

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

January 24, 2012
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 and a Joint Meeting of the City Council Sitting in Its Capacity of a Successor Agency and the Community Redevelopment Agency.

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, Hanna, Machisic, Mayor Robinson

II. REPORT ON CLOSED SESSION

III. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

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

PRESENTATIONS:

1. Proclamation – Chamber Citizen of the Year Stan Smith 1
(Note: proclamation will be presented at their event to be held on 1-19-12)
2. Police and Fire Updates by Chief Purvis and Chief Stowells *(ORAL)*
3. Introduction of New Employees by the City Manager *(ORAL)*

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 11

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

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

1. Approval of Minutes – Regular Joint Meeting – 12/13/11 (Closed Session) 2
2. Approval of Minutes – Regular Meeting – 2/13/11 4
3. Approval of Minutes – Regular Joint Meeting – 01/10/11 (Closed Session) 20
4. Approval of Minutes – Regular Meeting – 01/10/12 22
5. Approval of Accounts Payable and Payroll Warrants for the Month of September 2011. 47
6. Approval of Accounts Payable and Payroll Warrants for the Month of October 2011. 50
7. Approval of Accounts Payable and Payroll Warrants for the Month of November 2011. 53
8. 2nd Reading: Ordinance No. 1440, An Ordinance of the City Council of the City of Banning, California, Amending Chapter 3.24 of the Banning Municipal Code to Permit the City Manager to Sign Conveyances and Other Instruments. 56
9. 2nd Reading: Ordinance No. 1443, An Ordinance of the City Council of the City of Banning, California, Re-establishing and Declaring Prima Facie Speed Limits Within Specified Speed Zones Throughout the City of Banning. 58
10. Approve Amendment to Contract with Norman a. Traub Associates for Investigation Services for the City of Banning Police Department 61
11. Resolution No. 2012-06, Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal year 2012-2013 62

- **Open for Public Comments**
- **Make Motion**

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

V. CONSENT ITEM

1. Resolution No. 2012-07, Appropriating Funds for the Downtown Corridor Underground Utilities Conversion Project 68

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

VI. ORDINANCES-INTRODUCTION

1. Ordinance Nos. 1444 & 1445, Ordinances of the City Council of the City of Banning to Revoke and Amend Section 3.20 "Claims Against the City" and Establish Section 3.21 "Financial Procedures" of the Banning Municipal Code 72

Recommendation: That the City Council adopt Ordinance Nos. 1444, Revoking and Amending Section 3.20 of the Banning Municipal Code Regarding Claims Against the city; and Ordinance No. 1445, Establishing Section 3.20 "Financial Procedure" to the Banning Municipal Code.

Mayor asks the City Clerk to read the title of Ordinance No. 1444:

"An Ordinance of the City Council of the City of Banning, California, Amending Chapter 3.20 of the Municipal Code Entitled "Claims Against City" Adding Procedural Requirements for Claims Made Against City in Compliance with California Government Code."

Motion: I move to waive further reading of Ordinance No. 1444.

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1444 pass its first reading.

Mayor asks the City Clerk to read the title of Ordinance No. 1445:

"An Ordinance of the City Council of the City of Banning, California, Establishing Section 3.21 'Financial Procedures' to the Banning Municipal Code."

Motion: I move to waive further reading of Ordinance No. 1445.

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1445 pass its first reading.

VII. 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. Zone Text Amendment (ZTA) No. 11-97502, Amending Sign Regulations For Freeway-Oriented Signs.

Staff Report 81

Recommendation: That the City Council adopt a Categorical Exemption in compliance with CEDQ Guidelines Section 15-06 (b)(3); and Adopt Ordinance No. 1447, Amending Sign Regulations for freeway-oriented signs, Section 17.36.110 of the Banning Municipal Code.

Mayor asks the City Clerk to read the title of Ordinance No. 1447:

“An Ordinance of the City Council of the City of Banning, California, Approving Zoning Text Amendment No. 11-97502 Amending the Sign Regulations for Freeway-Oriented Signs.”

Motion: I move to waive further reading of Ordinance No. 1447.

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1447 pass its first reading.

2. Resolution No. 2012-02, Amending the Towing Franchise Fee and Vehicle Storage Fee in Conformance with chapter 3.36 “Fee and Service Charge Revenue/Cost Comparison” System.

This public hearing item will be heard at the February 14, 2012 meeting. Because this item was advertised for public hearing this evening the City Council will need to open the public hearing for testimony from the public and then continue the public hearing to February 14, 2012.

VIII. REPORTS OF OFFICERS

1. Adoption of a City Council Resolution Relating to Assembly Bill 936

Staff Report. 99

Recommendation: That the City Council adopt Resolution No. 2012-08, Declaring that the City Council of the City of Banning, California, under Health and Safety Code Section 33354.8 that, during the period of January 1, 2010 to December 31, 2011, the City has not forgiven the repayment, wholly or partially, of any loan, advance, or indebtedness owned to the City by the Redevelopment Agency.

RECESS REGULAR CITY COUNCIL MEETING AND CALL TO ORDER A JOINT MEETING OF THE BANNING CITY COUNCIL SITTING IN ITS CAPACITY OF A SUCCESSOR AGENCY AND THE COMMUNITY REDEVELOPMENT AGENCY.

IX. REPORTS OF OFFICERS

1. Initial Enforceable Obligations Payment Schedule (EOPS) Resolution
and the Preliminary Draft Recognized Obligation Payment Schedule
(PDROPS) Resolution

Staff Report 104

Recommendation:

That the Successor Agency:

(Adopt Resolution No. 2012- 01 SA of the City Council of the City of Banning acting in its capacity as Successor Agency to the Community Redevelopment Agency of the City of Banning, California receiving and adopting its Enforceable Obligation Payment Schedule (EOPS) and receiving and adopting a Preliminary Draft Recognized Obligation Payment Schedule (PDROPS) pursuant to Health and Safety Code Section 34177 and transmitting the draft PDROPS to the necessary agencies (Attachment 1); and

That the Agency Board:

Adopt CRA Resolution 2012-02 of the Community Redevelopment Agency of the City of Banning, California amending and updating its Enforceable Obligation Payment Schedule (EOPS) and adopting a Preliminary Draft Recognized Obligation Payment Schedule (PDROPS) pursuant to Health and Safety Code Section 34177 and transmitting the draft PDROPS to the Successor Agency (Attachment 2).

2. Adoption of a City Council, acting as the Successor Agency, Resolution
Relating to the City Managers Authority under ABX126

Staff Report 119

Recommendation:

That the City Council, acting as the Successor Agency: Adopt City Council Resolution No. 2012-02 SA declaring that the City Council of the City of Banning, California, acting as the Successor Agency to the Community Redevelopment Agency of the City of Banning, California, authorizing the City Manager to undertake all administrative actions necessary to comply with ABX126.

Adjourn Joint Meeting of the Banning City Council Sitting in Its Capacity of a Successor Agency and the Community Redevelopment Agency and reconvene regular City Council Meeting.

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

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

XI. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials
2. Policies & Procedures (fingerprinting) for Applicant re. Projects and Applicants for Commissions & Committees (*Commissions & Committees*)
3. Water Resources Report (*Workshop*) (*April*)

Successor Agency

1. Parking Delineation (Martin to 4th; Livingston to Williams, Nicolet
2. Proposal from Owners of Oddfellows Building - 42 W. Ramsey Street.

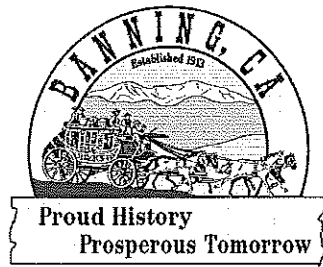
XII. ADJOURNMENT

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].



