

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

October 25, 2011
5:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

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.

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 – Joint Meeting – 10/11/11 (Closed Session).	1
2.	Approval of Minutes – Regular Meeting – 10/11/11.	2
3.	Ordinance No. 1442 – 2 nd Reading: 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.	20
4.	Approve Amendment to Contract with Norman A. Traub Associates for Investigation Services for the City of Banning Police Department	25
5.	Resolution No. 2011-90, Authorizing the Purchase and Installation of Thirteen (13) Bus Shelters, Forty (40) Bus Benches, and Thirteen (13) 32 Gallon Trash Receptacles in an Amount “Not to Exceed” \$145,590.18.	26
6.	Resolution No. 2011-91, Authorizing the Submittal of an Application, Acceptance of An Allocation of Funds and Execution of a Grant Agreement with the California Department of Transportation, for an Airport Improvement Program Matching Grant.	30
7.	Notice of Completion for Project 2011-02EL Replacement of City of Banning Yard Office Building HVAC Duct Work System	34

- Open for Public Comments
- Make Motion

V. PUBLIC HEARINGS

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

1.	City Business Permit for Lexxiom Medical Services, Inc. Staff Report	38
	Recommendation: That the City Council review and consider approving a City Business Permit for Lexxiom Medical Services, Inc. to provide medical transport services within the city limits of Banning.	

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

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

VII. 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 (*Nov. 8 –study session @ 3 p.m.*)
4. Polices & Procedures for Applicant re. Projects and Applicants for Commissions & Committees
5. Report on the Five-Year Water Plan

VIII. ADJOURNMENT

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Thursday, 8 a.m. to 5 p.m.

NOTICE: Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor and Council. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda, but is of interest to the general public and is an item upon which the Mayor and Council may act. A three-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor and Council. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to “share” his/her three minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and Council on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of Section 54954.2 of the Government Code.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (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].

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/11/2011
JOINT MEETING

A joint meeting of the Banning City Council and the Community Redevelopment Agency was called to order by Mayor Hanna on October 11, 2011 at 4:03 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
Zai Abu Bakar, Community Development Director
Duane Burk, Public Works Director
Marie A. Calderon, City Clerk/Secretary

CLOSED SESSION

City Attorney announced that the Agency Board and City Council will meet in regards to three cases of potential litigation pursuant to Government Code Section 54956.9 to give a status report.

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

Meeting went into closed session at 4:04 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 4:33 p.m.

Marie A. Calderon, City Clerk

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/11/11
REGULAR MEETING

A regular meeting of the Banning City Council and a Joint Meeting of the Banning City Council and Banning Utility Authority was called to order by Mayor Hanna on October 11, 2011 at 5:02 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 Director
Leonard Purvis, Police Chief
Phil Holder, Lieutenant
Heidi Meraz, Community Services Director
Steve Dukett, Consultant
Marie A. Calderon, City Clerk

The invocation was given by Council Member Bob Botts. Councilmember Robinson invited the audience to join him in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney Aleshire stated that the City Council and Agency Board met in closed session to discuss three matters of potential litigation and a status report was given on these matters and there was no reportable action taken.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/APPOINTMENTS

PUBLIC COMMENTS – On Items Not on the Agenda

Dorothy Familetti-McLean addressed the Council regarding the 100th Birthday of Banning and the logo for the Centennial (see Exhibit "A" attached).

Doug Hammer, 5261 W. Wilson Street addressed the Council. He said last time he was here he thanked everyone but forgot to include Zai. He said that she has done so much for Fire Memories in so little time and wanted to thank her. He said that they have been open a month and a day and have been very successful. They have had many groups of people come in and he went over those that have visited Fire Memories. They are open Thursday, Friday and Saturday and their visitors on Thursday have been 10 to 15 people, on Friday they get about 15 to 20 people and on Saturday they get close to 30 to 40 people. There was a couple who came from England and their brother who is handicapped and lives in Banning and has been in a wheelchair his whole life visited the museum and they all had the best time of their lives and stayed there for four hours. They have four volunteers and Don Robinson is putting in his 100 hours a week. This is Fire Prevention Month/Week and so tomorrow they open their doors for 30 children and they will be there till approximately 9:30 and then at 9:30 they have another 30 children visiting the museum.

Don Castaldo, Council Member with the City of Beaumont addressed the Council said he was actually attending this meeting under invitation of Councilmember Robinson. He would like to thank him for the rivalry and camaraderie that they had on facebook exchanging a little bet concerning the football game. He can't say that he is not happy that the Cougars won but he is. He thinks it was really good to have that little camaraderie and rivalry going. He would like to congratulate the Broncos on playing a good game even though they lost. Personally he would rather be out there playing football and lose a game rather than watch his team win. They had a chance to play the game and he hopes they enjoyed that experience while they are in high school. It is good spirit for both high schools and for both of the communities.

CORRESPONDENCE: There was none.

APPOINTMENTS

1. Ad Hoc Committee for Community Development Block Grant Program for Fiscal Year 2012/13.

There was Council consensus for Mayor Pro Tem Machisic and Council Member Botts serve on this Ad Hoc Committee.

2. Ratification of Standby Officers

There was Council consensus to accept the officers as recommended with the correction to Charlene Sakurai's phone number.

CONSENT ITEMS

1. Approval of Minutes – Special Meeting – 04/25/11 (Special Meeting)

Recommendation: That the minutes of the special meeting of April 25, 2011 be approved.

2. Approval of Minutes – Joint Meeting – 09/27/11 (Closed Session)

Recommendation: That the minutes of the joint meeting of September 27, 2011 be approved.

3. Approval of Minutes – Regular Meeting – 09/27/11

Recommendation: That the minutes of the regular meeting of September 27, 2011 be approved.

4. Report of Investments for August 2011

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

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).

Recommendation: That 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.

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.

Recommendation: That the City Council 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; and 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, transfers, if needed.

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.

Recommendation: Authorize the recommended strategy for Fiscal Year 2010-11 regarding the General Fund MOE (Maintenance of Effort) transfers and Gas Tax fund balance and 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.

