

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

October 11, 2011
5:00 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 the Banning Utility Authority.

Per City Council Resolution No. 2010-38 matters taken up by the Council before 9:00 p.m. may be concluded, but no new matters shall be taken up after 9:00 p.m. except upon a unanimous vote of the council members present and voting, but such extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue.

I. CALL TO ORDER

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

II. REPORT ON CLOSED SESSION

III. 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.

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.

APPOINTMENTS

1. Ad Hoc Committee for Community Development Block Grant Program for Fiscal Year 2012/13 1
2. Ratification of Standby Officers 1A

IV. CONSENT ITEMS

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

Motion: That the City Council approve Consent Item 1 through 7

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

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

1. Approval of Minutes – Special Meeting – 04/25/11 (Special Meeting) 2
2. Approval of Minutes – Joint Meeting – 09/27/11 (Closed Session). 23
3. Approval of Minutes – Regular Meeting – 09/27/11. 25
4. Report of Investments for August 2011. 39
5. Accept Notice of Completion for Federal Aviation Administration AIP Project No. 3-06-0018 AIP 10 (C), Airport Rotating Beacon, Wind Cone, Segmented Circle and AWOS (Automated Weather Observing System). 49
6. Resolution No. 2011-84, Amending the Classification & Compensation Plan for the City of Banning to include the Classification of Payroll Coordinator at Range 51 compensation and approve the job description for the new classification and make any budget adjustments . . . 54
7. Resolution No. 2011-89, Amending Its 2010-2011 Fiscal Budget Regarding the General Fund Maintenance of Effort (MOE) Transfers to the Gas Tax Fund 65

- Open for Public Comments
- Make Motion
-

V. ORDINANCES – INTRODUCTION

1. Ordinance No. 1442, Setting Forth a Procedure for the Rotation of the Office of Mayor and Other Positions Held by Councilmembers. Staff Report 68A
- Recommendation: That the City Council adopt Resolution No. 2011-88, Approving a Memorandum of Understanding for the Assignment of the City of Banning's San Juan Unit 3 Entitlement Rights and Ownership Interest to the Utah Association of Municipal Power Systems (UAMPS).

Mayor asks the City Clerk to read the title of Ordinance No. 1442:

"An Ordinance of the City Council of the City of Banning, California, Setting Forth a Procedure for the Rotation of the Office of Mayor and Other Positions Held by Councilmembers."

Motion: I move to waive further reading of Ordinance No. 1442.
(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1442 pass its first reading.

VI. REPORTS OF OFFICERS

1. Resolution No. 2011-88, Approving Execution of a Memorandum of Understanding for the Assignment of the City of Banning's San Juan Unit 3 Entitlement Rights and Ownership Interest to the Utah Association of Municipal Power System.
Staff Report 69
Recommendation: **That the City Council adopt Resolution No. 2011-88, Approving a Memorandum of Understanding for the Assignment of the City of Banning's San Juan Unit 3 Entitlement Rights and Ownership Interest to the Utah Association of Municipal Power Systems (UAMPS).**

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

VII. CONSENT ITEM

1. Adopt City Council Resolution No. 2011-87 and Banning Utility Resolution No. 2011-13 UA, Appropriating Funds for the Purchase and Installation of Diesel Particulate Filters for On-Road Diesel-Fueled Heavy-Duty Engines 79

Adjourn joint meeting of the Banning City Council and the Banning Utility Authority and reconvene the regular City Council Meeting.

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

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

IX. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials
2. Review of Fees and Rates
3. Policy Discussion Re. Code Enforcement (*study session*)
4. Update on Loans (*Oct. 11, 2011*)
5. Policies & Procedures for Applicant re. Projects and Applicants for Commissions & Committees
6. Report on the Five-Year Water Plan

X. 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 (951) 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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CITY OF BANNING
BANNING, CALIFORNIA**

October 11, 2011
5:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

ADDENDUM

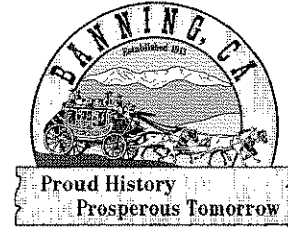
VI. REPORTS OF OFFICERS

2. Banning Whitehouse to Consider Code Enforcement Action
and Approval of Settlement Agreement **78A**

(Posted: 10/11/11 – approx. 4:00 p.m.)

CITY OF BANNING

M E M O R A N D U M



DATE: September 27, 2011
TO: City Council
CC: Marie Calderon, City Clerk
FROM: Duane Burk, Director of Public Works
RE: AD-HOC Committee Request

VB

The Engineering Division requests the City Council to appoint a committee at the October 11, 2011 meeting, consisting of a least two members from the City Council, to review and recommend FY 2012/13 Community Development Block Grant (CDBG) program applications. Below is a schedule of important dates that are necessary in order to ensure that the City meets Riverside County Economic Development Agency's application deadline.

October 11, 2011 – Council to appoint a committee.

October 20, 2011 – Community Development Block Applications due to the City.

October 25, 2011 – November 17, 2011 – Committee to meet within the provided dates.

November 28, 2011 – Staff report due to the City Attorney.

December 5, 2011 – Staff report due to the City Clerk.

December 13, 2011 – Resolution to be taken to Council requesting approval of projects.

December 15, 2011 – City approved applications, minutes and resolution due to the EDA.

CITY OF BANNING
CONTINUITY OF GOVERNMENT
(Standby Officers)

Mayor Barbara Hanna

1. Art Welch
4952 Copper Creek Dr.
Banning, CA 92220
951-769-3936
awelch5@verizon.net
2. Ed Ball
4678 W. Hoffer St.
Banning, CA 92220
951-922-0856
3. Al Lopez
Miriamlopez8@aol.com

Mayor Pro Tem John Machisic

1. Bob Ewert
1219 Cypress Point Dr.
Banning, CA 92220
951-845-0696

Council Member Deborah Franklin

1. Sue Palmer
651 N. 17th Street
Banning, CA 92220
951-849-5152
2. Dorothy Mc Lean
916 Linda Vista
Banning, CA 92220
951-922-9238
2. Helen Barnes
2102 W. Lincoln Street
Banning, CA 92220
951-849-8035

/A

Council Member Bob Botts

1. Charlene Sakurai
4985 Burmuda Dunes
Banning, CA 92220
Cell - 951.2255.8299
Home – 951.849.3027
csakurai@aol.com
2. Amy Herr
964 Dorothy Anna
Banning, CA 92220
Home 951.8498.7393
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jathherr@aol.com
3. David Kealy
1314 Laguna Seca Street
Banning, CA 92220
951.797.3031
d.s.kealy@gmail .com

Councilmember Don Robinson

1. Perry Bray
917 N. Murray Street
Banning, CA 92220
951-259-2968
2. Don Smith
1681 W. Westward
Banning, CA 92220
951-849-4521 (W)
951-692-2259 (C)
3. Mariana Zuelsdorf
90 E. Summit Ave.
Banning, CA 92220
951-922-2192

(as of 10/6/11)

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These appointments are made according to Ordinance No. 1378, Section 6A-7 of the City of Banning Municipal Code which states: "To provide for the continuance of legislative and executive functions in the City during a state of war emergency, a state of emergency or a local emergency, the City Council shall appoint three (3) standby officers for each of its members. In case a standby officer becomes vacant because of removal, death, resignation, or other cause, the City Council shall appoint another person to fill said office. Standby Officers shall be designated 1, 2, and 3 as the case may be."

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

04/25/11
SPECIAL MEETING

A special joint meeting of the Banning City Council and the Planning Commission was called to order by Mayor Hanna on April 25, 2011 at 5:06 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: Councilmember Machisic

PLANNING COMMISSION
MEMBERS PRESENT: Vice Chairman Arterberry (arriv. 5:21 p.m.)
Commissioner Barsh
Commissioner Siva

PLANNING COMMISSION
MEMBERS ABSENT: Commissioner Hawkins

OTHERS PRESENT: Andy Takata, City Manager
Lona Laymon, Assistant City Attorney
Zai Abu Bakar, Community Development Director
Brian Guillot, Assistant Planner
Marie A. Calderon, City Clerk

PUBLIC COMMENTS

There were none.

DISCUSSION ITEM

1. Freeway-Oriented Signs
(Zai Abu Bakar, Community Development Director)

Director Zai said that staff is seeking Council's director on two items: 1) Billboards, and 2) Freeway-oriented signs for businesses and shopping centers. The reason staff is seeking direction is two-fold: 1) Lamar Advertising had come to staff in December asking for an opportunity to do a billboard. They would like to trade the current stationary billboard two or one meaning that they will get rid of two billboards and get one electronic billboard. 2) With regard to the freeway-oriented sign for business or shopping centers Pearlman-Frost has

proposed two freeway-oriented signs for the project. These are complicated issues and staff would like to know if you would like to see the same number of billboards or want a reduced number of billboards. If you want a reduced number of billboards, are you interested in doing digital billboards. She said that Brian Guillot will explain to the Council and the Commission some of the standards that we have right now and also give some history.

Mr. Guillot said that as Director Zai mentioned we are looking for direction on this subject. At this time he showed a four-minute video going up and down Interstate-10 as it looks from an automobile. He said that vehicles traveling along the Interstate amount to more than 140,000 vehicles on average per day so that is a real opportunity for our businesses located along that corridor however, doing freeway-oriented signs needs to be balanced with the scenic vistas and the enjoyment we get from that. Over the years the City has had different sign regulations so the along the Interstate you will see different types of signs referred to as the lollipop signs and other billboards and at one time those were permitted and now they are not and they are considered legal non-conforming. There are approximately 45 billboards and about 35 pole signs and that is quite a mixture of regulations. Mr. Guillot referred the Council and Commission members to the handout he provided and stated that this is our regulations that we have now for the signs. We had an interim urgency ordinance that went back to freeway-oriented signs and that was extended a couple of times and then expired. So that means that we revert back to the existing sign regulations (see Exhibit "A"). If you had an individual business on a single lot for example, a Costco or In-N-Out, our Code would only allow them Item C, a 50 square foot sign which would be 8 feet tall max and if they maximize it, it would be 6 feet, 3 inches. This is what is in our Code right now so staff is looking at suggestions for improving that in regards to the different types of businesses that we may want to bring into the city. The current sign code does not seem to meet the needs of businesses and we were thinking of incentives to both reduce the number of billboards and provide for shopping centers. Mr. Guillot went over the options as listed in the staff report.

Mayor Hanna said that it seems that there are a lot of pros and cons for each element and staff is not providing any thinking on those. In regards to the demolition of four existing billboards in exchange for a digital billboard and how did you come up with that.

Mr. Guillot said in the survey that was done with the other cities you will notice some would trade two but some cities had the stipulation for four. No doubt that is connected to the value of the advertising in relation to the number of billboards so we haven't gone into that amount of detail. We just wanted to get the feeling because there is a lot of work that needs to go into this if we get direction that this is where the Council and the Commission want to go. If they are saying these agreements are appropriate, then we need to do much more research on the subject.

Mayor Hanna asked how this would work. If someone wanted to put up a digital billboard, how do they go about demolishing four existing billboards?

Mr. Guillot said that somehow they would have to put it together like they would put together a development agreement and need to obtain the land, the billboards, do a proposal to the Community Development Department and the attorney's office would have to review it. It

would be the same as any other type of development type of an agreement and they could be anywhere within the city.

Councilmember Botts said that you say they can be anywhere in the city of Banning and billboards cannot just be anywhere in the city of Banning, can they?

Mr. Guillot said that they are not permitted at all currently. The ones that we have are considered legal non-conforming so they cannot upgrade them and must exist as they are built. These would not be signs on shopping centers or lollipop signs.

Councilmember Botts asked how they become legal non-conforming.

Assistant City Attorney said we would have to look at each sign on a case by case basis and can we amortize them out to get rid of that sign. There is an Outdoor Advertising Act that puts some very strict limitations on our ability to require legal non-conforming signs to be taken down. What we are proposing instead with respect to the billboards is to go through contract negotiations so that we can talk to Lamar. Her understanding is that we really have only two major sign billboard owners in the city and that we talk to each of those two billboard owners and ask them both would you agree contractually to remove a certain amount of billboard signs and replace them with one digital sign. So where the new sign would be located would be based upon contract negotiations as opposed to a firm provision say in the Municipal Code. One thing that also needs to be looked at is what ratio we would even want to be talking about. The staff report puts the number at four billboards per digital sign out there and that is just put out there as an example. We would do some more research and find out that a digital billboard actually has the equivalent value of 15 regular billboards in which case that would change our contract negotiation position.

Councilmember Botts said we could do that on a negotiation basis but one of the options is that we don't do anything. And if we don't do anything with the billboards, what power do we have to take them down or ask them to take them down or upgraded, cleaned up and maintained.

Mr. Guillot said like the attorney mentioned we are very limited. Essentially what it amounts to as he understands it is that you could buy the billboards from them as a municipality.

Assistant City Attorney said to some extent on a case by case basis we would have to look at what sign we are talking about specifically as far as its size and does it qualify under certain protections under the Outdoor Advertising Act. It may be completely protected and we can't have it removed. On the other hand, if we have signs that are damaged to the point where they are actually a nuisance or health or safety problem, then we have a separate recourse to be able to abate that sign under our police powers and as a nuisance.

Councilmember Botts said but they are all non-confirming.

Mr. Guillot said yes in that we do not permit new billboards. If someone came today and submitted a permit for a billboard application, we would deny it. Councilmember Botts said

did we approve at some point the 45 that we do have. Mr. Guillot said his understand is yes, over time. Some of them are very old and some are more recent.

Commission Siva said didn't we do that interim act in order to allow those things to actually be erected at that time.

Mr. Guillot said that we are switching a little bit. He said the interim was in regards to business signs and not billboards.

Commission Siva said in regards to the billboard signs on the freeway those signs are owned by a couple of different companies and are they each individually owned by the particular advertiser that is there and how does that work.

Director Zai said that each of the signs are owned by individual companies and she believes there are three different companies and the big ones are Lamar Advertising and Empire Media.

Councilmember Franklin has it been shown through a study or anything as to how many billboards within a certain area of the freeway are actually effective in terms of close they are to each other to be effective and you gave us some information from the State so what are the limitations according to the State as to what we can do.

Mr. Guillot said in regards to the State Outdoor Advertising Act it does not permit any billboards in what they designated as "landscape freeways". On page 56 of the agenda packet he drew a box around the "stationing" and this comes right from Caltrans (District 8, Riverside, Interstate 10, Post Mile Marker 9.6 to post 9.83) that area is basically east of Highland Springs and so each of these areas are designated a "landscape freeway" and those are tenths of a mile and that designation means that you cannot put any billboards in those areas and they are not permitted and that is within their regulations 660 feet of the freeway right-of-way on either side. They call it "landscape freeway" and that does not necessarily mean it is landscaped.

Mayor Hanna said if she is reading this correctly the first one is 9.6 to 9.83 and so that is two-tenths of a mile and next it is three-tenths and the next it is about two miles so do we remove that from the calculation.

Mr. Guillot said that if for some reason we began to allow billboards to be permitted in the City of Banning once again, we would circulate that application to Caltrans and they would make sure we were not allowing it in these areas. By the Billboard Advertising Act they would recommend denial to us of those permits.

Mayor Hanna said what she would like to suggest to the Commission and the Council is that we deal with one point at a time and so if we were to do digital signs would you do the four to one ratio.

Mr. Guillot said in regards to Councilmember Franklin's question about how many signs are effective within a given range he did not look at that. There are numerous studies on billboards

and outdoor advertising. He spent a few hours going through some of the FHA reports and many of them are very technical and have all the data but there is no conclusion drawn or recommendation made. You draw your own conclusion and make your own recommendation based upon the study. Some universities have taken that data and made recommendations. He has seen very strong recommendations against digital billboards and that is why he included the article from the New York Times. He has also seen information from the marketing side of these outdoor advertisers taking this same data and saying it is not an issue.

Mayor Hanna said right now if you did four billboards for every one digital, you could have as many as 11 digital signs but then you have 2000 feet distance in a circular manner. Mr. Guillot said that is correct radius.

Councilmember Botts said do we have any idea if these signs benefit local business as to what the number is that are advertised local business versus just national advertising or other communities.

Mr. Guillot said that changes and he has seen local businesses advertise on billboards but not so much now. It seems much of the advertising is going to the Coachella Valley businesses. You must also remember that most of the billboards are owned by these huge outdoor advertising companies and there are a few that are just owned by the business for example, the RV place on west Ramsey.

Commission Barsh said in regards to the replacement signs there must be a body of work that has to be done just in regards to the features of the sign and what could be put on the sign. It appears to him that it could be a dangerous thing to have certain types of moveable signs that portrayed different things so how do we stand on what they put onto that sign. In general those signs could be changed instantaneously any time.

Commission Siva said the digital signs advertise multiple businesses and they change every few seconds.

Mr. Guillot if the City Council and Planning Commission are acceptable to the idea of a digital billboard what would then happen is the development of development standards. Many cities' development standards include regulations regarding there is no movement. In other words, what was portrayed on the sign is just flat copy just the same as if it were a paper billboard. The technology is changing such that the lighting of the billboard is no longer as bright and would adjust to the changing conditions; the ambient light. If the whole idea is acceptable, then staff would develop standards.

Councilmember Franklin said that you mentioned that Lemar had asked about switching out some of the signs so it sounds like it may be beneficial to them to want to reduce the number of signs but are they telling you why. Is it more cost effective? Do they find they are attracting more people because they are digital. Mr. Guillot said there is certain to be an economic reason as technology changes.

Councilmember Robinson said that you have given us a lot of good information on billboard regulations on cities surrounding us in four different counties but the swing on this thing is from four seconds to five seconds on digital signs. The distance looks like it is 1000 feet to 3000 feet and it looks like you have the opportunity to cherry pick what other communities have done with the bottom line reducing the number of billboards along our freeway and giving us something that is better maintained and more attractive to this 147,000 cars that pass here everyday.

Councilmember Botts said he is really trying to be open and progressive on this. Somehow he has not seen an attractive reader board that he can really read other than Morongo and it is so bright it blinds you at night and he doesn't want that to color his thinking of saying that if we agree let's take the next step that we would like to reduce some ugly signs and billboards and then come back with much more information with the kind of sign that would be put up. We also need to be very careful of how we would set the standards. He thinks that we need a lot more information.

Commission Barsh said he is concerned with drivers who get locked into one of these signs because they have something that causes them to do that and then loses control of their car because all they are doing is looking at the sign.

There was more discussion in regards to digital signs in regards to the issue of language and photos, and free speech issues.

Mr. Guillot said to clarify you are looking for additional design standards in order to evaluate it and good examples of a digital billboard that they can view and especially ones that advertise events.

Mayor Hanna asked are we interested in some kind of electronic sign along the I-10 freeway in Banning that would be in exchange of existing billboards. **There was Council and Commission Board consensus that they are interested.**

Commissioner Siva said he thinks that the beginning point is that because there are a lot of billboards out there to reduce the number is certainly something we would want to do and he is really not familiar with digital signs other than Morongo's and that is an excellent example of something that is very bright but they make their own rules and also their sign changes continually. He shares Commissioner Barsh's concerns about that. If we do move in that direction, we do not want to have the freeway spotlighted at night for two or three miles in the city limits and it seems that there would be a safety issue.

Vice Chairman Arterberry asked did we ever get the question answered about how many signs per the length of the I-10 corridor that Banning takes up and do we have an allowable limit.

Mayor Hanna said 6 or 7 under our existing districts. Councilmember Botts said that we currently have 45. Mayor Hanna said in our existing ordinance which has never been used it would allow 6.

Mr. Guillot said we are now kind of crossing over again. We are talking about digital billboards that are offsite advertising and the sign districts that you were referring to was an incentive, as he understands it, to provide shopping center signs for on-site advertising.

Mayor Hanna said that was not true. That was actually to get rid of the lollipop signs and to reduce billboards and lollipop signs throughout the whole city along the I-10.

Mr. Guillot said but it is directed towards advertising for businesses here in the city of Banning where billboards are not.

Councilmember Botts said we need to look at going east and west and would they be two-faced reader boards.

Vice Chairman Arterberry said that we should at least start at what number we want to allow as far as whether they are billboards or readable boards and then go at the ones that are there illegally and what it would look like if we remove those and then per the amount of feet for reader boards and plus billboards and what we would like it to look like. Maybe that is a good start also.

Mayor Hanna said I believe he is talking about exchanging existing billboards getting rid of some number so that would reduce the number and maybe eventually reduce the billboards along the I-10 and replace them with electronic signs/billboards and could staff give us some image of what we would like to see in terms of signage along the I-10 freeway. What would staff recommend?

Mr. Guillot said certainly we would like to see a reduction in the number of billboards and one way to do that is through this program. Also we would like to see a reduction in the lollipop type signs but that is going to be very difficult. We can reduce the billboards through this particular incentive. It is going to be difficult to reduce the number of on-site signs.

Councilmember Botts said that we need to give direction to staff that we would say study three to four reader boards in each direction (east and west).

There were some further Council and Commission discussion about digital signs on the I-10.

Director Zai recommended adding another criteria to that also because we need to find out there is some value to that billboard and she doesn't know how easy it is to get that information and also adding the value of those stationary billboards and possibly reduce the number of digital billboards.

Assistant City Attorney said it sounds like the Council is interested in this notion of exchanging regular billboards for digital technology and what we would need to do is to look at the digital technology and find out in dollars and cents how many regular billboards does that translate into. So if you are interested in that program in addition to figuring out what our ultimate vision is and what we would like to see aesthetically she would recommend that staff would also have to look into what that ratio value would be.

Mayor Hanna said that you would think one electronic billboard would be equal to 40 stationary billboards in a sense of how much money they could make per second compared to a billboard with is a certain amount per month.