PROCLAMATION

***WHEREAS,** Stan Smith was born June 17, 1944 in Pine Bluff, Arkansas to Bobby George Smith and Alcdean Gordon Smith; and*

***WHEREAS,** as a result of his father's military affiliation, traveling and moving were a big part of his growing up; and*

***WHEREAS,** moving from school to school helped Stan to learn to adapt to change and become the social being we all know and love; and*

***WHEREAS,** Stan graduated from Barstow High School in 1962 and then attended Barstow College where he played basketball and began working for the Barstow City department of recreation; and*

***WHEREAS,** after finishing school at the junior college level, he was offered a basketball scholarship at California Baptist College and while in Riverside he began working recreation for the City of Riverside; and*

***WHEREAS,** Stan graduated Cal Baptist and was drafted for an 18 month term in Vietnam returning home in 1970; and*

***WHEREAS,** he began his teaching career with the Banning Unified School District where he taught and coached basketball both at the middle school and as the Varsity head coach at Banning High where he can still be found today; and*

***WHEREAS,** Stan continues to find the time to work recreation for the City of Banning now 31 years where he continues to dedicate himself to the youth of the community; and*

***WHEREAS,** Stan is the proud father of four children and has been married for 28 years; and*

***WHEREAS,** recreation and athletics are his life!*

***NOW THEREFORE,** I, Don Robinson, Mayor of the City of Banning along with the City Council do hereby extend our sincere congratulations to "**STAN SMITH**" on being named "**CITIZEN OF THE YEAR**" and we thank you for your dedication and service.*

***IN WITNESS WHEREOF,** I have set my hand and caused the seal of the City of Banning, California to be affixed this 24th day of, January, 2012.*

ATTEST:

Marie A. Calderon, City Clerk

Don Robinson, Mayor

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

12/13/2011
JOINT MEETING

A joint meeting of the Banning City Council and the Community Redevelopment Agency was called to order by Mayor Hanna on December 13, 2011 at 4:05 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
June Overholt, Administrative Services Director
David J. Aleshire, City Attorney/Agency Counsel
Duane Burk, Public Works Director
Zai Abu Bakar, Community Development Director
Bill Manis, Economic Development/Redevelopment Dir.
Leonard Purvis, Police Chief
Heidi Meraz, Community Services Director
Marie A. Calderon, City Clerk/Secretary

CLOSED SESSION

City Attorney said for the Agency and the Council the agenda items are one matter of potential litigation pursuant to the provisions of Government Code Section 54956.9.; City Council real property negotiations pursuant to Government Code Section 54956.8 concerning the Village at Paseo San Gorgonio, City-owned parcels east of the courthouse and Pardee Homes located at the north east corner of Highland Springs Ave. and Wilson Street. Also the City has a closed session on a litigation matter Drott vs. City of Banning. Also pursuant to Government Code section 54956.9(a) with regards to pending litigation – Banning Airport Associates vs. City of Banning (Riverside Superior Court Case No. RIC 497338). and pending litigation – Dill Lumber Co. vs. City of Banning (Riverside Superior Court Case No. RIC 1100544).

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

Meeting went into closed session at 4:06 p.m. and returned to regular session at 5:00 p.m.

Meeting reconvened at 7:15 p.m.

City Attorney announced that the closed session item is concerning real property negotiations in regards to Pardee Homes Project.

Mayor Hanna said that the item for closed session is related to Pardee Homes and because her home is within 300 feet of that project she cannot participate in the discussion.

Meeting went into closed session at 7: 17 p.m. and returned to regular session at 8:26 p.m.

City Attorney said that the Council discussed the status of our real property negotiations on some property involving the Pardee Project and a status report was given and no reportable action was taken.

ADJOURNMENT

By common consent the meeting adjourned at 8:27 p.m.

Marie A. Calderon, City Clerk

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

12/13/11
REGULAR MEETING

A regular meeting of the Banning City Council and a Joint Meeting of the City Council, the Community Redevelopment Agency and the Banning Housing Authority and a Joint Meeting of the City Council and the Banning Housing Authority was called to order by Mayor Hanna on December 13, 2011 at 5:10 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
June Overholt, Administrative Services Director
David J. Aleshire, City Attorney
Zai Abu Bakar, Community Development Director
Duane Burk, Public Works Director
Leonard Purvis, Police Chief
Heidi Meraz, Community Services Director
Bill Manis, Economic Development/Redevelopment Director
John McQuown, City Treasurer
Marie A. Calderon, City Clerk

The invocation was given Councilmember Botts. Councilmember Franklin invited the audience to join her in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney said for the Agency and the Council met in closed session and we discussed one matter of potential litigation and a report was given and no action was taken. With regard to the real property negotiation items which are the Village at Paseo San Gorgonio, City-owned parcels east of the courthouse a status report was given on those negotiations and no reportable action was taken. With respect to the litigation matter Drott vs. City of Banning a status report was given and direction was given for settlement negotiations. Pursuant to the litigation matter Banning Airport Associates vs. City of Banning a status report was given and no reportable action was taken and direction was given for negotiations. In regards to the litigation Dill Lumber Co. vs. City of Banning a status report was given and no reportable action was taken. The City Council will go back into closed session concerning the real property negotiations on Pardee Homes located at the north east corner of Highland Springs Ave. and Wilson Street.

Mayor Hanna recessed the regular City Council meeting and called to order a joint meeting of the Banning City Council, the Community Redevelopment Agency and the Banning Housing Authority.

1. Reorganization of City Council, Community Redevelopment Agency and Housing Authority

City Clerk said that nominations for the office of Mayor are now in order and a second to the nomination is not required.

Councilmember Botts nominated Councilmember Robinson for Mayor.

Councilmember Machisic nominated Councilmember Franklin for Mayor.

City Clerk asked if there were any further nominations and if not, would entertain a motion that nominations be closed.

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

City Clerk took a roll call vote and asked the Councilmembers to signify their choice for Mayor:

Councilmember Botts: Robinson
Councilmember Franklin: Franklin
Councilmember Hanna: Robinson
Councilmember Machisic: Franklin
Councilmember Robinson: Robinson

City Clerk said the vote is in favor of Councilmember Robinson who is our newly elected Mayor for the term of one year and he will now preside over the election of the Mayor Pro Tem.

Mayor Robinson said that nominations for the office of Mayor Pro Tem are now in order and a second to the nomination is not required.

Councilmember Hanna made a recommendation stating that in our workshop when we discussed changing to an annual rotation which would become effective next year in 2012 we would have an order based on who had not been mayor and so forth. For example, next year Debbie Franklin would be Mayor, John Machisic would become Mayor Pro Tem and Bob Botts be Chair of the Redevelopment Agency, assuming we are all in office, and so forth. **So she would like to make the recommendation/motion that we set up that rotation now so that at the end we would go into rotation as we had already agreed to. Seconded by Councilmember Franklin.**

Councilmember Botts said clearly at our workshop when we adopted the ordinance we specifically said that the rotation would be formally started in December of 2012 and then going forward and we clearly said this year would not be a part of that rotational process and that is what we voted on. Now we can change that but that clearly what we voted on.

City Manager said that was correct.

Councilmember Hanna said that in an earlier workshop we did discuss this idea and it was not voted on. She is not suggesting that it is in place as it is. She just wanted to make that suggestion at this time.

Councilmember Machisic said he would support that idea. He thinks that if we have the ability to do it, he thinks that we should go ahead and do it right now.

Councilmember Franklin said she would agree and we have the opportunity to put it in place and then it eliminates additional discussion for next year.