Motion Robinson/Franklin to approve Consent Item 1 through 7. Mayor Hanna opened the item for public comments. There were none. **Motion carried, all in favor.**

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 – David J. Aleshire, City Attorney)

City Attorney said that there was a Council workshop discussion of the process of the appointment of the mayor and their office made a prior report which outlined how many cities deal with the appointment of mayor issue. Basically the mayor serves for a two-year term and there is a meeting held and people vote and then that person serves. The idea was introduced concerning the rotational mayor system and this means that you establish some listing of the offices of the City and then rotate persons through those offices. The purpose of a rotational system is to give everybody a chance to do it and obviously there is a problem in that council terms are four years and since there are five council members it is impossible to guarantee that in a four-year period every council member will get to serve as mayor so with a rotational system it is important that people be committed to them so that it can last long enough that the rotation actually works. The communities that have tried to create a rotational system believe that giving everybody on the council a chance to serve in that position gives every council member a little more visibility, a little more understanding of the challenge of leading the council and being the overall representative of the city and the responsibility and it can build up better relations amongst council members. Of course, at the end of the day since three votes on the council can change the rules and every two years there is an election you can't totally eliminate the politics. The direction that they got from the Council was that making this an ordinance would hopefully make it a little more durable because to change an ordinance you would have to have first and second reading and there would have to be three votes. The specific ordinance that has been brought before the Council has several features to it and he went over those features especially the rotation in Section 2.040.070. B. He said that the person serving as Mayor would rotate to the bottom as listed and would be the Vice Chair of the Agency and Vice Chair of the Authority, the Mayor Pro Tem would become the Mayor, the Chair of the Agency would become the Mayor Pro Tem and the Chair of the Housing Authority becomes the Chair of the Agency. The ordinance goes on to try to deal with some uncertainties that could occur and he explained.

Mayor Pro Tem Machisic asked when this would become effective. City Attorney said it would become effective at the end of November but Section 3 says that the first Annual Organizational Meeting will be held in December 2012.

Mayor Pro Tem Machisic asked for the initial sequence of positions how will that be determined. City Attorney said the ordinance does not deal with that and there is no rotational system at that meeting. It is whatever ranking is established by the five members of the Council at that meeting.

Mayor Hanna said that one thought is that first of all anyone that has not been Mayor would be at the top of the list. For example, she would go to the bottom of the list since she is Mayor at this point if we were going to do it right away. So whoever had served most recently would be towards the bottom. So it would be done in order of when we were Mayor.

City Attorney said the ordinance does not preclude that so basically five council members in December 2012 can create whatever method they want to decide where people are at that meeting. Once the initial selection occurs from then on the rotational system applies.

Councilmember Franklin said in regards to Section C. Removal if a person is just removed by the vote of the majority then does that negate the whole system.

City Attorney said yes it does so you could leave Section C out altogether. He said he put in because of the idea that if for whatever reason a majority did remove somebody instead of then a scramble the idea is the rotational system. For example, what if you had a circumstance where the Council had a Code of Conduct and what if the person was the mayor was so outside of that code of conduct the council decided to remove him. Right now the clause says with a majority vote any officer may be replaced but you could make it a super-majority. You could make it that you can't replace that without a four-fifths vote. Basically you have to be unanimous of the remainder of the council to change that.

Councilmember Franklin said would we need to say something like it has to be for a cause and not just because.

City Attorney said the problem is nobody really knows what that means and at the end of the day if there is a majority of the Council to do something or other you can't really restrain them from doing that. They can always come back and change this ordinance; three people can change the ordinance. Councilmember Franklin said so maybe going back to your idea of a super-majority.

City Attorney said you could. At first he was going to leave it out and then he thought somehow that very unusual circumstance occurs we ought to try and keep that rotational system in place. So maybe it is more consistent with that idea to say super-majority.

Mayor Hanna opened the item for public comments.

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*):

John McQuown asked about somebody not wanting to be Mayor and how does it fit in the rotation.

Fred Sakurai, resident of Banning said the system is not broke why change it.

Don Smith, resident spoke in regards to someone declining to move up and where does he go in the list and his concern with super-majority.

Mayor Hanna closed the item for public comment.

There was Council discussion in regards to having something in the ordinance if a person doesn't want to move up and the issue of super-majority.

City Attorney asked the Council if they wanted to add the super-majority or not. **There was Council consensus not to add super-majority.**

City Attorney said in regards to someone declining a position and if you want something in the ordinance dealing with that there would be two ways of handling that. If they decline, they keep their position. The other is if they are declining the advancement, if they don't keep their position then the other thing is that they go to the bottom of the list. So would you prefer B, the bottom of the list? **There was Council consensus that they go to the bottom of the list.**

City Attorney clarified that he is going to add the language on the person declining.

Mayor Hanna asked the City Clerk to read the title of Ordinance No. 1442. City Clerk read: 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 to be amended by the City Attorney to add language on the person declining.

Motion Robinson/Machisic to waive further reading of Ordinance No. 1442. Motion carried, all in favor.

Motion Machisic/Franklin that Ordinance No. 1442 pass its first reading. Motion carried, all in favor.

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 - Fred Mason, Electric Utility Director)

Mr. Mason said basically this is a Memorandum of Understanding regarding our San Juan coal generating facility. At this time he started his power-point presentation (see Exhibit "B") giving background, reasons for divestiture, Utah Associated Municipal Power Systems and the Memorandum of Understanding and recommendation.

City Manager said that we have no other coal agreements with anybody else as far as coal plants for electricity.

City Attorney said that when you said that beginning in January 2012 that UAMPS will be responsible for all costs could you clarify that one payment default issue.

Mr. Mason said in the agreements between the SCPPA (Southern California Public Power Association) members that participate in San Juan if one of the members defaults for any reason, then the other members pick up that default members' share per rata.

There was some discussion in regards to declining performance, wind energy, and renewable energy, power being available, rates and entities defaulting.

Mayor Hanna opened the item for public comments.

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*):

Henri De Roule, resident of Banning spoke to the reduction of the amount of electricity we get and will we have enough to supply new housing and about locking in market rates.

Mr. Mason said as far as the 20 vs. 10 the power that we will be getting would be a five-year deal and it covers the base load requirements that we have. The market prices will be a five-year fixed deal so the market prices will not affect this. We will look at this going forward in regards to the renewable projects and those will be brought to the Council for approval. As far as the housing development right now with the power we have available and the power that we have purchased we will be able to deal with the phasing in. The Pardee is a phasing project that they are looking at with about 100 to 150 units per year and we could easily absorb that with our current power resources and there would not be a problem going forward.

