, funding for Amendment No. 3 is available in the Fiscal Year 2010 BUA Water Capital Project Fund, Account No. 663-6300-471.95-09 (Reservoirs).

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

Section I. The City Council hereby approves the Third Amendment to the Professional Services Agreement with Metcalf & Eddy, Inc. for Project No. 2001-02, "Design and Construction Management for the 8 Million Gallon Water Reservoir".

Section II. The City Manager is hereby authorized to execute the Third Amendment to the Professional Services Agreement with Metcalf & Eddy, Inc. for Project No. 2001-02, "Design and Construction Management for the 8 Million Gallon Water Reservoir". This authorization will be rescinded if the parties do not execute the contract agreement within sixty (60) days of the date of this resolution.

PASSED, APPROVED AND ADOPTED this 27th day of April 2010.

Robert E. Botts, Mayor
City of Banning

APPROVED AS TO FORM AND
LEGAL CONTENT:

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

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-31 was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 27th day of April, 2010 by the following vote, to wit:.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

CITY COUNCIL AGENDA

Date: April 27, 2010

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Resolution No. 2010-32, "Approving Emergency Repairs to Water Well No. 10"

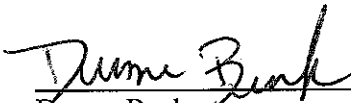
RECOMMENDATION: Resolution No. 2010-32, "Approving Emergency Repairs to Water Well No. 10".

JUSTIFICATION: Repairs to Well No. 10 are essential to ensure uninterrupted water supplies to the City's utility customers.


BACKGROUND: The Banning Water Well No. 10 is located in the Banning Water Canyon and is one of the higher producing water wells for the City. In March 2010, staff noticed that there was excessive leaking through the tube tension plate and contacted Layne Christensen, Inc. to investigate the problem. The contractor pulled the motor and pump assembly and found excessive scale build up and pitting, which caused the tube to break just under the tension plate. The well needs to be wire brush and bail due to excessive scale growth on the perforated zones of the casing. The perforated zones need to be kept clean and free of scale to allow adequate flow into the well. Layne Christensen, Inc. is a reputable firm in the industry and has extensive experience with well equipment, design, and construction.

FISCAL DATA: The total cost of the repairs to the pump and motor is \$22,607.78. The funds are available in FY2009-2010, Water Division Operation budget, Wells/Pump Equipment Account No. 660-6300-471-9508.


REVIEWED BY:


Duane Burk
Director of Public Works

REVIEWED BY:


Kirby Warner
Interim Finance Director

APPROVED BY:


Andy Takata
City Manager

RESOLUTION NO. 2010-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE EMERGENCY REPAIRS TO WATER WELL NO. 10

WHEREAS, the Banning Water Well No. 10 is located in the Banning Water Canyon and is one of the higher producing water wells for the City; and

WHEREAS, in March 2010, staff noticed that there was excessive leaking through the tube tension plate and contacted Layne Christensen, Inc. to investigate the problem; and

WHEREAS, the contractor pulled the motor and pump assembly and found excessive scale build up and pitting, which caused the tube to break just under the tension plate and as a result it was determined that the well needed to be wire brush and bail due to excessive scale growth on the perforated zones of the casing; the perforated zones need to be kept clean and free of scale to allow adequate flow into the well; and

WHEREAS, Layne Christensen, Inc. is a reputable firm in the industry and has extensive experience with well equipment, design, and construction; and

WHEREAS, the total cost of the repairs to the pump and motor is \$22,607.78 and the funds are available in FY2009-2010, Water Division Operation budget, Wells/Pump Equipment Account No. 660-6300-471-9508.

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

Section I. The City Council hereby approves the Emergency Repairs to Water Well No. 10 in the amount of \$22,607.78.

Section II. The City Manager is hereby authorized to execute an Agreement with Layne Christensen for the Emergency Repairs to Water Well 10. This authorization will be rescinded if the parties do not execute the contract agreement within sixty (60) days of the date of this resolution.

PASSED, APPROVED AND ADOPTED this 27th day of April 2010.

Robert E. Botts, Mayor
City of Banning

APPROVED AS TO FORM AND
LEGAL CONTENT:

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

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-32 was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 27th day of April, 2010 by the following vote, to wit:.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

CITY COUNCIL AGENDA

Date: April 27, 2010
TO: Honorable Mayor and City Council
FROM: Fred Mason, Electric Utility Director
SUBJECT: Resolution 2010-27 Amending the List of Capital Improvements to be Completed with Proceeds from the City of Banning Financing Authority Revenue Bonds (Electric System Project) Series 2007

RECOMMENDATION: The City Council approve Resolution 2010-27 amending the list of capital improvements to be completed with proceeds from the City of Banning Financing Authority Revenue Bonds (Electric System Project) Series 2007, attached herewith as Exhibit "A".

JUSTIFICATION: Significant changes in the economy, since the City of Banning Financing Authority Revenue Bonds (Electric System Project) Series 2007 ("Bonds") were issued in June 2007, have impacted the required Electric Utility capital improvements needed to support future development and maintain the reliability of the Banning Electric Utility's ("Utility") distribution system, thereby making it necessary to amend the list of capital projects to be completed with proceeds from the Bonds.

