

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

May 11, 2010  
6:30 p.m.

Banning Civic Center  
Council Chambers  
99 E. Ramsey St.

*The following information comprises the agenda for a regular meeting of the City Council and a Joint Meeting of the City Council and Banning Utility Authority.*

*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.

**APPOINTMENTS**

1. Appointment of 2x2 Committee re. Banning Heights Mutual Water Co. (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.*

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

**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 4  
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 – 4/27/10. . . . . 1
2. Approval of Accounts Payable and Payroll Warrants for the Month  
of March 2010 . . . . . 37
3. Approve Amendment to Original Agreement with Norman A. Traub  
Associates for Investigation Services for the City of Banning  
Police Department. . . . . 40
4. Notice of Completion for Project No. 2008-01W, Brinton Reservoir . . . 41

- Open for Public Comments
- Make Motion

**Adjourn Joint Meeting of the Banning City Council and the Banning Utility Authority and Reconvene Regular City Council Meeting.**

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

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

**V. ITEMS FOR FUTURE AGENDAS**

New Items –

Pending Items –

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

## **VI. CLOSED SESSION**

1. That the City Council will meet in closed session to consider personnel matters pursuant to Government Code Section 54957.

- A. Opportunity for Public to Address Closed Session Items.
- B. Convene Closed Session

## **VII. ADJOURNMENT**

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

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May 11, 2010  
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Banning Civic Center  
99 E. Ramsey St.

**ADDENDUM**

**REPORTS OF OFFICERS**

1. Animal Control/Shelter Update (*ORAL REPORT*)

*(This item was posted on May 7, 2010 at 3:15 p.m.)*

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MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

04/27/10  
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Botts on April 27, 2010 at 6:30 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew Takata, City Manager  
David J. Aleshire, City Attorney  
Kirby Warner, Interim Finance Director  
Zai Abu-Bakar, Community Development Director  
Duane Burk, Public Works Director  
Leonard Purvis, Police Chief  
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

The invocation was given by Mayor Botts. Councilmember Machisic invited the audience to join him in the Pledge of Allegiance to the Flag.

Mayor Botts said that he would like to add to the agenda a presentation by Riverside County Animal Control and that does take a 4/5<sup>th</sup> vote to add to add that item to the agenda. **There was Council consensus to add this to the agenda under presentations.**

City Manager said that staff is requesting that Consent Item No. 7 be removed from the agenda for a time to be brought back later possibly. Mayor Botts said that they would pull that item from the Consent items.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/APPOINTMENTS

PUBLIC COMMENTS – *On Items Not on the Agenda*

Inge Schuler resident of Banning addressed the Council thanking the City Clerk for her quick response to her email that was forwarded to the City Council. In regards to the animal shelter

last Saturday she was part of the Riverside Emergency Animal Rescue System as a volunteer of many, many people and this was in regards to the shelter move from the old animal shelter in Riverside. They moved close to 400 dogs from the old shelter to the new one. The new facility is absolutely magnificent and very, very useful and the staff is outstanding. She has not seen such care for the animals in a very long time. She did have to leave around 4 p.m. when they were starting to move just shy of 200 cats. If you can push for adoption, please do so because there are so many dogs that need a home. Also there will be a grand opening of the new shelter in Riverside on May 8<sup>th</sup> from 10 a.m. to 3 p.m.

Dorothy Familetti-McLean addressed the Council in regards to the Grand Jury report regarding the Banning Cultural Alliance and the response from the City. (See Exhibit "A")

City Manager said that this will be on the next City Council meeting agenda. Staff has been working on the responses and the Council will get an opportunity to see those responses and they can make any adjustment they choose in regard to the letter to the Grand Jury. It was always intended to come back to the public.

City Attorney said that it would probably be on the Community Redevelopment Agenda for May 11<sup>th</sup>. Also so people understand we haven't solicited any direction or input from the Council. Staff has been working on this. He thinks that there is information that was not available to the Grand Jury or they didn't look into certain things in the information that had been presented. It has been necessary for staff to go back into the records and try to establish facts so we basically think that when we come forward with the staff suggested response, ultimately the response will be the Council's, but the Council decided that staff should go ahead and prepare a response. He said that they are trying to provide a more comprehensive view of this and the response will be public and completely discussed in front of the Council.

Chris McCallum, 757 W. Westward addressed the Council apologizing to Andy Takata and Zai Abu Bakar. He said that about 16 weeks ago in he brought in a request concerning the Department of Motor Vehicles and Mr. Takata responded very quickly and Zai responded very quickly to something else and at the last Council meeting it was on the agenda and he failed to show because he actually had a job that night. He apologized for not supporting the thing that he started with them. But they have been successfully with the help of Councilmember Franklin taking the DMV stuff all the way to State Capitol and as of yesterday the DMV was doing a walk around the DMV facility which it is like an act of Congress to get the State to do anything but they were here. Hopefully this will be a non-issue in the near future so he would like to thank Andy for his quick response also to Zai, Art Welch and Assemblyman Cook. Recently he ran into something that happened at the high school and it was a great thing and he would like to thank the sponsors and he also spoke to the ASB counselor, Mrs. Gray, who put this together. It is a video that they did at Banning High School concerning "Every 15 Minutes" and this video needs to be shown on our Channel 10 because it is very emotional and our kids did a great job. He thanked all the sponsors involved and named all those sponsors.

Helen Barnes, W. Lincoln Street addressed the Council stating that she heard a rumor and would like to get a response and she said there is a rumor going around regarding one of our

Councilmember's cashing checks for this utility accounts which have bounced. Not on one occasion but on three different times. She said don't get me wrong because everyone at one time or another regardless of whose fault it happens to bounce a check but not three times in a year. What is even harder to understand is that he has been treated differently than any other citizen of this city. As most people of this city know if they have a bounced check, they have to reestablish credit with the City by paying for their utilities in cash, in person, at the City Hall utility department. Why is this Councilmember being treated differently than any other citizen in Banning? Councilmembers are subject to the same rules as any other citizen so why is this Councilmember exempt. Councilmembers are elected to represent this community and are supposed to be models for other citizens. She is sure that those that voted for this person and elected him to the position didn't anticipate him not paying his taxes nor bouncing checks. It is also rumored that he should be censured and she is not sure what that means but it is an issue that the other Councilmembers should look into. Furthermore, if his business is a million dollar business as he proclaimed during his campaign, surely he could afford to pay his utilities with a good check and not a bad one. She as well as others would like to have the Councilman set the record straight if this is untrue. The second thing is that the power went off this morning at 3 a.m. and she is a caregiver for a former employee of the City and she is on a life-support system and was not notified that this outage was going to happen. Ms. Barnes said that she knows for a fact that when she worked for this City they had it set up that if there was going to be a planned outage, those people on medical support systems would be notified that this would happen; it didn't happen last night. She said that she was notified by one of the current employees that this was going to be done so she had the time to go over and switch her on to a tank so that she would have the oxygen that she needed during the time of the outage. This is truly uncalled for. They have a system to do it and they should have done it and they didn't.

Don Smith said this Saturday, May 1<sup>st</sup> there are two events happening right here; the Art Hop and the Recycling Fair. For people who want to get rid of their electronic waste because you are not supposed to put it the regular trash you can come down Murray Street into the new police station parking lot and there is where you will drop it off this Saturday. There will also be other informational recycling fair stuff there by Waste Management and WRCOG (Western Riverside Council of Governments). In the Council Chambers that day there will be a Master Lego Builder both with displays of things that have been built and will actually be building something all day long. On San Geronio the Art Hop will be held and there will be something out there for all ages. There will be art and lots of crafts for the kids. The event will take place from 10 a.m. to 3 p.m.

Matthew Clarke, 1036 Charles Street said that in regards to previous Consent Item No. 7 and he realizes that it has been pulled from the agenda however, there are a couple of small issues about it that that could be information that would be helpful to the Council.

Mayor Botts stated that the item has been pulled from the agenda.

Mr. Clarke said that he would save those comments for when it comes back. Also at the last Council Meeting some residents had requested the formation of a committee representing the Maintenance District No. 1 within the City. He said that they have been actively pursuing

that and they have also requested information be provided by the Public Works Department. He said that Mr. Duane Burk has been very cooperative and helpful in trying to obtain this information and by the last published date of May 24<sup>th</sup> they should have a recommended seven member committee that is educated enough to speak upon the maintenance district to participate in that discussion and the work is still on-going. He said that on Charles Street there are no speed bumps however, there are two streets that are parallel to Charles that equally have speed bumps that were requested and installed there and because of the presence of speed bumps on the other streets that are parallel to it, it is chasing truck traffic down the street. Also the speed limit is 25 miles per hour faster than the 25 miles per hour speed limit down Ramsey and Ramsey is a four lane street whereas Charles is a two lane street and in the middle of a residential area. Perhaps that could be looked into. Also about a year ago some select members of the Fair Oaks Ranch community had approached Council on some different issues and one of the issues was requesting the delay of repayment of bonds to the developer. Now we are having problems with areas where the inspections were supposed to cover that work i.e. retaining walls that are now crumbling.

Fred Sakurai, 4985 Bermuda Dunes reminded the Council that about a year and a half ago there was a directive saying that we should have a citizen's advisory panel for renewable energy and he thought that was a good idea and he immediately put his name in and he has not been invited to the first meeting. Also about six months ago Mr. Mason said that they were going to erect some stands at the utility yard to test out some windmills to test their efficiency for use in Banning and he would like to know what the results of those tests:

John McQuown, Banning City Treasurer, 4176 Hillside Dr. commended the City Council on the outstanding Expo that was held this Saturday. He said he spoke with Bob Ewart and he said the most that they have had in the past was about 700 and in talking to other people there was close to 1000 on Saturday. It was a very nice event, well attended and well thought out.

CORRESPONDENCE: There were none at this time.

PRESENTATIONS:

1. Proclamation – Child Abuse Prevention Month

Mayor Botts read the proclamation for the benefit of the audience and he and the Council made presentation to a representative from the County of Riverside.

2. Proclamation – Mental Health Month

Mayor Botts read the proclamation for the benefit of the audience and he and the Council made presentation to Christina Salas, member of the Riverside County Mental Health Board.

Ms. Salas stated that she is a member of the Riverside County Mental Health Board and a volunteer and was appointed by the Board of Supervisors to represent consumers, family members, and community members from the 5<sup>th</sup> District which includes Banning. She said that they are an advisory group that works with the Riverside County Department of Mental Health to provide input as it relates to mental health services. She invited the community to



their May Mental Health Month event which is an open house for the Department of Mental Health and will take place on May 18<sup>th</sup> from 3 to 6 p.m. at Bordwell Park in Riverside. This event will provide the community with an opportunity to speak directly with mental health staff from each of the programs, as well as, representatives from outside agencies who can fully explain services that are available to the community. This event is free to the public and includes a variety of activities and informational resources.