Motion carried, all in favor.

Mayor Robinson said so we will eliminate any further nominations for Mayor Pro Tem.

Councilmember Botts nominated Councilmember Franklin for Mayor Pro Tem.

Councilmember Hanna said that we have done a slate of office already and we don't need nominations or do we.

City Manager said that you have to vote on the slate. If you go off of the ordinance that you adopted that takes place December 2012 the Mayor Pro Tem would be Debbie Franklin, the CRA Chair would be John Machisic, the Vice Chair would be Bob Botts and Barbara Hanna would be the Housing Chair.

There was some discussion and there was consensus to continue the nominations.

Mayor Robinson asked if there were any further nominations and if not would entertain a motion that nominations be closed.

Motion Botts/Machisic that nomination be closed. Motion carried, all in favor.

City Clerk took a roll call vote and asked the Councilmembers to signify their choice for Mayor Pro Tem and the vote was unanimous for Councilmember Franklin and for a term of one year.

REORGANIZATION OF COMMUNITY REDEVELOPMENT AGENCY

Agency Secretary said that nominations for the office of Chairman are now in order and a second to the nomination is not required.



Boardmember Franklin nominated John Machisic for CRA Chair.

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

Agency Secretary took a roll call vote and asked the Boardmembers to signify their choice for CRA Chairman the vote was unanimous for Boardmember Machisic for a term of one year.

Chairman Machisic said that nominations for the office of Vice Chairman are now in order and a second to the nomination is not required.

Boardmember Hanna nominated Bob Botts for CRA Vice Chairman.

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

Agency Secretary took a roll call vote and asked the Boardmembers to signify their choice for CRA Vice Chairman and it was unanimous vote for Bob Botts for the term of one year.

HOUSING AUTHORITY

Authority Secretary said that nominations for the office of Chairperson are now in order and a second to the nomination is not required.

Boardmember Machisic nominated Barbara Hanna as Chairperson of the Housing. Authority.

Agency Counsel said to refresh everyone's recollection for the Vice Chair of the CRA Agency and the Housing Authority under your ordinance was going to be the same. So you could go ahead and nominate Bob Botts but the idea is that when he moves up to the Chair then the person on the bottom would be the Vice Chair of both.

Boardmember Botts said that there is a nomination on the floor for Barbara Hanna as Chairperson of the Housing Authority and moved that nominations be closed and that we cast a unanimous ballot. Motion seconded by Boardmember Robinson. Motion carried, all in favor.

Boardmember Hanna nominated Bob Botts as Vice Chair of the Housing Authority.

Motion Robinson/Hanna that nomination be closed. Motion carried, all in favor.

Authority Secretary took a roll call vote and asked the Boardmembers to signify their choice for Vice Chair of the Housing Authority and the vote was unanimous for Bob Boots for a term of one year.

Meeting recessed at 5:20 p.m. for refreshments and returned at 5:40 p.m.

Mayor Robinson adjourned the joint meeting of the Banning City Council, the Community Redevelopment Agency and the Banning Housing Authority and reconvened the regular City Council meeting.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

PUBLIC COMMENTS – *On Items Not on the Agenda*

Dorothy Familetti-McLean addressed the Council at this time (see Exhibit “A”).

Eddie Estrada with Urban Community Action Project addressed the Council stating that this program provide health care to the underserved and that would be the homeless, the insured and the working poor throughout Riverside County and they have three ways of delivering the care and that is through a fixed site that serves as their hub and that is their comprehensive center, they have what they call the “Medical Outreach Program” and that is a team of doctors that are located within the shelter and they have about 6 different shelters and just recently they introduced what they call the “Country Doc Program” and that is a team of doctors that go out to where the folks utilize services. So they have teams that go out to the food banks, to the shelters and to the churches, Carol’s Kitchen, House of Decision and they are looking at expanding their services here locally. All of their services are free and provide primary care, STD screenings, chronic disease management, cancer screening, immunizations, etc. Just recently they applied for a CDBG grant and they asked for \$10,000 dollars to be able to provide medication and some medical supplies and things because those are the most expensive to the Banning residents and unfortunately they were denied for this particular grant. He is here to ask the Council to please reconsider finding \$10,000 dollars somewhere to be able to fund this project because in the age that we are in with unemployment being so high and health care being so expensive, health care co-pays being so expensive their program brings relief to many of these folks. This money would help them to continue to support the services that we do here and allow us to expand and add some sites.

CORRESPONDENCE: There was none.

PRESENTATION:

1. Stagecoach Days Committee Report

William Lamb, April Lane addressed the Council stating that he is the new Chairman of the Stagecoach Days Association. He said that he would personally like to thank Sue Palmer for the last two years and she has done an outstanding job running Stagecoach Days and has left us in good shape financially. Mr. Lamb said he met with Andy Takata and stated that they have received their non-profit status 501 (3)(c) and they are working on the State portion. He said that in regards to Stagecoach Days they had outstanding support from the community. Their total income including sponsorship and income from their carnival and other events was \$81,486. Their expenses for everything that they needed to pay off came to \$58,259 and that left them in the bank \$23,227 which is the highest amount they had for the last five years. It



gave us a start-up fund to start up again and they have already had a few expenses but we are keeping our event solvent so that as the years come on we can start adding a few more things and possibly bring back a downsized rodeo. Stagecoach Days for next year will be held on September 7th, 8th and 9th. Right now they are going to get started on trying to increase their fundraiser type of items that they would like to do and on January 21st they are going to have their Lawnmower Racing come back and they are not going to charge anything and it will be held at Dysart Park and they also have a film crew coming in to film the racing. They will also have a chili cook-off, food sales, open to vendors to come in and sell things, and a dog show. He invited the Council and said that this would be all day event starting at approximately 8:30 a.m. to about 4:30 p.m. and they will have an opening event around 9:00 a.m. At this time Mr. Lamb presented to the Council a plaque for being a Diamond Sponsor for Stagecoach Days.

Councilmember Machisic complimented the Stagecoach Days Committee. He said that his memory goes back a little ways beyond your five years of operation and he remembers when the City was involved and he remembers the large amounts of money we expended in deficit spending and then it was determined at that time by the Council that the citizens of the community could better run Stagecoach Days and said he has to compliment the Committee because what he thought was absolutely true that you have been able to run Stagecoach Days much better than the City did and again, congratulations.

Councilmember Hanna also commended City Manager Takata because he started his career in public administration in parks and recreation and she really thinks it helps a lot because he really understands what you need and the kind of support that is important and she commends him for his leadership in this area.

Mayor Robinson said he would echo that also and every department stepped up to the plate and it was a great event.

City Manager said we are quite lucky to have the department heads that have actually taken ownership and we have done some things to the park because it wasn't used all that often and so we actually brought the park to what it should be on an annual basis and he wants to thank them because without the staff nothing would get done.

CONSENT ITEMS

Mayor Pro Tem Franklin said that she wanted the record to show that she was abstaining on Consent Item No. 16 because of the relationship that she does have with the Child Care Consortium which is one of the nominees for the Community Block Grant application.

Councilmember Botts said that he would also be abstaining on Consent Item No. 16.

Mayor Robinson pulled Consent Item No.15 for discussion. City Manager pulled Consent Item No. 13 because the Council received a revised staff report and felt that they may have some questions on that contract.

1. Approval of Minutes – Special Joint Meeting – 03/01/11

Recommendation: That the minutes of the Special Joint Meeting of March 1, 2011 be approved.

2. Approval of Minutes – Special Joint Meeting – 06/07/11

Recommendation: That the minutes of the Special Joint Meeting of June 7, 2011 be approved.