BACKGROUND: Resolution 2007-57 was adopted by the Banning City Council on May 29, 2007, and authorized the City of Banning Financing Authority to issue bonds to finance capital improvements to the Utility's distribution system as detailed on page 11 of the Final Official Statement. These improvements were necessary to support projected growth in the Utility's service territory. At that time developers had submitted plans for an additional 9,500 homes to be built in Banning over the next seven to ten years. In addition, there were several large commercial projects being proposed for the east side of the City, as well as major expansions at the San Geronio Memorial Hospital and the Smith Correctional Facility. Since that time the housing market has crashed and the overall economy has gone into the worst recession since the Great Depression, according to many financial experts.

As a result of the housing market crash, most of the proposed residential development in the Banning area has been canceled or postponed indefinitely. The Hospital's expansion has continued, although it has been scaled back from its original scope, and the Correctional Facility has recently completed its expansion. In addition, the decision by the State to locate a new courthouse in downtown Banning will have significant and positive impacts on the City and the Utility, and will provide moderate load growth in the downtown area. However, much of the proposed commercial development on the east side of Banning has been abandoned, due to the economic downturn.

Some of the original capital improvements that were to be funded by the Bond proceeds are no longer required as a result of the economic recession and the corresponding load loss the Utility has suffered (to date the Utility's load and retail sales have dropped by 11 percent from their peak in 2008). However, other capital improvements are now necessary as a result of the

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proposed courthouse and the corresponding development in the core downtown area. The list of capital improvements, attached as Exhibit "A", outlines the projects that have already been completed, the improvements that are being proposed for elimination, and the improvements that are being proposed to replace them.

Most significantly, staff is proposing to underground the downtown corridor (from 4th Street on the west, to Hargrave on the east, Williams on the north, and Livingston on the south). These improvements will have a significant and positive impact on the City's ability to attract business to the downtown corridor. Additionally, staff is proposing to replace the dilapidated steel building that currently houses the Utility's inventory and the Electric Operations personnel, as well as a portion of Public Works Streets operation. Finally, staff is recommending upgrades at the Alola substation that will facilitate the completion of the 4kV to 12kV conversion.

With the proposed amendments to the list of capital improvements to be funded by Bond proceeds, there will be significant Bond funds (approximately \$10M) in excess of the amount needed to complete the condensed list of improvements, resulting from the economic recession. Unfortunately the first call date on the Bonds is not until 2017, and the City is earning significantly less in investment interest on the Bonds than it is paying in interest payments. Therefore, staff will be returning to Council in the near future requesting approval to use these excess Bond proceeds to buy back a portion of the outstanding bonds, and thereby mitigate the negative arbitrage.

Staff is recommending that the City Council approve Resolution 2010-27 amending the list of capital improvements to be completed with proceeds from the City of Banning Financing Authority Revenue Bonds (Electric System Project) Series 2007, attached herewith as Exhibit "A".

FISCAL DATA: There is minimal fiscal impact associated with this resolution.

RECOMMENDED BY:



Fred Mason
Electric Utility Director

APPROVED BY:



Andrew J. Takata
City Manager

REVIEWED BY:



Kirby Warner
Interim Finance Director

RESOLUTION NO. 2010-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AMENDING THE LIST OF CAPITAL IMPROVEMENTS TO BE COMPLETED WITH PROCEEDS FROM THE ELECTRIC UTILITY BONDS

WHEREAS, the City of Banning owns and operates its Municipal Electric Utility; and

WHEREAS, the Banning City Council adopted Resolution 2007-57 on May 29, 2007, authorizing the City of Banning Financing Authority to issue bonds to finance capital improvements needed to support future development and maintain the reliability of the Banning Electric Utility's ("Utility") distribution system; and

WHEREAS, the Final Official Statement of the bond documentation detailed the capital improvements originally planned to be completed using proceeds from the bonds; and

WHEREAS, the housing market crash and economic recession has significantly changed the capital improvements needed to support the projected load growth and reliability requirements of the Utility; and

WHEREAS, the amended list of capital improvements to be completed with proceeds from the City of Banning Financing Authority Revenue Bonds (Electric System Project) Series 2007 is attached herewith as Exhibit "A", and will provide the necessary capital improvements to support the projected development and load growth and ensure system reliability; and

WHEREAS, amending the list of capital improvements to be completed with proceeds from the Electric Utility bonds will have minimal fiscal impact on the City;

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

1. Adopt Resolution No. 2010-27 approving the amended list of capital improvements to be completed with proceeds from the City of Banning Financing Authority Revenue Bonds (Electric System Project) Series 2007, and authorize the City Manager or his/her designee to incorporate said amended list into the Bond documents as required.
2. Authorize the Mayor to execute Resolution No. 2010-27. Said authorization shall become void if not executed within 30 days of the effective date of this resolution.

PASSED, APPROVED, AND ADOPTED this 27th day of April 2010.