Councilmember Franklin said we started off talking about we want to capture the 144,000 cars on the freeway and if we are talking about taking away 40 billboards she doesn't see how we are going to capture very many cars. She would like to see what parts we can use for billboards on the I-10 freeway and out of 144,000 cars how many people are actually impacted by billboards so that we have some idea and also is there any kind of study that has shown is there a difference for people looking at digital versus looking at the regular stationary billboard.

Councilmember Botts said while he doesn't disagree with Councilmember Franklin on most of what she said he would disagree that we are talking that most of these signs are not for local businesses so the billboards are not going to get the people off the freeway for us. They will get them off for Coachella Valley. These are not going to get a majority of these people off for local businesses.

Vice Chairman Arterberry asked if we could get a part in there that states that if they are going to do something electronically that about 8% or 6% of it has to be local business spots and then that they have to prove or show contracts with local businesses or local businesses get marketed to.

Councilmember Franklin said she thinks one other piece to that is do we have that many local businesses that have tried to advertise.

Commissioner Siva said the other issue off of that is that we are looking towards the reduction of billboard signs on the freeway and we are talking about using digital signs and we are interested in that but we are only interested to the extent that we are ignorant of the technology that we are even talking about to take that change so we have to have more information at least in that respect so at least we are not sending you out without the proper information. The first thing he thought when he first read this information was that there was going to be some serious bright signs along the freeway within the city limits. He doesn't care when you get out to the desert or someplace but within the city that is where our responsibility really lies to understand.

Mr. Guillot said that is really the question he needs answered because some communities have taken a strong stance against these illuminated billboards and he didn't want to go in to many, many hours of work if that is the stance of our Council and Planning Commission. He is hearing that you would like more information related to some examples of illuminated signs here in the city and how that might affect us and how that might affect where we are going to site it and be able to examine that impact and make a decision.

There was some more discussion in regards to the size of the sign and time of illumination.

Mayor Hanna opened the item for public comments.

Frank Burgess resident of Cherry Valley said in regards to billboards there are two questions you must get an answer to. He said that two-thirds of your billboards on I-10 are on railroad property. In the early 70's we made a City agreement with the railroad to allow us to incorporate our City limits down to Fields Road but in those days it incorporated the public scales of which we were entitled to half of the funds. So in discussion of billboards you have the railroad to contend with so you should figure out all of the billboards that are on railroad property. If you don't do that, you are going to end up in court. Also, how many of you know what a digital billboard sign cost because he has a piece of property that has a billboard on it on east Ramsey and he talked to them about it and at that time it cost \$80,000 dollars just for a small sign. Then if the railroad gives up 15 signs for you to put one light, they are not going to want to lose that revenue because they are paid on the revenue it receives.

Don Smith resident of Banning said following what Frank Burgess just said he thinks that every single sign other than Ray's RV the sign company does not own the land. The sign company pays the landowner a fee to have the right to put the billboard there so it is another person that you will have to negotiate with and that is the actual landowner regarding removing the old signs because even if you have a deal with the company, Lamar, that they won't use those three signs it doesn't mean that the person that actually owns the sign that isn't Lamar isn't going to then find somebody else to put a billboard on it and most of them are on the railroad. He is also interested in knowing where that two mile stretch is and he is guessing like 22nd Street to Hargrave because there aren't any billboards there. So where we can put them is a good point. He said that the billboards are old technology and not that attractive and most of them advertise somebody that is not in town so we get an unattractive thing that generates no money for the City of Banning. So to be able to reduce them maybe we could even get a fee for the new ones we permit that would actually be revenue generating and give a certain percentage of time not to local businesses but to local events. We had a deal like that when the Sun Lakes sign was actually working and they actually did it but unfortunately that sign does not work anymore. He is wondering what you are going to do with that sign also. They recently at the fair bought a new digital sign billboard sign. The old digital sign was only five years old and they got a new digital billboard sign and the improvement in technology over those five years regarding crispness, color and play video (motion) is also an issue. The ultimate issue for the sign person obviously is how much money he can make on this sign versus the four old signs. He thinks going to the digital will make our freeway corridor more attractive and attach new businesses.

2. Allow construction of freeway-oriented sign in conjunction with shopping centers located along the freeway corridor only.

Mr. Guillot said that we were considering again providing an incentive and that was the reason for listing those five points of discussion. We put the 5 acres in there because that is generally a good-sized parcel for a shopping center for example, the Pearlman Project that is proposed across the street. Because the sign would be taller than the other signs permitted than a monument sign we would put in a designation of 2,000 feet to separate them at the minimum. He displayed an aerial photo of lands that are vacant and potentially available for shopping center development.

Mayor Hanna asked the property on the north side of Ramsey to the west are they more than 500 feet from the freeway?

Mr. Guillot said what happens along the freeway at Highland Springs is that there is quite a bit more separation from the freeway right-of-way and as we go east Ramsey gets closer to the interstate. So you are about 500 feet at Highland Springs and then as you transition it gets closer and closer but we could adjust that to include the north side of Ramsey which would be our intention because that is a valuable piece of commercial corridor for shopping centers.

Mr. Guillot said so those are our five points of discussion and that is where we would define that freeway corridor more precisely considering the comments also and we would also have Caltrans review the signs if they were adjacent to the freeway although they just comment on them they cannot enforce the Outdoor Advertising Act because they are on site. Staff is suggesting this type of sign go through the Conditional Use Permit process so that there are conditions specific to that sight and the Planning Commission can make those recommendations. Remember, currently if we have a shopping center that is the largest sign we can do, Item B which is 100 square feet.

Mayor Hanna asked the Council and Commission what they thought of requiring a 5 acre or larger parcel.

Councilmember Franklin said she would like to see where there can be an agreement if there are multiple owners that they are able to join together in mutual agreement and that it doesn't have to be a particular parcel that is five acres. **There was Council and Commission consensus.** Councilmember Botts said that the property would have to be contiguous.

Councilmember Robinson said that we started talking earlier about the In-N-Out sign and where would that fall into all of this. Would that be the 55 foot sign assuming they were at Highland Springs in the first vacant parcel we have there.

Mr. Guillot said a single parcel, in other words, they developed just a property for their business the only sign that they would be permitted would be this six foot by eight foot monument sign. So if we want to make adjustments to that for freeway-oriented businesses on a single parcel that is what he would need to hear.

Mayor Hanna asked how do you avoid the popsicle situation we have now. We are just recreating the same problem we consider we have now.

Councilmember Botts said can we do it on a case by case basis in some fashion with some criteria. As soon as we start limiting companies like In-N-Out and it is one of the exceptions he hears every time we need sit-down restaurants, high-quality restaurants but we also want In-N-Out so there is still some room for some fast foods and they are going to want a freeway-oriented sign and not a monument sign.

Mr. Guillot said we could do it by zoning because we do have a zone that is specific to highway-serving commercial and it is the area where all the existing popsicle signs are but it is his understanding that was the intent when the new code was adopted to try to do away with that.

Councilmember Robinson said if that is the case like Councilmember Franklin said then we could have them work together with the surrounding businesses and join in together and that would be an excellent idea.

Mr. Guillot said that would be either by agreement or by the stipulation of being in a five acre or larger shopping center.

Commission Siva said if it were a five acre or larger shopping center what are you saying they would be allowed to do.

Mr. Guillot said it is possible under our current code to build one of these district signs today however, no one has offered to do that and so for the interim there was that urgency ordinance that we back to allowing freeway-oriented signs so that has expired. So someone could build one of these signs and get other advertisers on there.

Boardmember Botts said what would your suggestion be if we were talking about the five acres or several businesses coming together that are contiguous. What would that sign look like. Would that not be a freeway-oriented visible sign?

Mr. Guillot said it could be and then there would be regulations on to its separation, its height, its size, amount of face it could have so all of those things could be regulated but the incentive would be you can't do anything other than these monument signs unless you join into a large parcel so there is the incentive.

Councilmember Botts said he would like it to be described what sign they would get for 3 or 5 coming together on five acres and be freeway visible because without that businesses are not going to come.

Meeting recessed at 6:16 p.m. and reconvened at 6:23 p.m.

Mr. Guillot displayed an example of a sign proposed by a developer that would actually not be permitted in our present Code and it just an example of what a pylon sign might look like. You will notice on the sign face while we are limited to 180 square feet on our 55 foot tall sign they were actually proposing about 24 x 20 so that is over 400 square feet of sign area. You can see that this would be quite a bit more than what is permitted. That is basically one of the questions staff needs feedback on

There was some further discussion about this sign.

Mayor Hanna said in regards to the five items are we in agreement with No. 1 requiring a 5 acre or larger parcel. **There was Council agreement.**

Mayor Hanna said in regards to No. 2 to require that the sign not be located within 2,000 feet of another sign what type of other sign would this be.

Mr. Guillot said it would be another shopping center sign. So you don't have the visual impact of seeing one of these tall signs one after the other. Mayor Hanna said so you could have an electronic billboard and a shopping center sign. Mr. Guillot said yes.

Councilmember Robinson said that this looks like what we were just talking about with the shopping center designated areas that are unimproved at this point or specified as shopping centers so it looks like you could have one of these at Highland Springs approximately, another one at 22nd Street, one out at Sunset and one on the east end and one at the Pearlman Project you would have five of these signs and that would take care of 50 businesses if you use both sides and that would be quite a bit of signage.

Mr. Guillot said one thing that has been a problem for us in the past has been that the more rules you create the more restrictive you make things. With the shopping center signs it is important that we have an area so he thought of that as an important factor to allow that shopping center and if you do have a shopping center, they want that. They are not going to invest in a shopping center if the sign is only 8 feet tall. So those are the considerations. He said that he is comfortable with the Conditional Use Permit process because then you address that specific use at that specific location and we can address more of these types of concerns because we want to make development as flexible as possible for the developers because we don't know what is going to happen in the future. We would love to have improved shopping centers here so this is just an incentive. You can't do a freeway sign if you have a one-acre parcel on the front of Ramsey; we need a project.

Mayor Hanna said that Councilmember Robinson's comment made the assumption that these signs would go to the existing and potential shopping center sites when in fact, if it were contiguous five acres it could be any number of signs along the freeway.

Commission Siva said wouldn't a good example be 8th street on both sides and something you may want to take on an individual basis because theoretically you could develop both sides and then you would have two of these signs across from each other.

Mr. Guillot said if we had the requirement for spacing then we could actually condition the other property who maybe went second to put their advertising on that sign.

Councilmember Franklin said she has one concern which would be the incentive for those people who currently have signs we are talking more money and what would be their incentive to want to switch because the signs they have now are on their property and if you are coming down the freeway you know that property is right where that sign is. But if we talk about merging them, how would we be talking about having people pay for them and how many people are going to want to switch. Five acres is a large area.

Mr. Guillot said if you have an existing lollipop sign you have a valuable thing and he hasn't seen very few circumstances in which those type of signs are able to be removed. It is very difficult.

Mayor Hanna said so this proposed policy does not allow for any lessening of lollipop signs; there is no incentive. And there is no replacement so if someone wanted to change their lollipop sign, they wouldn't be allowed to do it under anything that we have discussed so far.

Mr. Guillot said their sign would stay the legal non-conforming. They also could not improve it. What we are proposing is that they would have to join into a shopping center in order to have a tall sign.

Vice Chairman Arterberry wanted to clarify that if a new business or franchise wants to come in they couldn't put up a lollipop sign. Mr. Guillot said no.

Councilmember Botts said that he shares Vice Chairman Arterberry's concern and he doesn't know how we reconcile this. He said that we have two businesses right now that could be significant coming to our town and he would guess that they would really like to have a freeway-oriented sign and if they don't, they probably won't come. He said that it could be a reality and he would opt to have a Hershey bar rather than a lollipop where it is square and bigger. Something that could accommodate them rather than end up like Westlake Village because you never stop there because it is really beautiful with trees but there are no signs anywhere and you have no idea what is there and you just bypass it. We need to be able to accommodate businesses and he doesn't know what the answer is but five acres is not going to fix that.

Vice Chairman Arterberry asked if there was something that you could do for a franchise that has a sign or a company that has a sign if they generate a certain amount of revenue could that trigger then the ability to get a sign.

Director Zai said that she has never seen a sign code where a sign is tied to revenue at this point but maybe we could look at how some other cities might handle that situation where you have a national retailer or franchise.

Councilmember Botts and Vice Chairman Arterberry said that they are trying to find some middle ground and we want staff to find it.

Councilmember Franklin said that she would go along with what Councilmember Botts and Vice Chairman Arterberry are saying because we have already said this is an asset and we have 144,000 cars and so we have to figure out how to capture some of that because the bottom line is for us we want it to look very nice but we also want revenue. She doesn't know how we can talk about keeping it nice without asking staff to give us some recommendations back as to how we can do this because she can't imagine either as it has been said that a business is going to come to town and not be able to advertise.

Mayor Hanna said she doesn't necessarily expect an answer right now but if you were return are there cities that have found a middle ground. She doesn't know about Norco because they have some major signs along the 215 and it is at least done in their style. Are there examples where you can recommend where we wouldn't just continue to multiply this barrage of signage as you go through and yet meet the needs of new businesses for Banning?

Mayor Hanna said for No. 2 in a sense what we are saying from what she is gathering from the conversation is that the 2000 feet may or may not be firm. It's more of a conditional use permit that will look at the potential distances and vistas and what works best through that process. **There was consensus.**

Mayor Hanna said in regards to No. 3 define the freeway corridor as those properties located within 500 feet of freeway right-of-way our sign ordinance as she understands it has never allowed signage north of Ramsey to be freeway-oriented. Because when you do that when you go down Ramsey and you have freeway-oriented signs on the north side of Ramsey it is really go to change the look of Ramsey Street.

Mr. Guillot said he can think of one individual and that is the Fisherman's Market and there is another shopping center sign that is quite tall there at Sunset and Ramsey and it is on the north side so it does occur. This is something he needs to know and is that something that we want to continue to not allow those taller signs north of Ramsey Street.

Councilmember Botts said we need to support the business and that Sunset Shopping Center is a whole separate question but if they were to invest he wouldn't have any problem with continuing that kind of a sign north of Ramsey. That really fits the other category 5 acres and a lot of different businesses but he doesn't see that necessarily as an eyesore. It may be an older sign but not a problem putting it on the north side or Fisherman's Market.

Mayor Hanna said that the Fisherman's Market is in effect a lollipop sign and it is one business and are you saying you would be comfortable with an array of lollipop signs on the north side of Ramsey.

Councilmember Botts said he thinks the answer is if the decision is getting a business or losing a business he would opt to have the business come to town. He thinks that maybe we ought to look at it and we have talked about two businesses but there are only so many locations and we only have 6 or 7 or 8 shopping center areas and he would guess that there is not a whole array of new opportunities for the kind of businesses that staff has been talking about. He would like staff to look at the value of sales tax revenue.

Councilmember Franklin said she would agree and maybe we need to look at some kind of compromise between what we have and what we may want to not have in the future because she does think the north side the few places that you have given us we need to look at how we are going to develop that and utilize our asset. We have talked about it and we need to utilize that asset which is freeway traffic.

Commission Barsh said that people who are against signs is because if it interferes with viewing something, etc. otherwise people get adjusted to the signs but it appears to him that we have to do something and he would go along with in order to have a business and get revenue we have to try to match up to what other cities are doing that are successful. So we have to maybe look at a model city that is really doing well and see what their signs are doing before we make the decision about banning things and changing things.

Vice Chairman Arterberry said he would agree. If we could at the same time get an idea of who owns what signs and where, if we don't know already, and do a colored graph and then calculate each color with how much revenue that particular color is making and then you will have an idea as to when they object you will have a general idea of how much money they are making and how much they have at stake versus someone who just owns a parcel and only has one sign and they might be one of the four who are not eliminated or they might stay. These are not the lollipop signs.

Councilmember Robinson said he would agree with most of everyone here that we should have signs obviously not in residential areas but wherever a sign will bring a customer and bring property tax and sales tax revenue but the CUP (conditional use permit) seems to be the controlling instrument that we can use as a City to make sure we are getting the best bang for the buck of where we place signs throughout the city. He thinks that in restricting them there is no way in the world I could say if Bakers or In-N-Out or somebody wanted to be on the north side of Ramsey that they couldn't have a freeway-oriented sign; its just doesn't make sense. But the work that you did on researching the different cities and what they do and how they deal with these things we need to be in continuity also with our neighbor to the west Beaumont on how they are handling that because it is one corridor through here and how other cities that are in corridor situations like we are how they handle signage.

Mayor Hanna said that Beaumont will not allow any additional billboards, will not allow upgrades to digital. They are just fixed as of April 2010 so what do your comments mean relative to that.

Councilmember Robinson said just how they deal with signage if they have a new company come to town how do they deal with a new sign in their code. It doesn't say here in what you are referring to and mainly it was about billboards but how do they deal with signage for new companies coming to Beaumont.

Commissioner Barsh said we cannot compare ourselves to Beaumont at all because they have that shopping center, the signs are from the freeway and there are a number of signs that will draw people in that are very effective because they are known businesses. They are in a different position that we are. We have spotty little things here and they have that big concentration and he doesn't think we can ask them anything because they got it already.

Councilmember Franklin said when she travels across country driving and what attracts her to one area versus another and usually if she has to get off the freeway, she is going to go where she sees the most signs because it gives her the most variety of what she is going to get. She may not see exactly what she wants in different cities but she knows that the places that she

will generally stop where she knows there are multiple choices and if she can't get choice number one, she will go to choice number two. She thinks that is the kind of thing she thinks if we are looking at what we are going to be doing as we move forward with the signs, we are not going to also be doing away with the signs that are already there. So we have to let anybody who wants to bring a business in be able to compete with the people who are already here also.

Mayor Hanna opened the item for public comments.

Don Smith addressed the Council stating he is sort of in agreement with the Council. There are a lot of freeway-oriented businesses that are going to insist on a freeway-oriented sign that by their business model do not take five acres. Many of them are the type of businesses no doubt we want. We have a section of town from 8th Street to Sunset that we designated as freeway-oriented businesses which means by definition we are trying to get businesses there to get cars off the freeway. How do people get cars off the freeway? Number one, you know where you are going to start with and no signs are necessary. He would go along with Councilmember Franklin in that he is driving some place he has never been before and he is going to stop for gas, restroom, food and maybe even stay the night and he is going to look for a place that seems to have all of those signs all in one location that seems by the number of businesses there that I will have a choice and by the number of businesses there he won't be alone when he pulls off the freeway. He has heard a lot about how the lollipop signs are not attractive. He said he would guess he has a different sense of taste because he does not find them unattractive. Most of them are new and have the company logos and he understands them for what they are. Some of the ones that are not the chain restaurants that put up a sign maybe are not that attractive and he thinks the conditional use permit is a good way of knowing where one would go and where one wouldn't go. But saying you are not going to have freeway-oriented signs when we have designated two miles of our commercial district to getting people off the freeway seems counter-productive to your goal.

Frank Burgess said that he takes pride in being probably the instigator of fast-food row in the city of Banning but not only that but probably all over the United States because when that started if you go back in history you will find that fast-food started picking up on off-ramps. Beaumont does not have the off-ramp capability that we do have. When you are traveling you get off the freeway to yes to find what you want but you want to make sure you can get right back on and you don't want to do down through the middle of town. He said that lollipop kind of upsets him when he hears that word of his Carl Jr.'s or his Union 76 sign. He said that Carl Jr. has contributed \$35 million dollars of sales alone off that fast-food row. He can guarantee this and has a report on every one of them. If you want to clean up the freeway and the beautification, leave the signs alone but take the trees that the State is not maintaining, stake your shrubs there and clean it up. Let it be exposed on the north side of the freeway between Ramsey and he will guarantee the developers who travel up and down Interstate 10 will look at that property and they are buying and they can vision what they can do with it and you will entice them off to improve the city of Banning. The other thing that he would like staff and the Council and Commission to do is to take a drive from Fields Road up to Highland Springs and take that same ride from Highland Springs back to Fields Road and look at your City of Banning power lines and how ugly above ground it is and many, many years ago back in the early 60's he understood a percentage of the revenue was supposed to be put a side that this

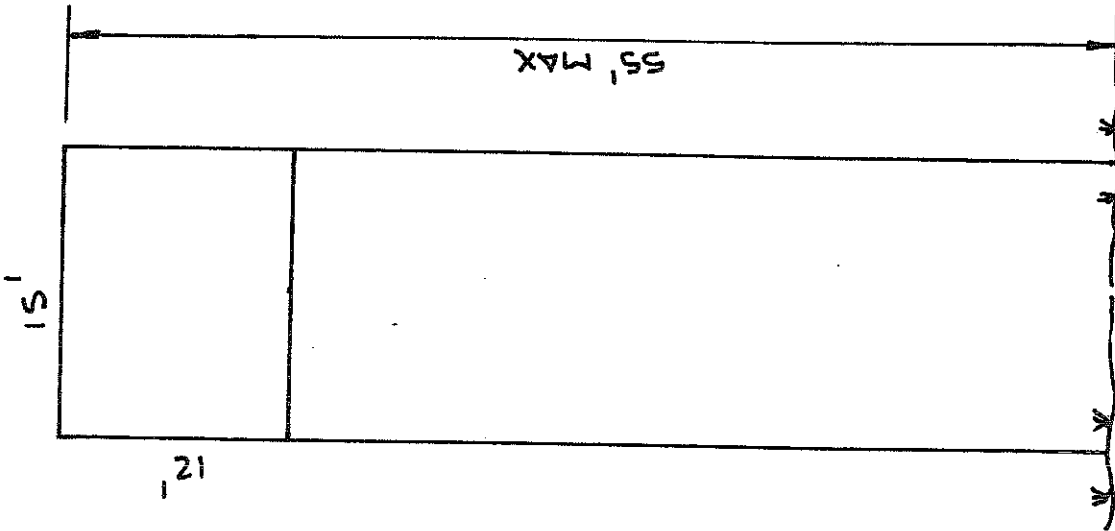
City would put everything underground. The only time it is ever done is when a developer comes along. He said that he spent \$25,000 dollars on his Hargrave development plus the permits. He asked the City for \$60,000 dollars for improvements and he knows that it never got on the agenda and he still has the letter and the bottom paragraph states, "If we were to give you any money, it would be a gift of taxpayers money." He said the property that he developed was trash and the Exxon station had been there for about 15 to 20 years of abandonment and he took it and cleaned it up and Redevelopment and the City gave him a letter stating that he was asking for a gift of taxpayer's money. So he is a little bitter. If you look at page 9 of the agenda packet you can see the power lines and even on page 11, you can't see it very well but to him that is what you need to focus on and not the signs that bring in revenue. He would venture to say without auditing or anything probably \$3 to \$4 hundred million dollars has been generated in sales tax and it doesn't mean the City got the full amount. The City got their share, the property tax and all the utility usage. Someone mentioned In-N-Out Burger and if you told them they were not going to have a sign, kiss it goodbye because they are not going to come. He would hope that you take a trip down both sides of the freeway on the freeway and look at the backyards and junk yards and clean that up brush up and let it be exposed and let the developers see the improvement that she or he has the possibility of doing in there. Another thing that we did when we organized Redevelopment back in the 70's was not spending fifty cents on east Ramsey. Everybody he talks too does not want to get off at that end of town and now you have the courts coming and hopefully you will do it.