### 3. Presentation of Certificates for Graffiti Removal

Chief Purvis asked a few of the City employees to come forward at this time along with Duane Burk, Public Works Director. He said he is very proud of these gentleman and they are our Graffiti Removal Team for the City of Banning. He said he knows that Carl Szoyka comes in on Monday mornings and listens to his messages that he left over the weekend reporting graffiti throughout the city. He said that this team gets on this graffiti very quickly and usually between 24 to 48 hours this graffiti comes down. It is critical and crucial when you get this graffiti down as quickly as they do it discourages future graffiti artists. He said that he can't tell you the amount of time that he gets complimented from people that come into visit our city and they are amazed. He said that he could very easily point to this team here and he is very proud of the work that they do. Chief Purvis said he is proud to say that he is from Banning and we are a graffiti free city. He said that this was a small token of his appreciation and the appreciation of the men and women of the Banning Police Department that we truly appreciate the work that this Team does. He said that this is the Chief Commendation from the Banning Police Department and it goes out to Carl Szoyka, Tom Lara, Miguel Mariscal, Peter Schlensker and Jeff Woodley and basically each certificate states, "You are hereby commended for your commitment in making Banning a Graffiti Free City."

### 4. Animal Control Presentation

Kirby Warner, Interim Finance Director said he knows that we have had some comments and some emails and a variety of things going on in the community right now and some questions about animal control. There have been a lot of issues with animal control for a couple of months now and felt as a result of the heightened information from the community that it would be advantageous to have a presentation made to the Council this evening to give you an update as to what is going on since our shelter has been closed and some of the issues with the service and so forth. So on short notice tonight we are fortunate to have members from the Riverside Animal Control Department that will give a short presentation and answer some questions that you might have.

Dr. Allan Drusys, Chief Veterinarian for the Riverside County Department of Animal Services addressed the Council stating that with him also is Deputy Director Frank Corvino and he can answer any questions in regards to direct sheltering or field questions. Dr. Drusys gave a brief overview of the department and what is going on. He said that the number one thing in their life today was the opening of their new Riverside Shelter on Van Buren Avenue. They moved 500 plus animals and have been open to the public as of 10 a.m. yesterday and are still dealing with the problems of opening a 12-acre facility. That facility is now open to

the public and on May 8<sup>th</sup> they are having a grand opening celebration and he would like to invite the Council and staff to this opening so that you can see where the department is today. It is a different department than it was five or ten years ago and represents the state-of-the-art in animal sheltering. He said for the most part it is the same kind of shelter that they are building in the city of San Jacinto for that area of the county. As you are all aware the city's animals have been taken because of the incidents of the flood and the problems generated by the water to the Coachella Valley Animal Campus and that has created some short-term problems for your residents and they acknowledge that and animal care is one of them along with licensing. It is very convenient to go to the local shelter but unfortunately that has not been an option. There are, as you are all aware, have been and continue to be some issues with the current facility in Banning and that is the reason why animals continue to be housed at the Thousand Palms location. He knows that there were questions about mold in the Banning facility and he has the report from environmental health and in summary there were some mold issues and there are low levels of very commonly found mold that can be abated with a thorough cleaning every time it rains or there is some condensation. There is an issue with the under-grounding of the electrical system and it may require some re-digging of the conduit and rewiring of the facility. The on-going issues that we are all aware of are associated with the age and the construction of the facility. It is not what technically we would demand in the 21<sup>st</sup> century relative to animal hygiene and cleanliness and safety. That is the reason he would like them to come to Riverside and look at that shelter. And subsequent to that Doug Austin who is essentially the project manager for these shelters will be pleased to give you a tour of the San Jacinto shelter so that we can all have an understanding of where the department is and where we would like it to go.

Councilmember Franklin said that this was flooding that caused the facility from not being usable and has anybody applied for the FEMA dollars to repair the facility.

Dr. Drusys said that County staff has done exactly that but he does not believe that it was deemed an appropriate application of reimbursements. He said he is unaware of any on-going efforts to capture some of the disaster monies or in fact the stimulus monies available for other types of projects.

Councilmember Franklin said she was told by somebody from the Office of Emergency Services (OES) that this was one of the things that qualified under FEMA because it was part of the flooding disaster.

Frank Corvino said that she was right and they did apply for funding through OES for the relief and they were told that it did not qualify for it.

Councilmember Franklin said a comment was made that this is not what you really want in terms of the 21<sup>st</sup> century but is the facility usable.

Dr. Drusys said it is a simple question but there are no simply answers to it. He said that in some fashion, we as a department do believe that it has a function in some fashion. As an animal shelter it has inherent problems related primarily to age, infrastructure requirements, animal cross-contamination or hygiene problems. In other words the facility has functioned

all these years but in light of an infectious disease outbreak, parvovirus specifically for the dogs the fecal material washes essentially from one animal kennel to another and an animal that is shedding for example, parvovirus in one kennel can infect then the animals that may not be fully protected in the downstream kennels. That is the major problem. It may not seem as a great consequence in light of the fact that perhaps this has not been an issue to date but he can guarantee that when one of your residents has an animal that for whatever reason is impounded and becomes ill, it is looked upon by the pet owning public as being a fault of the animal shelter that exposed that dog to the virus in this case and those situations usually result in people wanting some form of compensation either it be direct reimbursement for medical costs or sometimes the animals actually succumb to the illness and then there are always secondary questions relative to that. He thinks this facility could have a useful function for the community as an adoption center perhaps where some parts of it would be closed down because it is just too old and has out lived their usefulness and perhaps volunteer staff could obtain animals from the Thousand Palms shelter, from local groups, from the San Jacinto shelter and these would be animals that would be thoroughly vaccinated and have gone through the incubation periods and could be available for adoption at a facility like the Banning shelter but as a direct animal shelter he thinks that there are way too many liabilities associated with it in its current condition.

Councilmember Franklin asked what services even though the shelter itself is down what services are actually provided now in Banning.

Dr. Drusys said the full scope of the field services are provided and the full scope of sheltering services are provided at the Thousand Palms location. You can access their website at [www.rcdas.org](http://www.rcdas.org) for information relative to licensing and all those other activities is available there as well.

Mayor Botts said from the cross contaminations it seems like we have talked about that ever since we started discussions with you years ago and was there ever a cost to fix that.

Dr. Drusys said in regards to abating the problem they had many discussions with staff and amongst themselves and there are various remedies from taking the building down and replacing the facility with a more modern facility. There are essentially prefab kennels that they may even considered that are must less expensive than brick and mortar but obviously have a shorter lifespan. We could selectively fix the drainage issues for some of the runs out there and each of them had a price tag on it that was in the hundreds of thousands ranging to the millions of dollars. It would be your decision as to which of those options might be most beneficial to the City. The department is only suggesting that there may be other options and we have had discussions with staff about what those options could be and have discussions with some of your sisters cities in the past about the potential future usage of the San Jacinto facility. Short of wanting to spend hundreds of thousand of dollars there are no simple fixes.

Mayor Pro Tem Hanna said so to say that it was the flooding that caused the closure of the shelter is just not accurate and we have had flooding there on an on-going basis over the years and that may have been the beginning of this saga but is not really relevant to what our situation is today.

Dr. Drusys said it may be the straw that did break the camels back. Certainly there was to their knowledge much more flooding this past year than there was in years past and perhaps as it relates to the grading or the dirt that was placed out there. Right now, as he understands it, the most immediate need is the electrical system.

Mayor Pro Tem Hanna asked if our electric department could take a look at that and Mr. Mason said yes. She said that you are boasting most wonderfully about the new facility in Riverside and that cost over \$26 million dollars and the City of Riverside participated, the County and EDA participated but whatever we are talking about in terms of replacing this facility it is going to cost several million dollars and we don't have it. So nothing is going to happen? She understands that there are discussions going on with neighboring communities but in the meantime she thinks that we need to do something for our community and frankly, the services were not that great beforehand which is to say that everyone she has spoken with including the Mayor in calling the County it was routed to Riverside and the minimum wait was 20 minutes to a half a hour and the delays in having any response other than absolute emergencies was a full day if not more. She said that in December we received a bill for several hundred thousands of dollars more for this year's services above and beyond our current contract. So this is a real tough situation all together even if the flooding hadn't occurred she would wonder about how we could maintain a relationship with the County given the costs.

Dr. Drusys said the costs certainly in today's world are much more of a problem than they were three or four years ago. Three or four years ago we in fact did embrace the concept of forming a joint powers agreement with Yucaipa and potentially Highland or Redlands to get an animal shelter in the area that could more directly serve the people; those days are gone. The department does want to work with all of our contract cities and provide a level of service that is satisfactory to everybody. Some of these things are expensive and frankly, some of the cities have not been paying their fair share. Irrespective of how we all think the pie needs to be sliced what we are suggesting this evening is that the new shelter in San Jacinto is large enough to accommodate the animals from the cities of Banning, Beaumont and Calimesa and he believes the potential of buy-in is about zero because he does not believe the County intends to pass through any of the capital costs associated with the construction of that shelter. As a result you wouldn't necessarily need to build a new shelter if one acknowledges that the 22 miles from the present location to the new location is something that is acceptable to the community. He would suggest that in working with staff that they could certainly provide the level of additional services that Council and the community want. He suggested an adoption center, we could have a kiosk at city hall or at the Banning shelter that allows the community to view the animals directly online and make decisions about whether they may want to adopt them or look for lost pets for example. All these options remain open.

Councilmember Robinson said that he did attend the media opening of the Riverside facility and took away the features and statistics page along with the pictures and that has been forwarded to all the Council and it is an amazing facility that includes horse barns and all kinds of things that we haven't seen before. The sterilization out there, keeping the pets separate especially in the cattery was outstanding and if that is what is coming to San Jacinto

that is exciting. Do we know a date for the San Jacinto opening? Dr. Drusys said that they are looking at the first of July. Councilmember Robinson said one of our problems, and he is on the committee with Councilmember Machisic, was the increase of \$402,000 for last year. We only have \$242,000 in the budget so already we have a problem. The other part of the problem was that he has been told over the years that we had a capital improvement fund for the animal shelter and just over the last 24 hours he was told we don't have a fund like that so we are kind of stuck between a rock and a hard place.

Dr. Corvino said that for the Councilmembers that were here when we first got into partnership with the City of Banning you can remember that we had the same issues with that shelter. We had the cross contamination and these are the same issues that the former group that ran that facility had. We all addressed those issues and he thinks that we came to an agreement that both the City and the County would look at doing improvements to that facility and bringing it up to the standards that we put into the new Riverside and San Jacinto shelters, as well as, the standards that we have out at the Coachella Valley shelter. Frankly, none of that came to fruition and they were told at the same time that there was a capital improvement fund for that and that is what we were living on for the last two and half years that we were in that shelter. The rains that came were basically the straw that broke the camels back. It came at a bad economic time for the County and for the City and these are some huge amounts of money that we have to look at just to improve the electrical and drainage issues. We still are facing in that facility the cross contamination issues, the drainage issues and just the general age of the facility.

Councilmember Machisic said that you are going opened a new facility in San Jacinto and you opened a new facility in Riverside and obviously you have a master plan for animal services in Riverside County and his he correct.