Mayor Hanna closed the item for public comments.

Motion Botts/Machisic 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 Hanna opened the item for public comments. There were none. **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 Utility Authority.

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.

Motion Machisic/Botts Consent Item No. 1. Motion carried, all in favor.

Mayor Hanna adjourned the joint meeting of the Banning City Council and the Banning Utility Authority and reconvened the regular City Council Meeting.

ADDENDUM

REPORTS OF OFFICERS

1. Banning Whitehouse to Consider Code Enforcement Action and Approval of Settlement Agreement.

(Staff Report – David J. Aleshire, City Attorney)

City Attorney said that this has to do with a settlement agreement of a code enforcement matter that the City has been pursuing involving a piece of property known locally as the White House. The White House was built in 1945 and it was used as a personal residence for many years by Mr. McCoy until he passed away in 1974. The property was zoned residential-agricultural in 1952. In 2006 the zoning classification was changed to residential-agricultural hillside (RAH). Both of those zoning districts allow single-family residential use and would allow a bed and breakfast with a CUP (conditional use permit) but do not allow institutional sorts of uses. The use for weddings, corporate meetings, large gathering type of uses were not permitted in those zoning districts either the original district which was the residential-agricultural or the RAH as it was changed in 2006. After Mr. McCoy passed away in 1974 the property was acquired by an entity called the Memorial Health Mission and it was for awhile operated as the Desert Springs Therapy Center. It was used for a sanitarium, convalescent rest home, residential care facility and there were religious services. It was used for a variety of uses which again, were arguably not consistent with the zoning at that point in time. The original property was subdivided in 1979 and at that point in time residential units were built at the foot of the hill. Probably from a land use standpoint what should have occurred at that point in time recognizing the type of uses which were occurring at the White House is a separate access way should have been built. Instead they sort of did the low budget approach which was to leave the primary access through the residential subdivision which was created in 1979. That was a planning mistake and probably a mistake of the property owner and the property owner was trying to reduce costs. The developer could have been required to provide the access way and the City didn't require the developer to do that and nobody really anticipated what the long-term impact was going to be of having group meetings occurring at this property. There were complaints and concerns that then arose after the property was developed in the residential neighborhood. The property owner contemplated trying to get some land use changes after the 2006 zoning amendment concerning the RAH zone. There was a potential application for a conditional use permit. There were several applications that were initiated for changes, obtaining CUP's and so forth but never went forward for approval. So the zoning never got modified in a way to correct the nature of the use or to make sure that use fit in with the zoning. So currently in the spring, early summer we became aware of concerns over the nature of the property. Initially there was something of a claim that there was an established non-conforming use and the non-conforming use predated the zoning. We gave the property owner an opportunity to submit quite a few materials which certainly demonstrated what he said that there had been group meetings occurring on the property and occurring over the last 20 years and the current people on the property understandably felt that with this long history of use there wasn't anything wrong and they somehow had non-conforming rights. He said that their office looked at all the materials that were submitted and there was material that was submitted concerning parties that the McCoy's had had back in the 50's and that information was looked at and he basically came to the conclusion that the party activity was at this kind of an estate type of property and that there were very large meetings that occurred but they were consistent with somebody with an estate property conducting a single-family use. There was not a website advertising the use of the property for commercial purposes. There is

a website concerning the property now which advertises the property as a vacation rental for hosting special occasions, large gatherings including weddings, seminars, corporate meetings, reunions, special celebrations and with prices quoted on the website. So the property owner was cooperative in trying to provide this information and felt they had a non-conforming use but when he looked at it working with the Community Development Director his office came to the conclusion that this use did not go back to the 50's. The use as a commercial property did not go back to the 50's and therefore it did not predate the zoning and it did not establish a legal existing non-conforming use. We then tried to engage in dialogue with the property owner concerning whether there were ways that the zoning could get changed, were there other alternatives, where there other things that could be done. We actually had the building officials and fire officials go to the property and try and look at whether the property could be modified in a way that would permit commercial use. We explored the idea of some alternate access ways so that it would not go through the subdivision. There were a couple of other lots that were looked at and we actually looked at what the potential cost would be of that. Notwithstanding the litigation that we got into with the Fields matter this City is in financially difficult times and it has been made clear to him that it is not desirable to spend a lot of money on legal fees and we certainly didn't want to get into litigation over this so before taking kind of a definitive position we wanted to explore options and see if there was something that could be worked out. At the same time the use and the continuing use of the property did make for problems in the community and the Planning Department did receive a number of letters from residents that had acquired their properties and had no idea of the nature of this type of use and expected to have a quiet residential neighborhood and had complaints over the times when people were leaving the parties, speeding down the streets creating safety hazards for their children and felt that it was not consistent in a residential zone. So it was a very difficult conflict that again, was created in 1979 or 1980 when there was a poor decision on how to design the subdivision and not provide for an appropriate access. Eventually we came to the conclusion that there wasn't a very cost effective alternative access way and we ran out of options and ideas. The property clearly in their mind is being used for commercial purposes and the cost of trying to modify the property to meet code requirements is really prohibited so they finally sent a letter to the property owner saying that the continued operation of this property is contrary to City ordinances and rules and this use has to come to an end. This led to several more meetings with the property owner and the property owner was distraught at this turn of events but eventually their concern became that they had contractually committed to a few more events and what was going to occur with those events. We then proposed to work out a settlement agreement again, the idea was to avoid any type of litigation and that settlement agreement is before you tonight and when we wrote that settlement agreement there were four more events that they would have before the end of the year with the last one being a New Year's Eve event. We would permit those four events and no others. One of them has already occurred so it is really three more events. They would confirm that they would not do any more events after that and each party absorbs their legal costs in all of this. We have a provision that makes it very clear that this activity is illegal. Were they to violate the terms of this agreement and hold future events, we could then take the agreement to court and use it in court to show that this is illegal and improper activity. So what we are doing is proposing this as a way of working this problem out. We understand that this has been a very difficult evolution for the property owner to come to an understanding that they will not be able to do this use even though this use has been occurring for over 20 years. Meanwhile the