Mayor Hanna said that staff is working on the east side of Ramsey and she is wondering if Planning has actually been in discussion with Duane Burk with the discussion we had on that because the direction we were giving on the signage on the east side of Ramsey should relate, she would think, to other signage in the city so that might be worthwhile to consider.

ADJOURNMENT

By common consent the meeting adjourned the meeting at 7:00 p.m.

Marie A. Calderon, City Clerk



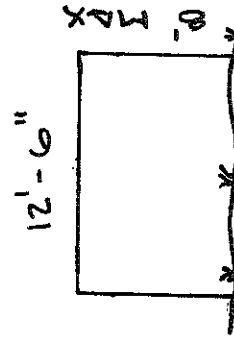
EXISTING SIGN REGULATIONS
17.36.110

AS OF

APRIL 25, 2011

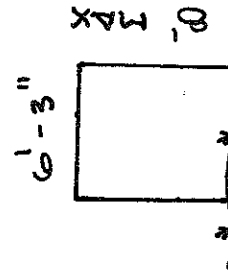
6 SIGN DISTRICTS
180 ft
(SEVEN TOTAL SIGNS)

(A)



SHOPPING CENTER
ONE SIGN
100 ft

(B)



SINGLE BUSINESS
ONE SIGN
50 ft

(C)

ORDINANCE NO. 1377

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF BANNING, CALIFORNIA, AMENDING SECTIONS
9009.06(G), 9109.11 (2)(f), AND 9109.15 OF THE
MUNICIPAL CODE REGARDING FREEWAY ORIENTED
FREESTANDING SIGN PROVISIONS.

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

SECTION 1. Section 9109.06(G) of the Banning Municipal Code is hereby amended to read in
its entirety as follows:

“G. New freestanding signs, except for new freeway oriented freestanding signs permitted
pursuant to Section 9109.11(2)(f).”

SECTION 2. Section 9109.11(2)(f) of the Banning Municipal Code is hereby amended to read
in its entirety as follows:

“f) Freeway Oriented Freestanding Sign. A freeway oriented freestanding sign (“freeway sign”) is a sign located and designed in such a manner as to be viewed by the public traveling to, from or through the City of Banning on Interstate 10. To prevent visual clutter and preserve the aesthetics of the City, there shall be no more than seven freeway signs in the City. Freeway signs shall be located along the Interstate 10 right of way in accordance with the Freeway Oriented Freestanding Sign District Map, as illustrated in section 9109.11(2)(f)(10). Freeway signs shall be subject to the following regulations:

- 1) The freeway sign shall be designed in accordance with the City’s Freeway-Oriented Freestanding Sign Design Criteria, as illustrated in 9101.11(2)(f)(11).
- 2) The freeway sign shall accommodate advertising displays for multiple businesses, and shared use of the freeway sign, including any video displays, shall be required.
- 3) The freeway sign shall not block any portion of another freeway sign from the view of any vehicle driver or passenger traveling on Interstate 10. The applicant shall be responsible for providing the Director with evidence to assure satisfactory compliance with this requirement.
- 4) The freeway sign shall be located in a planter area not less than 50 square feet with one dimension being at least four feet.
- 5) The freeway sign shall not exceed an overall height of 55 feet as measured from the Interstate 10 surface road grade.
- 6) The freeway sign’s display faces shall not exceed 180 square feet per display face, and no variance to this maximum dimension may be granted.
- 7) Video displays, if used, shall be turned off between the hours of 10:00 PM and 6:00 AM.
- 8) Sound shall not be permitted.
- 9) Freeway Oriented Freestanding Sign District Map. [Exhibit “A”]

(A)

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Noncompliance with such a request shall constitute a nuisance and penalties may be assessed in accordance with the provisions of these zoning ordinances. (Zoning Ord. dated 1/31/06, § 9109.10.)

17.36.110 Sign regulations.

Signs permitted in each of the City's land use districts are identified below. In addition to the following regulations, all signs must be in compliance with all other provisions of this chapter pertaining to signs.

Signs may have commercial or non-commercial messages. A non-commercial message may be substituted for the copy of any commercial sign allowed by this chapter.

A. Signs in Residential Zones.

1. Up to one flagpole, displaying the flag of the US or the State of California, up to 35 feet in height, unless a permit is obtained from the City to have a flagpole in a private park or public park for up to 65 feet in height.

2. For single family homes, the following are allowed:

a. Up to one sign not to exceed one square foot in area, identifying the address;

b. Up to one unlit sign not to exceed four square feet in area, pertaining to the rental, sale or lease of the property on which the sign is located. Such signs must be temporary, and may contain no flashing, blinking or reflective objects.

c. A temporary non-commercial sign.

3. For apartment complexes and multifamily developments, the following are allowed:

a. Sign(s) containing the name and/or address of the development, providing that the combined area of such signs is not exceeded as established below:

i. Up to one wall sign

ii. Up to one freestanding sign per street frontage (which shall be in a landscaped area at least 15 feet from the curb face, and not closer than five feet to the property line. Freestanding signs shall have a maximum height of eight feet inclusive of supporting structures.

iii. The maximum combined area of the signs set forth above shall not exceed 20 square feet, for com-

plexes with 125 feet of frontage or less, and shall not exceed 30 square feet for complexes with over 125 square feet of frontage.

4. For properties in the residential zones where farming takes place, lots may have one sign per street frontage (up to a maximum of two signs) advertising only the agricultural products grown on the premises. These signs may not be illuminated, and may be either free standing or wall signs. For lots of two acres or less, each sign may be a maximum of four square feet. For lots over two acres, each sign may be a maximum of ten square feet.

5. No neon signs are permitted in residential areas.

B. Signs in Commercial and Industrial Zones.

1. No sign attached to a structure shall be placed above the roof line.

2. Wall signs. Each business shall be permitted wall signs per occupancy footage. The area devoted to such signs shall not exceed one square foot of sign area per one foot of building frontage, and shall not exceed 50 square feet of sign area.

3. Monument signs. Each parcel or property shall be permitted one monument sign subject to all of the following conditions being met:

a. One square foot of sign area for one foot of building frontage is permitted. Such sign shall not exceed 50 square feet. (C)

b. The buildings must be set back at least 25 feet from the property line.

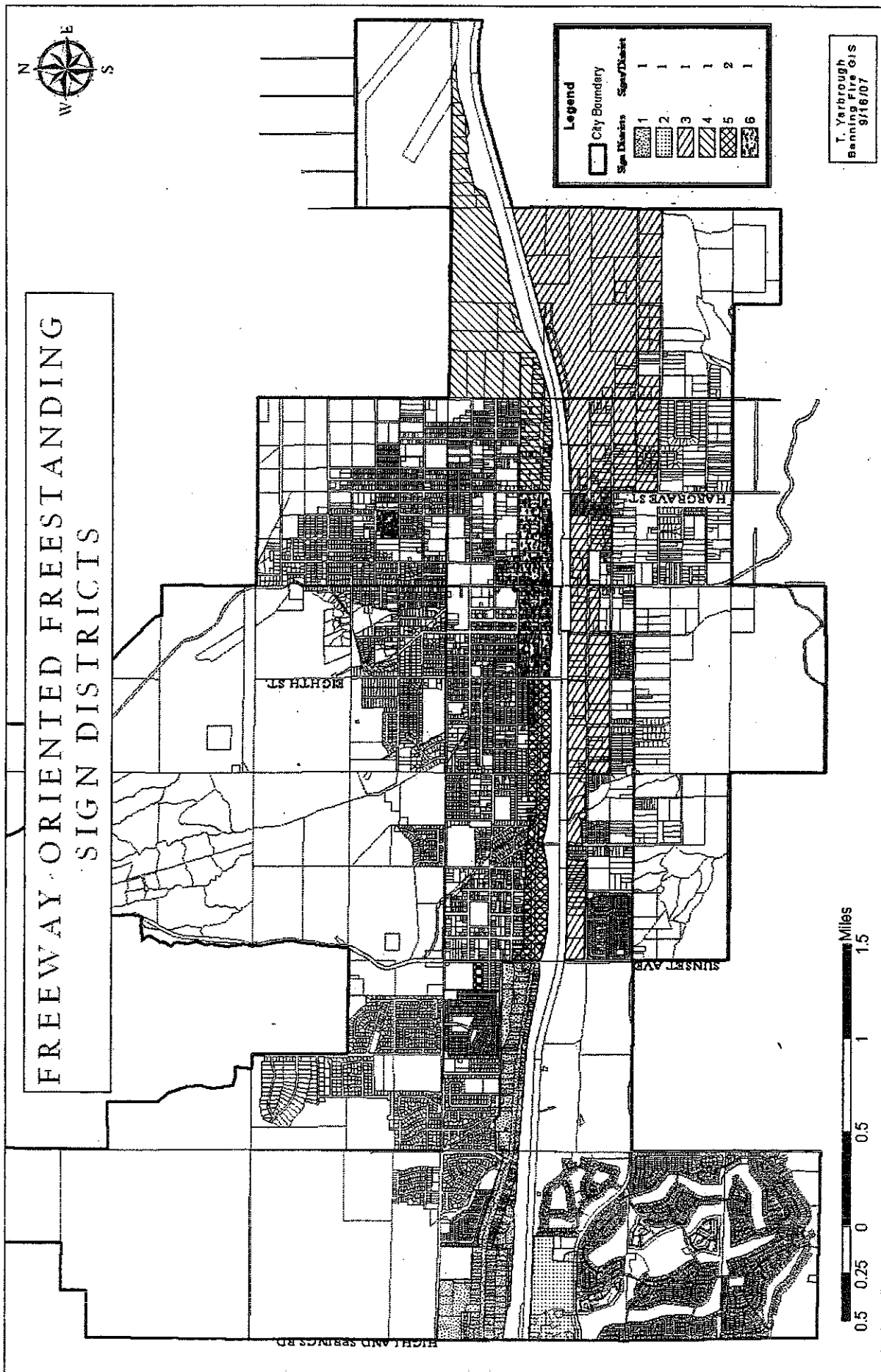
c. The monument sign shall be located in a landscaped planter area not less than 50 square feet, with one dimension being at least four feet.

d. The monument sign may be no more than 8 feet high.

e. Shopping centers may have one monument sign not to exceed one square foot of display face per one foot of building frontage, not to exceed 100 square feet, for center identification. Said sign may include reader panels, and or a bulletin or a changeable copy pane. (E)

4. Painted signs. Each business shall be permitted painted signs subject to the following conditions:

a. Said signs shall be in combination with or in lieu of wall signs.



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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

09/27/2011
JOINT MEETING

A joint meeting of the Banning City Council and the Community Redevelopment Agency was called to order by Mayor Hanna on September 27, 2011 at 4:00 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew Takata, City Manager/Executive Director
David J. Aleshire, City Attorney/Agency Counsel
June Overholt, Administrative Services Director
Duane Burk, Public Works Director
Steve Dukett, Consultant
Marie A. Calderon, City Clerk/Secretary

CLOSED SESSION

City Attorney announced that the Agency Board will meet in regards to five cases of potential litigation pursuant to Government Code Section 54956.9 to give a status report. The City Council will meet in closed session in regards to the provisions of Government Code Section 54956.9 (a) Kimble v. City of Banning Police Department - Case No. RIC 542285; and Page vs. the City of Banning - WCAB Nos. MON 0262189/ADJ2790393; MON 0262190/ADJ533889 - CLAIM NO.: 199900136; 199900135; and will meet pursuant to the provisions of Government Code Section 54956.9(a) to confer with legal counsel with regards to Smith Litigation Matter. The Agency Board and the City Council will meet pursuant to the provisions of Government Code Section 54956.8 in regards to the Village at Paseo San Gorgonio (APN's 541-181-009, 010, 011, 012, 014, 023-028; 541-183-001,002-004) to give a status report on those real estate negotiations.

Mayor Hanna opened the items for public comments. There were none. Meeting went into closed session at 4:03 p.m.

Meeting recessed at 5:10 p.m. and reconvened at 7:10 p.m.

City Attorney said that the closed session meeting would reconvene for the Agency Board to consider one matter of potential litigation.

Meeting returned to regular session at 7:30 p.m.

Agency Counsel stated that the Agency Board met in closed session to discuss one matter of potential litigation and a status report was given and no reportable action was taken.

ADJOURNMENT

By common consent the meeting adjourned at 7:32 p.m.

Marie A. Calderon, City Clerk

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

09/27/11
REGULAR MEETING

A regular meeting of the Banning City Council and a Joint Meeting of the Banning City Council and Banning Community Redevelopment Agency was called to order by Mayor Hanna on September 27, 2011 at 5:16 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew Takata, City Manager
David J. Aleshire, City Attorney
Duane Burk, Public Works Director
June Overholt, Administrative Services Director
Fred Mason, Electric Utility
Leonard Purvis, Police Chief
Phil Holder, Lieutenant
Heidi Meraz, Community Services Director
Steve Dukett, Consultant
Marie A. Calderon, City Clerk

For the invocation Mayor Hanna asked for a moment of silence. Council Member Botts invited the audience to join him in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney said that the City Council and Agency Board met in closed session and on the closed session agenda we have five matters of potential litigation and we gave a status report and no reportable action was taken. (The City Council and Agency Board will be returning to closed session to finish up matters of potential litigation that they did not have time to consider.) In the matter of Kimble v. City of Banning a status report was given on settlement negotiations and direction was given for further negotiations. With respect to the matter of Page v. City of Banning we gave a status report on settlement negotiations and direction was given for further negotiations. In regards to the Smith Litigation matter a status report was given on settlement negotiations and direction was given to the attorney for further action and no reportable action was taken. With respect to the Village at Paseo San Gorgonio Project a

status report was given in regards to real property negotiations and direction was given for further negotiations and no reportable action was taken.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/APPOINTMENTS

PUBLIC COMMENTS – *On Items Not on the Agenda*

Helen Enriquez, volunteer with the Banning Cultural Alliance invited the Council to a special presentation by the Bolivar Family Musical Theater. This will be their third appearance in Banning and the prior two appearances have been sold out so this time it will be held at the auditorium at Nicolet Middle School. The Bolivar Family is a very talented group of people and sing in many languages. This year for the first time they will be accompanied by special guest performers from the La Sierra University Voice Department. The performance will be held on Sunday, October 30th at 3 p.m. and tickets are \$20.00 each and can be obtained from the any Alliance member or by calling the Alliance office.

CORRESPONDENCE: There was none.

PRESENTATIONS:

1. Banning Centennial Update – Don Smith, Steering Committee Member

Don Smith addressed the Council stating that they have been meeting for several months now coming up with ideas and doing the ground work to set up the committees so that we can start actually planning the even itself which as you know our 100th Birthday is in 2013 and they have developed a logo for use with this event and he gave one to the City Clerk to display. At this time Mr. Smith gave the update of information as contained in the agenda packet (see Exhibit “A”). He said that they will give further presentations/updates as they work out more details.

Mayor Pro Tem Machisic said that with the events so far in the future he thinks the committee has done a fine job in initial organization.

Dorothy Familetti-McLean said that was a very nice presentation about our birthday celebration and it is a very nice logo but it seems like something is missing. This town has a heritage of being a stagecoach stop and a lot of things revolve around that and it would be nice to see a little stagecoach in that logo.

APPOINTMENTS

1. Continuity of Government - Appointment of Standby Officers (Per Ord. No. 1378)

Mayor Hanna said that there is a report in the agenda packet on our plan and most of us have appointed standby officers and are they any changes that anyone would like to make.

Councilmember Botts asked if they were going to do that verbally tonight and should it be designated as 1, 2 and 3 and that 1 takes precedent if something happens.

City Manager said that the Council could submit it to the City Clerk when you are ready and it should be in the numerical order that you wish it to happen.

Mayor Hanna asked as Chair of the Disaster Council that they have a meeting as soon as possible and it is important to get together to see how our planning is going and make sure that we are prepared for anything. City Manager said okay.

City Manager said that he would like to have the list of standby officers within a week if possible so that it can be posted and if we have not heard from you, we will assume it is as existing.

Mayor Hanna asked if there were any public comments. There were none.

CONSENT ITEMS

1. Approval of Minutes – Special Meeting – 09/13/11 (Workshop)

Recommendation: That the minutes of the Special Meeting of September 13, 2011 be approved.

2. Approval of Minutes – Joint Meeting – 09/13/11 (Closed Session)

Recommendation: That the minutes of the Joint Meeting of September 13, 2011 be approved.

3. Approval of Minutes – Joint Meeting – 09/13/11

Recommendation: That the minutes of the Regular Meeting of September 13, 2011 be approved.

4. Report of Investments for July 2011

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

- 5 Resolution No. 2011-82, Approving the Banning Electric Utility Power Content Label

Recommendation: That the City Council adopt Resolution No. 2011-82.

6. Resolution No. 2011-86, Approving the Local and System Resource Adequacy Capacity Purchase Agreement with Shell Energy North America for Calendar Year 2012.

Recommendation: That the City Council adopt Resolution No. 2011-86.

Motion Machisic/Robinson to approve Consent Items 1 through 6.

Mayor Hanna asked if there were any public comments on this item.

Gary Hironimus said that in regards to the approval of minutes on Consent Item No. 3 he believes in the agenda packet on page 26 it says, "Councilmember Botts said that his wife does not sit on the Board of the Alliance" and he does not believe he said that at the meeting. He said that he believes that his wife does sit on the advisory board.

Councilmember Botts said he did say that very specifically and she does not sit on the Board of the Directors of the Alliance and never has.

Mr. Hironimus said then why is her name on the website even today under the Advisory Board of the Alliance.

Councilmember Botts said that the Advisory Board was appointed several years ago and has never met and her name was put on the Advisory Board and it is not the Board of Directors and certainly her name is going to come off that.

Mayor Hanna said that for the record Councilmember Robinson's wife is no longer on the Board of Directors.

Mr. Hironimus said it seems strange to him that the Alliance cannot update their web page to reflect that.

Motion carried, all in favor.

PUBLIC HEARINGS

1. City Business Permit for Pacific Ambulance
(Staff Report - Phil Holder, Lieutenant)

Lt. Holder gave the staff report as contained in the agenda packet. He said this is not to be confused with American Medical Response (AMR) which are under contract with the City for emergency transportation and response.

Councilmember Franklin asked Lt. Holder if he was just asking the Council to review this now and it would be coming back later regarding approval.

Lt. Holder said asking they are asking for approval this evening and the owner is just saying that they are licensed by the County of Riverside and they recognize them as a certified ambulance service so the question before the Council is to whether or not you want to allow them to operate in the city and approve their application for a business license.

Councilmember Franklin asked if there was any reasons to having another one or are you just talking about have four providers. Also are they of the other services based here in Banning.

Lt. Holder said as the applications come in they review them to make sure they meet all the requirements that the County and State has and then the request is forwarded to the Council to decide if they want to entertain another agency operating in the city. In regards to them being based in Banning he doesn't believe any of them are based here.

Mayor Hanna opened the public hearing for comments from the public. Seeing no one come forward Mayor Hanna closed the public hearing on this item.

Councilmember Botts said he had a conversation with Lt. Holder and he has a question he want to pose not necessarily to Lt. Holder but to the Council. He said part of the obligation of the police department is to look at the proper licensing and are the vehicles safe and that is the extent but do we need another medical transportation company in Banning. Frankly, he would like to continue this and ask staff to look at this from a business administrative standpoint. Some time back we had the police department bring a cab company forward for approval and over time several cab companies and they did the technical side but we had a long discussion about how many cab companies do you need to have in Banning and not that it is necessarily government's choice but in this case it is ours to permit and at that time he thought we may have approved that or may not have saying there was already a cab service in Banning and there are not a lot of people taking cabs in Banning so why would we add another one. It kind of dilutes the whole market place or one, two or three. So it was in that light he was asking Lt. Holder and he was told that they don't look at that piece of it and he just thinks that we should. If we are willing to look at cabs and say how many cab companies do we need, should we not ask staff from a technical standpoint to look at it because we already have three.

Mayor Pro Tem Machisic said the thing he looks at is that this is a service provided to the people who need it and one of things he talked to Lt. Holder about was prices and he indicated to him that with the ambulance companies around that the prices are quite competitive and they do keep it rather low and if you read some horror stories in different cities where transporting a person who was ill to a local hospital is really expensive. He thinks that because we have these three companies and adding this one is a price advantage and he is sure that these people who run these companies if they are not going to make any money in Banning, they are going to leave. He is looking at this as a service to our residents. He is in favor of having this fourth company.