3. Approval of Minutes – Special Meeting – 11/08/11 (Study Session)

Recommendation: That the minutes of the Special Meeting of November 8, 2011 be approved.

4. Approval of Minutes – Joint Meeting – 11/08/11 (Closed Session)

Recommendation: That the minutes of the Joint Meeting of November 8, 2011 be approved.

5. Approval of Minutes – Regular Meeting – 11/08/11

Recommendation: That the minutes of the Regular Meeting of November 8, 2011 be approved.

6. Approval of Minutes – Special Joint Meeting – 11/29/11

Recommendation: That the minutes of the Special Joint Meeting of November 29, 2011 be approved.

7. Approval of Accounts Payable and Payroll Warrants for the Month of July 2011.

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

8. Approval of Accounts Payable and Payroll Warrants for the Month of August 2011.

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

9. Report of Investments for September 2011

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

10. Report of Investments for October 2011

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

11. Notice of Completion for the Repair of the City of Banning's Wastewater Treatment Plant Bar Screen Rake.

Recommendation: That the City Council accept the Repair of the City of Banning's Wastewater Treatment Plant Bar Screen Rate as complete and direct the City Clerk to record the Notice of Completion.

12. Notice of Completion for Project 2011-01EL Replacement of City of Banning's Yard Office Building HVAC Units.

Recommendation: That the City Council accept Project 2011-01EL Replacement of City of Banning Yard Office Building HVAC Units as complete and direct the City Clerk to record the Notice of Completion.

14. Resolution No. 2011-94, Authorizing the City Manager or His Designee to Execute For and On Behalf of the City of Banning Any Actions Necessary for the Purpose of Obtaining Financial Assistance Provided By the Governor's Office of Homeland Security.

Recommendation: That the City Council adopt Resolution No. 2011-94, authorizing the execution of Appendix C, Governing Body Resolution, of the FY 09-10 California Transit Security Grant Program and the California Transit Assistance Fund (CTSGP-CTAF) Application.

16. Resolution No. 2011-96, Approving the Project for Fiscal Year 2012-2013 Community Development Block Grant (CDBG) Program.

Recommendation: That the City Council adopt Resolution No. 2011-96, Approving the Projects for Fiscal Year 2012-2013 Community Development Block Grant (CDBG) Program and authorize staff to submit said applications to the Riverside County Economic Development Agency.

17. Resolution No. 2011-97, Authorizing an Appropriation from the Airport Enterprise Fund for the Purchase of Aviation Fuel.

Recommendation: That the City Council adopt Resolution No. 2011-97.

18. Resolution No. 2011-98, Rejecting All Proposals for Developing 59 Acres of Industrial Zoned Land APN 532-130-011 and 532-130-018.

Recommendation: That the City Council adopt Resolution No. 2011-98.

19. Resolution No. 2011-99, Approving the City of Banning's RPS Enforcement Program and Renewable Energy Resource Procurement Plan.

Recommendation: That the City Council adopt Resolution No. 2011-99 approving the City of Banning's Renewable Portfolio Standard (RPS) Enforcement Program and Renewable Energy Resources Procurement Plan, attached as Exhibit A.

20. Resolution No. 2011-100, Approving a Successor Memorandum of Understanding between the San Bernardino Public Employees Association Representing the Mid-Management and Professional Unit and the City of Banning.

Recommendation: That the City Council adopt Resolution No. 2011-100, Approving a Successor Memorandum of Understanding between the City of Banning and the San Bernardino Public Employees Association representing the Mid-Management & Professional Unit for the period July 1, 2010 through June 30, 2011.

21. Resolution No. 2011-101, Amending its 2011-12 Fiscal Budget and Amending the Classification & Compensation Plan for the City of Banning.

Recommendation: That the City Council adopt Resolution No. 2011-101, amending the job description for Utility Financial Analyst under the classification and compensation plan for the City of Banning, amending the position control and authorizing the Administrative Services Director to amend the budget and make any necessary budget adjustments, appropriations and transfers related to the Utility Billing Services Fund (F761).

22. Resolution No. 2011-102, Accepting the 2012 Supplemental Law Enforcement Services Fund Allocation and Authorizing the Banning Police Department to Use the Funds Towards the Purchase of Law Enforcement Related Equipment and Training.

Recommendation: That the City Council adopt Resolution No. 2011-102.

23. Resolution No. 2011-103, Approving the Cancellation and Termination of the 1984 Lease Agreement between the City of Banning and the Banning/San Gorgonio Pass Area Chamber of Commerce.

Recommendation: That the City Council adopt Resolution No. 2011-103.

Motion Hanna/Machisic to approved Consent Items 1 through 12, 14, and 16 through 23.

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

Motion carried, all in favor with Councilmember Franklin and Councilmember Botts abstaining on Consent Item No. 16.

(Note: There was a reorganization of the City Council prior to the Consent Items being approved and Councilmember Robinson was elected as Mayor.)

13. Authorize staff to Enter Into the Business License Hub Software Pilot Test Agreement

with E2G2, Inc.

Director Manis gave the staff report on item as contained in the revised staff report. He stated that E2G2 means Easy To Get To. Staff believes that this program could enhance our business retention efforts, encourage business to business building in the city and increase efficiency in our business licensing processing software system. He went over the proposed program and what it the two phases include. He said that this will not compete with the Banning Chamber of Commerce business directory and has met with them to show them how it works. Mr. Manis introduced David Wong, CEO of E2G2 who would give Council a brief presentation on what this program consists of.

Mr. Wong addressed the Mayor and Council thanking them for the opportunity to present a very different and unique approach to public and private partnership. At this time Mr. Wong played a video that gave an overview of the program.

There were Council questions and discussion with Mr. Wong and staff about the program that included the free on-line directory, fees involved for the businesses, the impact on city staff, up-front costs to set up program, what kind of money would the city generate, will this streamline the process, licensing, confidentiality of data, use of smart phones, registry for non-profits, assuming approval what is the timeline, how do business know about your services, and in what order would businesses be placed in.

Ron Oden, former Mayor of Palm Springs, addressed the Councils stating that he is a part of E2G2. Having sat where you are sitting it was important to him when he spoke with Dave initially that this was something that cities could really benefit from and it is for that reason that he felt so strongly that he got involved. Since this will be taking place near where he lives he will be heading up the sales team that will actually be in the city of Banning. He was talking with several cities when they were at the League of California Cities meeting and several of them had just purchased the type of software programs that we are offering and they paid a minimum of \$50,000 dollars. There is a big difference and a big savings. It is important for the City to take ownership of this program. The more the City talks about it and puts it forth the better the stronger the program will be. He will be meeting with Mr. Manis and will be discussing some of the programs that he is planning for the City and how we can together take this message forward to bring the community together. When we get to the Phase 2 we will talk about some of the other benefits of this program that can bring the community together in ways that just hasn't been done before. He is excited about and excited to be working with the Council and especially when we talk about a lot of the businesses that have been kind of going in under the radar and working. They will be incentivized when they see that business is growing elsewhere because of that online presence. In additional to that we are saying that 40% of business don't have a web presence and in a lot of areas it is a lot higher than that and he thinks that in this area it is over 40%. So a lot a businesses will welcome this opportunity to have a web presence. One of the things that businesses say everywhere is that the City never does anything for us. Now we are changing that because the business in the city will be driven through the City's website. He thanked the City for this opportunity and looks forward to working together.

Mayor Robinson 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)*:

Dorothy-Familetti-McLean, resident
Katrjn Robinson, resident
Art Welch, Chamber President

Mr. Wong answered the questions from the public in regards to costs to the City and what sets them apart from others and how are they going to attract customer to come to this website and how is it going to be set out to them so they know where to find us.