neighborhood has put up with a lot and these are very heart-wrenching letters that you read about the difficulties in the neighborhood. Hopefully the neighborhood will see that now that we have put a limit on the number of activities that will occur and it is all going to be over by the end of this year and it will never happen again after that and that the neighborhood can understand that. It is kind of understandable given the tension that has developed over the last few months that the property owner and some of the neighbors have gotten quite disturbed with each other and he is going into detail about this because we know that there has been a lot behind the scenes and when people haven't known what is going on it has created a lot of frustration so he is trying to lay this all out there but from the code enforcement people, the Community Development Director and their office they very much hope that the property owner in terms of their guests can make sure everybody tones things down, is respectful of the neighborhood, no fast driving, everyone is careful and we hope that the neighbors can appreciate that this is now going to be limited amount of time and we won't have people trying to block traffic and there have been some disputes but we are hoping everybody can back off now and we can now wrap this up in the next couple of months in a way that everyone can go on from here and that in the future we can have that property operating in harmony with the residential character of the whole area.

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*):

Dana Lane representing her family and neighbors thanked the Council for their action and support approval of this agreement.

Mary Kay Switzer – City Clerk read her email (see Exhibit “C”) in support of having events at the White House.

Robin Lunt, 1148 Silver Star Dr. thanked Council Member Franklin for listening to their side of the story and for the Council implementing the laws that protect the residents in situations such as this.

Henri De Roule, resident of Banning spoke on behalf of H.E.L.P and stated that have benefited greatly from what Pamela has done at the White House and Dr. Switzer and it a shame to lose the venue that is there.

Mayor Hanna closed the item for public comments.

Motion Botts/Franklin moved approval of the code enforcement action and approval of the settlement agreement.

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

City Council

Mayor Pro Tem Machisic –

- In WROCG (Western Riverside Council of Governments) if you will remember last year cities could opt to charge only 50% TUMF (Transportation Uniform Mitigation Fees) fees on their particular developments and 5 cities chose to do it and 14 did not with us included. The total

amount of uncollected funds at this point in time is \$13.9 million dollars. The Executive Committee voted to extend the same provisions for next year through 2012. Again, we don't know how many will opt for this option. Also WRCOG has 19 cities and we added 2 large water districts to the Executive Committee and at the last meeting we voted to include an educational component and so the Riverside County Superintendent of Schools will become a member of WRCOG. There was a gentleman named Jeffrey Kightlinger who is the General Manager of the Metropolitan Water District and they are probably one of the largest water districts in the state of California and he was invited to speak and he made a couple of comments and responded to a couple of questions. He said don't let your customers get too anxious because we had a wet year because the prior three years were very dry and that has been the pattern in Southern California and even though the State reservoirs are full the large ones on the Colorado River are not. Also the State Water System is aging and it needs to be maintained but again, there are very few funds to do it. Also he mentioned getting water from the Delta and they talked about a Peripheral Canal but they are also talking about a tunnel but now you are also talking about \$12 billion dollars. Also there are environmental problems in litigation in securing water.

- At the last meeting we talked about the League of California Cities that some of us went to but our City Manager was not with us. He was at an International City Manager's Association Conference and he received recognition for 30 years of service in municipal government.

Councilmember Franklin –

- For the San Gorgonio Pass Water Agency they have finished their realignment for their districts. They are also talking about moving down from seven directors to five. They are looking at the idea of eliminating the two at-large positions when the current terms end. Also, when Jeff Davis came and made the presentation to us regarding water one of the things that they said was that they would pick up the tab for moving forward with the East Branch Extension so she wanted to see if our Council was in consensus for us to be able to make a specific request that they move forward with that and especially looking forward to putting water in to the Banning Basin as opposed to the Cabazon Basin.

Mayor Hanna said if there is interest on the part of the Council we could have a staff report at a future time and staff recommendation on that. **There was Council consensus.**

- This morning at Passcom they had the opportunity to go to the Safety Fair at the hospital which was very interesting. There were quite a few people there from the hospital where they were actually showing them different things about being prepared at the hospital for emergencies. It was really interesting and a lot of it was very technical but they were doing it today and tomorrow and the public is invited.
- She emphasized that you can register your cell phone on the Emergency Notification System and if you go to passcom.org it will allow you to do it there without having to go through the County system and it takes about a minute where you put in your address, home phone number, cell number and that way if there is an emergency where the reverse 911 system is calling out to let you know there is a problem if they cannot reach you at your home phone, they will also call your cell phone.
- She and Councilmember Botts attended the State of the County today and the presenter of the keynote address was an official from the UCR Medical School and he gave some kind of

alarming information regarding the current number of primary care medical doctors for some areas and our county is 1 to 9,000 and in third world counties it is 1 to 3,000 and their goal is to get to 1 to 2,000 people. He also talked about with medical doctors coming into an area one dollar translates into \$23.00 dollars because of all the auxiliary services that go along with doctors. He was explaining how they don't have all the money yet for the school but they have quite a few partnerships that they have aligned with different medical facilities and other schools throughout Riverside County so that the medical school will be able to continue to go forward.

City Committee Reports – Nothing to report at this time.

Report by City Attorney – None at this time.

Report by City Manager

- Tomorrow night at 6:00 p.m. at Sun Lakes they will be discussing the Water Reclamation Center and Duane Burk will be leading that discussion. It is open to the public.

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

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.

Received 10-11-11
Council Mtg.

To: Members of the Council

From: Dorothy Familetti-McLean

October 11, 2011

We are embarking on the 100th birthday of Banning. I am here to say, again, that the logo for the centennial does not portray anything special about Banning. There is a mountain on the logo...it could be any mountain. There is no focus for the logo, no point of interest; there is NO STAGECOACH. This town's history has much to do with a stagecoach stop. Our heritage is priceless and it all deals with the old west. Why did they choose to leave out the stagecoach? It does have something to offer.

Temecula is capitalizing on their "Old Town". Look at how busy the streets are when you want to drive through town. Murrieta is building an "Old Town" play area which will also attract visitors. We have missed a great opportunity to promote Banning in a family way. We have the Gilman Ranch which has historic significance. We also have places in town that are noteworthy. That would have been an easy thing to do, and if they had started years ago, we would be up-and-running by now. But no, the council and the chamber never supported the western theme.