Dr. Drusys said that they do not a master plan for the whole county. What we have done essentially is respond to what the County has done and this started a long time ago before he or Frank were employed with the County and they were forced to respond to various audits and the Grand Jury was one of them and the Humane Society of the United States was another one. These audits identified significant issues with the current system and Mr. Miller was brought onboard five years ago to fix these things. That is what he has done with the support of the Board of Supervisors. These things take a long time to plan and now we are seeing some of these things come to an opening day.

Councilmember Machisic said the reason he asked the question he just assumed there was a plan to put facilities in certain locations in the county and his questions would be that obviously the facility in Banning is not part of the County plans. Based on your discussion here the capital responsibility, the increase in fees, would be the responsibility of the City and is he correct.

Dr. Drusys said that part of the changes that have occurred over the last five years are in contacts and as a result of some of those changes and in fact the auditor-controllers office from the County itself we have moved to structure the contacts differently than they had been before and as a result some people end up paying more and some more than others. He said

that he cannot speak specifically to the Banning contract and the differences between last year and the year before and the current year. He gave an example of what is going on at the Thousand Palms shelter. He said that five years ago when these plans were developed for these new shelters the City of Banning was not a contract city. It had a vendor that was providing service under contract for the City and as a result it was not part of any of these considerations. He is only suggesting tonight that this is an opportunity for the City at no capital costs to acquire the services of a state-of-the-art animal shelter.

City Manager said that they have received some information on the amount just recently on what they would like to charge us next year and obviously we want to discuss this with them in regards to a longer term contract and it is at 1,087 animals at \$290,000 which is about \$50,000 more than what we have budgeted and \$350,000 for roughly unlimited but we still have to have a discussion with them as to what the current year is because we did receive some bills on that and we have been in discussions and hope to resolve that issue also.

Interim Finance Director said that we just received that letter last week so the numbers that the City Manager has indicated for next year are what is being proposed in that letter for the new San Jacinto facility and the animal control services that we now have under contract. Again, we are interested in looking at that not only from a one year commitment but for a longer term and we are not really prepared to give the Council a recommendation other than from a financial standpoint and our budget standpoint the proposal that they have given us for next year looks attractive from that standpoint purely. This year however and we have talked to the two subcommittees and the rest of the Council has not been informed about this up until this point. We are still dealing with the amount for this year's budget. As was indicated earlier we do have \$242,000 budgeted this year actually for the first two years of the contract the amount that the City paid was about \$350,000 so it was reduced at the beginning of the year in order to recognize the severe cuts that were taking place in the City however, there was never a final contract amendment for this particular fiscal year negotiated with the County. It has not been put to bed and there was a proposal in the same letter given to us as an amount that the County would be willing to accept for this year's costs and it is more than what we have budgeted and staff is not really ready to recommend that but will do that by the May 11<sup>th</sup> budget session that we will have and by that time we will have had a chance to talk to the County staff some more and have some more specific recommendations for the Council at that time at least from a financial standpoint. Some of these other questions about the shelter and the direction about sheltering in the future may not be able to be put to bed at that point.

Mayor Pro Tem Hanna said it was mentioned that there are no capital funds set a side development fees for the animal shelter. However there is one and she doesn't have the correct terms for it a general administration kind of capital development fee which we were told at the time could be used for any kind of thing we would consider general kind of purpose and is that true.

Interim Finance Director said you have had on your AB 1600 report for a couple of years the general facilities development impact fee identified as available for the Banning shelter. However, it has been his experience that typically development impact fees are for expansion

of services and for things that development has created as a need to use those impact fees. So his experience would tell him that this would not qualify because it is an existing structure, it is an upgrade just simply to rebuild or redo an existing structure and for problems that have existed for a long time and would not in his estimation necessarily meet the tests to be used for development impact fees. However, with that being said it has been identified which is where you are getting that remembering of these funds set a side as a potential funding source to do some of these improvements. If for instance, you were expanding the shelter and creating the need because of more animals, because of more residents and those kinds of the things the nexus he thinks then could be made to use those development impact fees for these types of things as opposed to simply rehabbing existing ones.

City Attorney said he does agree that impact fees would need to be used in some way to expand the facility. Certainly the growth of a community creates additional animal service needs and the impact fees could be spent to expand the needs and not to simply expand the existing facility.

There was some further discussion in regards to this general facilities fee.

City Attorney said that this wasn't a regular agenda item and was kind of put on for a presentation and so to have a full and complete staff report with all this other information is probably more of a subject for another day.

Councilmember Machisic thanked the County for this presentation because our community has been asking questions and you have answered most of them tonight and he does appreciate it.

Dr. Drusys said it is their pleasure to be here and they are here to serve not only the animals but the contract cities to that end and he will be pleased to come back at any time and go over some of these things with the Council.

There was some further discussion in regards to what the Banning located could be used for that would not fall within the realm of "traditional animal control facility."

Mayor Botts opened the item for public comments.

Gail Mauler complimented the Mayor when he said that proximity is an issue as concerns for the shelter. She said that she has worked with Ellen Carr over the past six years and she is an exceptional pet rescuer who is always there for both the animals she helps and for community members as well. One of the many things she does for the community is to provide, free of charge, food for people unable to buy it themselves. Every time she visits Ellen it is impossible to carry on a conversation without her responding to a ringing phone or a knock on the door about a lost pet, an aggressive dog terrorizing someone in the community or a found litter of baby animals that are starving to death. Her unpaid but very necessary duties have greatly increased in the last several months since our shelter has closed. She personally cannot count the number of times that she has told people that "no I am not the shelter" but because of her wonderful nature and reputation she unfortunately has been forced over these

past months to operate as that shelter however. Ms. Mauler said if she wasn't witness to the problem first hand and hand not seen the tremendous number of Banning residents who appeal to her personally because they have no other options right now she would not be able to believe it. But she can personally attest to the great need for a solution to our shelter's present closing and on behalf of our very large pet loving community I urge you all to take her comments seriously. Ellen is both the voice of our voiceless pets and of the community she represents.

Ellen Carr addressed the Council stating that she is almost speechless because it looks like Banning is at the end of the line again. We always seem to wind up at the end of the line. When we had our shelter on Charles Street people were reluctant to take their animals that far. Now, most of them get as far as her house. She has had people call her and she has had to tell them they have to call the animal campus in Thousand Palms. Some people tell her they don't have long distance on their phone or they don't have a way to get there or I lost my animal and I don't have a computer to look up the pictures of the animals that have been found and the same thing is going to happen at San Jacinto. People are going to do what they think they have to do and that is to dump the animals and that means also that people dump their animals at her house. She has been in trouble with the City because of what she does and so bit it she will continue. Somebody has got to do something. If there is someone out there in the audience that has some extra land and a building on it, she will leave her house and she will go there and she will start a sanctuary for the forgotten animals of our community and there are so many of them that it would tear your heart out. She hears many stories everyday from people that have to get rid of their pets. She said she had a big heart and a lot of times her heart rules her head. Sometimes she thinks that is good because we need more people with heart. We need a lot more people to step forward and do something. As she said in a letter once "get off your duff". If you don't do it, it is not going to get done. She said that she cannot do it by herself and nobody could do it by themselves. She said that she does more work now than she ever did when she taught but she wouldn't trade it for the world when you know that you have found someone a forever home and they are not going to die in the street and be run over, not starve to death or die of some horrible disease. We need a shelter and she doesn't care how we get it. We have plenty of buildings that are empty and why don't we start looking at them. Why not look at what we have; not what we don't have. We don't have a viable shelter but there has got to be something in Banning that we can use to save the animals now.

John McQuown, 4176 Hillside Drive, City Treasurer and veterinarian for 30 years addressed the Council stating that he has been involved with the shelter ever since it was built. He said it wasn't the best built structure but it was certainly functional. He can remember having to do down there and put animals to sleep and trying to get animals adopted out. He can certainly appreciate where Ellen is coming from. Logistics is really a problem and the farther the people are going to have to travel to get their animals and unfortunately they are going to suffer because they are not going to go that far. We need to get a facility here. He knows that money is tight and money is a problem but he does think that we need to develop a plan and he hasn't heard a plan. He has heard from the County saying well let's wait until the San Jacinto facility becomes available July 1st. But we have been down now two to three months and we are looking at another three months and he has not heard a plan. What are we going to



do? Where are these animals going to go? When we call Riverside County Animal Control and they come to pick up our animals they are 22 miles down the road and they have to take that animal there and they have got to come back and that is down time that we are not being served. As the City Treasurer he knows that we have financial problems but there are things that can be done. We have got to get these animals saved. He said it is not an easy topic and money is a problem and he doesn't think that is a solution that we are going to be driving 22 miles down the road to try to adopt back our pets. He has offered his services and he is more than willing to help. He has spoke to Councilmember Robinson and there is a meeting tomorrow where he will be talking to Mayor Botts, Mayor De Forge and the Mayor Pro Tem from Calimesa and if we can get a regional center that would be fantastic but he doesn't think we can wait any longer. Let's get this moving.

Don Smith addressed the Council stating that we have short term, medium term and long term problems here. In the short term we need a telephone number that is not long distance that the people of Banning can call and not have to wait for half an hour to discuss whatever they want to discuss with whoever they are ultimately going to discuss it with. In the short term, if our animals are not in Banning, for those of us with vehicles we can drive out to Thousand Palms and look for our dog. Everybody in Banning does not have that ability and we basically have no transportation for some of our citizens to go down there to look for their dogs. So in the short term we also have a transportation problem that needs to be solved. Apparently they can put this online and he doesn't know how long it takes between the time that they get a dog before they can put it on line that people can see it. But then we also need a place and city hall is probably not a good one because you are closed too much where the people can go and actually look at this at hours that are convenient for the people which is not necessarily Monday through Thursday, 8 a.m. to 5 p.m. if that is the only way for them to look. So in the short term we have these problems that are probably fixable if we prioritize them to come up with the solutions. In the medium term, we have to find a place to keep our animals in the medium term until we can solve whatever our local problems are and perhaps San Jacinto is a solution. But we will still have those transportation needs and people won't go that far and will be dumping animals and the same problems with how many hours we are paying somebody to provide this service half of it is spent driving back and forth out of our city. In the long term, Banning has always had the unfortunate position of being in the exact middle of the county so that the great facilities get built in Riverside and in the desert and we are in the middle and have to wait until the end. So in the long run we need a plan to get a facility back in our area and that probably entails having a plan of what this facilities' needs are and what it would cost to build because until you know that it is impossible to start finding money for it because you don't even know what you are trying to find money for. So you also need to shortly come up with what the long terms goals are so that you can start working on meeting them. We also have to remember the other end which is the pet owner and everything we are doing right now is not remotely convenient or helpful or friendly to the pet owner and we need to solve those problems and resolve them quickly regarding transportation, being able to find their lost animal, and being able to talk to somebody on the phone. So your new contract has to have a local number no matter where the facility is, it has to have a plan as to how people from Banning are going to get there, and they have to have hours of operation for viewing and where those viewings will be, and there has to be sort of a standard of the average call is going to be answered in so many minutes or at least you can

leave a message and within a reasonable length of time you will get a call back because that is the biggest problem that he is hearing. So these are all problems that he thinks need to be handled separately and quickly. Ellen is right that we have had our own facility for a long time and the reason we had it is because all the other facilities that the County has are so far away. The Mayor is correct for financial reasons in the short term and the medium term that might be are only option in which case we would then need to have a contract set up with a non-profit to quickly reopen our shelter for licensing, for reviewing the pets and for actual adoptions.