Mr. Manis answered the question from the Chamber in regards as to how they fit into the picture. He said that they view this as a partnership and plan to embrace the Chamber on this and actually incorporate them as part of our process. Mr. Wong also commented on how this would benefit the Chamber.

There was some further discussion on the need for communication with the various groups and what impact this has on the Chamber and to address their concerns.

Mayor Pro Tem Franklin said because she did have an opportunity to look at the website and she has talked to Mr. Wong and some of his other members about the program it looks like the kind of thing that will help us move forward into technology where a lot of young consumers are so she would like to see if we do approve this that you are able to bring back a report in about six months or a reasonable time frame so that the community is able to hear what you have done and how it is impacting our community overall.

Motion Botts/Hanna that the City Council approve Consent Item No. 13, authorizing staff to enter into the Contract Services Agreement for Professional Services with E2G2, Inc. and direct staff to bring back a final contract and also whether it is this company or staff to bring back a report and to include Councilmember Machisic's concern that we need to make sure that the Chamber is an integral part of knowing what is going on. Motion carried, all in favor.

15. Resolution No. 2011-95, Awarding the Construction Contract for Project No. 2011-06, Rubberized Asphalt Concrete (RAC) Overlay and Street Improvements Along Wilson Street, From Stargaze Way to Mountain Avenue to Matich Corporation of San Bernardino, CA for an amount of \$1,331,000.00, and allowing a 10% construction contingency and Approving the Professional Services Agreement for Material Testing Services with Aragon Geotechnical Inc. of Riverside, CA for an Amount not to exceed \$13,465.00.

Director Burk gave the staff report as contained in the agenda packet and stated that they also did a first phase of this project on Wilson Street from 8th to Stargaze and the second portion of

this would take us from Stargaze to Mountain Avenue on Wilson and some improvements on Wilson and Sunset and then north two miles in the city boundary of the Banning Bench. The reason why they included resurfacing this area is that the area is in pretty bad shape and the City took over that road from the County years ago when they annexed it and the structure of that street was under a county standard which was kind of a gravel-oil mix and we plan on regrounding and resurfacing the two miles. Staff did receive a couple of complaints from the citizens in that area who are here in the audience and he believes it is a reaction not only from the Council's portion but also from them as it relates to just the safety of that road and that is an alternative to the bid.

Mayor Robinson asked what is the plan to make Wilson four lane with two east and two west. He sees now that as we go down Wilson to the west it goes down to one lane right before you get to Mountain Avenue or so and then there is another section that goes down to a single lane again so you are down to one lane going west in quite a few areas. Is there a plan to make that two lanes all the way through and eliminate that right turn lane or whatever it takes to make it two lanes both ways all the way from 8th Street to Highland Springs Avenue or Mountain Avenue?

Mr. Burk said he thinks the location he is describing is at Stargaze and Wilson Street there is a dedicated right turn pocket into the Mountain trailer park and that was a discretionary decision at the time when we paved Wilson Street some years ago. It is definitely something we can go back and look at and re-strip if that is the discretion of the Council. There is obviously some bottlenecks as we head east and west. The initial question is that it is a corridor street and a four-lane highway with a median turn pocket in it and a 66 foot right of way. As you head to the east obviously there are some bottlenecks as you get passed 8th Street and there are houses there so that would be a difficult task and he wouldn't want anybody to take this presentation that the City intends on doing that. Obviously as development occurs in the future in that area that is something the City would have to take into consideration as to widening it. So as a corridor street or a collector street we would go from 8th Street to Highland Springs which is around three miles east to west and open up that corridor to a four-lane road with a median strip and we can also look at the stripping.

Mayor Robinson asked if the power pole placement in sidewalks has been dealt with if you are going to add any sidewalks in that area.

Mr. Burk said that his goal is to always allow four feet around the poles that are in stalled. There are some that are very difficult to do as it relates to just our current placement or what type of pole they are. Most of the time as we enter into new development they are undergrounded so we don't have that problem.

Mr. Burk went over the costs of this project and how it is going to be paid for and the timeframe for doing the work and notification to the public in advance. He also mentioned that they are following the five-year plan guidelines that was approved by RCTC (Riverside County Transportation Commission). The Council also has the discretion to change that plan if they wish but then something else would have to be deleted from that plan.

Mayor Robinson opened the item for public comments.

John Benfield, 10610 Gilman Street addressed the Council stating that he is representing himself and the Banning Bench Community of Interest Association and as Mr. Burk mentioned Sunset has been deteriorating for several years and we have had a lot of complaints and requests from people on the Bench so they would really like to see Sunset improved and it would greatly appreciate approval of this item.

Motion Botts/Machisic that the City Council approve Consent Item No. 15 to adopt Resolution No. 2011-95 to: 1) Awarding the Construction Contract for Project No. 2011-06, "Rubberized Asphalt Concrete (RAC) Overlay and Street Improvements along Wilson Street, from Stargaze Way to Mountain Avenue" to Matich Corporation of San Bernardino, CA, for an amount of \$1,331,000.00, and allowing a 10% construction contingency and that this also includes the alternative bid to construct cold in place recycling of the existing pavement on Sunset Avenue, from Wilson Street to the City of Banning limits, approximately 2 miles north of Wilson Street; 2) Approving the Professional Services Agreement for Material Testing Services with Aragon Geotechnical Inc. of Riverside, California, for an amount not to exceed \$13,465.00; and 3) authorizing the Administrative Services Director to make the necessary budget adjustments, appropriations and transfers to Account No. 101-4900-431-93.16 to fund this project. Motion carried, all in favor.

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

Mayor Robinson recessed the regular City Council meeting and called to order a joint meeting of the Banning City Council and the Banning Housing Authority.

CONSENT ITEM

1. City Council Resolution No. 2011-105 and Housing Authority Resolution No. 2011-05 HA to Participate in the Riverside County Mortgage Credit Certificate Program.

Motion Hanna/Franklin that the City Council adopt Resolution No. 2011-105. Mayor Robinson opened the item for public comment. There were none. **Motion carried, all in favor.**

Mayor Robinson turned the meeting over to the Housing Authority Chairperson.

Motion Robinson/Botts that the City Council adopt Resolution No. 2011-05 HA. Chairperson Hanna opened the item for public comment. There were none. **Motion carried, all in favor.**

Housing Authority Chairperson Hanna turned the meeting back over to the Mayor.

Mayor Robinson adjourned the joint meeting of the Banning City Council and the Banning Housing Authority and reconvened the regular City Council Meeting.

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

City Council

Mayor Pro Tem Franklin –

- She stated that at the Transportation NOW Meeting they did talk about the upcoming transportation hub that is going to be at Morongo and it will impact anybody that rides Amtrak. She believes the date is supposed to be January but basically what it means is that anybody who has a part of a trip that they are taking on an Amtrak train will be able actually to catch a bus from Morongo and then hook up to the rest of their trip. It is a good way for people who are local who do not want to have to drive possible to Orange County or Los Angeles to hook up to their train.
- Several people that she knows have talked in the community about trying to get people, especially during the holiday season, if they are going to be buying things or to look at buying certificates for services that are local and to try to keep as much money as they can through gifts in the Banning city and if not, then look to the Pass Area. Basically anything that you might want to give as a gift maybe a gift certificate to a restaurant, maybe to the vet hospital or maybe any kind of business that is local and buy certificates here for people that are regularly using services to keep the money here in town.

Councilmember Hanna –

- She said that the Banning Chamber of Commerce is going to have their installation on January 12th at the Elegant Affair at 6:00 p.m. Please call the Chamber if you are interested in attending.