Motion Franklin/Robinson that the City Council approve a City Business Permit for Pacific Ambulance to provide medical transport services within the city limits of Banning. Motion carried, with Councilmember Botts voting no.

2. Resolution No. 2011-81, Approving the Change of Street Name from Fields Road to Malki Road.
(Staff Report – Duane Burk, Public Works Director)

Mr. Burk gave the staff report as contained in the agenda packet. He said as you go down the I-10 freeway some of the street names don't coincide with some of the names on the I-10 freeway so the Morongo Band of Mission Indians have been working with the City of Calimesa, the City of Beaumont, the City of Banning and Caltrans to rename some streets

currently in place for better identification for destination points. He said that they had one meeting with the Tribe with representatives from Caltrans and some other agencies as it relates to this project. He said that Eric Haley is here representing the Tribe and Mr. Fields is also in the audience. He said that they did send a letter directly to Mr. Fields besides notification to let him know that this was going to be on the agenda this evening.

Councilmember Robinson asked if this has been approved by any other agency or who has made the approval so far.

Eric Haley said that the actions to date have been a formal action by the Tribal Council of the Morongo Band of Mission Indians and is setting up hearings at the County Board of Supervisors tentatively scheduled for October 4th and October 17th. They also have administratively gained unanimous approval for signing within the City of Beaumont of which there will be about 12 signs up and their support for the freeway changes that reflect the new ownership of the 36-hole golf course there. As was pointed out this whole discussion is about a year old now. In October of 2010 the Tribe bought the golf course that was in need of quite a bit of investment and has upgraded it and wants to make it a major destination so that triggered one set of signing requests. They then listened reasonably to Caltrans and Caltrans and state law requires the actions of all the affected public entities before they will take action so that includes the Tribe, yourself, Beaumont and we probably don't need Calimesa although we are consulting with them because we won't be changing signs within their boundaries. The third area that was not mentioned earlier is the Apache Trail/Cabazon signing depending on which direction you are coming from you don't really know if you are going to Cabazon or what Apache Trail is and Caltrans has shown a great deal of sympathy for somebody to make significant investments to clean up that kind of confusion around the traffic circles. For about 20 miles they plan fairly substantial Interstate 10 changes with all the costs to be defrayed by the Tribe, private sector cost such as stationary and monument signs will be corrected and funded by the Tribe as well.

Mayor Hanna said in regards to the diagram it doesn't seem like it is correct if Johnson Lane is in fact the road under the freeway and Fields Road is over to the west, is Johnson Lane being renamed Malki; are they both being renamed.

Mr. Haley said that Johnson will be renamed Malki as well giving some coherence and frankly, that is a classic problem with time and the growth that has taken place in the Pass Area. Once you get to the bottom of the off ramp if you turn right, you turn into the railroad tracks and the remnants of an old highway and if you turn left you are on Johnson and not Malki or Fields and then you go to Seminole of which there is no reference to it at all and then you follow the local signing.

Mayor Hanna opened the public hearing on this item.

The following people spoke in favor or against or had some questions or concerns or general comments in regards to this item (*any written comments handed to the City Clerk will be attached as an exhibit to the minutes*):

Lloyd Fields owner of a 41 acre land parcel on Fields spoke in opposition to this name change.
Gary Hironimus spoke in opposition.

Bill Lewis owner of 160 acres in Millard Canyon spoke in regards to access to his property on the reservation and on the vandalism that has taken place.

Mayor Hanna asked Mr. Lewis if he reported this vandalism to the Sheriff's Department or the police. Mr. Lewis said that he had in the past but basically it has done little good. His property is six miles up off the road and obviously they cannot really police it but the Tribe is running their vehicles up there all the time and they know about the damage and they threaten them if they put up anything it will be town down overnight and if they sell it, the new owners will not have access and that was through is real estate agent when she was negotiating. They have actually tied his hands and they have offered to buy it for ten years but haven't offered any money.

Lyndon Taylor resident of Banning spoke in opposition.

Joe Bridge property owner since 1986 spoke about access to her property.

Edward Miller resident of Banning, spoke in opposition and the history of the name Fields and access to the Malki Museum.

Deanne Bird land owner said that she and her husband own 20 acres in Millard Canyon spoke in regards to access and vandalism of their property and the problems in selling their property.

Don Smith spoke in regards to the complaints of the property owners that live in Millard Canyon.

Victor Dominguez resident of the Pass Area talked about outside influences.

Victor Edinburgh, 6151 Inverness Drive spoke in opposition.

Mr. Burk said he wanted to clarify that the intent behind the name charge was for clarification for signs and the original reservation's name was Malki. He asked Mr. Haley to come forward to wrap this item up.

Mr. Haley said in regards to the original name from the middle of the 19th century into the 1920's and beyond it was known as the Malki Reservation. This is not a coincidental situation. The Bureau of Indian Affairs changed the name of the reservation. The gentleman before him talked about the Malki Museum and the contributions to the Pass Area and he thinks it is a state-wide contribution and this is the first museum put together by Native Americans on a reservation in the State of California. It is a significant cultural asset and what we are intending to do is to draw attention to that from the greater public and that not only benefits not only the Morongo Band of Mission Indians but also everybody in the Pass Area and Riverside County. We are not however foreign to the concept that we can make some changes that will make life a little bit easier for everybody. The Tribal Council has taken your advice transmitted to us to review the location of the barricades and consider moving at their complete cost, which will be considerable, those gates which were put up in fact for the same kind of reasons that the ladies and gentlemen mentioned in the canyon for reasons of illegal dumping, vandalism, illegal use of fire arms and any number of things on the reservation which have improved because of those gates. Unfortunately there is a point to be made about access to that property. Any citizen showing identification can get access to their property. The courtesy of being granted an escort may be bothersome to many. We are willing to work with you and with the citizens to adjust

the location of those gates and to allow the free access to the area as was mentioned both by some of the citizens as well as Mr. Fields. He thinks that is going quite a long way beyond the financial and it is a voluntary action of a sovereign nation and we can have a lot of conversations about that but Malki has been a name that is recognizable since the Treaty of Guadalupe-Hidalgo and the Treaty of Temecula in 1850 and it was changed over time and not something that is new. The gentleman who is a member of the Tribe said it eloquently. He hopes that you will consider this in the spirit it is offered and that we are making proposals to change signing all up and down the freeway with the complete institutional support of Caltrans and others and we are following the letter of the law in reaching out to you and all the other governmental agencies that have even a sliver of property in the area.

Mayor Hanna seeing no one else coming forward to speak closed the public hearing.

Councilmember Robinson said that he has been to the Malki Museum but is it open to the public. This is something that we are looking at in the City as an economic driver to bring people to the area.

Mr. Haley said he spent a lot of time on the website for the museum and got a good history lesson and then the hours that it is open to members of the public and not just the Tribe. It is not an enterprise of the Morongo Band of Mission Indians. It is a non-profit, incorporated private museum but it does serve a great purpose.

Councilmember Botts said we are confusing two issues – a name change and the access to the tribal land and the folks up in Millard Canyon. He thinks it is important whatever action we take tonight. He said his vote on this issue will be because he thinks he is going to vote for the right thing. This has nothing to do with bullies

There was further Council discussion regarding the Malki Museum being open to the public, the complex issue of access and working with the Tribe, street names being changed, economic development, people in the area being in favor of the name change, issues being handled at the County level, what is best for the city, potential ideas to relieve this conflict, change being difficult, and the concerns of vandalism in Millard Canyon area.

Motion Botts/Franklin that the City Council adopt Resolution No. 2011-81, Approving the Change of Street Name from Fields Road to Malki Road services within the city limits of Banning. Motion carried, all in favor.

Mayor Hanna recessed the regular City Council Meeting and called to order a Joint Meeting of the Banning City Council and the Banning Community Redevelopment Agency.

REPORTS OF OFFICERS

1. Resolution No. 2011-83, Awarding the Construction Contract for Project No. 2011-02, Street and Electrical Improvements on Ramsey Street, Martin Street and Williams Street and Rejecting all other Bids.
(Staff Report – Duane Burk, Public Works Director)

Mr. Burk gave the staff report as contained in the agenda packet. He said the City of Banning entered into an agreement with the Administrative Office of the Courts for the new court system and part of the agreement was to put in the improvements in around Martin Street, Williams and Ramsey Street. The lowest responsible and responsive bidder is Matich Corporation. There was one other bid of BW Simmons, Inc. that was non-responsive because it was not filled out properly and he was notified verbally with a letter to send out. He said that Robert Matich is in the audience if the Council has any questions.

There were various Council questions in regards to slurry backfill, sidewalks driveway approaches, post office vehicle parking, Southern California Edison moving their lines and impact to the project, the cost of over half a million dollars and doing improvements on Ramsey Street and giving adequate notice to the public regarding detours. Mr. Burk answered these questions.

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

Motion Botts/Franklin that the City Council: I) adopt Resolution No. 2011-83, Awarding the Construction Contract for Project No. 2011-02, Street and Electrical Improvements on Ramsey Street, Martin Street and Williams Street to Matich Corporation of San Bernardino, CA for an amount of \$596,000.00 and allowing a 10% contingency of \$59,600.00 and rejecting all other bids; II) Approving the Professional Services Agreement for Surveying and Construction Staking Services with H.P. Engineering of Redlands, CA for an amount of "not to exceed" \$9,800.00 and a Professional Services Agreement for Material Testing Services with Aragon Geotechnical of Riverside, CA, for an amount of "not to exceed" \$6,223.00; and III) Authorizing the Administrative Services Director to appropriate \$238,258.90 (includes a 10% contingency) from the 2007 Electric Revenue Bond Proceeds to Account No. 673-7000-473-96.29 to make the necessary budget adjustments, appropriations and transfer to fund this project; and IV) Authorizing the Administrative Services Director to approve change orders within the 10% contingency of \$59,600.00. Motion carried, all in favor.

Mayor Hanna adjourned the joint meeting of the Banning City Council and the Banning Community Redevelopment Agency and reconvened the regular City Council Meeting.

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

City Council

Councilmember Franklin –

- Attend a non-profit, faith-based workshop put on by the County and there were presentations put on by the Board of Equalization, the Attorney General's Office, and the Franchise Tax Board. For anybody that is involved in a non-profit make sure that you are current in all the different requirements of which there are many. They also talked about the penalties and the fines that are involved. All non-profits should make sure that their paper work is current. She that the Attorney General's Office is not concerned about whether or not you knew what to do

or whether or not somebody else was supposed to do it. They are holding each non-profit accountable and they really get upset with some of the excuses people give.

- She received word this morning that there is a Job Fair that is going to be held on October 5th in Cabazon and it is open to not only people who are looking for jobs but they also have space available for people who want to advertise for jobs being available to the public.
- Most of the Council did attend the League of California Cities Conference last week and there were several different sessions and the two that she thought were most interesting had to do with Assessments and they did talk about how we need to review all of our assessments to look at what we are doing as a City and the second one she attended was on Economic Development.

Mayor Pro Tem Machisic -

- He also attended the League of the California Cities Conference and it seems like a theme permeated all the meetings with the uncertainty of the situation in the State. Cities are working hard to deal with the problems. We are facing limited revenues, drastic reductions in staff and how to provide services to residents. There were also a number of sessions that attempted to answer some of these problems. Some of the sessions were on volunteers, partnering with private business, combining services such as fire and he listened to one session where three central coast cities are getting together along with a couple of country territories and are forming one fire district and it is certainly a viable idea in our area. Also they are looking at contracting for services. If they have to cut, then they go out and contract for whatever services they need and we have done some of that also. There was a session in regards to Employees in the Social Media During Work Hours where they twitter, facebook and so on and also there was an interesting session that when you are interviewing a potential employee which materials on the internet can you use in interviewing and evaluating potential employees. It was quite interesting things that you would think have no substance but the attorney told you very quickly that you cannot use that as materials. There was a lot of discussion about pensions as you would surmise. Chris McKenzie who is the Executive Secretary of the League of California Cities said that cities can do some things about pensions but the major changes can only occur with the State Legislature. He said that is going to be a major push by the League of California Cities in the next session of the State Assembly.

Councilmember Robinson -

- He said that the Banning Chamber of Commerce is going to have a monthly session with SCORE in conjunction with the SBA (Small Business Administration) to be held in the Council Chambers between 10 a.m. and 1:00 P.M. Business owners or entrepreneurs can contact the Chamber for an appointment with these retired executives for business advice. This is scheduled to begin on the first Tuesday of each month starting in November. You can call 849-4695 or look up SCORE at www.score.org
- In regards to construction going on in Banning:
 - Carlton's new parking lot for the County at Hargrave and Williams broke ground and is getting ready to pour concrete this week. It will be a 95-space parking lot with landscaping.
 - The Pass Inland Behavioral Medical Building on east Ramsey Street is going up and you can see the arches going up for the second floor.

- If you go down west Ramsey just passed 8th street you will see that the new Subway walls are up and the roof is on and they hope to open within the next month or south.
- Next door to that to the west is a doctor's office and you will see the construction and new look to that building.

Mayor Hanna –

- She stated that the League of California Cities Annual Conference was really terrific and we all had iPad 2's now and she took her notes on her iPad so now she can email it to the rest of the Council. There were sessions on Signage, Branding, Civic Engagement and Volunteerism and she will be sharing these with the Council.
- Thursday is the State of City with the doors opening at 11:00 a.m. and is free for anyone that comes to the Council Chambers to hear that information. If you are interested in the lunch we can probably accept a few more reservations which will be held at the new Gathering Place of the Dorothy Ramon Learning Center.

Councilmember Botts said that he received a couple of calls asking about the construction on Hathaway. There is rough grading going on for the \$1.3 or \$1.5 million in warehousing distribution center. You can see about 6 pads going in which is exciting in addition to what Councilmember Robinson talked about despite our difficult economic times.

City Committee Reports – There are none.

Report by City Attorney – Noting to report at this time.

Report by City Manager

- We were hoping to have some kind of resolution in regard to the Banning Whitehouse. We are still working on that and will get back to you as soon as we can.

ITEMS FOR FUTURE AGENDAS

New Items –

Councilmember Franklin said that we have had on our pending items schedule meeting with our State and County elected officials and she would really like to reinforce having a scheduled meeting with our County Supervisor because she thinks that there are some things that are impacting us and it would be good to have a chance to sit down and talk with him about them.

City Manager said he knows that the City Clerk has been working on that for a while and has had some difficulties so we will try to pin it down.

Mayor Hanna said certainly if the Council has ideas for an agenda just pass it along so that we can put that agenda together.

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials
2. Review of Fees and Rates

3. Policy Discussion Re. Code Enforcement (*study session*)
4. General Management of Council Meetings (*Sept. 27, 2011*)
5. Update on Loans (*Oct. 11, 2011*)
6. Policies & Procedures for Applicant re. Projects and Applicants for Commissions & Committees
7. Report on the Five-Year Water Plan

ADJOURNMENT

By common consent the meeting adjourned at 6:57 p.m.

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT 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.



Dear Banning,

Banning's 100th birthday is in 2013. Residents of Banning have formed committees to plan for a yearlong celebration. This is a community-based effort, not government, so all of the funds needed for the celebration will be raised from donors, sponsors, tickets and merchandise sales.

As a kick off fundraiser, we are proud to announce the 2013 Club. To become a member of the 2013 Club, all you need to do is write a check for \$100 made out to the Banning Cultural Alliance noting it is for the 2013 Club membership. For your donation, you will receive 2 tickets for the 2013 Gala when they are available. Checks may be mailed to: Banning Cultural Alliance P.O. Box 385, Banning 92220. The Banning Cultural Alliance will be used as an umbrella charity for this event until the end of 2013.

The 100th Birthday Celebration can include every business and organization in town. The volunteer steering committee has already begun to formulate a calendar of events for 2013. We want to hear from your business or organization as soon as possible so we can assess how we can help promote and support your event.

We are developing a sponsor benefit package and would welcome the opportunity to meet with businesses to see how we can help you meet your marketing or community goals. The calendar will be available for purchase during Stagecoach Days next year. Sponsors and donors will be featured in this calendar.

We hope to develop a better sense of community by a more complete revelation of our history. Pat Murkland is assembling an amazing collection of 100 items that reflect our history and who we are as a people. If you have unique items that you are willing to give or loan us, let us know. We will be happy to consider them for the 100 Things collection or in conjunction with other birthday-related events.

Our plan is to sell lapel pins, the calendar and shirts with the wonderful centennial logo created by Brandon Contreras of the SGP Design and Print. Pre ordering of these items would be helpful.

We are working with the Banning Unified School District to involve our youth. Youth have already expressed a desire for a Masquerade Ball that might take place close to Halloween,

2013. We hope to incorporate History Day projects, the High School Drama Club to produce plays written based on actual Banning events and perhaps a competition among high school social studies classes on a vision of Banning in 100 years in the future.

Other proposed events include:

February 9, 2013, Saturday, Opening Lecture on Banning and the West by Patty Nelson Limerick
Feb 16, 2013, Saturday, Go Red Luncheon
February 23, 2013, Saturday, Black History Day
Fire Muster (Mar)
Morongo Heritage Day
Dragon Fly Lectures

2nd Quarter:

Sock Hop/Antique Cars by BHS Alumni Association
May 4, 2013, Saturday, Art Hop:
Malki Festival (Memorial Day)

3rd Quarter:

June 1, 2013, Saturday, Banning Charity Bike Ride
August 10, 2013, Saturday, Dorothy Ramon Learning Center Gala
July 5 - 7 Community Picnic, Fireworks and Fire Muster
Gilman Ranch BBQ
International Culture Day
September 4, 2013, Wednesday, Rotary Spaghetti Dinner
September 7, 2013 Pass Has Talent Contest
September 6 – 8 Stage Coach Days

4th Quarter:

October 26, 2013, Saturday, Youth Masquerade Ball
October 31 2013, Tuesday, Downtown Halloween
December 7, 2013, Saturday, Phineas Festival
November 2, 2013, Saturday, 100th Birthday Gala
November 28, 2013 Thursday, Hmong New Year's Celebration
December 31, 2013, Tuesday, New Year's Eve Celebration of Centennial Year

What would your organization or business like to add?

We are also looking for organizations to partner with to produce these events. Would your organization be willing to take the lead?

Contact Heidi Meraz (922-3242 and hmeraz@ci.banning.ca.us) or Barbara Hanna 922-0856; barbarafhanna@yahoo.com) with how you or your organization would like to participate in Banning's 100th birthday celebration!

CITY COUNCIL AGENDA

Date: October 11, 2011
TO: City Council
FROM: June Overholt, Administrative Services Director/Deputy City Manager
SUBJECT: Report of Investments for August 2011

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

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

BACKGROUND: This report includes investments on hand at the end of August 2011. As of August 31, 2011, the City's operating funds totaled \$62,618,982. Included in operating funds is \$1,664,991 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of August 31, 2011 approximately 46% of the City's unrestricted cash balances were invested in investments other than LAIF.

Presented are three months of Investment Reports. August is a first issue, while June and July are included to provide multiple months of statements for comparison.

FISCAL DATA: The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) increased to 0.408 % in August. The average rate for all investments in August was 0.313%.