Kana Robinson, 451 W. George Street stated that she is Ellen's neighbor. She said do any of you have any idea how much time she is inundated with people. 10:30 last night, 8:00 this morning, 4:00 this afternoon, I tried to save a cat for my friend because my dog tried to eat it and at 10:30 at night what is she supposed to do. She said that at 4:00 this afternoon a baby cat was found on the sidewalk with it umbilical cord and how does she explain to that child to just leave it there, walk way; you are not supposed to care. Is that the way we want our children to be raised? Don't we want them to have compassion for animals in order to have compassion for their fellow human beings? What kind of an example are we setting? There is no easy solution. She said that she feels badly for the Council but we need to approach it and touch it and do something with it and not push it to the side. It needs to come to the front and be dealt with. She said that she tries to deal with parents as they walk by the park with their children to show the little ones that we have right then and get them to interact. She said that she is tired of animals being left at the park and finding them in the street later. People just leave them there because their homes are foreclosed and where do these people go. We have no low cost spay and neuter and no low cost shot clinics. She feels that as a City we are doing our people a major disservice and she would appreciate any help you have to offer.

City Clerk stated that she had six letters that came in and she did give copies of each of them to the Council. Some of them are pretty lengthy and some are short. Mayor Botts asked the City Clerk to summarize them and give the names of those that did send in letters. City Clerk stated that these letter pretty much ask why isn't anything being done about the shelter, it is a shameful situation, why are you spending money on other things when you should be spending it on the shelter, why is this given a low priority and it was explained that it was not a low priority and that the message was just received that way, this is a priority issue and let's deal with it now. City Clerk read that the letters came from Joan Marie Patsky of Realty Smart Specialist of Beaumont, Ray and Rina Dischoso-Dungao of Beaumont, Maryellen Wilkins of Sun Lakes, Robert and Jacquelyn Atwood and Ellen Carr (See Exhibit "B")

Mayor Botts said that they do appreciate those letters that have come in and the Council has reviewed them and they will be part of the record. This is not a hearing or a formal agenda item but our attempt is to try to tell those of you here that you already know the magnitude of the multiple problems that we are trying to deal with and that clearly we are trying to deal with them at multiple levels. Unless the Council wants to spend more time on this he would simply ask the City Manager and staff to take a mental note of all of these issues. He said that we do have a plan and it isn't just the long term but it is a plan that deals with all the issues that have been raised. He said he would ask Council to indicate how important they think it is

to ask staff to really come back at our next meeting with at least an outline of a plan and is that fair. **There was Council consensus.**

Mayor Pro Tem Hanna said that Don Smith's analysis of short term, long term kinds of things is very helpful and we need an immediate type of plan of what we are doing right now to improve this situation. It sounds like there are things that we could do right now to make it better for Banning residents and the animals. She would appreciate hearing what we can do right now.

Councilmember Franklin said it seems that one of the main things that was talked about was a local phone number for our people to be able to call and do you have such a number and if you don't, can you get one that can be published.

Mr. Corvino said that they have one main number that folks can call and it is 951-358-7305. That is their Riverside number and is the main number. They don't have a specific Banning number.

Mayor Pro Tem Hanna said she was not sure if she understood Councilmember Franklin's question about the local phone number but from her perspective it is not just a local phone number. She understands that our ideal version would be 24/7 but she thinks that they would be happy to have any kind of improvement of actually a human being that knows something about Banning who is responsive to Banning residents. When she talked to people in Riverside it is like they could care less. She would be more open to doing something better than we have now.

City Manager said that at the next Council meeting the Council has the budget and staff can add something on the agenda and he cannot guarantee how thorough it will be and he cannot guarantee if you will have anything in the backup before hand. So he is just warning the Council about what they can bring back and staff with work with the County in regards to the short term and some ideas that he has.

There was more discussion in regards to getting something done in regards to a local number and share that with the public as soon as possible. You can also access the County's website at [www.rcdas.org](http://www.rcdas.org)

Councilmember Robinson said that when they call the number 922-3301 that is routed to the main number in Riverside and that is a local number.

Marion Johnson, 541 E. Repplier Rd. stated that she called the local number at 922-3301 and she was transferred to Coachella and she left a message and they called her either that evening or the next morning. She said that she had called in regards to her dog and was told that she either had to take her dog to Coachella or Riverside. We have nothing here in Banning to talk to a live person.

#### CONSENT ITEMS

The following items were pulled for discussion: Consent Items 4, 5 and 6 by Councilmember Franklin, Consent Item No. 8 was pulled by Mayor Pro Tem Hanna for Matthew Clarke who wanted to address that item.

1. Approval of Minutes – Regular meeting – 4/13/10

Recommendation: That the minutes of the regular meeting of April 13, 2010 be approved.

2. Report of Investments for February 2010

Recommendation: Receive and place these required monthly Reports of Investments on file.

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

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

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 Redlands Ford in the Amount of \$31,348.40 including taxes and fees.

**This item was pulled from the agenda and will not be considered at this time.**

9. Resolution No. 2010-32, Approving Emergency Repair to Water Well No. 10.

Recommendation: Adopt Resolution No. 2010-32.

**Motion Franklin/Machisic to approve Consent Items 1, 2, 3 and 9.** Mayor Botts asked if there were any public comments. There were none. **Motion carried, all in favor.**

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

Councilmember Franklin said in the report it gives which streets and what years are to be worked on and she wanted to know if it is possible that the list be looked at again because with some of the improvements that have happened on Ramsey Street, for example, that is shown not to be worked on until the year 2013 and when you drive down Ramsey from Alessandro towards Hargrave you can see that there was work and the road is rough. Are we sticking to this list the way it is presented if we approve it or does it mean that you will look at it to see what streets really need priority.

Mr. Burk said that this was a list that the Council already approved. This number is only the dollar amount that we would anticipate getting for the next five years. It is the discretion of

the Council to move those streets around at their will. Staff would just have to report that back to Riverside Country Transportation Commission.

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

**Motion Hanna/Robinson to approved Consent Item No. 4, adopting Resolution No. 2010-26, approving the Measure "A" Five Year Capital Improvement Plan as presented. Motion carried, all in favor.**

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.

Councilmember Franklin said her concern is about reimbursing Beaumont for the work that they did and it is her understanding in talking to prior staff on this was that when they put in the new medical facility and the west side of Highland Springs was worked on that the agreement was that when they finished the construction they were also going to do the east side of Highland Springs and that didn't get done. Her understanding was that we were going to pay for that even though the reasons there were issues with the street was because of the work that was done in Beaumont and she has a concern about paying Beaumont back when they didn't do what they were supposed to do in the first place from what she was told.

Mr. Burk said tonight what he is asking for here is about our contribution for an upgrade of the turn pocket and there was a verbal agreement between city managers to do our contribution this way. What you are talking about has nothing to do with what this is about tonight however; he knows the dialogue that she talked about. There was construction south of Highland Springs for the new medical center and there were a number of complaints from the Sun Lakes residents as it relates to potholes and noise traffic from those potholes specifically truck traffic. He said that they worked with the City of Beaumont via staff and asked them to pave the entire street and we would pay our contribution. The City of Beaumont took it at their leisure to fix the potholes that were part of the complaint issues and did not pave the entire east side of the scope of work. With the Measure A project as we move forward it would be his desire to come back to Council and pave that ourselves because they have moved their equipment out and they just didn't get the work done the way we wanted it done. This is not part of tonight approval.

Councilmember Franklin said she knows but because that is the same area it would seem that we should be negotiating still with Beaumont. They want us to pay them back but they are also not willing to pay for the damage that was caused in Banning because of work there and it would seem like that would be something we should be able to negotiate on because that whole area has all been improved because of what has been going on in Beaumont and she would like to see staff be able to continue to work to negotiate to get the rest of the east side of Highland Springs actually done and it shouldn't be on Banning's dime to do that.

Mayor Botts said that the yielding signs are very confusing and he was going to talk to Mr. Burk about that. He doesn't see how we can renege on a payment that we had a contractual

agreement on and Beaumont did the work and paid the contractor. He doesn't disagree with Councilmember Franklin that we need to continue to look at it and make that decision.

Mr. Burk said that since the repairs have been done to the street the complaints have diminished however, the full overlay was not completed. When they did dialogue with Beaumont's staff he doesn't know if we could do it cheaper but they would want another move-in cost so he thinks it would be beneficial if it was the desire of the Council to pave that side and we would add that to the scope of our pavement project in the future and bring that number back to the Council. If it is the desire of the Council to negotiate further before paying this, he would definitely take that into consideration and introduce dialogue again with Beaumont.

Mayor Pro Tem Hanna said that she would disagree and thinks it would be unethical. She said we hold ourselves to our own standards and we agreed that we were going to pay this and we have the bill and we should pay it and not hold it back as a negotiating tool with them. This is a handshake by our City Manager and we should just go forward and do what we are going to do.

There was some further discussion on this issue of repair of the street.

**Motion Hanna/Robinson to approve Consent Item No. 5, adopting Resolution No. 2010-28, authorizing an Appropriation of Funds from the Measure "A" Street fund for Street Improvements on Sun Lakes Boulevard.**

Mayor Pro Tem Hanna said she agrees that the full overlay should probably be done and there may be an interpretation issue but again we cannot control Beaumont and we need to do what is right.

Councilmember Franklin said that she is saying not to do what is right. Her concern is that if we are saying that if we are going to step up to our side but they are not going to step us to theirs, then we do need to talk. She didn't realize that these were two separate projects basically so she doesn't have a problem with this one but she does think that we do need to finish dealing with the street because it is an issue for some people.

**Motion carried, call in favor.**

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.

Councilmember Franklin said that she would have to excuse herself from this item because she is a Board Member for BPAL (Banning Police Activities League) and this does address some monies that were given to BPAL. She left the Council Chambers at this time.

**Motion Hanna/Robinson to 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.** Mayor Botts asked if there were any public comments. There were none. Motion carried 4/0.

Councilmember Franklin returned to the Council Chambers at this time.

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.

Mayor Pro Tem Hanna asked for a brief staff report on what is involved here.