What is drawing people to Banning? It is not the Banning Business Center; it is not the Haven Coffee House; it is not the Alliance. Yes, yes, the coming courthouse, but how many of those people will ever think of coming back after their court experience?

Let's promote Banning for what it is, a small town with great people and a fine history that includes a stagecoach stop. That is what put Banning on the map. WE know who we are and a majority of the council does not want to acknowledge that. They have their own agendas. We are showcasing the city in a 100 year celebration. Let's hope that the display represents Banning and leaves an impression.

Just a mountain doesn't cut it. Take a look at our city logo. That has much more appeal than the centennial logo. Again, I hope the centennial committee, which our mayor oversees, will reconsider.

Thank you.

San Juan Memorandum of Understanding

Reasons for Divestiture

- ▶ San Juan provides the majority of Banning's power
- ▶ San Juan costs have increased significantly over the past few years with declining performance
- ▶ Numerous environmental initiatives are expected to adversely impact San Juan costs
- ▶ Banning's share of EPA ordered SCR installation for NO_x would be about \$9.4 million

Banning City Council

October 11, 2011

Background

- ▶ In 1993, Banning procured 20 MW of San Juan Unit 3 power through SCPPA
- ▶ Over the past two years Banning has been evaluating the feasibility of divesting its interest in the San Juan facility
- ▶ Banning joined efforts with Azusa which had a similar strategic plan
- ▶ The Utah Associated Municipal Power Systems (UAMPS) was identified as a possible buyer of Banning's and Azusa's San Juan interests

UAMPS

- ▶ Established in 1980 under Utah law
- ▶ Composed of 51 members across eight states
- ▶ About 15 current power projects
- ▶ UAMPS has 7% rights in San Juan Unit 4
- ▶ Subset of members have needs for additional base load capacity

MOU

- UAMPS would acquire all of Banning/Azusa San Juan interests
- Two phases:
 - Phase 1: "Layoff" beginning by July 1, 2012
 - Phase 2: Ownership transfer as early as 2015 or as late as 2020
- UAMPS would be responsible for SCR costs after January 2012
- Contingent on UAMPS acquiring needed transmission
- Banning/Azusa to purchase up to 20 MW of wind energy from UAMPS for a 5 to 10 year term at cost
- Definitive agreement(s) to be completed by March 1, 2012



5

Recommendation

Authorize the City Manager to execute the MOU and incur additional legal expenses to develop/negotiate definitive agreement(s) related to the San Juan divestiture

6



Marie Calderon

From: Mary kay switzer [mkswitzer@verizon.net]

Sent: Sunday, October 09, 2011 8:11 AM

To: Marie Calderon

Subject: Fw: Council meeting

To the members of the Banning City Council:

Here are my thoughts to share with the Banning City Council. Please share this as part of the agenda item on Tuesday's Council meeting. The agenda item I am referencing is the Banning White House. I cannot attend the meeting, but as a long time resident, I would appreciate this email becoming a part of the record. Please read this out loud during the meeting. Thank you!

Pamela Sue Scott, has done a great deal to bring much happiness and inspiration into the lives of many.

She has hosted/sponsored the Joplin flood relief concert and sent proceeds to rebuild that town. She has hosted/sponsored the various ART productions which are all done as charity fundraisers. She has hosted/sponsored the "A Chat with Erma Bombeck" which was for Operation Kidz Komfort. These are just a few examples!

She has provided an opportunity to honor the great playwright, Tennessee Williams for the National Anniversary Celebration of what would have been his 100th birthday. And the Banning White House (Banning, California!!!) was cited on the NATIONAL listing of events done in his honor--with the great classic, "Glass Menagerie." And during this play, a young girl from the community got her chance to perform a role that many great actresses have made famous. And now this young lady is performing in theatrical productions in Manhattan. Pamela helped this young Latina get her feet started up the ladder. (And--at the same time-- Pamela helped a local food bank, HELP, and Operation Kldz Komfort.)

And that is what often happens in community theatre. Many youngsters get their start this way and travel successfully into greatness. And they all cite their home towns as the place where they got their starts!!!

She has fed the homeless. She even helped a concert pianist find his way again.

She has brought laughter and joy into the hearts of many people.

She provided opportunities in theatre for culturally and ethnically diverse youngsters to be involved in the richness of theatre--such as the classic "It's a Wonderful Life" or the inspirational "I Remember Mama."

She provided an opportunity for Banning High School students to do community service by helping with the ART events and the giving of canned food items to the homeless and needy.

She has not done this to fill her pockets. She has done this with joy in order to give back to society in order to help those in need. Moreover, she has also provided a wonderful place for R&R for the people of the Pass area.

Aristotle, the great Greek philosopher, emphasized the need for just sitting and enjoying natural beauty--as well as the theatre, "To build character and spirit."

As Mark Antony says in Shakespeare's "Julius Caesar," "Caesar has given you his lands and arbors so that you can re-create yourselves...was this a man like no other?" Humans need to have a place to "re-create" their inner spirits.

She created a haven for people to enjoy the wonderful natural beauty of the mountains with the circling hawks. As mentioned in the classic musical, "Oklahoma"--"the hawks making lazy circles in the sky/we know we belong to the land/and the land we belong to is grand." And the environment surrounding the Banning White House is grand!!! It is something that Banning residents can point to with pride and

observe that no other town in the Inland Empire has such a spot. Even the sons and grandsons of the original owners stated that they have a great sense of pride in the recent use of the Banning White House!

Pamela has done this without much fanfare and in an orderly fashion. She has always provided security guards at all events to handle parking. She allowed several handicapped senior adults the chance to participate in wonderful, inspirational theatrical events. I am one of them.

She has also created a fun atmosphere in which to revisit the old West and dress for the event to watch "De ja Vu: Number Ten Saloon." Always these productions were done for charities.

The Banning White House is a wonderful landmark for Banning. It is something that Banning has that is extraordinary and unique. People love to bask in the serenity of the wonderful vistas viewed from the Banning White House. These vistas are breathtaking!

To do away with this landmark and diminish its value is something that will be a great loss to this community.

The Banning White House sits at the end of a cul de sac and gives all visitors a chance to see many vistas. The road leading up to the Banning White House ends in a cul de sac. It has been this way for years and years. The cul de sac does not start with the road leading up the Banning White House--NO, it ends at the Banning White House.