Robert E. Botts, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-27 was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 27th day of April, 2010 by the following vote, to wit:.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Exhibit "A"

BANNING ELECTRIC UTILITY BONDS CAPITAL IMPROVEMENTS (AMENDED)

Year	Description	Purpose	Budget (x1000)
2007	Construct new 34.5 kV breaker and a half switchyard in the southwest corner of San Geronio Substation. Connect to existing 34.5/12.47 kV Bank 1 and Bank 2.	To provide a terminating point for the three SCE 34.5 kV circuits, the initial two 34.5 kV circuits to North Substation, and two of the three 34.5/12.47 kV power banks.	\$4,440
2008	Construct new 69 kV switchyard and install two new 66 MVA 34.5/69 kV transformers in northwest corner of San Geronio Substation.	To allow connection of the existing 34.5 kV switchyard at San Geronio Substation to the new 69 kV subtransmission system.	\$7,770
2008	Install 12.47 kV underground feeder number 5 at San Geronio Substation.	To provide an additional feeder to supply the expected 19.7 MVA of regional load.	\$455
2009	Install bank 2 at North Substation	To Supply the expected 17.7 MVA of load in the region	\$2,442
2009	Construct new 69 kV switchyard and install the first of two 40 MVA 69/12.47 kV transformers in Midway Substation.	To allow connection of Midway Substation to the 69 kV subtransmission system and to supply the expected 8.2 MVA of regional load.	\$3,330
2009	Install Bank 2 at Midway Substation.	To provide additional capacity to supply the expected 8.2 MVA of regional load.	\$2,442
2009	Purchase 1/2 acre for East End Substation.	To provide a location for East End Substation.	\$1,110
2008	Install new 34.5 kV circuit breaker in an existing spare position at the SCE substation.	To provide a source for a third 34.5 kV circuit from the SCE substation.	\$1,050
2008	Construct a new North Substation that will include a 115 kV SCE switchyard, a 68 kV switchyard.	To provide a substation in the northwest part of the city to supply the expected 15.7 MVA of regional load.	\$6,106
2008	Construct the first of three 15 MVA 69/12.47 kV transformers, and 12.47-V switchgear at North Substation.	To provide a substation in the northwest part of the city to supply the expected 15.7 MVA of regional load.	\$2,442
2008	Install 12.4-kV underground feeders 1,2,3 and 4 at North Substation and pick up load formerly served from San Geronio Substation and Midway Substation.	To provide feeders in the northwest part of the city to supply the expected 15.7 MVA of regional load.	\$1,820
2009	Construct a new 69 kV overhead circuit (30,000 ft.) on steel poles with underbuild from San Geronio Substation to the new North Substation.	To provide temporary 34.5 kV supply to the new North Substation.	\$3,230
2009	Construct a new 69 kV underground circuit (12,000 ft.) from Midway Substation to the new North Substation.	To provide a reliable two feed subtransmission supply for North Substation.	\$2,997
2009	Construct a new 69 kV overhead circuit (22,500 ft.) on steel poles with underbuild from San Geronio Substation to the Midway Substation.	To provide a reliable two feed subtransmission supply for Midway Substation.	\$2,442
2010	Install phase 1 of a 12.47kv underground electrical infrastructure in the downtown redevelopment "zone" - underground feed to "Fox Alley" and "Arts Alley" via Livingston St.	To provide an updated reliable infrastructure that will meet the needs of downtown development.	\$1,750

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Year	Description	Purpose	Budget (x1000)
2010	Install phase 2 of a 12.47kv underground electrical infrastructure in the downtown redevelopment "zone" - underground infrastructure for new courthouse and prepare backbone for future development from Alessandro Rd to Aloia St.	To provide an updated reliable infrastructure that will meet the needs of downtown development.	\$2,000
2011	Install phase 3 of a 12.47kv underground electrical infrastructure in the downtown redevelopment "zone" - underground infrastructure for new future development from Aloia St. to Hargrave St.	To provide an updated reliable infrastructure that will meet the needs of downtown development.	\$750
2011	Install phase 4 of a 12.47kv underground electrical infrastructure in the downtown redevelopment "zone" - extend infrastructure to the west.	To provide an updated reliable infrastructure that will meet the needs of downtown development, eliminating aging infrastructure in existing alleyways.	\$1,650
2010	Reroute 12.47kv OH lines and install an underground feed creating a loop feed for circuits 23 & 24. Additionally allow for the realignment of Apex Avenue at Ramsey Street.	To provide an underground infrastructure to support development in a highly desirable area.	\$350
2010-11	Install a 20,000 sq.ft. metal building at the City Yard.	To replace outdated warehouse, meeting and storage facilities, providing secure and adequate storage of materials, employee meeting space and undercover storage of vehicles..	\$1,200
2011	Replace existing 4kv transformers and breakers in Aloia substation with 12.47 transformer and breakers.	to provide a more reliable power source for the expansion of the downtown "zone" and replace existing 4kv circuits with 12.47kv circuits.	\$2,750

NOTE: The strike through indicates projects that were on the original list and are being deleted. Projects highlighted are new projects being added to the original list.