Mr. Burk said that Metcalf & Eddy was the design engineer of the Brinton Reservoir which is an 8 million gallon reservoir that sits at the foothills just above the Brinton Ranch. The design team completed the project and there was a second amendment with his predecessors and this third amendment reflects some additional construction management time for the project and there was a report drafted for the hydraulic model for the Brinton Reservoir to work with the current reservoirs that we have in place. Theoretically what you have now is three cups of water out there in different locations and they pretty much sit at the same elevation and basically when the report was written by Metcalf & Eddy it recommended and staff agrees that the hydraulics of the water that moves through the city one tank may overflow the other so what the report originally said was that an altitude value needed to be designed for the three reservoirs at San Geronio. However what the report failed to recognize but mentioned that you would have to design it later was the south west reservoir that sits above the Sun Lakes project. All three of those reservoirs or cups hydraulically work together and demand fluctuates within the system. The current reservoir has an altitude valve and the altitude valve controls the level of the tank so it doesn't overspill and so what we are asking for is to design those altitude values and it will go out as a separate project so that we can get those valves installed so that the tanks don't spill and that is basically what he is asking for tonight. He thinks that one is for the breakdown of the construction management of the Brinton Reservoir which went over the timeline and the other part is for the design of those altitude values.

Mayor Botts opened the item for public comments.

Matthew Clarke stated that he had a few concerns that he wanted to bring to the Council. He said this project was originally bid for almost \$900,000 and we are now looking at about 40% in cost overruns. He understands Mr. Burk's explanation of some of the overruns perhaps for redesign however there are some extenuating circumstances that are referenced in the documentation that are not covered and one was the Burrowing Owl issue. To use the Burrowing Owl issue as an excuse for a change order that is typically covered in the EIR and it appears to him based on his experience that a lot of these explanations for cost overruns i.e. change orders seems to be very weak. His experience has shown that typically when he sees this type of cost overruns it is usually because of typically intentional underbidding to capture the profit through change order which is not really a fair process and now we use the excuse

that we have to redesign something. He asks that the Council really take a good look and really sharpen your pencil before just openly approve a change order. Really hold the contractors feet to the fire to really justify these expenses because what has been explained so far doesn't match the excuse or reasoning that is here in the printed document. For example, habitat evaluation of the Burrowing Owl, that is typically covered in the EIR and why now all of a sudden this is an issue for a change order after the fact. Construction management services second change order. Additional services for design of retaining wall shoring and pavement permit process; what happened to the initial bid. Then the final change order for \$104,000 dollars for the additional work which includes plans and specifications; construction management services and final testing services for the additional work. He said that is really a very vague explanation. He would recommend that you really put staff to the task to ask the contractor to give you something more exact. On a final note, we did not discuss Consent Item No. 7 but the reason he brings this up as an issue is because on the screen under public announcements there is an item that HELP needs the donation of a truck. On page 64 or 66 it mentions about a vehicle that the City will abandon or retire and it could be consider that perhaps the vehicle that is going to be retired could be donated to HELP.

Mr. Burk said his goal is never to bring a change order that is weak in explanation and that is never his intent. The project was awarded a coupled of years ago and the engineering firm of Metcalf & Eddy is no longer in business and they have been absorbed by another company. He said that the Burrowing Owl is described in the EIR however the mitigation is not and now the mitigation came later. Any time you do an environmental document there is always different people that weigh in, especially environmentalist, of what the mitigation measures may be and not always clearly defined. He does know that an example of that is when they did Drag City and we actually had to physically relocate the Burrowing Owl and there was only one contractor in the state of California that could physically move that Burrowing Owl and actually he got to be part of that. The intent of putting that in the staff report was to let you know that there were some mitigation measures that were not called for in the original scope of work and not that is a mitigation measure. The \$104,000 is basically his and anything prior to that was already there when he picked up the project and he is trying to finish it on a schedule that meets the timeline and the budget. He wishes that he could speak to some of the comments made in full disclosure but he really doesn't know all the reasons why his predecessors didn't want to include this type of scope that he is asking for. He said that if we do not install the altitude values we will potentially spill the tanks and that itself will be a violation with the State Department of Water Resources and our accounting ability for statistical water when we report it every year. The intent is not to make any of the scope seem weak. In regards to the construction management during the course of the project it was defined that the wall needed to be redesigned and had to be higher and that is one reason why you had a mitigated measure. When you have a construction manager on the team not everything is completely called out in the scope of work. This was a very large project. It is the largest project that the City has done in its time as far as water infrastructure goes.

Mayor Pro Tem Hanna asked if he had any idea what the future costs might be for the altitude valve and other things related to that.



Mr. Burk said that the two altitude valves for the current tanks are 24 inch in diameter and the electronic design for that just alone was \$53,000 and that is not the valves. The altitude valves for the San Gorgonio Tanks will be two valves with one being a 12 inch and the other a 16 inch and they have to be designed and special ordered and you may be looking at about \$150,000 to get those and then the south west tank is a 20 inch valve which will be designed so we are looking at about \$225,000 installed.

Councilmember Robinson asked if this is affecting four different tank locations and not just talking about Brinton Reservoir.

Mr. Burk said he thinks that is the confusing part. He said that realistically they just finished the Brinton Reservoir and if they don't design the other two, the other two cups will potentially spill. This is more of the professional services side and this would be for the future. He is wanted to design these because now we are ready to commission this tank. He said the system works hydraulically and they are supposed to move water west to east and east to west and that is the intent without spilling the tank

**Motion Hanna/Robinson to 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 the amount of \$104,180.00. Motion carried, all in favor.**

#### 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 – Fred Mason, Electric Utility Director)

Mr. Mason gave the staff report as contained in the agenda packet giving some background on the bonds and going over the capital improvements that have been completed. He also addressed the projects that are to be deleted and the other capital improvements that are necessary. He said that staff would like to delete the projects that are shown with strikethroughs and add some projects that are specifically in the downtown area with the courthouse coming in and the improvements that will be done in the downtown corridor. Staff is recommending to underground from Fourth on the west side to Hargrave on the east, Williams on the north and Livingston on the south. This would provide the system integrity that they need, as well as, beautify the downtown area so instead of having the pole and wires and antiquated look we will have a clean downtown civic center that will be able to attract business.

Councilmember Franklin asked Mr. Mason to talk about the bonds a little bit so that people would understand how this is being paid and what it means to the Banning utility user.

Mr. Mason said initially there was approximately \$40 million dollars to be used for capital improvements. At this point approximately \$19 million has been spent and that was for the Sunset Substation and the improvements to the distribution system. There is approximately \$21

million dollars left. With the improvements that are being recommending that is about \$11 million dollars which will leave a remainder of \$10 million dollars. As he pointed out in the staff report they are going to be coming forward to ask the Council at a subsequent meeting to approve buying back some of the bonds that were issued back in 2007 because we won't need the capital that was initially put forward.

Kirby Warner, Interim Finance Director said that the amount of cost is already being incurred by the Electric Utility in the form of the interest and principal payments on the bonds. Typically bonds have a call date where you might be able to go back and get them automatically. These have a call provision that doesn't happen until 2017 so in the interim we are looking at doing this buy back which would reduce the debt service to the Utility Authority in the amount of about \$500,000 a year of the amount that is now being charged. That will help the utility's budget and will probably forestall rate increases and things like that that would have come sooner because of these costs that they are now incurring so that is the purpose for this second half that we are looking at doing on the remaining bonds.

Councilmember Machisic said he picked up a word from Fred where it said "we won't need." He said he sat here about six years ago when another member of the other utility was posed with a question about three times if we had ample money and talked about providing water services or associated water services for the next 10 to 15 years and he was told that we have all the needs that we want; we don't need anything else. And then when the Council committed the money to something else a year and a half later it came back that we needed an additional \$20 million dollars in water and that made him very unhappy because the Council always stated that the utility bonds were to be for utilities and there were no ifs, ands or buts about that. One of the things that he is concerned about and he recognized for instance they talked about the off ramps and that priorities have changed but at the same time for instance one viable project that is still providing activity in the city is Pardee and they are talking anywhere from 4000 to 5000 houses and he wants to be absolutely, positively assured that that area can be serviced with what we have in place now.

Mr. Mason said absolutely.

There was some further discussion in regards to calling back bonds.

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

**Motion Hanna/Machisic 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". Motion carried, all in favor.**

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

▪ City Council Reports

Mayor Botts said thanked Bob Ewart and Councilmember Franklin for an outstanding Disaster Preparedness Expo. He thanked all the City departments for being there.

Councilmember Franklin --

- She said that they did have a very successful Disaster Expo this year and they had included also the bicycle safety, as well as, skate park activities. They found that their goal was to at least match the number of people that had attended in the past which was around 650 people. They stopped counting at about 1:45 p.m. and they counted 978 people that came through the front door. They did a minor survey to see how people had heard about the Expo, as well as, asking them if they had attended before and would they come back. Overwhelming they had people say that they would come back and had a variety of ways that people heard about the Expo so all the things they did to advertise did help. They found that some vendors ran out of supplies. This was all paid for by donations and they did not ask the City for money this year. They were able to do everything that they set out to do and want to take it to the next level by actually getting more people in the community trained to become community emergency response people because the reality is people do not know individually what to do when we have a disaster and they are going to expect the City, the fire, the police department to be able to do something and they probably won't be able to respond based upon the needs that we are going to have. She did attend a C.E.R.T. class and that was really driven home to her the amount of need that we have to get more people in the community trained to know what to do in terms of organizing the community. Sun Lakes has an outstanding program already for their community as does Serrano Del Vista, and some of the mobile home parks such as Linda Vista but the general public does not.
- She attended the Community Action Partnership meeting last week and there are a series of free workshops for non-profits and she will give the list to the City Clerk. This is the first time that they are offering them free in the Pass Area. The purpose of these classes is to help people who want to apply for grants, to learn how to be leaders in non-profit organizations, to be able to get the assistance to be able to do what they set out to do and be successful as non-profits. This is the first time and only time that they will be offered free to anybody who applies because this is funded by American Reinvestment and Recovery Act dollars.

Mayor Pro Hanna --

- She reported some things from the Banning Chamber of Commerce as follows:
  - 1) Thursday, May 6<sup>th</sup> is the Grand Opening for Rio Ranch Market.
  - 2) Both Banning Stagecoach Days and the Banning Chamber of Commerce's websites are ".net".
  - 3) Jim Smith is now the General Manager for the Banning Chamber of Commerce and is working at no cost for April, May and June and he is hoping to turn the organization around financially and be able to be paid after that point.
  - 4) There are still some foursomes left for the Cinco De Mayo Golf Tournament
  - 5) They approved a Code of Ethics at their meeting that every board member will sign
  - 6) They are supporting the City in the City's non-support of Proposition 16. It is going to be on the June ballot and this proposition is being fully funded by PG&E in Northern California.

- She attended a statewide Healthy Cities Conference on Thursday and will be writing a report for the rest of the Council.

Councilmember Robinson –

- He stated that the RTA (Riverside Transit Agency) approved the Go Pass Program for Mt. San Jacinto College students. More than 22,000 Mt. Jacinto College students will qualify for free bus rides during the 2010/2011 academic year. This begins August 20<sup>th</sup> for these students. Banning, Beaumont, Canyon Lake and a lot of other different cities have signed on to this program and at the end of the year the students will vote if they want to keep that type of program going. UC Riverside did approve that for another year coming out of their registration fees and they have gone from 2% rider ship up to 10% rider ship using the Go Pass System.