RECOMMENDED BY:



June Overholt
Administrative Services Director/
Deputy City Manager

APPROVED BY:



Andy Takata
City Manager

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

Amount

2,305

Bank Accounts

Interest

Rate

Amount

Wells Fargo Bank

0.000% 18,619

Wells Fargo Bank-Investment Account

0.100% 2,316,208

Bank of America-Airport

0.300% 13,735

Bank of America-Parking Citations

0.300% 4,202

Bank of America-CNG Station

0.300% 4,337

Money Market and Bank Account Sub-Total

2,357,102

Government Pools

Local Agency Investment Fund: Account #1

0.408% 31,483,553

Account #2 Operating Amount

804,976

Account #2 CRA Bond Cash Bal

1,664,991

Local Agency Investment Fund: Account #2

0.408% 2,469,967

Government Pool Sub-Total

33,953,520

Operating Cash Balance**36,312,927****Restricted Operating Funds at Riverside Public Utilities**

Highmark U.S. Government Money Market Fund

0.000%

710,415

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

0.205%

25,595,640

Operating Funds Total**62,618,982****Fiscal Agent**

Amount

US Bank

44,548,909

Fiscal Agent Total**44,548,909**

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City of Banning Investment Report

August 31, 2011

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase	Discount or (Premium) Amortization	Market Value
<i>Bank Accounts</i>								
18,619	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	18,619	n/a	18,619
2,316,208	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	2,316,208	n/a	2,316,208
13,735	Bank of America-Airport	n/a	0.30%	daily	varies	13,735	n/a	13,735
4,202	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,202	n/a	4,202
4,337	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,337	n/a	4,337
Sub-total								2,357,102
<i>Government Pools</i>								
31,483,553	L.A.I.F. account #1	n/a	0.408%	daily	varies	31,483,553	n/a	31,483,553
2,469,967	L.A.I.F. account #2	n/a	0.408%	daily	varies	2,469,967	n/a	2,469,967
								33,953,520
<i>Investments-US Bank/Piper Jaffray</i>								
1,000,000	FHLMC MTN	n/a	0.600%	6/28/2013	6/16/2011	1,000,000		1,000,870
1,000,000	Federal Home Loan Banks	n/a	1.000%	6/27/2014	6/16/2011	1,000,000		1,005,250
2,000,000	Federal Home Loan Banks	n/a	1.125%	6/30/2014	6/16/2011	2,000,000		2,003,740
2,000,000	FHLMC MTN	n/a	0.650%	7/18/2013	7/18/2011	2,000,000		2,002,340
1,000,000	FHLMC MTN	n/a	0.100%	4/11/2014	7/11/2011	1,000,000		1,001,780
18,581,660	Money Market	n/a	0.000%	daily	varies	18,581,660	0	18,581,660
US Bank/Piper Jaffray Average Rate=								25,595,640
0.205%								

Average Rate All= 0.313%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 23, 2011. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 101 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

August 31, 2011

Individual Investments with Fiscal Agent

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Interest Jul-11	8/31/2011 Market Value
BNY WESTERN TRUST COMPANY							
US BANK							
1991 Wilson St. Assessment District	2012	Federated U.S. Treasury Money Mkt	0.000%	daily	0		0
		AIM U.S. Treasury Money Market	0.200%	daily	265,580	8.85	9
		US Bank Mmkt 4-Ct	0.050%	daily		4.78	497,099
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 4-Ct	0.500%	daily	188,943	9.31	312,285
2003 CRA Tax Allocation Bonds	2028	US Treasury Bill	75.00%	7/28/2011	971,763		983,728
		US Bank Mmkt 4-Ct	0.500%	daily		6.34	20,300
		US Bank Mmkt 4-Ct	0.300%	daily		28.70	29
Surplus Fund			0.000%	daily			8
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	US Bank Mmkt 4-Ct	0.500%	daily		506.61	11,930,354
Reserve Fund		US Bank Mmkt 4-Ct	0.500%	daily	1,880,751	79.70	1,875,257
Special Fund		US Bank Mmkt 4-Ct	0.400%	daily		47.29	47
Surplus Fund		US Bank Mmkt 4-Ct	0.000%	daily			9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Interest Account		US Bank Mmkt 4-Ct	0.000%	daily			8
Principal Account		US Bank Mmkt 4-Ct	0.500%	daily		2.87	67,511
		US Bank Mmkt 4-Ct	0.500%	daily		156.60	3,687,791
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Interest Account		US Bank Mmkt 4-Ct	0.400%	daily			44
Principal Account		US Bank Mmkt 4-Ct	0.500%	daily		15.18	357,559
Reserve Fund		US Bank Mmkt 4-Ct	0.500%	daily	2,310,710	98.15	2,311,361
Project Fund		US Bank Mmkt 4-Ct	0.500%	daily		178.22	4,197,099
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES							
Reserve Fund		US Bank Mmkt 4-Ct	0.600%	daily			90
		Reliance Trust Company # 9AMGGBEZ7	3.650%	11/17/2011	2,961,500		2,931,509
		US Bank Mmkt 4-Ct	0.400%	daily			26
Acquisition & Construction		US Bank Mmkt 4-Ct	0.500%	daily		652.96	15,376,785
*Paid Semi-Annually-Deposited into Money Mkt Account						Total	44,548,909

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

Amount

2,305

Bank Accounts

Interest

Rate

Amount

Wells Fargo Bank

0.000% 126,446

Wells Fargo Bank-Investment Account

0.100% 2,239,511

Bank of America-Airport

0.300% 21,211

Bank of America-Parking Citations

0.300% 3,054

Bank of America-CNG Station

0.300% 3,358

Money Market and Bank Account Sub-Total

2,393,581

Government Pools

Local Agency Investment Fund: Account #1

0.381% 31,483,553

Account #2 Operating Amount

751,554

Account #2 CRA Bond Cash Bal

1,718,414

Local Agency Investment Fund: Account #2

0.381% 2,469,967

Government Pool Sub-Total

33,953,520

Operating Cash Balance**36,349,406**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.010%

926,722Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

0.680%

25,532,973*Operating Funds Total***62,809,101****Fiscal Agent**

US Bank

Amount

46,135,794

*Fiscal Agent Total***46,135,794**

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City of Banning Investment Report

July 31, 2011

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Price	Discount or (Premium) Amortization	7/31/2011 Market Value
<i>Bank Accounts</i>								
126,446	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	126,446	n/a	126,446
2,239,511	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	2,239,511	n/a	2,239,511
21,211	Bank of America-Airport	n/a	0.30%	daily	varies	21,211	n/a	21,211
3,054	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,054	n/a	3,054
3,358	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,358	n/a	3,358
Sub-total								
								2,393,581
<i>Government Pools</i>								
31,483,553	L.A.I.F. account #1	n/a	0.381%	daily	varies	31,483,553	n/a	31,483,553
2,469,967	L.A.I.F. account #2	n/a	0.381%	daily	varies	2,469,967	n/a	2,469,967
Sub-total								
								33,953,520
<i>Investments-US Bank/Piper Jaffray</i>								
3,000,000	Federal Home Loan Banks	n/a	1.000%	10/21/2013	10/5/2010	3,000,000		3,000,060
3,000,000	Federal Home Loan Banks	n/a	1.200%	8/5/2013	8/5/2010	3,000,000		3,000,270
4,000,000	FHLMC MTN	n/a	1.375%	2/3/2014	2/3/2014	4,000,000		4,000,200
1,000,000	FHLMC MTN	n/a	0.600%	6/28/2013	6/16/2011	1,000,000		998,610
1,000,000	Federal Home Loan Banks	n/a	1.000%	6/27/2014	6/16/2011	1,000,000		1,003,570
2,000,000	Federal Home Loan Banks	n/a	1.125%	6/30/2014	6/16/2011	2,000,000		2,001,360
2,000,000	FHLMC MTN	n/a	0.650%	7/18/2013	7/18/2011	2,000,000		2,001,160
1,000,000	FHLMC MTN	n/a	0.100%	4/11/2014	7/11/2011	1,000,000		1,000,250
8,527,493	Money Market	n/a	0.000%	daily	varies	8,527,493	0	8,527,493
US Bank/Piper Jaffray Average Rate=								
			0.680%					25,532,973

Average Rate All= 0.493%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 23, 2011. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 216 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

July 31, 2011

Individual Investments with Fiscal Agent

Bond Issue Description	TRUSTEE	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve	Bond Maturity Date	Minimum Reserve Requirement	Interest Jul-11	7/31/2011 Market Value
BNY WESTERN TRUST COMPANY									
US BANK									
1991 Wilson St. Assessment District		2012	Federated U.S. Treasury Money Mkt	0.000%	daily	daily	0		0
			AIM U.S. Treasury Money Market	0.200%	daily	daily	265,580	4.50	265,609
			US Bank Mmkt 4-Ct	0.400%	daily	daily		4.62	112,545
2005 Fair Oaks Ranch Estates		2035	US Bank Mmkt 4-Ct	0.500%	daily	daily	188,943	11.55	219,309
2003 CRA Tax Allocation Bonds		2028	U S Treasury Bill	0.500%	7/28/2011	7/28/2011	971,763	21,021.68	
			US Bank Mmkt 4-Ct	0.500%	daily	daily		0.88	1,013,368
			US Bank Mmkt 4-Ct	0.500%	daily	daily			675,933
Surplus Fund				0.000%	daily	daily			8
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007									
Redevelop Fund		2037	US Bank Mmkt 4-Ct	0.500%	daily	daily		490.25	11,929,847
Reserve Fund			US Bank Mmkt 4-Ct	0.500%	daily	daily	1,880,751	77.12	1,876,771
Special Fund			US Bank Mmkt 4-Ct	0.500%	daily	daily		0.00	1,113,714
Surplus Fund			US Bank Mmkt 4-Ct	0.000%	daily	daily			9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES									
Interest Account			US Bank Mmkt 4-Ct	0.000%	daily	daily			8
Principal Account			US Bank Mmkt 4-Ct	0.500%	daily	daily		2.77	67,508
			US Bank Mmkt 4-Ct	0.500%	daily	daily		151.54	3,687,635
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES									
Interest Account			US Bank Mmkt 4-Ct	0.400%	daily	daily			44
Principal Account			US Bank Mmkt 4-Ct	0.500%	daily	daily		14.69	357,544
Reserve Fund			US Bank Mmkt 4-Ct	0.500%	daily	daily	2,310,710	94.98	2,311,263
Project Fund			US Bank Mmkt 4-Ct	0.500%	daily	daily		172.47	4,196,921
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES									
Reserve Fund			US Bank Mmkt 4-Ct	0.600%	daily	daily			90
			Reliance Trust Company # 9AMGGBEZ7	3.650%	11/17/2011	11/17/2011	2,961,500		2,931,509
			US Bank Mmkt 4-Ct	0.400%	daily	daily			26
Acquisition & Construction			US Bank Mmkt 4-Ct	0.500%	daily	daily		631.87	15,376,132
Total								22,678.92	46,135,794

*Paid Semi-Annually-Deposited into Money Mkt Account

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

Amount

2,305

Bank Accounts

Interest

Rate

Amount

Wells Fargo Bank

0.000% 71,357

Wells Fargo Bank-Investment Account

0.100% 6,455,842

Bank of America-Airport

0.300% 19,370

Bank of America-Parking Citations

0.300% 5,302

Bank of America-CNG Station

0.300% 6,110

Money Market and Bank Account Sub-Total

6,557,981

Government Pools

Local Agency Investment Fund: Account #1

0.448% 31,446,232

Account #2 Operating Amount 680,612

Account #2 CRA Bond Cash Bal 1,784,650

Local Agency Investment Fund: Account #2

0.448% 2,465,262

Government Pool Sub-Total

33,911,494

Operating Cash Balance

40,471,781

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.010%

819,966

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

0.625%

25,518,593

Operating Funds Total

66,810,340

Fiscal Agent

Amount

US Bank

44,344,599

Fiscal Agent Total

44,344,599

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City of Banning Investment Report

June 30, 2011

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Price	Discount or (Premium) Amortization	6/30/2011 Market Value
<i>Bank Accounts</i>								
71,357	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	71,357	n/a	71,357
6,455,842	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	6,455,842	n/a	6,455,842
19,370	Bank of America-Airport	n/a	0.30%	daily	varies	19,370	n/a	19,370
5,302	Bank of America-Parking Citations	n/a	0.30%	daily	varies	5,302	n/a	5,302
6,110	Bank of America-Parking Citations	n/a	0.30%	daily	varies	6,110	n/a	6,110
Sub-total								
								6,557,981
<i>Government Pools</i>								
31,446,232	L.A.I.F. account #1	n/a	0.448%	daily	varies	31,446,232	n/a	31,446,232
2,465,262	L.A.I.F. account #2	n/a	0.448%	daily	varies	2,465,262	n/a	2,465,262
Sub-total								
								33,911,494
<i>Investments-US Bank/Piper Jaffray</i>								
3,000,000	Federal Home Loan Banks	n/a	1.000%	10/21/2013	10/5/2010	3,000,000		2,996,430
3,000,000	Federal Home Loan Banks	n/a	1.200%	8/5/2013	8/5/2010	3,000,000		3,002,730
4,000,000	FHLMC MTN	n/a	1.375%	2/3/2014	2/3/2014	4,000,000		4,003,480
1,000,000	FHLMC MTN	n/a	0.600%	6/28/2013	6/16/2011	1,000,000		997,850
1,000,000	Federal Home Loan Banks	n/a	1.000%	6/27/2014	6/16/2011	1,000,000		999,170
2,000,000	Federal Home Loan Banks	n/a	1.125%	6/30/2014	6/16/2011	2,000,000		1,991,440
11,527,493	Money Market	n/a	0.000%	daily	varies	11,527,493	0	11,527,493
US Bank/Piper Jaffray Average Rate=								
			0.625%					25,518,593

Average Rate All= 0.482%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 27, 2010. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 171 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

June 30, 2011

Individual Investments with Fiscal Agent

TRUSTEE		Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Jun-11	6/30/2011 Market Value
BNY WESTERN TRUST COMPANY								
US BANK								
1991 Wilson St. Assessment District	2012	Federated U.S. Treasury Money Mkt	0.000%	daily	522,375			0
		AIM U.S. Treasury Money Market	0.200%	daily	265,580	6.33		265,598
		US Bank Mmkt 4-Ct	0.100%	daily		9.22		112,540
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 4-Ct	0.100%	daily	188,943	18.62		219,300
2003 CRA Tax Allocation Bonds	2028	U S Treasury Bill	0.020%	7/28/2011	971,763			991,990
		US Bank Mmkt 4-Ct	0.100%	daily		1.81		21,368
		US Bank Mmkt 4-Ct	0.100%	daily				39
Surplus Fund		US Bank Mmkt 4-Ct	0.130%	daily				8
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007								
Redevelop Fund	2037	US Bank Mmkt 4-Ct	0.100%	daily		1,013.09		11,929,357
Reserve Fund		US Bank Mmkt 4-Ct	0.100%	daily	1,880,751	159.38		1,876,694
Special Fund		US Bank Mmkt 4-Ct	0.100%	daily		0.01		93
Surplus Fund		US Bank Mmkt 4-Ct	0.110%	daily				9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Interest Account		US Bank Mmkt 4-Ct	0.130%	daily		0.54		8
Principal Account		US Bank Mmkt 4-Ct	0.100%	daily		5.55		67,500
		US Bank Mmkt 4-Ct	0.100%	daily		313.15		3,687,483
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Interest Account		US Bank Mmkt 4-Ct	0.090%	daily		3.16		41
Principal Account		US Bank Mmkt 4-Ct	0.100%	daily		29.38		357,529
Reserve Fund		US Bank Mmkt 4-Ct	0.100%	daily	2,310,710	196.28		2,311,168
Project Fund		US Bank Mmkt 4-Ct	0.100%	daily		356.40		4,196,748
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES								
Reserve Fund		US Bank Mmkt 4-Ct	0.100%	daily		84.40		90
		Reliance Trust Company # 9AMGGBEZ7	3.650%	11/17/2011	2,961,500	0.00		2,931,509
		US Bank Mmkt 4-Ct	0.110%	daily		12.00		26
Acquisition & Construction		US Bank Mmkt 4-Ct	0.100%	daily		1,305.74		15,375,500
*Paid Semi-Annually-Deposited into Money Mkt Account							Total	44,344,599
							3,515.06	

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CITY COUNCIL AGENDA

DATE: October 11, 2011

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Notice of Completion for Federal Aviation Administration AIP Project No. 3-06-0018 AIP 10(C), "Airport Rotating Beacon, Wind Cone, Segmented Circle and AWOS"

RECOMMENDATION: The City Council accept AIP Project No. 3-06-0018 10(C), "Airport Rotation Beacon, Wind Cone, Segmented Circle and AWOS," as complete and direct the City Clerk to record the Notice of Completion.

JUSTIFICATION: Staff has determined that the project has been completed per the City of Banning and the Federal Aviation Administration (FAA) plans and specifications; therefore the acceptance of the Notice of Completion is appropriate.

BACKGROUND: On March 9, 2010, City Council approved Resolution No. 2010-14, "Awarding a Professional Services Agreement to C & S Engineers, Inc. (C&S) for Design Services at the Banning Municipal Airport" in the amount of \$79,691.37. The scope of work under this contract was to design the Airport Rotating Beacon, Wind Cone, Segmented Circle and Automated Weather Observing System (AWOS) which are all items listed in the Airport Improvement Plan (AIP). The design was completed in July, 2010.

Staff advertised the project and on August 18, 2010 received one bid in the amount of \$326,246.50 from Cindy Bales Engineering, Inc. (CBE) of Big Bear City, California. On September 28, 2010 City Council adopted Resolution No. 2010-69, "Awarding the Construction Contract for Federal Aviation Administration Airport Improvement Project No. 3-06-0018 AIP 10(C), 'Airport Rotating Beacon, Wind Cone, Segmented Circle & AWOS.'"

The scope of work for the construction project included the complete removal and replacement of the airport rotating beacon and tower and associated foundation and cabling; the complete removal and replacement of the airport segmented circle and tetrahedron; the complete removal and replacement of the airport lighted wind cone and associated foundation and cabling; the installation of AWOS and associated foundations and cabling.

On August 24, 2010 the City Council adopted Resolution No. 2010-62, "Approving the Airport Improvement Program Grant Agreement Offer from the Federal Aviation Administration for Navigational Improvements at the Banning Municipal Airport." As part of the Grant Agreement, the FAA agreed to reimburse the City up to \$536,750.00 for design and construction costs.

On November 9, 2010 City Council approved Resolution No. 2010-80, "Amending the Professional Services Agreement with C&S for Design Services at the Banning Municipal

Airport to include Construction Observation and Administrative Services” which increased the existing C&S contract by \$40,163.70.

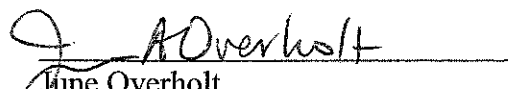
The Department of Transportation (DOT), Division of Aeronautics conducted a State permit compliance inspection and FAA Airport Master Record update of the Banning Municipal Airport. On October 1, 2010, as a result of said inspection and update, the DOT provided a letter to the City of Banning which included a list of items that required the City’s attention such as: clearing and re-grading the runway safety area; adding signing and striping; and filling of abandoned in-ground base lights. On May 24, 2011, the City Council Resolution No. 2011-45, “Approving the Change Order to the Construction Contract Awarded to Cindy Bales Engineering, Inc. for Project No. 3-06-0018 AIP 10(C), ‘Airport Rotating Beacon, Wind Cone, Segmented Circle & AWOS’ and Approving an Amendment to the Professional Services Agreement with C&S Engineers, Inc. for Design Services at the Banning Municipal Airport.” Resolution No.2011-45 amended CBE’s and C&S’s original scope of work to include the items listed in the inspection letter from the DOT. The resolution increased C&S’s professional services contract in the amount of \$20,000.00 and CBE’s construction contract in the amount of \$92,681.30.

FISCAL DATA: The original construction contract amount for this project was \$326,246.50. The City Council approved one change order in the amount of \$92,681.30 which resulted in a final construction contract amount of \$418,927.80. Due to field revisions there was a savings of \$4,159.25 and therefore the final construction cost is equal to \$414,768.55. The total cost for the project including design, construction observation, administrative services and construction is equal to \$554,623.62 in which 95%, or \$526,892.44, will be reimbursed under the FAA grant agreement.

RECOMMENDED BY:


Duane Burk
Director of Public Works

REVIEWED BY:


June Overholt
Administrative Services Director
Deputy City Manager

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

12 NOTICE OF COMPLETION

13 AIP PROJECT NO. 3-06-0018 AIP 10(C)
14 AIRPORT ROTATING BEACON, WIND CONE, SEGMENTED CIRCLE
15 AND AWOS
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 October 11, 2011, and the
21 grantees consent to recordation thereof by its duly authorized agent.
22

23 That the OWNER, the City of Banning, and Cindy Bales Engineering, Inc. of Big Bear
24 City, California, the vendee, entered into an agreement dated November 17, 2010, for
25 Construction of AIP Project No. 3-06-0018 AIP 10(C), "Airport Rotating Beacon, Wind
26 Cone, Segmented Circle and AWOS." The scope of work for the construction project
27 included the complete removal and replacement of the airport rotating beacon and tower
28 and associated foundation and cabling; the complete removal and replacement of the
29 airport segmented circle and tetrahedron; the complete removal and replacement of the
30 airport lighted wind cone and associated foundation and cabling; the installation of
31 AWOS and associated foundations and cabling.
32

33 (1) That the work of improvement was completed on September 21, 2011, for
34 AIP Project No. 3-06-0018 AIP 10(C), "Airport Rotating Beacon, Wind Cone,
35 Segmented Circle and AWOS." That the City of Banning, a municipal corporation,

1 whose address is Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is
2 completing work of improvement.

3 (2) That said work of improvement was performed at the Banning Municipal
4 Airport located at 200 South Hathaway Street within Banning, California 92220.

5 (3) That the original contractor for said improvement was Cindy Bales
6 Engineering, Inc., State Contractor's License No. 586542.

7 (4) That Performance and Payment bonds were required for this project.

8 (5) The nature of interest is in fee.
9

10 Dated: October 11, 2011

11 CITY OF BANNING
12 A Municipal Corporation
13
14
15

16 By _____
17 Andrew J. Takata
18 City Manager
19

20 APPROVED AS TO FORM:
21

22 _____
23 David J. Aleshire, City Attorney
24 Aleshire & Wynder, LLP
25
26
27
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33
34

JURAT

State of California
County of Riverside

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 2011 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 _____, 2011 at Banning, California.

City Clerk of the City of Banning

CITY COUNCIL AGENDA

DATE: September 27, 2011

TO: Mayor and City Council

FROM: June Overholt, Administrative Services Director/Deputy City Manager

SUBJECT: Classification Plan Amendment

RECOMMENDATION:

- 1) Adopt Resolution No. 2011-84 amending the classification and compensation plan for the City of Banning to include the classification of Payroll Coordinator at Range 51 compensation and approve the job description for the new classification.
- 2) Authorize the Administrative Services Director to appropriate \$8,350 in the General Fund salary account series No. 001-1900-412.xx.xx and to make any necessary related budget adjustments, appropriations, and transfers, if needed.

JUSTIFICATION/DISCUSSION:

Since the beginning of January 2011, the payroll position has been vacant. There have been two recruitments to fill the position. The recruitments included promoting the vacancy through advertising in local papers and the APA, testing of the applicants, panel interviews and final interviews. In each process, it was important to find qualified candidates with technical skills and the ability to fit within the work environment. Neither recruitment resulted in hiring a candidate.

Staff then considered several different approaches. One approach was to do cross training within the department. Some level of this has occurred. However, it has become apparent that the level of technical knowledge needed for the position far exceeds the requirements of other positions in the department in the same pay range. In the interim, a temporary staff person has helped with basic processes while other Finance staff has had to absorb even more duties during this season of limited staffing citywide.