I would recommend that the city leaders set up another road to this historic site. I think it is a disservice to the city to let this house stand empty during this downturn in the economy. Because that is what will happen.

If the Banning White House is left up on the hillside to fall into disrepair from lack of use, this will be a tremendous disservice to the city. It would be the loss of a valuable resource.

I call on our imaginative city leaders to find a way. Have a fund drive to build another access road to the Banning White House? Or find another method to set up an access road?

Why destroy something that is unique and a lovely historic landmark? Especially now when Banning is getting ready to celebrate an historic birthday??Think of using the Banning White House in that historic celebration!!!! Fantastic!!

Get behind the White House and find a way to keep it open to continue the good works that have been contributing positively to the community.

There are many ways this site could be preserved: Reopen the road on the other side that was closed. Set up a committee to investigate this possibility and others. Be effective problem solvers--isn't that the goal of any city official?

Closing the Banning White House down only creates more problems and destroys a unique landmark. It seems so senseless to close something so rare and fine.

Stand behind this wonderful, historic landmark.

Why lose this special feature?

People have come up to enjoy this escape from the cares and woes of the economic mess. People want to have a place to go to without bucking the awful freeway traffic, smog, and big city crush of humanity. Here it is--right in our own back yard!!!! This influx of visitors to enjoy events at the Banning White House will enrich Banning's economy and popularity. Think of the slogan,"Shop the Pass." Why kill something that would encourage this action?

Why not cultivate this awesome beginning and keep it going? Consider the many people who have come to events and have gone away with a smile on their lips and a feeling that tomorrow will not be bleak.

Appreciate this glorious landmark!!! We elected some creative, imaginative leaders to enhance and cultivate the

Exhibit "C"

17

reg. mtg.-10/11/11

18

best that is Banning. Well, here is something more to cultivate.

I have lived in seven states and two foreign countries. I have not found the likes of the Banning White House in any of those places!!! Make the most of it. Put on your thinking caps and develop a solution. Preserve this historic landmark. Surely, you, our own City Council, can find a way!

My brother was a long time resident and former chief of staff of the local hospital here. He loved the Banning White House and often jogged up the hill to refresh himself from his cares. He loved Banning. He would have been sad to see this landmark closed to the public for their enjoyment. He always encouraged his patients to enjoy nature. Many responded to his care by nominating him to be honored by Prevention magazine as one of the "Top Ten Physicians in the United States"--one of two so honored in California. He was often asked why he left Mayo's to come to Banning to practice. He would respond by saying that the Banning environment won him over. Please retain this valuable piece of special Banning environment!!!

Sincerely,

Dr. Mary Kay Switzer

2nd. Read.

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 December 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.

4. If any councilmember should decline to serve in the position to which they would rotate to, they shall fall to the bottom of the rotation (positions of Vice Chair of Agency and Authority).
5. 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 25th day of October, 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 25th day of October, 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: **October 25, 2011**

TO: **City Council**

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

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

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

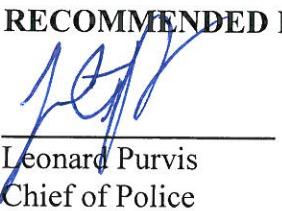
JUSTIFICATION: Amendment of this contract allows the Police Department to continue utilizing the investigative services of Norman A. Traub Associates for sensitive personnel matters.

BACKGROUND & ANALYSIS: During the course of this fiscal year the Banning Police Department has required the professional and independent services of Norman A. Traub Associates for personnel investigations involving employees of the City of Banning. Because of the number of investigations required this year, the limit (\$25,000) on the initial compensation for services with Norman A. Traub Associates has been reached.

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

FISCAL DATA: Sufficient funds are available in the Police Department 2011-12 adopted budget professional services account number 001-2200-421.33-11.

RECOMMENDED BY: **REVIEWED BY:**


Leonard Purvis
Chief of Police


June Overholt
Administrative Services Director

APPROVED BY:


Andrew Takata
City Manager

25

CITY COUNCIL AGENDA

DATE: October 25, 2011

TO: City Council

FROM: Heidi Meraz, Community Services Director

SUBJECT: Resolution No. 2011- 90, "Authorizing the Purchase and installation of thirteen (13) ADA compliant Bus Shelters with DTD solar illumination in the shelter roof with 8' perforated metal benches (no back, three anti-vagrant bars) and forty (40) 8' perforated metal Bus Benches (no back, three anti-vagrant bars) and thirteen (13) 32 Gallon perforated metal trash receptacles" color RAL6005 (Moss Green) from Tolar Manufacturing Company of Corona, California in an amount 'Not to Exceed' \$145,590.18.

RECOMMENDATION: That the City Council adopt Resolution No. 2011- 90 "Authorizing the Purchase and installation of thirteen (13) metal perforated Bus Passenger Shelters with 8' perforated metal no back, three anti-vagrant bars benches, durable baked powder coat finish in RAL6005 Moss Green, adjustable leveling shoes and all installation hardware, and forty (40) 8' perforated metal no back, three anti-vagrant bars benches, and thirteen (13) 32 gallon perforated metal trash receptacles, pedestal mount with hinged lid and liner.

JUSTIFICATION: The bus shelters will replace existing shelters that are aged and damaged at bus stops along Ramsey Street greatly improving the aesthetics as well as providing transit customers with much needed relief from the elements during inclement weather as they await the bus. Two (2) new shelters will be added at Ramsey Street locations. The bus benches will replace current bus benches that are at least twenty (20) years old, have been damaged by vandalism and are weather and use worn. The trash receptacles are aged as well and most have been damaged by vandalism and are weather worn. There are currently an insufficient number of bus shelters along the bus routes that travel east and west on Ramsey Street. The purchase of new bus shelters, bus benches, and trash receptacles will provide shelter, seating, and repositories for passengers waiting to board the bus and updated amenities for the large number of transit customers as well as greatly improve the appearance of the bus stops.

BACKGROUND: As a portion of the annual Short Range Transit Plan (SRTP) anticipated capital expenses are identified and funded. In the 2008-09 SRTP funding was allocated for the purchase of bus stop amenities. Bids were obtained in 2010, however, the piggyback purchase option provides the lowest cost available to obtain these bus shelters, bus benches, and trash receptacles.