Mayor Botts –

- In regards to Riverside County Transportation Commission (RCTC) which he serves on they have talked about the Colton Crossing as a complex issue with the SantaFe and Union Pacific that comes to a four-way stop sign in Colton. The positive movement on this is that the two railroads have found that they do need to talk to cities and counties in the state. What has happened in the last few weeks is that there has been movement on their part for a number of reasons to say well we could talk about more time or more slots on our rail, Union Pacific from Los Angeles to Indio. If that were to happen in his estimation, that is probably monumental in a lot of ways. He said that RCTC approve a resolution that we ought to have Metrolink from San Diego to Indio and this could be huge for us and for the Tribe because we have talked about a station in the Pass. It is very, very positive and this is just discussion and no deal has been made but there is significant movement.

Report by City Attorney

- Nothing to report at this time.

Report by City Manager

- There was a request to look in SAP with regards to Spanish on Channel 10. It is not as easy as pushing a button and we would have to hire an interpreter that is certified and it works that way. There is money to pay the interpreter as far as any Spanish speaking channel. That has not been brought forward because the Council did pass a policy that if you did not have revenues coming in to support a program, then you wouldn't have it.
- In regards to the meeting with Banning Heights Mutual Water Company they had a meeting to discuss whether they would sign the four party agreement with all the stakeholders. He asked Mayor Botts if he wanted to speak on how they would make that determination as far as having a vote.

Mayor Botts said the Chairman of Board indicated that the Board was supportive of signing the four party agreement with Banning, San Geronio Pass Water Agency, Southern California Edison and Banning Heights Mutual. However, they are going to have a mail in vote in mid to late May to let them know that the shareholders have spoken and said lets move forward.

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- In regards to Proposition 16 Fred Mason is looking into this to see if it really applies to us because there is a catch that if we are the sole provider for the city in the city of Banning we may not be subject to Prop 16.
- Pardee has been meeting with staff as far as where they want to go and will probably be coming to put in an application sometime this summer.
- There is a movement right now in Sacramento by Assemblyman Paul Cook to try to get the tribal monies released.
- As you know the power went out at 3 a.m. and notice was given on Channel 10 and staff did call the hospital and fire and police. He asked Fred Mason about a possible list and he said in the nine years that he has been in the utility department he is not aware of any list that would actually call people to let them know. The outage was because of Southern California Edison and not our own utility.

Councilmember Franklin asked if we had a way of knowing by people that pay their utilities those people who are on medical rates. Is that a way of trying to contact these folks. She heard there was a list in Finance.

Mr. Mason said what the rates does is that if you have a need whether it is air-conditioning or breathing device or any type of equipment that is authorized by a medical official that makes you use more electricity we give you an additional 500 kilowatts on your baseline rate. That does not mean that if there is a situation where the electricity goes out you need to have electricity. It is basically just if you have equipment. We have no way of tracking if there is an individual who actually has that. What we would encourage is that if there is a customer that has something like that, that they have some type of backup batteries or backup generator where they made provisions for themselves because obviously we have no control if there is an outage.

- We are still in the process or working on our tertiary plan and those plans are still going forward and staff will try to get some dates to the Council as when they expect to get it back from our engineer in regards to the design.
- He had lunch with Roger Schultz, President of Mt. San Jacinto College and he is very pleased with moving up to Banning and wants to engage the community.
- He and Duane Burk had a real productive meeting with Dr. Wolf of Caltrans and we do know who all our contacts are and have phone numbers for Banning that we didn't have before.
- He said he went to the Beaumont City Council meeting and there was a rumor that Costco was moving to Calimesa and according to Alan Kapanicas that is not true and Costco is not ready to commit to any place in the Pass right now.

#### ITEMS FOR FUTURE AGENDAS

##### New Items –

Councilmember Robinson asked when the Parks Master Plan would be coming forward. City Manager said that staff hopes to schedule a Parks and Recreation Committee, Planning Commission and City Council meeting together to go through the plan. It will probably be done in July because of all the other things coming up for the City Council agenda.

Mayor Botts said that he would like to put on the agenda appointments to a water negotiating committee. He said that Banning Heights Mutual Water Company wants to move forward and sign the four party agreement which would lead to very specific negotiations between Banning and Banning Heights Mutual Water Company regarding the flume, the ownership and the maintenance. He also asked where are we in regards to the analysis of how we elect the mayor for the City of Banning and when would that come back to the Council.

City Attorney said that the direction he received from the prior Council Meeting was that the Council wished to further consider the direct election of mayor issue and in particular the more detailed information includes exactly when we would hold an election, what the election costs would be, and some issues as to how to set up the terms. He said it was his intent not to come back with the specific resolutions calling the election or anything but still one step closer with probably a staff report that outlines issues that we would need direction on to actually prepare the actual resolutions, etc. It would probably come back at the May 27<sup>th</sup> meeting.

Mayor Botts said that he brings this up because after the meeting he was inundated with questions from people and in fact he did a survey and he is looking at this differently and he is concerned about how much time and effort we put into it. There were three that wanted to move forward and obviously we have to do that but he is concerned and doesn't want to get too far and spend a lot more money with our attorney and staff.

There was some staff and Council discussion.

Mayor Botts said that he would probably ask for reconsideration at the next meeting.

City Attorney said that he would give a status report at the next meeting and then the Council can tell him what to do.

Councilmember Franklin said to remove Pending Item No. 4 from the list because the Council is now getting a lot of status reports. She would like the Council to consider to ask for it to be an agenda item as to how do we as a Council address when someone from the public questions Council behavior.

Mayor Botts said that we have a civil code and a whole book that gives us the procedures of how we deal with those kinds of issues and censure. He is not sure that we have gone through that since we have had new Council people elected.

Councilmember Franklins said maybe it would be time to have something come back like at a workshop where we are following up on that. Mayor Botts asked what the issue is. Councilmember Franklin said if the public comes to the Council and asks the Council to take an action she wants to make sure that the Council knows, as well as the public knows, what our role is.

City Attorney said if the Council is saying that they want to have a workshop and talk about how the Council relates to the public and if one Councilmember is asking for that it can happen if three people want to do it. He is not sure if there is anything there as to what staff would do in terms of a report or preparing information concerning that request. Is there anything you would want staff to do?

Councilmember Franklin said possibly an update as to what we can or cannot do or what we should or shouldn't do. She has had a lot of questions from the public asking what does the Council do so she would like to make sure that the Council knows and the public knows what the Council can actually do if there is question about a Councilmember's behavior.

City Attorney said that they could put back on the agenda the Council's civility code and talk about that. Mayor Botts said that he doesn't know that they need a whole workshop on the civility code and the other parts that go with it. Mayor Botts asked the rest of the Council about this and the answer was no to a workshop on this topic. He suggested that if you have a real question or the public does, then they can form that question and submit it to the City Attorney.

City Attorney said he would be happy to speak with Councilmember Franklin. He said if a citizen is upset about the Council or the behavior of a member of the Council, then they come to that podium and voice that opinion and that can happen at every meeting. And the role of the Council is to do what they feel is appropriate and what the individual member feels is appropriate. If the citizens thinks that it is something criminal, they can go to the District Attorney or the Grand Jury. That is why every meeting it is required to have public comments.

There was some discussion.

Councilmember Franklin said that she would discuss it further with the City Attorney.

#### 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

#### CLOSED SESSION

City Attorney said that the City Council would meet in closed session pursuant to Government Code Section 54956.9 (a) regarding pending litigation - Brar vs. City of Banning.

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

Meeting went into closed session at 9:35 p.m. and returned to regular session at 9:38 p.m.

City Attorney said the Council met in closed session to discuss the Brar vs. the City of Banning matter and the Council voted 5/0 to authorize a settlement agreement to resolve the matter without the payment of any funds.

#### ADJOURNMENT

By common consent the meeting adjourned at 9:40 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.**



Marie Calderon

From: Rina Dungao [rinadungao@yahoo.com]

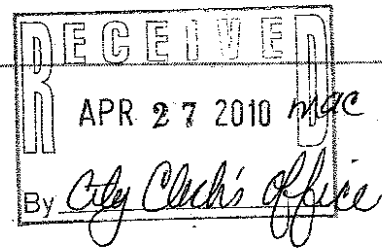
Sent: Tuesday, April 27, 2010 4:23 PM

To: CityCouncil

Cc: auntiekath1@msn.com

Subject: Animal Shelter Repair Petition!

To Mayor Bob Botts and the Banning City Council:



My husband and I strongly feel that the repairs that need to be done at the old animal shelter located on Charles Street, Banning must be given priority as we have all worked hard to provide a safe, convenient, and secure animal shelter around the Inland Empire area. To simply travel 50 miles to and from Coachella is not practical and may prove to be grave potential danger to animals in transit-especially during the hot summer months.

Please re-consider this petition and think about the safety of our helpless animals.

Lastly, I would like this letter or petition of ours read at the next council meeting.

Thank you so much for your time.

☒ Right-click here to download pictures. To help protect your privacy, Outlook prevented automatic download of this picture from the Internet.

With gratitude,

☒ Right-click here to download pictures. To help protect your privacy, Outlook prevented automatic download of this picture from the Internet.

Ray and Rina Dichoso-Dungao  
Beaumont, CA

Exhibit "B"

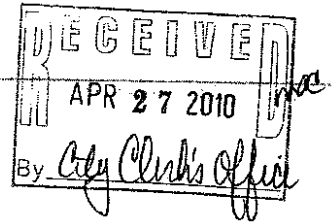
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reg.mtg.-4/27/10

4/27/2010

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Marie Calderon

From: JMPATSKY@aol.com  
Sent: Tuesday, April 27, 2010 4:07 PM  
To: CityCouncil; editor@recordgazette.net  
Cc: JMPATSKY@aol.com; elncarr@verizon.net; drichter1@msn.com  
Subject: RE: ANIMAL SHELTER



[citycouncil@ci.banning.ca.us](mailto:citycouncil@ci.banning.ca.us)

Good Afternoon to The Banning City Council.

This is to address the extremely disappointing, and distressing information that the Banning City Shelter was flooded during the winter, was closed being in need of repair, and during this spring month of April, the shelter is yet closed which is a great disservice to the city of Banning, and to all residents in the San Gorgonio Pass area.

Of course there are important issues before the City Council. My personal opinion is that this matter is a **priority issue** because of the fact that mobile services of certain services to residents on behalf of their pets has become unavailable, and of course, there is a resultant loss of all services that the shelter was providing to the area.

Further, I am sorry to say that when dependable pet care isn't available, people tend to resort to inhumane methods of pet care that can become a hazard to the community - even <sup>though</sup> the abandonment of an animal is unconscionable, disgraceful and illegal. During the course of my business, I have personally come across and adopted a pet that was left behind at a vacant home, with nothing more to eat than a bowl of dry dog food infested with maggots, and a bucket of filthy drinking water.