City Committee Reports - None

Report by City Attorney – Nothing to report at this time.

Report by City Manager

- He stated that we need a subcommittee is needed for the Sunset Grade Separation that the Mayor can appoint. They will be looking at what kind of design will be going on the overpass for the railroad such as mountains or is it just going to say City of Banning on it. He asked the Mayor to appoint two people and they will be working with Duane Burk on that subcommittee along with some other individuals. You don't have to do it and can do it later.
- In regards to the Beaumont and Banning Pass Transit the number one thing that they are looking at is to try to bring in a consultant in through monies from RCTC (Riverside County Transportation Commission) in order to do the actual program. He said that this is key so that we are not overlapping routes and we don't have a bus two minutes behind the other bus going the same place, etc. So that was discussed at a meeting as well as having similar communications so that buses can talk to other buses and some improvements that we will need to make in our yard if we end up doing the maintenance of the buses.

- At the intersection in the downtown area of Ramsey and San Gorgonio will be opened Friday evening but the signal will be on a loop and not be on demand and it will be temporary.
- We had a big discussion at the last meeting on how you get things on the agenda so we came up with a system and the system will be to contact the City Clerk and ask her to put on items to be scheduled then the Council can determine if you want to discuss that or not. So if you want to talk about our slogan, for instance, she would put Discussion of Slogan under Items for Future Agendas and then you would say you want to discuss this and then two people would say okay so then it would go on a future agenda or the next agenda.

ITEMS FOR FUTURE AGENDAS

New Items – None

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials
2. Review of Sign, CUP & Design Review Fees & Rates *(Jan 10th)*
3. Policies & Procedures for Applicant re. Projects and Applicants for Commissions & Committees *(Commissions & Committees)*
4. Water Resources Report *(Workshop) (Feb.)*

ADJOURNMENT

By common consent the meeting adjourned at 7:05 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.

To: Members of the Banning City Council

From: Dorothy Familetti-McLean

December 13, 2011

When Debbie Franklin was first elected, she received the support of the council and was voted mayor pro-tem, under Brenda Salas. Council woman Franklin did an excellent job representing our city. When voting for mayor came up again, Franklin was overlooked and Botts became mayor. When this came up again, the big three, Botts, Hanna, and Robinson, got together and voted themselves in to three different positions. When I had met Robinson in a local store, I said, "Debbie deserves to be mayor", his response to me was, "We have it all worked out".

Well, obviously, they had it "all worked out again". What a shame that you are not aware of the will of the people or of doing what is right. I recall Hanna saying, "Debbie could be mayor next year" when she was promoting her being mayor. How quickly you people forget. It is obvious that you people are self-serving and appear to mirror our government officials. You do what will benefit you; the heck with the people.

Council woman Franklin, we support you in your efforts to assist this town. We appreciate that you are not self-serving and that you really want to do what is best for Banning. People, wake up. Next year is an election year; vote these people out! Let's not let this charade happen again.

Thank you.

We look forward to Councilwoman Franklin being mayor next year.

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

01/10/2012
JOINT MEETING

A joint meeting of the Banning City Council and the Community Redevelopment Agency was called to order by Mayor Robinson on January 10, 2012 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
June Overholt, Administrative Services Director
David J. Aleshire, City Attorney/Agency Counsel
Zai Abu Bakar, Community Development Director
Duane Burk, Public Works Director
Bill Manis, Economic Development/Redevelopment Director
Marie A. Calderon, City Clerk/Secretary

PUBLIC COMMENTS

There were none.

CLOSED SESSION

City Attorney said the closed session items are one matter of involving potential litigation pursuant to the provisions of Government Code Section 54956.9; threat of litigation for the Agency pursuant to Section 54956.9 (b) (1); two matters of real property negotiations pursuant to the provisions of Government Code Section 54956.8 concerning The Village at Paseo San Geronio – APNs 541-181-009, 010, 011, 012, 014, 023-028; 541-183-001, 002, 003 and 004 and Pardee Homes – property on the north east corner of Highland Springs Avenue and Wilson Street; and labor negotiations with International Brotherhood of Electrical Workers (IBEW) – Utility Unit, International Brotherhood of Electrical Workers (IBEW) – General Unit, Banning Police Officers Association (BPOA), and City of Banning Association of Managers (CBAM) pursuant to the provisions of Government Code Section 54957.6

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

Meeting went into closed session at 4:02 p.m. and returned to regular session at 5:03 p.m.

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Meeting reconvened at 8:06 p.m.

City Attorney said that the closed session item is to discuss real property negotiations concerning Pardee Homes.

Councilmember Hanna said that she cannot participate in the closed session since she lives within 300 feet of the project.

Meeting went into closed session at 8:08 p.m. and returned to regular session at 9:06 p.m.

City Attorney reported that the Council met in closed session and a status report was given and direction was given for further negotiations. There was no reportable action taken.

ADJOURNMENT

By common consent the meeting adjourned at 9:08 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.

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

01/10/12
REGULAR MEETING

A regular meeting of the Banning City Council and a Joint Meeting of the Banning City Council and the Banning Utility Authority and a Joint Meeting of the Banning City Council Sitting in Its Capacity of a Successor Agency and the Banning Housing Authority was called to order by Mayor Robinson on January 10, 2012 at 5:10 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew Takata, City Manager
June Overholt, Administrative Services Director
David J. Aleshire, City Attorney
Zai Abu Bakar, Community Development Director
Duane Burk, Public Works Director
Leonard Purvis, Police Chief
Heidi Meraz, Community Services Director
Bill Manis, Economic Development/Redevelopment Director
Fred Mason, Electric Utility Director
John McQuown, City Treasurer
Kahono Oei, City Engineer
Marie A. Calderon, City Clerk

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

REPORT ON CLOSED SESSION

City Attorney stated that the City Council and Agency Board met in closed session on the items listed. They discussed one matter of potential litigation and no action was taken. They also discussed a threat of litigation and a status report was given and no action was taken. For the Agency and City Council there were a couple of matters concerning real property negotiations and they discussed negotiations concerning The Village at Paseo San Gorgonio and a status report was given and no action was taken and that item is on the agenda this evening for public action. The other item concerning Pardee Homes was not discussed and the Board and the Council will have to go back into closed session to discuss that item. Concerning the labor

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negotiations with the City's bargaining units the Council gave direction to its negotiators concerning negotiations and no reportable action was taken.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/APPOINTMENTS

PUBLIC COMMENTS – *On Items Not on the Agenda*

Peggy Murphy resident since 1990 addressed the Council stating that she was here to talk about Banning utilities and to share her personal dilemma to request a solution to that problem and to suggest future policy changes which would be beneficial to all Banning residents. She said that she has been living in her current residence since August 2010 and her monthly utility bill averages about \$300. Last September 2011 she did not receive a statement and she tried to view her balance and pay online but found that she had a zero balance and owed nothing which was not possible. When she inquired at the Banning Utility Office she was told that new meters were being installed and she would receive a statement the following month. She paid \$300 online because they won't allow you to make a payment in the office if you have a zero balance showing and for the next four months she received no statements and her online balance remained zero. During the last week of December she received three statements at once and even though she had paid a total of \$1200 during those four months her balance due was now \$900. She can see from the statements that a majority of these costs were for water and she asked her landlord to contact a plumber and she returned to Banning utilities and was told the increase was from water usage and that was the reason she was not receiving statements. In other words, they noticed the discrepancy and ordered a re-read and did not inform her. At that time she requested a payment plan and was told there was no such thing. Then the first week of January she received a fourth statement for the last month and her balance was now over \$2,000 for utilities. She doesn't think as a Banning resident that has not received a bill that she should be held responsible for the entire amount. Banning failed to inform her as to her utility uses. Had she received notice back in September that her water usage had doubled and then tripled and then quadrupled she would have been able to take steps to remedy the situation. She had a plumber out since then and they found two very small leaks that could have caused a problem and she is waiting to see what her next bill will be. She asked that a portion of the water bill be excused and that a payment plan be granted for the remaining balance of her utilities. She would also like to suggest that Banning residents be allowed to make payments when their accounts are at zero if you walk into the office and you know that you are going to have a bill eventually but you didn't get your statement. Also that you be allowed to have a payment plan on excessive utility bills that are caused by current policy practices. She submitted to the City Clerk copies of 12 months worth of her utilities.