FISCAL DATA: Funds for this purchase are available in Transit fund 610-5800-434-9019.

26

RECOMMENDED BY:



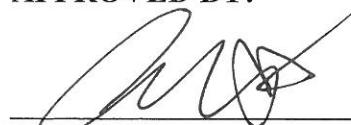
Heidi Meraz,
Community Services Director

REVIEWED BY:



June Overholt,
Administrative Services Director

APPROVED BY:



Andy Takata,
City Manager

RESOLUTION NO. 2011-90

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE PURCHASE AND INSTALLATION OF THIRTEEN (13) BUS SHELTERS, FORTY (40) BUS BENCHES, AND THIRTEEN (13) 32 GALLON TRASH RECEPTACLES IN AN AMOUNT "NOT TO EXCEED" \$145,590.18

WHEREAS, funding has been made available for the replacement of bus shelters, benches, and trash receptacles through the State Transit Authority; and

WHEREAS, the bus shelters, benches, and trash receptacles are aged and have been damaged by vandalism and weather no longer meeting the needs of transit passengers; and

WHEREAS, Banning Pass Transit desires to purchase new bus shelters, benches, and trash receptacles to improve and upgrade the bus stop amenities within the City of Banning; and

WHEREAS, CALACT/MBTA RFP09-04 provides the most fiscally responsible means for acquiring the above mentioned bus stop amenities; and

WHEREAS, funds for this purchase are available in the Transit fund, 610-5800-434-9019

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BANNING AS FOLLOWS: Authorizing the purchase and installation of thirteen (13) bus shelters Model 13NAHP-PM TR 2207-01, forty (40) 8' anti-vagrant perforated metal benches, and thirteen (13) 32 gallon perforated metal trash receptacles with hinged lids and liners color RAL6005 (Moss Green) "not to exceed" \$145,590.18.

PASSED, ADOPTED AND APPROVED this 25th day of October, 2011.

Barbara Hanna, Mayor
City of Banning

ATTEST:

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

28

**APPROVED AS TO FORM AND
LEGAL CONTENT**

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2011-90 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of October, 2011 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

29

CITY COUNCIL AGENDA

Date: October 25, 2011

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Resolution No. 2011-91, "Authorizing the Submittal of an Application, Acceptance of an Allocation of Funds and Execution of a Grant Agreement with the California Department of Transportation (DOT) for an Airport Improvement Program (AIP) Matching Grant"

RECOMMENDATION:

- I. Resolution No. 2011-91, "Authorizing the Submittal of an Application, Acceptance of an Allocation of Funds and Execution of a Grant Agreement with the California Department of Transportation for an Airport Improvement Program (AIP) Matching Grant."
- II. The City Manager is authorized to execute any documents required to apply for and accept these subject funds on behalf of the City of Banning.

JUSTIFICATION: City Council's authorization is essential in order to obtain and utilize DOT funds for AIP Project No. 3-06-0018-11-2011(D), "Taxiway 'A' Relocation" at the Banning Municipal Airport.

BACKGROUND: In April of 2007, the Airport Master Plan Update was completed by C&S Engineers, Inc. and submitted to the Federal Aviation Administration (FAA) for review. FAA approval was obtained in May of 2007. Consequently, the Airport Master Plan Update was submitted to the County of Riverside Airport Land Use Commission (ALUC) in June of 2007. ALUC found this update to be consistent with the 2004 Banning Airport Land Use Compatibility Plan and therefore approved the new Airport Master Plan in August of 2007.

The main objective of the Airport Master Plan update was to determine the extent, type, and schedule of development needed to accommodate existing needs and future aviation demand at the airport. The Airport Master Plan took inventory of current conditions of the airport's infrastructure and recommended alternatives for airside and landside facility improvements at the airport which consequently developed the Airport Improvement Program (AIP) which included the Taxiway "A" Relocation project.

On September 13, 2011, City Council adopted Resolution No. 2011-78, "Approving the Airport Improvement Program Grant Agreement Offer from the Federal Aviation Administration for AIP Project No. 3-06-0018-11-2011(D), 'Taxiway 'A' Relocation'" as well as Resolution No. 2011-79, "Awarding a Professional Services Agreement to C&S Engineers, Inc. for Design Services at the Banning Municipal Airport". As part of the of the Grant Agreement adopted under Resolution No. 2011-78, the FAA will reimburse the City ninety-five percent (95%) of the design costs up to

\$193,922.00. The professional services contract awarded under Resolution No. 2011-79 is for an amount not to exceed \$200,128.00.

Pursuant to the Public Utilities Code section 21683.1, the DOT can provide grants to be applied towards the local match of Federal Airport Improvement Program grants. Staff plans to submit a DOT grant application requesting 2.5% of the design costs for AIP Project No. 3-06-0018-11-2011(D), "Taxiway 'A' Relocation".

FISCAL DATA: City Council awarded a professional services contract to C&S Engineers, Inc. in an amount not to exceed \$200,128.00 for the design of AIP Project No. 3-06-0018-11-2011(D), "Taxiway 'A' Relocation". As part of the FAA Grant Agreement, the FAA will reimburse the City ninety-five percent (95%) of the design costs up to \$193,922.00. As part of the DOT grant agreement, the DOT will provide funding equal to 2.5% of the design costs. The City of Banning will be responsible for funding the remaining design costs (2.5%).

Funding for said project was previously appropriated under Resolution No. 2011-79. At that time, the City's match was 5% of the design costs (\$6,206.00). With the assistance of the DOT grant, the City's match is reduced to 2.5% of the design costs (\$3,103.00).

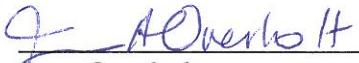
RECOMMENDED BY:



Duane Burk

Director of Public Works

REVIEWED BY:



June Overholt

Administrative Services Director/
Deputy City Manager

APPROVED BY:



Andy Takata

City Manager

RESOLUTION NO. 2011-91

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,
CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION,
ACCEPTANCE OF AN ALLOCATION OF FUNDS AND EXECUTION OF A GRANT
AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION,
FOR AN AIRPORT IMPROVEMENT PROGRAM MATCHING GRANT**

WHEREAS, the City of Banning and the Federal Aviation Administration are parties to federal Airport Improvement (AIP) grant 3-06-0018-011-2011 for the design of the Taxiway "A" Relocation project at the Banning Municipal Airport ; and

WHEREAS, the California Department of Transportation, pursuant to the Public Utilities Code section 21683.1, provides grants of 2.5% of Federal Aviation Administration grants to airports; and

WHEREAS, the California Department of Transportation requires the City Council to adopt a resolution authorizing the submission of an application for an AIP Matching grant.