Another option considered was to outsource the function to ADP, a firm known for working with public safety payroll. Due to the unique nature of processing police payroll, the payroll solution requires an employee or third party to know the laws governing public safety and the ability to understand employee bargaining unit contracts. ADP recommended a robust solution that encompassed HR, benefits and payroll functions. They also provided information for basic payroll processing. In each situation, City staff positions would still be needed to input information, verify output of information, prepare reconciliations, interpret contracts and more. Although the programs offered by ADP could benefit the City and may be considered in the future, their services would be an added cost without sufficient efficiencies gained at this time.

Unresolved issues with ADP that would require a significant investment of time to overcome are:

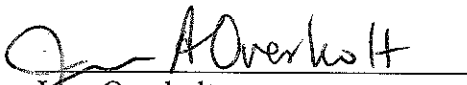
- 1) the lack of integration with the budget module. This is critical since the budget forecasting capabilities rely on active data in the payroll system.
- 2) The lack of integration with the work

order module. The work order system is used by the various utilities to track time and material on projects.

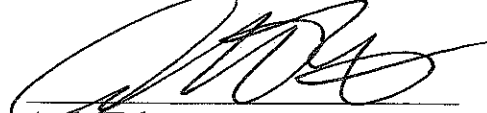
Needless to say, the payroll function is a critical one to the city. After discussions with ADP and feedback about the pay range of the position, staff did an informal salary survey of various cities to determine if the pay might have impacted the recruitment. The findings are that the position is significantly below others in the region. However, due to the financial challenges of the City, a modest increase is being proposed that brings the position closer to the bottom of the salary survey range. The change in pay scale provides recognition of the technical knowledge needed and will hopefully result in filling the position.

FISCAL DATA: This change will result in an annualized salary increase to the General Fund Fiscal Services Department in the amount of \$8,350 for the FY 2011-2012 Budget.

RECOMMENDED BY:


June Overholt
Administrative Services Director/
Deputy City Manager

APPROVED BY:


Andy Takata
City Manager

RESOLUTION 2011-84

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BANNING AMENDING THE CLASSIFICATION &
COMPENSATION PLAN FOR THE CITY OF BANNING**

WHEREAS, it is necessary to amend the City's Classification Plan from time to time to maintain a current plan which reflects the nature of work, organizational structure, or otherwise;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1: That the City Council adopt the following classification and salary range as set forth on the attached classification and compensation plan – Schedule "A" (Exhibit "A"):

Payroll Coordinator - Salary Range 51

SECTION 2: That the City Council approve the job description for Payroll Coordinator (Job Code 1135) as Exhibit "B".

PASSED, APPROVED, AND ADOPTED this 27th day of September, 2011.

Barbara Hanna, Mayor
City of Banning, California

ATTEST:

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

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

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2011-84 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27th day of September, 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

EXHIBIT “A”

CITY OF BANNING
 CLASSIFICATION & COMPENSATION PLAN
 REVISED SEPTEMBER 27, 2011
 RESOLUTION NO. 2011- 84 (AMENDING RESOLUTION NO. 2011-59)

MATRIX BY CLASS SERIES/JOB CODE

Class Series/Occupational Job Group	Job Code	Classification/Position	Salary Range	Bargaining Unit
1000 – CITY ADMINISTRATION SERIES				
City Administration Group	1010	City Manager	109	Council Contract
	1020	City Clerk/Executive Assistant	55	Elected
Financial Services Group				
	1105	Administrative Services Director/Deputy City Manager	97	Contract
	1130	Financial Services Specialist	45	IBEW-G
	1115	Deputy Finance Director	82	Mgmt/Conf
	1140	Accountant	52	IBEW-G
	1135	Payroll Coordinator	51	IBEW-G
Human Resources Group	1215	Deputy Human Resources Director	78	Mgmt/Conf
	1230	Human Resources Technician	52	Conf/Gen
Utility Billing Group	1340	Senior Utility Billing Rep	46	IBEW-G
	1350	Utility Billing Representative	41	IBEW-G
Information/Cable Systems Group	1410	Information Technology Coordinator	57	IBEW-G
	1416	Police Information Technology Technician	57	IBEW-G
	1415	Information Technology/Media Technician	55	IBEW-G
	1510	Cable Services Specialist	42	IBEW-G
Office Support Group				
	1610	Executive Secretary	51	IBEW-G
	1620	Office Specialist	42	IBEW-G
	1630	Receptionist	29	IBEW-G

59

Schedule "A"

2000 – POLICE SERIES

Police Group	2010	Police Chief	96	Contract
	2025	Police Lieutenant	82	Police Mgmt
	2030A	Police Staff/Master Sergeant	75	POA
	2040	Police Corporal	68	POA
	2050	Police Officer	64	POA
	2060	Police Recruit/Trainee	N/A	At-Will
Police Support Group	2143	Lead Public Safety Dispatcher	54	IBEW-G
	2110	Public Safety Dispatcher	50	IBEW-G
	2151	Police Assistant II	46	IBEW-G
	2152	Police Assistant I	42	IBEW-G

3000-COMMUNITY DEVELOPMENT SERIES

Community Development Group	3010	Community Development Director	88	Contract
	3026	Development Project Coordinator	56	IBEW-G
	3015	Assistant Planner	59	CBAM
Economic/Redevelopment Group	3110	Economic Development/Redevelopment Director	88	Contract
Development Services Group	3210	Development Services Manager (Building Official)	80	CBAM
	3215	Senior Building Inspector	65	IBEW-G
	3230	Code Compliance Officer	56	IBEW-G
	3240	Building Permit Specialist	53	IBEW-G

3300-COMMUNITY SERVICES GROUP

Community Services Group	3310	Community Services Director	82	Contract
	3325	Recreation Coordinator	49	IBEW-G
	3350	Lead Bus Driver/Trainer	53	IBEW-G
	3340	Bus Driver	45	IBEW-G

4000-PUBLIC WORKS SERIES

Public Works Management Group	4010	Public Works Director	96	Contract
Streets/Parks Group	4210	Public Works Superintendent	77	CBAM
	4230	Work Release Crew Leader	45	IBEW-G
	4240	Senior Maintenance Worker	48	IBEW-G
	4250	Maintenance Worker	43	IBEW-G
	4260	Motor Sweeper Operator	48	IBEW-G

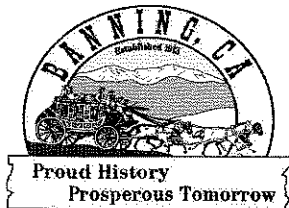
Schedule "A"

Engineering Group	4300	City Engineer	81	CBAM
	4350	Senior Civil Engineer	78	CBAM
	4320	Associate Civil Engineer	72	CBAM
	4325	Assistant Civil Engineer	64	CBAM
	4330	Public Works Inspector	60	IBEW-G
	4340	Engineering Services Assistant	46	IBEW-G
General Maintenance and Support Group	4420	Fleet Maintenance Mechanic	51	IBEW-G
	4430	Building Maintenance Specialist	47	IBEW-G
	4450	Warehouse Services Specialist	50	IBEW-G
Water/Wastewater Group	4115	Water/Wastewater Superintendent	77	CBAM
	4130	Water Crew Supervisor	58	IBEW-U
	4140	Water Services Worker	50	IBEW-U
	4155	Wastewater Collection System Supervisor	58	IBEW-U
	4145	Wastewater Collection System Technician	50	IBEW-U
	4132	Water Valve Flushing Crew Lead	54	IBEW-U
	4133	Water Construction Crew Lead	54	IBEW-U
	4131	Water Meter Crew Lead	54	IBEW-U

5000 ELECTRIC UTILITIES SERIES

Electric Services & Operations Group	5001	Electric Utility Director	96	Contract
	5021	Power Contracts & Revenue Administrator	81	CBAM
	5025	Associate Electrical Engineer	72	CBAM
	5028	Utility Financial Analyst	72	CBAM
	5030	Electric Service Planner	75	IBEW-U
	5050	Public Benefits Coordinator	53	IBEW-U
	5055	Utility Services Assistant	46	IBEW-U
	5110	Electric Operations & Maintenance Manager	81	CBAM
	5120	Powerline Crew Supervisor	77	IBEW-U
	5130	Powerline Technician	73	IBEW-U
	5140	Powerline Apprentice	65 / 71	IBEW-U
	1340	Lead Field Service Representative	53	IBEW-U
	1325	Field Service Representative	49	IBEW-U
	5160	Electric Meter Test Technician	73	IBEW-U
	5170	Apprentice Electric Meter Test Technician	65 / 71	IBEW-U

EXHIBIT “B”



CITY OF BANNING, CALIFORNIA

Payroll Coordinator

Job Code: 1135

FLSA ☐ Exempt ☒ Non-Exempt

JOB DEFINITION: Under general supervision, performs routine to moderately complex technical and specialized duties in the preparation, processing and maintenance of the City-wide payroll and related records; and performs related duties as assigned.

ESSENTIAL FUNCTIONS: *The following duties ARE NOT intended to serve as a comprehensive list of all duties performed by all employees in this classification. Shown are duties intended to provide a representative summary of the major duties and responsibilities. Incumbent(s) may not be required to perform all duties listed and may be required to perform additional, position-specific duties.*

REPRESENTATIVE DUTIES: Depending on the area of the assignment, duties may include, but are not limited to the following:

Reviews and processes payroll action forms and resolves discrepancies with Human Resources; ensures employees are correctly set up in the payroll system; verifies, audits, edits and processes biweekly employee payroll in accordance with City policies and procedures and labor contract agreement provisions; generates reports and verifies accurate reporting of changes in pay, payroll status, benefits, taxes and other deductions, as well as retroactive pay adjustments and terminations; verifies and edits attendance and work hours data entered by departments; works with departments to resolve reporting problems and errors; enters work hours, leaves taken, overtime and account codes for employees with labor distribution and for part-time employees; processes adjustments to individual employee pay to correct errors; processes employee payroll deductions, benefits elections and tax changes; monitors eligibility dates and initiates set up of annual enrollments/increases and floating holiday accruals. Processes and data enters special payroll transactions, such as wage assignments, liens, and child support payments; makes payroll system adjustments to ensure appropriate payroll tax treatment of retroactive and other special wages; generates and checks preliminary and final payroll reports and registers; runs leave accrual processes; generates paychecks; processes void and reissued paychecks; ensures timely and accurate posting of payroll to the financial accounting system and generates electronic bank deposits; generates and distributes a variety of system reports and ensures appropriate documentation for audit purposes. Posts deduction and benefit amounts to subsidiary ledger accounts; prepares payment authorizations for vendors; generates EFT transfers for tax deposits; reconciles quarterly tax reports to the general ledger; prepares and submits quarterly tax returns and media files for transmission; reconciles payroll liability accounts, resolves discrepancies and posts adjusting journal entries; responsible for required maintenance of payroll software. Answers department and employee questions regarding payroll and benefits deductions by explaining requirements, policies and procedures; responds to requests for salary verification. Researches and remains current on Federal and State payroll tax law changes, pension, benefits and other applicable regulations affecting payroll. Maintains required files and records; researches transaction history to verify payroll totals, accruals and audit questions. Performs user testing of system updates. Attends a variety of meetings, training sessions and seminars as required. May oversee the work of temporary employees assigned to work area. Performs related duties and responsibilities as assigned.

(continued on reverse side)

CITY OF BANNING, CALIFORNIA

Payroll Coordinator

Job Code: 1135

KNOWLEDGE AND SKILLS:

- Federal, State and City laws, regulations, rules and guidelines applicable to timekeeping, payroll preparation and pay reporting.
- Methods, practices, documents and terminology used in processing payroll transactions and in payroll recordkeeping.
- The City's payroll system and associated practices and procedures for processing payroll information and interpreting input and output data.
- Payroll and deductions policies, practices and procedures, including garnishment and employment verification.
- Records management and file maintenance procedures.
- Standard office practices and procedures.
- Principles and practices of quality customer service and sound business communication.
- The City's human resources policies and labor contract provisions.
- Operate a computer using word processing, spreadsheet and accounting system applications; operate a calculator and other standard office equipment.
- Organize, set priorities and exercise sound judgment within established guidelines.
- Interpret, apply and reach sound decisions in accordance with City rules, policies and department procedures.
- Make calculations and tabulations and review payroll and related documents and information with speed and accuracy.
- Understand and follow written and verbal instructions.
- Learn and apply new information.
- Schedule, organize, analyze and complete work in accordance with established guidelines.
- Prepare clear and accurate payroll records and reports.
- Prepare and maintain accurate and complete specialized records and files.
- Communicate clearly and effectively, both orally and in writing, and work cooperatively with employees, customers, the general public, vendors, co-workers, department representatives, supervisors, management and others encountered in the course of work.
- Exercise tact and diplomacy in dealing with sensitive, complex and confidential payroll issues and situations.
- Maintain complete confidentiality of sensitive employee information.

MINIMUM QUALIFICATIONS: Three years of progressively responsible experience in payroll, tax and insurance deductions and employee customer service. Experience in municipal payroll operations is desirable. An Associate's degree with major coursework in accounting, bookkeeping or a closely related field. A Bachelor's degree is preferred.

ADDITIONAL REQUIREMENTS: Must have and maintain a valid California Class C Driver's License.

COUNCIL AGENDA

DATE: **October 11, 2011**

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

FROM: **June Overholt, Administrative Services Director/Deputy City Manager**

SUBJECT: **Authorize the Administrative Services Director to amend the budget and make any necessary budget adjustments, appropriations and transfers related to the General Fund transfer to/from the Gas Tax fund.**

RECOMMENDATION:

- Authorize the recommended strategy for Fiscal Year 2010-11 regarding the General Fund MOE (maintenance of effort) transfers and Gas Tax fund balance.
- Authorize the Administrative Services Director to amend the budget and make any necessary budget adjustments, appropriations and transfers related to the General Fund transfer to the Gas Tax fund.

DISCUSSION:

Each year, staff prepares reports, required by the County, which provide the status of funds spent on street maintenance and projects. The report distinguishes between restricted funds and discretionary funds. Restricted funds include Gas Tax and Measure A. Discretionary funds include the General Fund transfer of \$254K to the Gas Tax fund and street related work performed by Engineering and Public Works that are paid from the General Fund. Restricted funds are expended first, and then discretionary funds are spent.

Measure A funds have a MOE requirement which the City has been funding through the discretionary funds described above. MOE requirements are similar to a grant that has a matching fund requirement. In essence, in order for the City to receive Measure A funds, it must spend a certain amount of its own discretionary funds each year.

Staff recently learned from the County that the MOE requirements for Fiscal Year 2011 (FY11) have already been met without the need to use additional discretionary funds due to an existing MOE balance that has been tracked by the County. This MOE balance ends with FY11. Because the MOE requirements have been met for several years without the need to transfer General Fund resources, staff is recommending several actions related to FY11:


- 1) Eliminate the budgeted General Fund transfer to the Gas Tax fund of \$254,735
- 2) Transfer the available Fund balance in the Gas Tax fund back to the General Fund.

- 3) Establish a General Fund Balance "commitment" of \$317,000 in the audited financial statements to fund future MOE requirements.


The MOE requirements for FY12 and future years have been calculated at \$317K per year. The FY12 approved budget includes a General Fund transfer of \$254,735 to Gas Tax as part of the MOE compliance requirements. In the event that other qualifying discretionary spending is not sufficient to meet the MOE requirements, it is expected that the General Fund will make up the difference. Establishing a "commitment", which is similar to a reserve, sets aside the funds for this need.

FISCAL DATA: The elimination of the FY11 transfer of \$254,735 and the transfer of approximately \$400,000 in remaining available fund balance will provide relief to the General Fund. It does reduce available resources for street projects. However, per the FY12 budget document, over \$1 million is currently available in Gas Tax AB2928 and Measure A funds for future street projects.

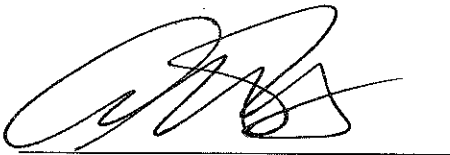
RECOMMENDED BY:


June Overholt
Administrative Services Director/
Deputy City Manager

REVIEWED BY:


Duane Burk
Public Works Director

APPROVED BY:


Andy Takata
City Manager

RESOLUTION NO. 2011-89

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AMENDING ITS 2010-2011 FISCAL BUDGET REGARDING THE GENERAL FUND MAINTENANCE OF EFFORT (MOE) TRANSFERS TO THE GAS TAX FUND

WHEREAS, the budget for fiscal year 2010-2011 of the City of Banning has been adopted by this Council in its original form, and said budget will need to be amended at times to fulfill the goals of the City; and

WHEREAS, the City departments may not exceed their appropriations by character of expense, with character of expense being defined as personnel services, services and supplies, capital outlay, debt service and interfund transfers, without the consent of the City Manager; and

WHEREAS, the City may transfer appropriations, between departments and within their respective funds, as long as those appropriations do not exceed their fund total unless approved by Council; and

WHEREAS, the City Departments may not hire in excess of the approved number of positions in job classification as indicated by the budget detail without the consent of the City Council; and

WHEREAS, the MOE requirements for fiscal year 2010-11 have been met without the need of a transfer from the General Fund.

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

SECTION 1: The General Fund MOE transfer to the Gas Tax fund is eliminated for Fiscal Year 2011.

SECTION 2: The available fund balance in the Gas Tax fund (Fund 100) related to previous General Fund MOE transfers is returned to the General Fund.

SECTION 3: A General Fund balance "MOE commitment" of \$317,000 will be established in Fiscal Year 2011 for future MOE requirements.

SECTION 4: The Administrative Services Director is authorized to amend the budget and make any necessary budget adjustments, appropriations and transfers related to the General Fund MOE and Gas Tax fund.

PASSED, APPROVED AND ADOPTED this 11th day of October 2011.

Barbara Hanna, Mayor
City of Banning

67

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

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

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2011-54 was duly adopted by the City Council of the City of Banning, California, at a special meeting thereof held on the 28th day of June, 2011, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

68

CITY COUNCIL AGENDA

Date: October 11, 2011
TO: City Council
FROM: David J. Aleshire, Aleshire & Wynder, City Attorney
SUBJECT: Rotational Mayor Ordinance—First Reading of Ordinance No. 1442

RECOMMENDATION: Waive further reading and adopt the attached Ordinance No. 1442 establishing a rotation of the mayoral seat, entitled as follows:

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF BANNING, CALIFORNIA, SETTING FORTH A
PROCEDURE FOR THE ROTATION OF THE OFFICE OF
MAYOR AND OTHER POSITIONS HELD BY
COUNCILMEMBERS**

JUSTIFICATION: The City Council has expressed the opinion that each member elected to the Council is equally qualified and deserving to hold the offices of Mayor, Mayor Pro Tempore and chair/vice chair of various City boards. The use of a rotational appointment system for these offices is proposed for the Council's consideration in order to give all Councilmembers ample opportunity to serve in these offices. Moreover, a rotational system can encourage a spirit of cooperation in that each councilmember will eventually need their colleague's votes. This Ordinance No. 1442 is proposed pursuant to the Council's direction at the June 15, 2011, joint meeting.

BACKGROUND: Resolution 2003-06 currently states that the City Council appoints one of its members as Mayor and another as Mayor Pro Tem and each may serve a maximum of two consecutive one (1) year terms in office. There has been no regular process for determining which Councilmember should be appointed to these offices, which has occasionally resulted in disputes and controversy adversely affecting working relationships among Councilmembers. Additionally the Councilmembers serve on the boards of the Redevelopment Agency, and Housing Authority, and serve as chair and vice chair of these entities, and could rotate these various offices amongst themselves in an orderly basis. A rotational system could fairly give each City Council member an opportunity to serve as Mayor and could provide appropriate training by rotating Councilmembers through positions of greater visibility and responsibility.

Proposed Ordinance No. 1442 sets a rotation for the appointment of the offices of Mayor, Mayor Pro Tempore, and chair/vice-chair of the Redevelopment Agency and Housing Authority. The rotation is implanted each year via an "Annual Organization Meeting" that is held in December of each year. At the Annual Organization Meeting, the Mayor shall be appointed by a majority vote of the Councilmembers; the Ordinance states that the person appointed to be the new Mayor shall be the Mayor Pro Tem, with all other officers rotating into their new positions in accordance with the following rotational succession list:

- (a.) Mayor
- (b.) Mayor Pro Tem
- (c.) Chair of the Agency
- (d.) Chair of the Housing Authority
- (e.) Vice Chair of the Agency and Vice Chair of the Authority.

With the rotation of the person holding the office of Mayor, all other members shall move up one position, in order that the outgoing Mayor Pro Tem shall become the new Mayor, the outgoing chair of the Agency shall become the new Mayor Pro Tem, and the outgoing chair of the Authority shall become the new chair of the Agency.

FISCAL DATA: No fiscal impacts are expected.

RECOMMENDED BY:

David J. Aleshire, City Attorney

REVIEWED/APPROVED BY:



Andrew Takata, City Manager

ORDINANCE NO. 1442

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF BANNING, CALIFORNIA, SETTING
FORTH A PROCEDURE FOR THE ROTATION OF
THE OFFICE OF MAYOR AND OTHER POSITIONS
HELD BY COUNCILMEMBERS**

WHEREAS, Councilmembers of the City Council of the City of Banning serve as Mayor and Mayor Pro Tem, and also as officers of the Redevelopment Agency and Housing Authority; and

WHEREAS, in the past, as provided in Resolution 2003-06, the City Council has appointed one of its members as Mayor and another as Mayor Pro Tem and each may serve a maximum of two consecutive one (1) year terms in office; and

WHEREAS, there has been no regular process for determining which Councilmember should be appointed to these offices, which has occasionally resulted in disputes and controversy adversely affecting working relationships among Councilmembers; and

WHEREAS, the office of the Mayor while generally under state law has no greater legal authority than other Councilmembers, yet the office is the visible representative and spokesperson for the City, and is a point of coordination between the City Manager and City Council; and

WHEREAS, it is the City Council's opinion that each member elected to the Council is equally qualified and deserving to hold these offices, and each Councilmember should be given ample opportunity to serve in one or both of these offices; and

WHEREAS, additionally the Councilmembers serve on the boards of the Redevelopment Agency, and Housing Authority, and serve as chair and vice chair of these entities, and could rotate these various offices amongst themselves in an orderly basis; and

WHEREAS, a rotational system could fairly give each City Council member an opportunity to serve as Mayor and could provide appropriate training by rotating Councilmembers through positions of greater visibility and responsibility; and

WHEREAS, the City Council wishes to distribute the duties, responsibilities, and recognition arising from the holding of City offices evenly and fairly so that during a Councilmember's four-year term, they will have the opportunity to serve in the maximum number of capacities; and

WHEREAS, a rotational mayor system encourages City Council harmony and good relations among its members.