Don Smith congratulated Mayor Robinson and Mayor Pro Tem Franklin on their new seats and thanked Council Members Hanna and Machisic for the work they did last year. He looks forward to seeing the progress they all make together this year. Mr. Smith said that he is the landlord to Ms. Murphy and that he deals with a lot of different water companies based on the job he does and probably the one that goes the furthest for customer friendliness is actually the Cabazon Water District. When they have a bill which they think is higher than the normal usage before they even mail the bill they call him and say they don't know what is going on at your property but we just did a read and it is larger than normal and you might want to go look

for a leak. He has looked at the bills and she didn't receive a bill for four months and then she received bills dated December 16th, 18th, 20th and January 2nd covering four different months. When she brought him the bills he sent a plumber out and they did find two small leaks and hopefully that solved the problem. Now he is told third-hand that the reason all these bills were stacking up is that they knew something was wrong with the water bill and they wanted to do tests and re-reads before they sent out the bill. He doesn't understand that and he doesn't understand why that would take three months for that bill to show up but that leak would have been fixed three months sooner if the bill would have been sent on time or even faster if they did what they do in Cabazon. The bill she got isn't fair and he doesn't know if we have a policy that can remedy it. He thinks that we need to change our policy to make sure bills never get stacked up for four months like that because that isn't fair and we should have a policy that prevents it. The City caused part of this bill in his opinion and at a minimum the City should be working with her in paying her current bills and part of this on a monthly payment because she does have a good payment history. This is a weird situation and this doesn't normally happen and he has never seen it happen before but she was really damaged as a result of what the City did and you need to have policies in place where it doesn't happen again.

Inge Schuler resident of Banning said she just heard about this and she can support that statement because it has happened to her. Probably a year ago she didn't received a bill and she stood in line for two hours and was told she couldn't make any payments on her account at the counter and they would not accept it but I would get a bill as soon as they replaced the meter. They were changing meters on Westward Avenue and that was over a year ago and then she received a whopping bill. This is not the first time and probably won't be the last. This is sloppy business practices at the expense of the taxpaying residents here in Banning. She said that she was really a little bit angry about this that this happened much more seriously than what had happened to her. Another reason why she came up tonight sort of ties into this in that some time ago she asked for some information about accounts receivable and outstanding utility bills with this being one of them. The City should notify the people and there should be a payment plan or follow-up when people don't pay their utility bills and there are several people who have skipped town and there has to be a way of retrieving that whether it is through a collection agency and she had asked for the amount of that and she was told repeatedly that they were working on it and it was difficult to get the information. She knows that the City is understaffed but please make sure that we follow-up on those really serious accounts receivable money owed to the City that we can collect this and not just pick on individual citizens in an unfair manner. Also what is happening with the animal shelter? It was on the agenda as a future item and then suddenly it slipped off. Is it a dead issue now that we are not having that available? She would like the public to be informed.

Jackie Atwood resident of Banning stated that she had a utility issue as well. It turns out that she tried to pay her bill online and she had been successful for a year and just recently she couldn't and the web page was not there so she came down to city hall to see what the problem was. She was told that yes, we have had a problem and we have had to change our website. She asked why she could not access it and was told that she has too many cookies. She asked if there was a solution and was given instructions on a scrap of paper and if that didn't work then download google chrome. Ms. Atwood said she tried and it did not work for her so obviously AOL as too many cookies. She said that she can reach the Banning website but she still cannot

reach utilities and apparently there are a number of people with the same problem. Now she has a problem of trying to pay her bill online. So she can mail it and use a stamp or she can go downtown. She always thought that you could go in and pay in advance when you wanted to leave town because she leaves town for two to three months at a time. Now if she has a zero balance and cannot pay ahead of time downtown, maybe if she mails them \$300 or \$400 dollars, they will take it?

Chief Purvis asked Officer Mike Bennett and Officer Brian Callahan to join him at the podium. He said that he would be honoring both officers for a living example of great police work. On December 11, 2011 at about 3:07 p.m. dispatch advised patrol personnel of a baby at fell into a pool at 910 W. Wilson Street in Banning. At the time it was not known if the baby was breathing. Officer Bennett arrived at the location within 30 seconds and discovered that the baby was not breathing and immediately started CPR on the child. Officer Callahan arrived a short time later and assisted Officer Bennett with lifesaving efforts. Through their devoted efforts and actions Office Bennett and Officer Callahan continued their lifesaving efforts until they were relived by CalFire personnel. Because of their devotion to duty and team effort to revive the baby young Silas Martin, 18 months old here with his mother Timmy, is alive. Chief Purvis said that their actions brought great credit upon the Banning Police Department and he is very proud of their commitment to protect and serve all members of the community with honor and distinction. This is what police work is all about and a true living example of great police work and awarded them the "Life Saving Award" and thanked them on behalf of the Banning Police Department and the men and women of the Banning Police Department as well.

CORRESPONDENCE: There was none.

PRESENTATIONS:

1. Riverside County Fair & National Date Festival Queen & Court

Don Smith said as a Director of the Riverside County Fair Board it is his privilege to introduce this year's 2012 Court and as Treasurer of the Dollars for Scholars Magic Carpet Scholarship it is also a privilege to announce the scholarship winners. He would encourage people watching and especially the juniors and seniors at Banning High School none of whom applied for the scholarships this year to go online next year in September and apply and not only do you have a wonderful experience and get some great costuming but you get either a \$3,500 or \$3,000 dollar scholarship to further your education. He introduced this year's winners Queen Scheherazade, Jordana Totman; Princess Dunyazade, Alysha Woodson; and Princess Jasmine, Francesca Parker. The Riverside County Fair and National Date Festival will open on February 17th and there will be free admission until 3 p.m. There will be a parade on Monday, February 20th starting at 10 a.m. and the following Friday is Fantasy Springs Friday and will cost only \$5.00 to get in and the last day of the fair is February 26th. They went over the events, attractions and performances that will be happening at the fair.

2. Proclamation – Human Trafficking Awareness and Prevention Month

Mayor Robinson read from the proclamation and proclaimed the month of January as "Human Trafficking Awareness and Prevention Month" and stated that that Mayor Pro Tem Franklin will be presenting this award on January 19th at an event to be held to bring awareness to human trafficking.

3. Promotion of Rick Diaz to Electric Operations Manager

City Manager stated that Rick Diaz was a Lead Worker before and has now been promoted to the Operations Manager for the Electric Department. He said that Rick was born and raised in Banning and graduated half a semester early from Banning High School in 1973. He has been married to his wife Gina Diaz for 37 years and has a son Rick Diaz Jr. who also happens to work for the Electric Department, and has a daughter Mindy and two grandsons Ricky and Roman. He has coached youth baseball and softball for many years in Banning and assistant coach for two years for Banning High School softball and he loves to golf. He is also very involved in his church. He started his employment with the City of Banning in October 1973 and received his lineman position in 1978 and briefly left Banning from 1983 to 1985 to work for another city. He has currently been employed with the City of Banning for 26.5 years for a total of 37 years. City Manager said Rick is very happy that he has received the job since he has been in this position this has really helped the moral of the group and he is a very fair person but at the same time he won't put up with anything. We are very happy to have him here and he did have other options but chose to have this challenge to work with his, at the time, peer group and actually try to make a difference in the Electric Department.