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

SECTION 1. City Council adopts Resolution No. 2011-91, "Authorizing the Submittal of an Application, Acceptance of an Allocation of Funds and Execution of a Grant Agreement with the California Department of Transportation, for an Airport Improvement Program (AIP) Matching Grant".

SECTION 2. The City Manager is authorized to execute any documents required to apply for and accept these subject funds on behalf of the City of Banning.

PASSED, APPROVED, AND ADOPTED this 25th 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. 2011-91, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 25th day of October, 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

CITY COUNCIL AGENDA

Date: October 25, 2011
TO: Honorable Mayor and City Council
FROM: Fred Mason, Electric Utility Director
SUBJECT: Notice of Completion for "Project 2011-02EL Replacement of City of Banning Yard Office Building HVAC Duct Work System"

RECOMMENDATION: The City Council accept the Project 2011-02EL "Replacement of City of Banning Yard Office Building HVAC Duct Work System" as complete and direct the City Clerk to record the Notice of Completion.

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

BACKGROUND: The City Council awarded the construction contract for said project to Leading Edge Air Conditioning, of Cathedral City, at its regular meeting held on April 12, 2011.

The scope of work for the project included the removal and replacement all the duct work and registers from the building, install new bathroom exhaust fans, new digital thermostats and a Mini-Split heat pump for the Computer Room.

FISCAL DATA: The original/final contract price for the entire project was \$ 28,950.00.

RECOMMENDED BY:


Fred Mason
Electric Utility Director

APPROVED BY:


Andrew J. Takata
City Manager

1 WHEN RECORDED MAIL TO:

2
3 City Clerk's Office
4 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 PROJECT NO. 2011-02 EL REPLACEMENT OF CITY OF BANNING OFFICE
14 BUILDING HVAC DUCT WORK SYSTEM

15
16 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the
17 City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of
18 the Civil Code of the State of California, and is hereby accepted by the City of Banning
19 pursuant to authority conferred by the City Council this October 25, 2011, and the
20 grantees consent to recordation thereof by its duly authorized agent.

21
22 (1) That the OWNER, the City of Banning and Leading Edge Air
23 Conditioning entered into a written Agreement dated May 17, 2010, for the Replacement
24 of City of Banning Yard Office Building HVAC Duct Work System. The scope of work
25 for the project included the removal and replacement of all the duct work and registers
26 from building, install new bathroom exhaust fans, new digital thermostats and a Mini-
27 Split heat pump for Computer Room.

28
29 (2) That the Work of Improvement was substantially completed on August 29,
30 2011, and the Nature of Interest is in fee simple owner.

31
32 (3) That the City of Banning, a municipal corporation, whose address is
33 Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is the owner of said
34 Work of Improvement.

(4) That said Work of Improvement was performed at the City Yard Office Building, 176 E. Lincoln St., in the City of Banning.

(5) That the original contractor for said improvement was Leading Edge Air Conditioning, State Contractor's License No. 602809.

(6) That the corporate surety on the performance and payment bonds is SureTec Insurance Company.

Dated: October 25, 2011

CITY OF BANNING
A Municipal Corporation

By _____
Fred Mason
Director of Electric Utility

APPROVED AS TO FORM:

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

36

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.

(Seal)

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
PUBLIC HEARING**

DATE: **October 25, 2011**

TO: **City Council**

FROM: **Phil Holder, Lieutenant**

SUBJECT: **City Business Permit for Lexxiom Medical Services, Inc.**

RECOMMENDATION: “The City Council review and consider approving a City Business Permit for Lexxiom Medical Services, Inc. to provide medical transport services within the City Limits of Banning.”

BACKGROUND / ANALYSIS:

Mr. Gerard Boucher Jr. is the Managing Director for Lexxiom Medical Services, Inc., which recently purchased the Riverside County operations of County Rescue Ambulance who is currently licensed to operate in the City of Banning. Mr. Boucher stated his company will be taking over all County Rescue Ambulance service contracts, effective November 1, 2011 in the County of Riverside to include their current contract with the San Gorgonio Memorial Hospital. Subsequently, Mr. Boucher is seeking council approval for a business permit for Lexxiom Medical Services, Inc. to operate within the City of Banning.

Lexxiom Medical Services, Inc. is a private Basic Life Support (BLS) ambulance service that intends to provide non-emergency medical transportation for both critical and non-critical patients in the City of Banning and County of Riverside.

Lexxiom Medical Services, Inc. holds a valid and current Riverside County Community Health Agency, Department of Public Health permit, which authorizes them to operate within the boundaries of Riverside County. The company has a fleet of ambulances that are painted and distinguished as ambulances, which are registered with the California Department of Motor Vehicles as required by law and they also carry the required level of insurance for the vehicles and business, as required by law.

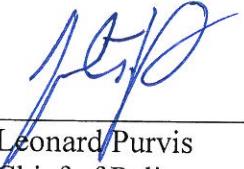
The owner of County Rescue Ambulance has confirmed Lexxiom Medical Services, Inc. did in fact purchase his company's Riverside County operations and his company will no longer be providing transportation services for citizens in the City of Banning.

Lexxiom Medical Services, Inc. will not be providing emergency response services as American Medical Response (AMR) is under contract with Riverside County to provide such services.

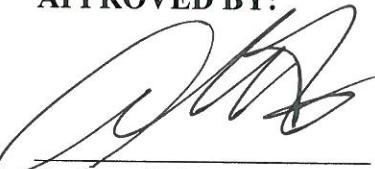
Presently there are five ambulance companies that provide the same service in the City of Banning. With the departure of County Rescue Ambulance and approval of Lexxiom Medical Services, Inc. that number will remain at five.

FISCAL IMPACT: None

RECOMMENDED BY:


Leonard Purvis
Chief of Police

APPROVED BY:


Andrew Takata
City Manager