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

SECTION 1. Section II.B.2.3 of the Rules of the City Council is replaced by the provisions hereof.

SECTION 2. A new Section 2.04.070 is added to the Banning Municipal Code to read, in its entirety, as follows:

2.04.070. Rotation of Mayor and Other Offices.

A. General. The City of Banning has a council/manager form of City government. All five (5) members of the City Council are elected at large to four (4) year terms. Additionally, the City has related agencies including the Community Redevelopment Agency and Housing Authority. These entities have various officers, including chair person and vice chair person. The City Council believes that all councilmembers have the capability of performing these offices and should be given the opportunity to do so through a rotational system.

B. Rotation of Councilmembers through the Office of Mayor and other offices.

1. The Mayor shall be selected by a majority vote of the Councilmembers in [mo] of each year, which shall be known as the Annual Organization Meeting, for a one (1) year term.
2. The persons serving as councilmembers of the City shall rotate through certain offices of the City and its constituent agencies in the order stated below, with the person serving as mayor rotating to holding the offices of vice chair of the Agency and vice chair of the Authority, or the highest unfilled office available in the rotation after the rotation of other incumbent councilmembers (pursuant to the "rotational succession list" below), following their completion of their term as mayor.
 - (a.) Mayor
 - (b.) Mayor Pro Tem
 - (c.) Chair of the Agency
 - (d.) Chair of the Housing Authority
 - (e.) Vice Chair of the Agency and Vice Chair of the Authority
3. With the rotation of the person holding the office of mayor, all other members shall move up one position, in order that the outgoing mayor pro tem shall become the new mayor, the outgoing chair of the Agency shall become the new mayor pro tem, and the outgoing chair of the Authority shall become the new chair of the Agency.

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4. At the first Annual Organizational Meeting following any Council election, the rotation to the highest available office shall be made amongst the incumbent councilmembers. Thereafter, the unfilled offices shall be filled by any newly elected member of the Council. If there is more than one newly elected member, then the order among the new members shall be determined by the person who received the highest number of votes at the election taking the highest available office.

C. Removal

With a majority vote of the body, any officer holding any office governed by the rotational policy may be replaced, but in general, such changes should not be made in midterm, and if made, the rotation established hereunder shall be utilized to advance every officer to the next level

D. Vacancies

Any Councilmember appointed to fill a vacancy shall be added immediately to the bottom of the rotational succession list, and all other members on the succession list shall move up to a higher ranked position, if any.

E. Office of the Mayor Pro Tem.

The mayor pro tem will serve as mayor in the event of the absence of the mayor and will be appointed as the mayor when there is a vacancy in the office of mayor. The selection of the mayor pro tem will follow the rotation policy stated above in 2.04.070(A).

F. Duties.

The mayor, if present, shall preside as Chairperson at all meetings of the City Council. In the absence of the mayor, the mayor pro tem shall preside. In the absence of both the mayor and mayor pro tem, the next officer in the rotation succession list shall serve as chairperson. The chairperson shall preserve order and decorum. The chairperson may make or second any motion and present and discuss any matter as a member of the City Council. The person serving as mayor accepts the responsibility to be the City's official representative for all events where representation is necessary, except where otherwise provided by the Council, and for signing all contracts and official documents and correspondence.

SECTION 3. Initial Selection.

Following the adoption of this ordinance, the first Annual Organizational Meeting shall be held on December 2012. At that time all Councilmembers shall be assigned to

the rotational succession list by majority vote, decided for each office in succession from highest to lowest. Thereafter, in successive annual organizational meetings, the rotational succession list shall be strictly followed as provided herein.

SECTION 4. Supersedes.

The provisions of this ordinance supersede any conflicting resolutions or ordinances, and any such resolutions or ordinances shall be construed in such a manner as to carry out the intent of this ordinance.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2011.

Barbara Hanna, Mayor
City of Banning California

ATTEST:

Marie Calderon, City Clerk
City of Banning, California

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

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1442 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 11th day of October, 2011, and was duly adopted at a regular meeting of said City Council on the _____ day of _____, 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

CITY COUNCIL AGENDA

Date: October 11, 2011

TO: Honorable Mayor and City Council

FROM: Fred Mason, Electric Utility Director

SUBJECT: Resolution No. 2011-88 Approving Execution of a Memorandum of Understanding for the Assignment of the City of Banning's San Juan Unit 3 Entitlement Rights and Ownership Interest to the Utah Association of Municipal Power Systems

RECOMMENDATION: The City Council approve the execution of a Memorandum of Understanding (MOU) for the assignment of the City of Banning's San Juan Unit 3 entitlement rights and ownership interest to the Utah Association of Municipal Power Systems (UAMPS), attached herewith as Exhibit "A".

JUSTIFICATION: With the current regulatory environment in California and the cost uncertainty regarding energy generated from coal burning generation facilities, it is in the best interest of the City to divest of its San Juan Unit 3 interests.

BACKGROUND: California passed Assembly Bill 32 (AB32) the California Global Warming Solutions Act in 2006, which established the first comprehensive program of regulatory and market mechanisms to achieve significant and quantifiable reductions of greenhouse gases (GHG). One of the market mechanisms being implemented is a Cap & Trade program for emission credits, which could have a significant impact on the cost of electricity generated from coal plants.

To mitigate this cost uncertainty, and to also reduce the amount of brown power in its generation asset portfolio, Banning Electric Utility staff started looking at the feasibility of divesting its 20 megawatt (MW) portion of San Juan Unit 3 interests. The City of Azusa, also a Southern California Public Power Authority (SCPPA) member, has expressed a similar strategic goal for its 30 MW portion of San Juan Unit 3.

The Utah Association of Municipal Power Systems presently has an ownership interest in San Juan Unit 4 and desires to obtain additional "baseload" power supplies for a subset of its members with needs for such a power resource in their portfolio. UAMPS was established in 1980 under the Utah Interlocal Cooperation Act, and is a political subdivision of the State of Utah. UAMPS' purposes include the planning, financing, development, acquisition, construction, operation and maintenance of various projects for the generation, supply, transmission and management of electric energy for the benefit of its 51 Members across eight states. UAMPS presently has involvement in 15 different power supply projects.

The first step toward consummating definitive, binding contract arrangements with UAMPS related to the sale of San Juan is the negotiation and execution of a Memorandum of Understanding. The MOU provides a roadmap for the development of a final, definitive agreement between the parties.

Key terms of the Banning/Azusa/UAMPS Memorandum of Understanding are as follows:

- UAMPS will acquire the entirety of Banning's and Azusa's 50 MW rights in San Juan with the final level subject to confirmation of subscription interest by UAMPS members.
- The transaction will be in two phases.
 - The first phase is for the "layoff" of San Juan capacity and energy to UAMPS with a projected start date of not later than July 1, 2012. UAMPS would pay all costs related to the seller's interest in San Juan during Phase 1.
 - The second phase would involve the permanent transfer of ownership rights to UAMPS. This phase cannot occur when Banning/Azusa has debt service related to outstanding bonds. As such, the timing of Phase 2 could be as early as January 1, 2015 or as late as March 1, 2020.
- UAMPS would be responsible for all Environmental Protection Agency (EPA) required Selective Catalytic Reduction (SCR) expenditures on and after January 1, 2012. (Banning's share of SCR costs is estimated to be about \$9.4 million).
- Banning/Azusa would transfer their share of San Juan related transmission delivery rights to UAMPS, but initiation of the Phase 1 is contingent on UAMPS obtaining needed transmission services for deliveries to its members.
- San Juan related reserve funds contributed by Banning would be returned to Banning as more fully provided in the final agreement.

UAMPS and Banning/Azusa will strive to consummate definitive/final/binding agreements by March 1, 2012. The cities are utilizing member service agreements available from SCPPA for legal services on the proposed transaction. Lead counsel for contract development will be Fulbright & Jaworski, which is SCPPA's bond counsel and has been involved in SCPPA's San Juan Unit 3 arrangement from day one. In addition to Fulbright & Jaworski, an attorney with broad industry power supply background from Cooper & Bruning LLP will provide assistance.

A copy of the proposed Banning/Azusa/UAMPS Memorandum of Understanding is attached herewith as Exhibit "A". Any minor modifications that may be needed prior to execution will be reviewed and approved by legal counsel. Staff recommends that the City Council approve execution of said MOU.

FISCAL DATA: The legal costs related to the proposed San Juan transaction may be up to \$100,000. However, such costs are being shared on pro rata basis with Azusa based on San Juan ownership shares (40% Banning and 60% Azusa). Banning's share of these costs will be billed by SCPPA to the City as a San Juan project expense, and funds are available in the FY 2011-12 budget.

RECOMMENDED BY:



Fred Mason
Electric Utility Director

APPROVED BY:



Andrew J. Takata
City Manager

RESOLUTION NO. 2011-88

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING FOR THE ASSIGNMENT OF THE CITY OF BANNING'S SAN JUAN UNIT 3 ENTITLEMENT RIGHTS AND OWNERSHIP INTEREST TO THE UTAH ASSOCIATION OF MUNICIPAL POWER SYSTEMS

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

WHEREAS, California Assembly Bill 32 established regulatory and market mechanisms to achieve significant and quantifiable reductions of greenhouse gases; and

WHEREAS, these market mechanisms could have a significant impact on the cost of electricity generated from coal plants; and

WHEREAS, the City has a 20 megawatt interest in the San Juan Unit 3 coal plant; and

WHEREAS, the City wishes to mitigate its cost uncertainty and also reduce the amount of brown power in its generation asset portfolio; and

WHEREAS, the City of Azusa, also a Southern California Public Power Authority (SCPPA) member, has expressed similar strategic goals for its 30 megawatt portion of San Juan Unit 3; and

WHEREAS, the Utah Association of Municipal Power Systems (UAMPS), which currently has an ownership interest in San Juan Unit 4, has expressed a desire to obtain additional power supplies for a subset of its members; and

WHEREAS, UAMPS desires to enter into an agreement to acquire the entirety of Banning's and Azusa's 50 megawatt rights in San Juan Unit 3; and

WHEREAS, Banning and Azusa will be using Fulbright & Jaworski as lead counsel for contract development, since they have been involved with all SCPPA San Juan Unit 3 activities from the start and are well situated to negotiate this transaction; and

WHEREAS, the parties have developed a Memorandum of Understanding (MOU) as the first step towards the development of a final and definitive agreement between the parties; and

WHEREAS, the City wishes to enter into said MOU with Azusa and UAMPS, attached herewith as Exhibit "A"; and

WHEREAS, the legal costs related to the proposed San Juan Unit 3 transaction may be up to \$100,000, and will be shared on a pro rata basis with Azusa based on San Juan ownership shares (40% Banning and 60% Azusa); and

WHEREAS, SCPPA will bill Banning's share of this cost as a San Juan project expense, and funds are available in the Electric Utility's FY 2011-12 budget;

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

SECTION 1. Adopt Resolution No. 2011-88 approving the execution of the MOU between Banning, Azusa and UAMPS, and authorize the City Manager, or his designee, to execute and administer said MOU.

SECTION 2. Authorize Staff to utilize Fulbright & Jaworski to develop a final and definitive agreement on Banning's behalf, between the parties, for further Council approval.

SECTION 3. Authorize the Mayor to execute Resolution No. 2011-88. Said authorization shall become void if not executed within 30 days of the effective date of this resolution.

PASSED, ADOPTED AND APPROVED this 11th day of October 2011.

Barbara Hanna, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk

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

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

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2011-88 was duly adopted by the City Council of the City of Banning, California at a regular meeting thereof held on the 11th day of October 2011 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

Exhibit “A”

MEMORANDUM OF UNDERSTANDING

ACQUISITION OF RIGHTS IN SAN JUAN 3

BACKGROUND

Southern California Public Power Authority ("SCPPA") owns a 41.8% undivided interest in Unit 3 of the San Juan Generating Station ("SJ3"), a 20.9% undivided interest in the facilities common to San Juan Units 3 and 4, and a 12.71% interest in the facilities common to all four units at the San Juan Generating Station ("SCPPA's SJ3 Ownership Interest").

SCPPA's SJ3 Ownership Interest is held pursuant to the Amended and Restated San Juan Project Participation Agreement, dated March 23, 2006 (the "Participation Agreement") among the several owners of interests in the San Juan Generating Station (the "SJ Participants"). SCPPA's SJ3 Ownership Interest represents approximately 208 MW of capacity.

SCPPA has sold all of the capacity and energy from SCPPA's SJ3 Ownership Interest to several of its members under the San Juan Unit 3 Project Power Sales Contracts, dated as of January 1, 1993 (the "Power Sales Contracts"). Under the Power Sales Contracts, Azusa and Banning have Purchaser Shares equal to 14.707% and 9.8047%, respectively, of the capacity and energy of SCPPA's SJ3 Ownership Interest and the corresponding obligation to pay for, on a take-or-pay basis, a corresponding percentage of all costs of SCPPA's SJ3 Ownership Interest ("SJ3 Entitlement Rights").

The SJ3 Entitlement Rights of Azusa and Banning represent approximately 30.5 MW and 20.3 MW of capacity, respectively of the capacity of SJ3 which in turn represents a 10.2452% undivided interest in SJ3, a 5.1226% undivided interest in the facilities common to San Juan Units 3 and 4, and a 3.1152% interest in the facilities common to all four units at the San Juan Generating Station (the "Transferred Ownership Interest"). SCPPA has outstanding bonds that financed SCPPA's SJ3 Ownership Interest; the San Juan Power Project Revenue Bonds, 2002 Refunding Series A, which have a final maturity on January 1, 2014, and San Juan Power Project Revenue Bonds, 2005 Refunding Series A, which have a final maturity on January 1, 2020 (collectively, the "Bonds"). The 2005 Refunding Series A Bonds are subject to optional redemption by SCPPA at par (plus accrued interest) on January 1, 2015. SCPPA, Azusa and Banning have each agreed that they will not take any action that will adversely affect the tax exempt status of interest on the Bonds.

INTENT OF PARTIES

Azusa and Banning ("Cities") desire to assign and sell, and Utah Associated Municipal Power Systems ("UAMPS") desires to accept and purchase, SJ3 Entitlement Rights in accordance with the terms set forth below ("Terms"), subject to the development of definitive agreements consistent with the Terms.

TERMS

1. Transaction will be completed in two steps or phases. Phase 1 (contemplated to be implemented by not later than July 1, 2012) would include assignment to and the assumption by UAMPS of all of the Cities' SJ3 Entitlement Rights under the Power Sales Contracts. Phase 2, contemplated to be completed as early as January 1, 2015 but no later than March 1, 2020 (i.e., promptly following the redemption, retirement or defeasance date of all of the Bonds and the transfer by SCPPA of the appropriate amount of SCPPA's SJ3 Ownership Interest to the Cities), would entail the sale of the Transferred Ownership Interest to UAMPS, and the assumption by UAMPS of obligations and liabilities relating to the Transferred Ownership Interest under the terms of the Participation Agreement.
2. Following the assignment to UAMPS of the Cities' SJ3 Entitlement Rights under the Power Sales Contracts, the Cities will consult with UAMPS and would take all practicable actions, to the extent possible under existing agreements, to effectuate the directions of UAMPS with respect to SJ3 Entitlement Rights.
3. Following the assignment to UAMPS of the Cities' SJ3 Entitlement Rights, all SCPPA charges relating to Cities' SJ3 Entitlement Rights (no markup or adders by Cities) will be paid by UAMPS until transfer of the Transferred Ownership Interest to UAMPS.
4. Costs, if any, related to the addition of selective catalytic reduction and associated systems and facilities ("SCR") to SJ3 that are paid by the Cities prior to January 1, 2012, shall be the responsibility of the Cities. Costs, if any, related to SCR additions to SJ3 that are paid by the Cities on or after January 1, 2012, shall be refunded to the Cities by UAMPS at the time of (and contingent upon) the implementation of Phase 1, and all SCR related costs shall be paid by UAMPS thereafter.
5. The assignment of SJ3 Entitlement Rights and the sale of the Transferred Ownership Interest are each on an "as is" basis – no representations or warranties regarding SJ3 by the Cities.
6. As part of the SJ3 Entitlement Rights, Cities will transfer to UAMPS the right to accept delivery of San Juan Unit 3 energy at points of delivery available to Cities from time to time pursuant to the Amended and Restated Interconnection Agreement between Tucson Electric Power Company and Century Power Corporation (as assigned to SCPPA). Presently, those points include the Westwing 500KV Switchyard, the PVNGS 500 KV Switchyard, the Four Corners 345 KV Switchyard and the San Juan 345 KV Switchyard.
7. The assignment of the SJ3 Entitlement Rights and sale of the Transferred Ownership Interest shall not result in "private business use" or otherwise adversely affect the tax exempt status of interest on the Bonds under laws and regulations applicable to tax exempt indebtedness, as concluded by SCPPA's bond counsel.
8. The Cities and UAMPS agree to take all commercially reasonable steps to execute definitive documents to effectuate the assignment of SJ3 Entitlement Rights and the sale of the Transferred Ownership Interest consistent with these Terms no later than March 1, 2012.

9. UAMPS' obligation to enter into the transactions contemplated by this Memorandum of Understanding is contingent upon (a) the execution of long-term, take-or-pay power sales contracts between UAMPS and participating member municipal utilities providing for the purchase and sale of all of the capacity and energy from the SJ3 Entitlement Rights and the Transferred Ownership Interest, and (b) UAMPS obtaining sufficient transmission rights to deliver the capacity and energy related to SJ3 Entitlement Rights to UAMPS loads. UAMPS shall make necessary third party application(s) for transmission service as early as possible but not later than October 31, 2011.
10. The Cities agree not to market their SJ3 Entitlement Rights to any third parties and UAMPS agrees not to pursue acquisition of other power resources in lieu of this transaction for the UAMPS members identified in the UAMPS Fiscal 2012 Operating Budget Resource San Juan Unit 3 Coal Study.
11. The Parties will continue discussions related to the possible acquisition of up to 20 MW of power by Azusa and Banning from UAMPS' Horse Butte Wind Project.
12. The proposed business arrangements hereunder are contingent upon a San Juan 3 configuration as it exists on the date of this Memorandum of Understanding. If a fundamental change occurs in the configuration of San Juan 3, any party can call a meeting of the other parties to discuss whether this Memorandum of Understanding needs to be modified to accommodate such a change.
13. To reduce credit risk to UAMPS during Phase 1, the Cities will hold UAMPS harmless, to the extent permitted by law, with respect to any costs or liabilities arising from or with respect to a payment default by other SCPPA members under the Power Sales Contract.
14. To reduce credit risk to the Cities during Phase 1, UAMPS will post collateral (with a collateral agent mutually agreeable to the parties) in an amount equal to the estimated aggregate payments for the time period UAMPS will be granted to cure any failure to make payments before the Cities will have the right to reclaim the SJ3 Entitlement Rights assigned to UAMPS. Any collateral so posted will be returned to UAMPS upon the completion of Phase 2.
15. There are a number of San Juan related reserve funds held by SCPPA for the benefit of the Cities. The portion of these reserve funds paid by the Cities as contributions shall be returned to the Cities in their entirety. The portion of the reserve funds funded by Bond proceeds shall be shared between the Cities and UAMPS on a basis reflecting the proportionate level of Bond principal paid by each party for that particular reserve fund. As to timing, an amount equal to the Cities' share of funds in the Operating Fund and the Reserve & Contingency Fund at the beginning of Phase 1, shall be paid by UAMPS to the Cities within 60 days of the start of Phase 1. Thereafter, the funds in these accounts shall inure to the benefit of UAMPS. Similarly an amount equal to the Cities' share of the Debt Service and Debt Service Reserve Accounts shall be paid to the Cities by UAMPS concurrent with the start of Phase 2 or such earlier date that such funds become available for a particular Bond issue. To the extent other SJ3 reserve funds exist, the parties will review and address the appropriate treatment of these funds in the definitive agreements referenced in the last paragraph hereunder.

16. Under the Participation Agreement, any agreement reached by UAMPS and the Cities regarding the sale of the Transferred Ownership Interest may be subject to the consent of, or a right of first refusal by, Public Service Company of New Mexico and other parties to the Participation Agreement. UAMPS and the Cities shall cooperate with one another to obtain any consents, waivers or approvals required under the Participation Agreement.

17. This Memorandum of Understanding shall remain in effect unless or until one of the parties provides written notice to the other parties stating the Memorandum of Understanding has been terminated and the reasons for such termination. Upon termination of this Memorandum of Understanding, all obligations of the parties shall cease, each party shall bear its own costs incurred hereunder and no party shall have any further liability or obligation to any other party.

This Memorandum of Understanding represents the good-faith intentions of the parties hereto as to the key terms and conditions of the assignment of SJ3 Entitlement Rights and the sale of the Transferred Ownership Interest, and the good-faith commitments of the parties to expeditiously develop and execute definitive agreements consistent with the above Terms to complete this transaction.

Dated as of _____, 2011.