I am passing on a suggestion to you that seems to be working in Arizona. A certain Sheriff in Arizona came up with the brilliant idea of selecting prisoners deemed non-violent, and putting them on work programs, one of which included the cleaning of the city shelter and personal care for its pet while on the premises. The sheriff required all prisoners selected for that labor program to wear pink for identification and also to let residents know that the prisoners were "in the pink" because they wanted to provide a community service to the community. According to my information, the volunteer prisoners received .13 cents an hour for their community service efforts. This is definitely not a "get rich" program, however, think of the psychological benefit of someone receiving compensation for their work efforts, and the dignity of assisting the community.

It is a great shame that the shelter hasn't been able to fulfill its duty to the San Gorgonio Pass area. Even <sup>though</sup> there may be other shelters available, the Banning animal shelter is a local shelter, and residents of the San Gorgonio Pass area deserve top priority on this critical issue.

I urge you to prioritize this matter, and if possible, enlist the assistance of the Riverside County Board of Supervisors to investigate if any funding programs or grants may be available. Also, please remember that "being in the pink" may be a good idea!

Sincerely,

JOAN MARIE PATSKY, VP  
YOU are SPECIAL at:  
REALTY SMART SPECIALISTS  
P.O. BOX 3026  
BEAUMONT, CA 92223  
Phone: (951) 845-1348  
Fax: (951) 845-7889  
DRE: 01481162

Exhibit "B"

Rec'd 4/27/10  
City Council mtg.

Dear Mayor Botts and Council Members:

The Grand Jury report regarding the Banning Cultural Alliance came out quite a while ago. It is my understanding that the city has 90 days to respond to the information contained in this report. It appears that the 90 days will be up after the next Council meeting.

Why are you waiting until the very last minute to deal with the issue? Why is this item being postponed? Are you just trying to stall for time so the issue can be brushed off and the Alliance then will get off with no payment?

It was noted that the Grand Jury recommended that the Banning Cultural Alliance repay \$162,000 to the city.

The taxpayers of Banning need to know that you are doing what is right in bringing up this issue and asking the Alliance to do their part in paying back this money.

The Citizens of Banning have every right to have the Grand jury report discussed publicly and in a timely fashion. In fact, when the issue originally came up, it was decided to discuss this in public.

The rights of the taxpayers of Banning are more important than the Banning Cultural Alliance, and the Banning City Council needs to DO WHAT IS RIGHT--and do it NOW.

The people want to know what your position is and what your plans are.

This issue MUST be put on the agenda for discussion and ACTION at the next meeting.

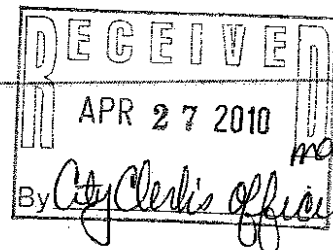
Dorothy Familetti-McLean

Exhibit "A"

31

Marie Calderon

From: Joann Lavis [joalis76@hotmail.com]  
Sent: Tuesday, April 27, 2010 3:20 PM  
To: CityCouncil



Subject: banning shelter please keep

Dear Sire`s: I find it shocking that to throw away an animal shelter for a electric car for 31,000 dollars is *unreal* .. if lead administration want`s *AN* electric car let them go and buy one them selves but to say the \* Employeeses want this, is stupid .. that 31,000 dollars could be well spent on the banning animal shelter not spent on something stupid as this.... Please dont ~~throw~~ the shelter out the door for this .. Animals and People need your serious help.. so many dogs and cats are just tossed out into the desert and no one seems to care but the people who work at this animal shelter .. i have ~~to~~ throw away dogs that the shelter provided care for until i could adopt them... they have turned out to be service dogs for myself.. so are the animals ~~worth it~~ at this shelter, you bet they are... This money is needed badly for the animals and the people who live in this area.. *not* too many people would care to drive 80 miles to another shelter to turn their dogs in or get shots for ~~their~~ loving pets.. so Please again keep the shelter open not toss it away like my dogs were..

sincerly Joann Lavis

Hotmail is redefining busy with tools for the New Busy. Get more from your inbox. [See how.](#)

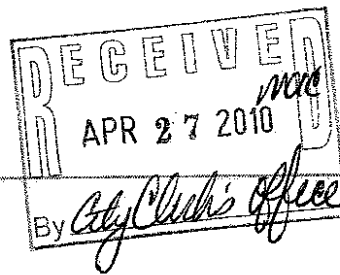
Exhibit "B"

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4/27/2010

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Marie Calderon



**From:** mewilkins@earthlink.net  
**Sent:** Tuesday, April 27, 2010 10:04 AM  
**To:** CityCouncil  
**Subject:** [BULK] FW: Banning Animal Shelter  
**Importance:** Low

Below is my message from 4/13 which I have been asked to resend. Please read at the council meeting. Thank you.

Maryellen Wilkins  
[mewilkins@earthlink.net](mailto:mewilkins@earthlink.net)

----- Original Message -----

**From:** [mewilkins@earthlink.net](mailto:mewilkins@earthlink.net)  
**To:** [citycouncil@ci.banning.ca.us](mailto:citycouncil@ci.banning.ca.us)  
**Sent:** 4/13/2010 11:32:06 AM  
**Subject:** Banning Animal Shelter

Can you please tell me what is going on with the Banning Animal Shelter? Riverside County Department of Animal Services has done a wonderful job of keeping our animals safe, have adopted out hundreds of stray animals who needed homes, and have been a great addition to Banning. In return, they received none of the \$400,000 that was promised a couple of years ago to upgrade the shelter. Certainly the City of Banning has electricians, plumbers, etc. who could do the repairs needed! I believe the repairs could be done with redevelopment funds, or if necessary with monies allotted due to the President declaring us a 'disaster area.' Please advise us as to your plans for the shelter as we are most concerned. Thank you,

Maryellen Wilkins, Director  
EPAP Animal Rescue Group  
Sun Lakes Country Club  
5919 Royal Troon Court  
Banning, CA 92220  
951 / 769-7484

[mewilkins@earthlink.net](mailto:mewilkins@earthlink.net)

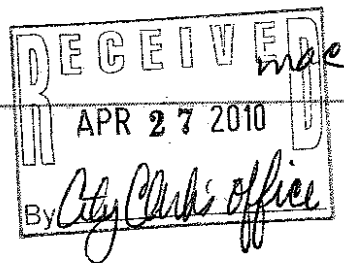
Exhibit "B"

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4/27/2010

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Marie Calderon



From: RobEAtwood@aol.com

Sent: Tuesday, April 27, 2010 11:19 AM

To: CityCouncil

Subject: Animal Shelter.

The Banning Animal shelter must reopen now. This situation is shameful. Our city has some very wrong priorities.

Robert and Jacquelyn Atwood

Exhibit "B"

34  
reg.mtg.-4/27/10

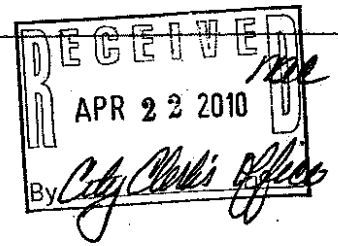
4/27/2010

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URGENT MESSAGE TO ALL ANIMAL LOVERS

Marie Calderon

From: Ellen Carr [ELNCARR@verizon.net]  
Sent: Thursday, April 22, 2010 9:15 AM  
To: CityCouncil  
Subject: Fw: URGENT MESSAGE TO ALL ANIMAL LOVERS.doc  
Attachments: header.htm



----- Original Message -----

From: Ellen Carr

To: Ellen Carr

Sent: Tuesday, April 20, 2010 3:07 AM

Subject: URGENT MESSAGE TO ALL ANIMAL LOVERS.doc

PLEASE FORWARD TO ALL MEMBERS OF THE CITY COUNCIL. I WOULD LIKE THIS E-MAIL TO BE READ AT THE COUNCIL MEETING AND BE PART OF THE PUBLIC RECORD.

URGENT MESSAGE TO ALL ANIMAL LOVERS  
FROM  
TENDER LOVING CRITTERS

Now is the time to act! We need to come together as a GROUP to show the City Council we are SERIOUS about the fate of our animal shelter!

Not only our animals suffering but so are their caretakers. No one knows where to go for low cost spay/neuter, low cost shots, licenses etc. There is no where in Banning to take our animals for these services. What are we going to do about it? Most of us will figure the other person will do it but IT DOESN'T WORK THAT WAY! YOU HAVE TO GET OFF YOUR DUFF AND WRITE AND CALL OUR CITY LEADERS.

Let the City Council know we are not happy with the current situation. PRESS them to do SOMETHING...ANYTHING to show they truly care.

At the 4/13/10 City Council meeting when it was asked of the City Clerk if there was any correspondence, the answer was "NO". I know there had to be at least two (I have proof of) pieces of correspondence neither of which was read about the shelter situation.

One was a letter mailed to the City Hall for the Council members, the other an e-mail.

Let me tell you about the e-mail because when I saw what was printed at the bottom of it I was livid. I had no idea that correspondence is PRIORITIZED. At the bottom of the e-mail was typed: **Importance: LOW**. Evidently the poor e-mail was considered of **LOW Importance**. To me that means not worthy of being read or perhaps the subject matter wasn't relevant to the current situation.

4/22/2010

Exhibit "B"

**URGENT MESSAGE TO ALL ANIMAL LOVERS**

If you listen to the Council, the shelter is very **IMPORTANT** so I'd like to know how many other letters or e-mails were tossed aside as **LOW IMPORTANCE**. I would also like to know who makes this decision. Is it one person or a committee? What's the point of writing when your message doesn't get to the people...**WE ARE THE PEOPLE...WE ARE THE CITY!**

**THE CITY COUNCIL WORKS FOR US!** Let's let them know what **WE** want. What **WE** feel is best for **OUR** animals.

**PLEASE**, this is your chance to "step up to the plate" and be counted. You'll have no one to blame but yourself if you let this opportunity go by without doing **SOMETHING!** No matter what the outcome at least you can hold your head up and say: "**I TRIED**". I don't intend to give up. I'm going to see this through to the end.