Utah Associated Municipal Power Systems

By: _____

City of Azusa, California

By: _____

City of Banning, California

By: _____

SETTLEMENT AGREEMENT & RELEASE OF ALL CLAIMS

This Settlement Agreement and Release of All Claims (the "Agreement") is entered into by and between MEMORIAL HEALTH MISSION, LLC ("Owner") and the CITY OF BANNING, a municipal corporation (the "City"), collectively referred to as (the "Parties"), to terminate fully and finally all disputes arising out of, or related to, the Dispute defined hereinafter.

RECITALS

WHEREAS, Owner owns that certain residential property at 2301 W. Wilson Street, Banning, California, APN. No. 535-070-033, (the "Site"). The Site is zoned under the Banning Municipal Code as Resident/Agricultural-Hillside use ("R/A/H"). The Site was originally a part of a much larger property. In 1979 a portion of the property was subdivided into two lots (the "residential neighborhood") and the primary access to the Site is now through the residential neighborhood.

WHEREAS, Owner has been using the Site as a commercial rental venue for large parties and assemblies, such as weddings, fundraisers, and non-profit parties. The Site is widely and publicly advertised as a rental venue and regularly serves as a rental venue. As such, the event venue uses of the Site qualify as commercial uses; and

WHEREAS, the use of the Site for commercial purposes causes numerous complaints from the residential neighborhood primarily due to the excessive traffic through the neighborhood during scheduled events; and

WHEREAS, the commercial uses of the Site are in violation of the Site's R/A/H zoning under Banning Municipal Code §§ 17.08.010 & 17.08.020. On September 29, 2011, Owner and Owner's Property Management was served with a "Notice of Violation" on behalf of the City's Code Enforcement Division, a copy of which letter is attached hereto as Exhibit "A". All facts and circumstances related to, or arising from, the Zoning Code non-compliance referenced in the Notice of Violation are hereinafter collectively referred to as the "Dispute"; and

WHEREAS, Owner contends that the Site has been used in this fashion for many years and at various times application was made for permits and changes in zoning treatment, and claims that nonconforming rights were created, and wants to avoid violating any agreements it has entered into with regard to currently scheduled events; while City believes that there are no nonconforming rights and currently scheduled events should only be permitted if no further events are scheduled; and

WHEREAS, Consistent with the terms of this Agreement, the City and Owner wish to settle the Dispute described in Exhibit "A" without resort to litigation or code enforcement prosecution. Accordingly, the Parties are executing this Agreement, whereby Owner shall take action to wind-down commercial events at the Site and bring it into compliance with City zoning laws. The City shall (i) release Owner from all code enforcement or other liability that may have arisen to date as a result of the Dispute and (ii) permit Owner to complete four party/assembly events (the "Final Events") before ceasing all commercial activities at the Site. In exchange,

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Owner shall agree to discontinue using the Site for commercial purposes, shall take down the website advertising the Site for such purposes and neither schedule nor conduct such events in the future. The use shall be limited to single family residential unless Owner receives approval for any other use legally permitted in the zone. Moreover, should Owner violate this Agreement, City is authorized to take immediate enforcement action as permitted herein.

AGREEMENT

NOW, THEREFORE, for full and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and based upon the foregoing recitals and the terms, conditions, covenants, and agreements contained herein, all Parties hereto agree as follows:

1. **Wind-Down of Commercial Events.** Following the execution of this Agreement by all Parties, and execution by their respective counsel, the Parties agree that Owner shall cease all commercial operations that are the subject of the above-described Dispute. Notwithstanding the foregoing, the Parties acknowledge that Owner shall have the right to complete four, and no more than four, large party/assembly events (the "Final Events") at the Site before ceasing all commercial operations. The Final Events that Owner is permitted to host in furtherance of this settlement are as follows:

- a. One wedding event with less than 105 attendees on October 8, 2011. This Final Event includes an overnight stay by no more than 25 people who will be renting the Site from October 7, 2011, through October 9, 2011.
- b. One wedding event with less than 100 attendees on November 12, 2011. This shall be an alcohol-free event. This Final Event includes an overnight stay by no more than 25 people who will be renting the Site from November 11, 2011, through November 13, 2011.
- c. One "Sweet 16" party with less than 100 attendees on the day of December 17, 2011. This shall be an alcohol-free event.
- d. One wedding on New Years' Eve, January 1, 2011. This Final Event includes a one-week overnight stay by no more than 25 people who will be renting the Site from December 26, 2011, through January 3, 2012. The wedding event itself shall be limited to New Years' Eve only (evening of December 31 to the morning of January 1) and shall have no more than 200 attendees. To the extent alcoholic beverages will be served, Owner shall require and warrant that such service is undertaken in compliance with all State laws regulating the distribution and sale of alcohol.

Owner shall conduct no other commercial rental events other than those Final Events listed above, and all such Final Events shall be conducted within the parameters described above. City warrants that it shall not unreasonably interfere with Owner's conduct of the Final Events. To this end, should the City undertake any routine inspections of the Site during the course of a Final Event, the City officials/employees undertaking such inspection shall be non-uniformed and shall conduct themselves in a manner that does not unreasonably disrupt or disturb the event.

Nothing in the foregoing paragraph shall apply to, or limit, the need for police response to the Site in the event of emergency or reported disturbance.

2. **Consideration for Losses/Claims.** All Parties acknowledge and agree that the City's allowance of the Final Events shall and does hereby fully and totally compensate Owner for any and all business and monetary losses or claims arising out of, or related to, the Dispute and this settlement thereof.

3. **Abeyance of Code Enforcement Process.** City shall cease the code enforcement process initiated via the September 29, 2011, Notice of Violation letter and prior in consideration of Owner's settlement under this Agreement. Owner has agreed that other than the Final Events, no further commercial events shall be advertised for or conducted on the Site. Owner shall take all steps necessary to ensure no new violations of the City Municipal Code shall occur. The occurrence of any such events on the Site, other than the Final Events, shall constitute a violation of this Agreement and a default hereunder. The Parties acknowledge by this paragraph that the City is not waiving or giving up its Constitutional police powers. All Parties are to bear their own costs and attorneys' fees incurred up to the date of this Agreement.

4. **Judicial Enforcement of Agreement.** In the event any commercial events are advertised or conducted on the Site other than the Final Events, on or after the date of this Agreement, the City may take immediate action to enforce the terms hereof. In the event a new violation is discovered by City Staff, the City shall notify Owner, in writing of the nature of the violation and what must be done to correct it. In the event that Owner fails to cure the violation by the time required, or if the violations are repeated, the City may immediately pursue any remedy permitted by law, including judicial enforcement. This Agreement constitutes Owner's acknowledgement that the events are commercial in nature and are not permitted by the City's zoning ordinance. The City may use this Agreement in court should Owner violate its terms. The City will be permitted to recover its attorney's fees in the event any enforcement action is required.

5. **Release of City from General Claims.** Owner hereby now and forever expressly releases and discharges the City, its agents, servants, elected and appointed officials, employees, representatives, predecessors, successors, assigns, assignors, attorneys, and independent contractors, from any and all claims, demands, disputes, controversies, causes of action, damages, rights, liabilities, obligations, costs, and expenses, if any, of whatever character and nature arising under federal, state or local laws, regulations, or ordinances, or arising in equity, present or future, known or unknown, suspected or unsuspected, arising out of or related in any way to this Agreement, the Dispute or the undertaking of the Final Events pursuant to this Agreement.

Said release and waiver includes, but is not limited to, any and all claims arising from alleged property rights, wrongful death or any other personal injury or harm, due process rights, contract rights or breaches, loss of business or business profits, public policy violations, discrimination, harassment, civil rights violations under any federal, state, or local law or emotional distress, save and except only the obligations and rights expressly created or preserved by this waiver.

6. **Discovery of Different or Additional Facts.** The Parties acknowledge that they may hereafter discover facts different from or in addition to those that they now know or believe to be true with respect to the claims, demands, causes of action, obligations, damages, and liabilities of any nature whatsoever that are the subject of the Release set forth in Paragraphs 3 through 5 of this Agreement, and expressly agree to assume the risk of the possible discovery of additional or different facts, injuries, damages and/or claims and the Parties agree that this Agreement shall be and remain effective in all respects regardless of such additional or different facts injuries, damages and/or claims.

7. **Waiver of Civil Code Section 1542.** Further, the Owner expressly agrees to waive and relinquish all rights and benefits she/he may have under Section 1542 of the Civil Code of the State of California. That section reads as follows:

"§1542. [General release; extent] A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Owner's Initials

8. **No Other Pending Actions.** The Parties each represent that they have not filed any complaint(s), cross-complaint(s) and/or charge(s) (other than the Notice of Violation) against the Owner, arising out of or relating to the Dispute, with any local, state or federal agency or court; and that if any such agency or court assumes jurisdiction of any complaint or charge against any party, or its predecessors, successors, heirs, assigns, employees, shareholders, officers, directors, agents, attorneys, subsidiaries, divisions or affiliated corporations or organizations, whether previously or hereafter affiliated in any manner, on behalf of City or any other Party, whenever filed, that Party will request such agency or court to withdraw and dismiss the matter forthwith.

9. **Successors and Assigns.** This Agreement, and all the terms and provisions hereof, shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, legal representatives, successors and assigns. Notwithstanding the foregoing, should Owner sell, transfer, assign, gift or bequeath all Owner's right title and interests to the Site to any third-party person(s) or entity(ies), this Agreement shall terminate immediately upon such sale, transfer, assignment, gift or bequeath and the purchaser/transferee/successor to the Site shall have no rights under this Agreement. To this end, any purchaser/transferee/successor to Owner's right, title and interests in the Site shall have no right to undertake the Final Events and/or otherwise conduct commercial uses upon the Site.

10. **Knowing and Voluntary.** This Agreement is an important legal document and in all respects has been voluntarily and knowingly executed by the Parties hereto. The Parties specifically represent that prior to signing this Agreement they have been provided a reasonable period of time within which to consider whether to accept this Agreement. The Parties further represent that they have each carefully read and fully understand all of the provisions of this Agreement, and that they are voluntarily, knowingly, and without coercion entering into this

Agreement based upon their own judgment. The Parties further specifically represent that prior to signing this Agreement they have had the opportunity to confer with their respective legal counsel to the extent desired concerning the legal effect of this Agreement.

11. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original but all of which shall constitute one agreement.

12. **Enforcement Costs.** Should any legal action be required to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which that party may be entitled.

13. **Injunctive Relief for Breach.** The Parties acknowledge and agree that any material violation of this Agreement is likely to result in immediate and irreparable harm for which monetary damages are likely to be inadequate. Accordingly, the Parties consent to injunctive and other appropriate equitable relief upon the institution of proceedings therefor by any other party in order to protect the rights of the Parties under this Agreement. Such relief shall be in addition to any other relief to which the Parties may be entitled at law or in equity.

14. **Severability.** Should any portion, word, clause, phrase, sentence or paragraph of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected.

15. **Waiver.** Failure to insist on compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

16. **Governing Law.** This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed under the laws of said State without giving effect to conflicts of laws principles. The Parties expressly agree that any disputes, disagreements or actions shall be venued with the Superior Court of Riverside County, State of California.

17. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties who have executed it and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied between the Parties to this Agreement. The Parties to this Agreement each acknowledge that no representations, inducements, promises, agreements, or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement, that they have not executed this Agreement in reliance on any such representation, inducement, promise, agreement or warranty, and that no representation, inducement, promise, agreement or warranty not contained in this Agreement, including, but not limited to, any purported supplements, modifications, waivers, or terminations of this Agreement shall be valid or binding, unless executed in writing by all of the Parties to this Agreement.

18. **Modifications.** Any alteration, change, or modification of or to this Agreement shall be made by written instrument executed by each party hereto in order to become effective.

IN WITNESS WHEREOF, the undersigned have executed this Settlement Agreement and Release of All Claims, consisting of a total of 6 pages, on the dates set forth below.

"OWNER"

Dated: 10/6/, 2011

MEMORIAL HEALTH MISSION, LLC

By: Erwin Dale Thomas
Erwin Dale Thomas, President

"CITY"

Dated: _____, 2011

CITY OF BANNING

By: _____
Andrew Takata
Its: City Manager

APPROVED AS TO FORM:

Dated: _____, 2011

ALESHIRE & WYNDER, LLP

By: _____
Lona N. Laymon, Asst. City Attorney

CITY COUNCIL/BANNING UTILITY AUTHORITY JOINT MEETING

DATE: October 11, 2011

TO: City Council & Banning Utility Authority

FROM: Duane Burk, Director of Public Works

SUBJECT: City Council Resolution No. 2011-87 and Banning Utility Authority Resolution No. 2011-13 UA, "Appropriating Funds for the Purchase and Installation of Diesel Particulate Filters for On-Road Diesel-Fueled Heavy-Duty Engines

RECOMMENDATION: Adopt City Council Resolution No. 2011-87 and Banning Utility Authority Resolution No. 2011-13 UA, "Appropriating Funds for the Purchase and Installation of Diesel Particulate Filters for On-Road Diesel-Fueled Heavy-Duty Engines".

JUSTIFICATION: In order to comply with California Air Resources Board regulations by the December 31, 2011 deadline, it is necessary to install diesel particulate filters on eleven City of Banning heavy duty engines on various types of equipment.

BACKGROUND: On December 8, 2005, the California Air Resources Board approved a regulation to reduce diesel particulate matter (PM) emissions from fleets operated by public agencies and utilities (PAU), Title 13 California Code of Regulations (CCR), Sections 2020, 2022, and 2022.1.

The regulation applies to any municipality or utility that owns, leases, or operates on-road diesel-fueled heavy-duty vehicles with 1960 model year or newer heavy duty engine certified greater than 0.01 grams per brake horsepower-hour particulate emission standard and a manufacturer's gross vehicle weight rating greater than 14,000 pounds.

Per Section 2022.1, the implementation schedule requires that 100% of engines requiring Best Available Control Technology (BACT) be in compliance by specified dates. The deadline dates for engine model-years 1960-2002 is December 31, 2011 and model years 2003-2006 were to be completed by December 31, 2010.

In order to comply with the regulation, it is necessary to install diesel particulate filters on eleven City of Banning heavy duty engines as listed in Exhibit "A". A diesel particulate filter (DPF) is a device designed to remove diesel particulate matter or soot from the exhaust gas of a diesel engine. Wall-flow diesel particulate filters usually remove 85% or more of the soot, and can at times (heavily loaded condition) attain soot removal efficiencies of close to 100%. A diesel-powered vehicle equipped with a functioning filter will emit no visible smoke from its exhaust pipe.

Consequently, staff requests an appropriation in the amount of \$183,026.22. The estimated completion date for the installation of diesel particulate filters is approximately 8-14 weeks. Due to the time sensitive nature, staff has proceeded with ordering necessary diesel particulate filters and parts in order to ensure compliance with the December 31, 2011 deadline.

FISCAL DATA: An appropriation from the Street, Water, Electric and Wastewater Fund reserves to the Repair/Maintenance-Equipment Accounts of each department is necessary in order to cover said expenses. Appropriations necessary from individual funds are as follows: Street (\$37,640.21), Water (\$48,182.48), Electric (\$77,109.06) and Wastewater (\$20,094.47). The estimated total project cost amounts to \$183,026.22.

RECOMMENDED BY:



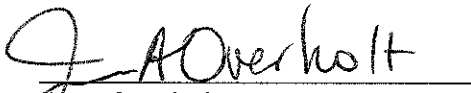
Duane Burk
Director of Public Works

REVIEWED BY:



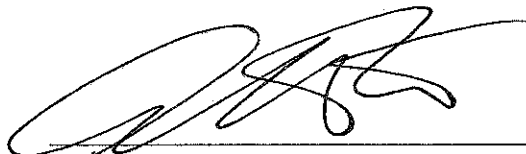
Fred Mason
Electric Utility Director

REVIEWED BY:



June Overholt
Administrative Services Director/
Deputy City Manager

APPROVED BY:



Andy Takata
City Manager

RESOLUTION NO. 2011-87

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,
CALIFORNIA, APPROPRIATING FUNDS FOR THE PURCHASE AND
INSTALLATION OF DIESEL PARTICULATE FILTERS FOR ON-ROAD DIESEL-
FUELED HEAVY-DUTY ENGINES**

WHEREAS, on December 8, 2005, the California Air Resources Board approved a regulation to reduce diesel particulate matter (PM) emissions from fleets operated by public agencies and utilities (PAU), Title 13 California Code of Regulations (CCR), Sections 2020, 2022, and 2022.1; and

WHEREAS, the regulation applies to any municipality or utility that owns, leases, or operates on-road diesel-fueled heavy-duty vehicles with 1960 model year or newer heavy duty engine certified greater than 0.01 grams per brake horsepower-hour particulate emission standard and a manufacturer's gross vehicle weight rating greater than 14,000 pounds; and

WHEREAS, per Section 2022.1, the implementation schedule requires that 100% of engines requiring Best Available Control Technology (BACT) be in compliance by specified dates and the deadline dates for engine model-years 1960-2002 is December 31, 2011 and model years 2003-2006 were to be completed by December 31, 2010; and

WHEREAS, it is necessary to install diesel particulate filters on eleven City of Banning units of equipment with heavy duty engines as listed in Exhibit "A" in order to comply with the regulation; and

WHEREAS, an appropriation in the amount of \$183,026.22 from the Street, Water, Electric and Wastewater Fund reserves to the Repair/Maintenance-Equipment Accounts of each department is necessary in order to cover said expenses with the following breakdown from each fund: Street (\$37,640.21), Water (\$48,182.48), Electric (\$77,109.06) and Wastewater (\$20,094.47).

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

SECTION 1: An appropriation in the amount of \$183,026.22 from the Street, Water, Electric and Wastewater Fund reserves is authorized with the following breakdown from each fund: Street (\$37,640.21), Water (\$48,182.48), Electric (\$77,109.06) and Wastewater (\$20,094.47).

SECTION 2: The Administrative Services Director is authorized to make the necessary budget adjustments related to these funds.

PASSED, APPROVED AND ADOPTED this 11th day of October, 2011.

Barbara Hanna, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

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

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2011-87, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 11th day of October, 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

RESOLUTION NO. 2011-13 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF BANNING, CALIFORNIA, APPROPRIATING FUNDS FOR THE PURCHASE AND INSTALLATION OF DIESEL PARTICULATE FILTERS FOR ON-ROAD DIESEL-FUELED HEAVY-DUTY ENGINES

WHEREAS, on December 8, 2005, the California Air Resources Board approved a regulation to reduce diesel particulate matter (PM) emissions from fleets operated by public agencies and utilities (PAU), Title 13 California Code of Regulations (CCR), Sections 2020, 2022, and 2022.1; and

WHEREAS, the regulation applies to any municipality or utility that owns, leases, or operates on-road diesel-fueled heavy-duty vehicles with 1960 model year or newer heavy duty engine certified greater than 0.01 grams per brake horsepower-hour particulate emission standard and a manufacturer's gross vehicle weight rating greater than 14,000 pounds; and

WHEREAS, per Section 2022.1, the implementation schedule requires that 100% of engines requiring Best Available Control Technology (BACT) be in compliance by specified dates and the deadline dates for engine model-years 1960-2002 is December 31, 2011 and model years 2003-2006 were to be completed by December 31, 2010; and

WHEREAS, it is necessary to install diesel particulate filters on eleven City of Banning units of equipment with heavy duty engines as listed in Exhibit "A" in order to comply with the regulation; and

WHEREAS, an appropriation in the amount of \$183,026.22 from the Street, Water, Electric and Wastewater Fund reserves to the Repair/Maintenance-Equipment Accounts of each department is necessary in order to cover said expenses with the following breakdown from each fund: Street (\$37,640.21), Water (\$48,182.48), Electric (\$77,109.06) and Wastewater (\$20,094.47).

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

SECTION 1: An appropriation in the amount of \$183,026.22 from the Street, Water, Electric and Wastewater Fund reserves is authorized with the following breakdown from each fund: Street (\$37,640.21), Water (\$48,182.48), Electric (\$77,109.06) and Wastewater (\$20,094.47).

SECTION 2: The Administrative Services Director is authorized to make the necessary budget adjustments related to these funds.

PASSED, ADOPTED AND APPROVED this 11th day of October, 2011.

Barbara Hanna, Chairman
Banning Utility Authority

ATTEST:

Marie A. Calderon, Secretary
Banning Utility Authority

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

David J. Aleshire, Authority Counsel
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, Secretary to the Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2011-13 UA was adopted by the Banning Utility Authority of the City of Banning at its joint meeting thereof held on the 11th day of October, 2011.

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, Secretary
Banning Utility Authority

EXHIBIT "A"

CITY OF BANNING VEHICLE REQUIRING DIESEL PARTICULATE FILTERS

Department	Unit #	Vehicle Make	Vehicle Year	Engine Make	Engine Year	EFN	Application
Electric	334	GMC	1994	Caterpillar	1994	RCP403DZDAAA	On-Road
Electric	335	Freightliner	1998	Cummins	1997	VCE505D6DABW	On-Road
Electric	336	Freightliner	2003	Caterpillar	2001	1CPXH0442HBK	On-Road
Electric	337	International	2004	International	2003	3NVXH0466ANB	On-Road
Electric	339	International	2006	International	2005	5NVXH0466AEA	On-Road
Street	600	Tympco	2001				On-Road
Street	612	GMC	1991	Caterpillar	1990	LCT0403F2D3	On-Road
Water	808	GMC	1991	Caterpillar	1990	LCT0403F2D3	On-Road
Water	809	International	2002	International	2001	1NVXH0466ANA	On-Road
Water	832	Ford	1995	Cummins	1994	RCE661EJDARA	On-Road
Wastewater	903	Hydro-Tek	2007	Cummins	2006	6CEXH0661MAT	On-Road