**COME JOIN ME.**

It only takes a few minutes to jot a short note or e-mail. Be part of Banning, for too long we've (myself included) just sat back and watch "things" go by. Everyone thinks, well, I'm only one person. **NO YOUR NOT...WE ARE THE PEOPLE...WE ARE THE CITY. THIS CITY BELONGS TO ALL OF US.**

**LET'S BEGIN TO SHOW EVERYONE WE CARE ABOUT OUR HOMETOWN.  
NOW IS THE TIME.**

**SHOW YOUR SUPPORT BY WRITING, CALLING OR E-MAILING  
THE CITY COUNCIL AND TELL THEM YOUR DREAMS AND WISHES FOR  
OUR SHELTER!**

**City Hall: ask for City Clerk: 922-3100**

**City Council Members: 922-3100**

**City Manager: 922-3301**

**City Hall's address**

**99 East Ramsey**

**Banning, 92220**

**Call Riverside County Shelter and find out what they're doing to help with this situation.**

**(951) 358-7387**

**[www.rcdas.org](http://www.rcdas.org)**

**THIS IS VERY IMPORTANT WHEN YOU WRITE OR E-MAIL, STATE YOU WANT YOUR LETTER  
READ AT THE CITY COUNCIL MEETING.**

**LET'S WORK TOGETHER...I CAN'T DO THIS BY MYSELF...I NEED YOUR HELP. PLEASE FOR THE  
LOVE OF OUR VOICELESS "FRIENDS"!**

**SINCERELY AND GRATEFULLY,**

**Ellen Carr**

**(951) 922-1255**

**[elncarr@verizon.net](mailto:elncarr@verizon.net)**

**Address: 471 West George St.**

**Banning, CA 92220**

**Exhibit "B"**



## CITY COUNCIL AGENDA

**Date:** May 25, 2010  
**TO:** City Council  
**FROM:** Kirby J. Warner, Interim Finance Director  
**SUBJECT:** Approval of Accounts Payable and Payroll Warrants for Month of March 2010

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

**FISCAL DATA:** The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of March 2010.

The reports are:

Expenditure approval lists

March 3, 2010	800,822.32
March 11, 2010	306,903.77
March 22, 2010	163,613.31
March 25, 2010	624,769.05

May 4, 2010	2,716,321.10 (March Month End)
-------------	--------------------------------

Payroll check registers

March 12, 2010	7,665.18
March 26, 2010	9,806.85
March 4 - Manual Check	414.09
March 4 - Manual Check	13,733.62

Payroll direct deposits\*

March 12, 2010	296,969.70
March 26, 2010	294,637.33

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

\* Included on the March month end expenditure approval list of 5/4/2010.

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

Report Prepared by: Jenna Harrell, Accounts Payable

**RECOMMENDED BY:**



Kirby J. Warner  
Interim Finance Director

**APPROVED BY:**



Andy Takata  
City Manager

## Fund/Department Legend:

### General Fund – 001

#### Departments

0001 – General	2400 – Fire
1000 – City Council	2700 – Building Safety
1200 – City Manager	2800 – Planning
1300 – Human Resources	3000 – Engineering
1400 – City Clerk	3200 – Building Maintenance
1500 – Elections	3600 – Parks
1800 – City Attorney	4000 – Recreation
1900 – Fiscal Services	4010 – Aquatics
1910 – Purchasing & A/P	4050 – Senior Center
2060 – TV Government Access	4060 – Sr. Center Advisory Board
2200 – Police	4500 – Central Services
2210 – Dispatch	4800 – Debt Service
2300 – Animal Control	5400 – Community Enhancement

#### All Other Funds

003 - Riverside County MOU	470 – Capital Improvement Fund
100 – Gas Tax Street Fund	475 – Fair Oaks #2004-01 Assessment District
101 – Measure A Street Fund	600 – Airport Fund
103 – SB 300 Street Fund	610 – Transit Fund
104 – Article 3 Sidewalk Fund	660 – Water Fund
110 – CDBG Fund	661 – Water Capital Facilities
111 – Landscape Maintenance	662 – Irrigation Water Fund
132 – Air Quality Improvement Fund	663 – BUA Water Capital Project Fund
140 – Asset Forfeiture-Police Fund	669 – BUA - Water Debt Service
144 – Local Law Enforcement Block Grant	670 – Electric Fund
146 – San Geronio Gang Task Force	672 – Rate Stability Fund
148 – Supplemental Law Enforcement	673 – Electric Improvement Fund
149 – Public Safety Sales Tax Fund	674 - '07 Elec Revenue Bond Project Fund
150 - State Park Bond Fund	675 – Public Benefit Fund
200 – Special Donation Fund	678 - '07 Elec Revenue Bond Debt Service Fund
201 – Sr. Center Activities Fund	680 – Wastewater Fund
202 – Animal Control Reserve Fund	681 – Wastewater Capital Facility Fund
203 – Police Volunteer Fund	683 – BUA Wastewater Capital Project Fund
204 – D.A.R.E. Donation Fund	685 – State Revolving Loan Fund
300 – City Administration COP Debt Service	689 – BUA Wastewater Debt Service Fund
360 – Sun Lakes CFD #86-1	690 – Refuse Fund
365 – Wilson Street #91-1 Assessment Debt	700 – Insurance Fund
370 – Area Police Computer Fund	702 – Fleet Maintenance
375 – Fair Oaks #2004-01 Assessment Debt	703 – Information Systems Services
376 – Cameo Homes	761 – Utility Billing Administration
400 – Police Facilities Development	810 – CRA – Low/Mod Fund
410 – Fire Facility Development	830 – CRA – Debt Service Fund
420 – Traffic Control Facility Fund	850 – CRA - Administration Fund
421 – Ramsey/Highland Home Road Signal	854 – CRA Low/Mod Bond Fund
430 – General Facilities Fund	855 - 2007 TABS Bond Proceeds
441 - Sunset Grade Separation Fund	856 – 2003 TABS Bond Proceeds
444 - Wilson Median Fund	857 – 2003 TABS Bond Proceeds Low/Mod
451 – Park Development Fund	860 – CRA - Project Fund

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** May 11, 2010

**TO:** City Council

**FROM:** Leonard Purvis, Chief of Police

**SUBJECT:** Approve Amendment to Original Agreement with Norman A. Traub Associates for Investigation Services for the City of Banning Police Department.

**RECOMMENDATION:** "The City Council amend the current limit on compensation for services (\$25,000) with Norman A. Traub Associates for Investigation Services for the City of Banning Police Department to \$50,000."

**JUSTIFICATION:** Amendment of this contract allows the Police Department to continue utilizing the investigative services of Norman A. Traub Associates for sensitive personnel matters.

**BACKGROUND & ANALYSIS:** During the course of this fiscal year the Banning Police Department has required the professional and independent services of Norman A. Traub Associates for personnel investigations involving employees of the City of Banning. Because of the number of investigations required this year, the limit on compensation for services with Norman A. Traub Associates of \$25,000 has been reached, as documented in the City's Consultant Services Agreement between the City of Banning and Norman A. Traub Associates for FY 2009-10.

The requested increase in the spending limit for services with Norman A. Traub Associates is necessary to complete several personnel investigations that require an independent and professional review for the protection of the City and the Banning Police Department.

**FISCAL DATA:** Sufficient funds are available in the Police Department 2009-10 adopted budget professional services account number 001-2200-421.33-11 and booking fees account 001-2200-421.41-10.

**RECOMMENDED BY:**



Leonard Purvis  
Chief of Police

**REVIEWED BY:**



Kirby Warner  
Finance Director

**APPROVED BY:**



Andrew Takata  
City Manager

**CITY COUNCIL/UTILITY AUTHORITY AGENDA  
JOINT MEETING**

**DATE:** May 11, 2010

**TO:** City Council and Utility Authority Board

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

**SUBJECT:** Notice of Completion for Project No. 2008-01W, "Brinton Reservoir"

**RECOMMENDATION:** That the City Council accept Project No. 2008-01W, "Brinton Reservoir," as complete and direct the City Clerk to record the Notice of Completion.


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

**BACKGROUND:** On August 12, 2008 the City Council adopted Resolution No. 2008-96 and the Banning Utility Authority adopted Resolution No. 2008-04UA, awarding the Construction Contract for Project No. 2008-01W, "Brinton Reservoir" to Pacific Hydrotech Corp. of Perris, California.


The scope of work for Project No. 2008-01W, "Brinton Reservoir" included the construction of an 8 MG buried 2 cell rectangular trapezoidal reinforced concrete reservoir and two 30" steel transmission pipelines; connecting the reservoir to the distribution system at Wilson Street and Mountain Avenue. This infrastructure will improve the Water Department's ability to convey water supply from east to west.

**FISCAL DATA:** The original contract amount for this project was \$10,458,265.00. An additional \$1,045,826.50 was appropriated for contingency purposes. Due to unforeseen conditions, change orders were approved by the Water Division in the amount of \$362,988.01. The final contract amount is \$10,821,253.01, approximately 3.5% of an increase over the original contract amount. This project was funded by the Banning Utility Authority, Account No. 663-6300-471.95-09 (Reservoirs) and Environmental Protection Agency grant funding of \$1.3 Million.


**RECOMMENDED BY:**

  
Duane Burk  
Director of Public Works

**REVIEWED BY:**

  
Kirby Warner  
Interim Director of Finance

**APPROVED BY:**

  
Andy Takata  
City Manager

1 WHEN RECORDED MAIL TO:

2  
3 The Office of the City Clerk  
4 of the City of Banning  
5 P.O. Box 998  
6 Banning, California 92220  
7

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

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12  
13 NOTICE OF COMPLETION  
14 BRINTON RESERVIOR  
15 PROJECT NO. 2008-01W  
16

17 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the  
18 City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of  
19 the Civil Code of the State of California, and is hereby accepted by the City of Banning,  
20 pursuant to authority conferred by the City Council this May 11, 2010, and the grantees  
21 consent to recordation thereof by its duly authorized agent.  
22

23 That the OWNER, the City of Banning, and Pacific Hydrotech Corp., of Perris, Calif., the  
24 vendee, entered into an agreement dated August 12, 2008, for Construction of Project No.  
25 2008-01W, "Brinton Reservoir". The scope of work for project included the construction  
26 of an 8 MG buried 2 cell rectangular trapezoidal reinforced concrete reservoir and two  
27 30" steel transmission pipelines; connecting the reservoir to the distribution system at  
28 Wilson Street and Mountain Avenue. This infrastructure will improve the Water  
29 Department's ability to convey water supply from east to west.  
30  
31  
32  
33  
34

1 (1) That the work of improvement was substantially completed in April of  
2 2010, for Project No. 2008-01 W, "Brinton Reservoir".

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

6 (3) That the said work of improvement was performed in the City of Banning  
7 California, 92220. The reservoir is located east of Mountain Avenue, west of Sunset  
8 Avenue, and North of Wilson Street.

9 (4) That the original contractor for said improvement was Pacific Hydrotech  
10 Corp., State Contractor's License No. 518355.

11 (5) That Performance and Payment bonds were required for this project.  
12

13 Dated: May 11, 2010

14 CITY OF BANNING  
15 A Municipal Corporation  
16  
17  
18

19 By \_\_\_\_\_  
20 Andrew J. Takata  
21 City Manager  
22

23 APPROVED AS TO FORM:  
24  
25  
26  
27

28 \_\_\_\_\_  
29 David J. Aleshire, Aleshire & Wynder, LLP  
30 City Attorney  
31  
32  
33  
34

**JURAT**

State of California  
County of Riverside

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

(S e a l)

\_\_\_\_\_  
Notary Public in and for said County  
and State

STATE OF CALIFORNIA)

) ss

COUNTY OF RIVERSIDE)

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

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

Executed on \_\_\_\_\_, 2010 at Banning, California.

\_\_\_\_\_  
City Clerk of the City of Banning

44