APPOINTMENTS:

1. City Council Committee Assignments

City Manager said that one thing we have to make clear on this as we go through these nominations if you receive a stipend from another organization you cannot vote for yourself to be on that committee and that would also include the alternate. The reason for this is that you are basically putting money in your pocket so therefore there is a conflict of interest at that point of time. This is brand new law and the City Attorney is more than happy to explain that.

City Attorney said that this is actually the result of a new conflict of interest opinion. Up till now any governmental salary has not been considered a financial interest so the fact that you would receive your city council compensation or compensation on a governmental body that was not considered to be income so it wasn't a financial interest. The FPPC (Fair Political Practices Commission) has now decided that in the situation of appointing people to committees if you are being paid to be on a committee, then you have a financial interest and have a conflict. It is kind of one of the results of the Bell situation and what was occurring there and the FPPC took a different position than what was taken previously. Somebody asked a question concerning a specific city and the FPPC came out with its opinions saying it was a conflict. We have written a letter saying that it is going to make for a lot of confusion and they have reaffirmed their position. So we have to figure out how to make appointments to entities and if the Council Member who is being appointed would receive a stipend, that Council Member should not participate in making the decision concerning that body.

There was some Council and staff discussion as to how to proceed with the appointments and nominations. At this time Mayor Robinson made appointments to the following committees:

Pass Area Transportation NOW Committee – Franklin, alternate-Robinson
Tribal Distribution Fund Committee (County Appt.) – Machisic
Economic Development Committee Liaison – Machisic
TUMF Zone Committee – Machisic, alternate-Franklin
Southern California Association of Governments (SCAG) – Robinson
League of California Cities – Robinson
Banning Chamber of Commerce – Botts, alternate-Robinson
San Geronio Pass Water Agency – Franklin, alternate-Robinson
Community Action Agency – Franklin, alternate is City Staff

2X2 Council Working Groups

Banning Unified School District – Machisic and Hanna
Morongo Band of Mission Indians – Machisic and Franklin
Mt. San Jacinto College – Hanna and Robinson
Airport – Botts and Hanna
Highland Springs Ave. Task Force – Robinson and Franklin
Banning Heights Committee – Hanna and Machisic

Fire Department Committee

Councilmember Botts said that he has raised the issue whether we need this committee. He said he was Mayor when they established 2 x 2 Committees and we all agreed that we needed to improve communications. He thought that was a task force because we were in the crisis mode with Station 20. If we need to continue a fire committee he doesn't have a problem with that but the intent originally was simply to work on that issue.

There was some Council and staff discussion on this item.

Motion Botts/Machisic to eliminate the Fire Department Committee. Motion carried, all in favor.

Government Access Channel Committee

Public Utility Advisory Committee for City of Banning

Councilmember Hanna said that there are a number of committees that haven't met in years and she wonders whether we need to continue them or not and that would be the Government Access Channel Committee and the Public Works Advisory Committee.

Councilmember Botts said in regards to the Government Access Channel Committee he doesn't know whether the director of that department knows that we exist. He thinks last year there was some discussion as to what we could do more with the public access channel, with our website and so forth. Obviously staff works on it every day and has done a great job with it but he thinks there was discussion last time and he volunteer along with Mayor Robinson just to

see if there was input from the elected level to meet periodically and say can we do more with what we currently have. If we were to consider that we want to have that kind of input to staff, he would say that we should continue it. If we don't feel strongly about it, then we should eliminate it.

Councilmember Hanna said that there is also the Public Utility Advisory Committee that has never met.

Duane Burk, Public Works Director said that the Public Works Advisory Committee should actually stay in place and it is directly related to rates. For example, the last time we met we were going to raise the hangar rents.

Councilmember Botts asked if we used that committee when we were going to raise water rates. Mr. Burk said no because there was a lot of transition and changeover at the time.

Councilmember Botts said that he would like to see us continue this committee. He said that a couple of years back as Mayor we talked about should we have subcommittees of the Council as other cities do such as Ways and Means and Finance and other subcommittees and ultimately we made the decision that we did not want to do that. But most governmental entities operate by a committee/subcommittee system and he thinks that water and electric utilities would be a good example. He would like to see us maintain this committee and have it be our first sort of active subcommittee of the Council.

Councilmember Hanna said that would require finding participants for a committee because they haven't met in years and some of them are probably not alive any longer so you would have to create that whole committee. It is a great deal of work and she would like to hear a staff report some time in the future how they would recommend going about it. She doesn't want to do make work for staff because we are limited enough with staff. If it could be useful, fine. She said actually there was an advisory committee made up of the public at that time.

Councilmember Botts said he would say the same thing and this would not be a public entity. This would be a subcommittee of the Council and could in fact hold hearings and have subcommittee meetings and there would be a chairman and vice chairman. Maybe we should ask the City Manager to work with the directors of these various issues and say can we be useful to you.

City Manager said staff will look at this and if they haven't met at all and we haven't utilized them he would suggest that if we don't resurrect the Advisory Committee that we at least have two members of the Council on this Public Utility Subcommittee of the Council.

Councilmember Botts asked the City Manager to bring back a recommendation on the Government Access Channel Committee and the Public Utility Advisory Committee before we fill them.

City Manager said to clarify no appointments right now to those two committees until we bring back information to the Council. Mayor Robinson said no appointments.

Motion Hanna/Machisic to move the Mayor's recommendations for the committees a part from those two committees that we are going to have staff look into further. Mayor Robinson asked if there were any public comments. There were none. Motion carried, all in favor.

Assignments continued with the stipend positions:

Western Riverside Council of Governments (WRCOG)

Mayor Robinson recommended that the assignment be Councilmember Machisic with Councilmember Hanna as the alternate.

Motion Botts/Franklin to approve the assignment of Councilmember Machisic with the alternate being Council Member Hanna. Motion carried with Councilmembers Machisic and Hanna abstaining.

Riverside Transit Agency (RTA)

Mayor Robinson turned the meeting over to Mayor Pro Tem Franklin. Mayor Pro Tem Franklin asked for nominations and a second is not required.

Councilmember Botts nominated Mayor Robinson as the assignment. Mayor Pro Tem Franklin asked if there were any further nominations. There were none. Nomination carried, with Mayor Robinson abstaining.

Mayor Pro Tem Franklin turned the meeting back over to the Mayor.

Mayor Robinson nominated Councilmember Botts as the alternate. Mayor Robinson asked if there were any further nominations. There were none. Nomination carried, with Council Member Botts abstaining.

Riverside County Transportation Commission (RCTC)

Mayor Robinson nominated Councilmember Botts as the assignment. Mayor Robinson asked if there were any further nominations. There were none. Nomination carried, with Councilmember Botts abstaining.

Mayor Robinson turned the meeting over to Mayor Pro Tem Franklin. Mayor Pro Tem Franklin asked for nominations and a second is not required.

Councilmember Hanna nominated Mayor Robinson as the alternate. Mayor Pro Tem Franklin asked if there were any further nominations. There were none. Nomination carried, with Mayor Robinson abstaining.

Mayor Pro Tem Franklin turned the meeting back over to the Mayor.

Regional Conservation Authority

Mayor Robinson recommended that the assignment be Councilmember Machisic with Councilmember Hanna as the alternate.

Councilmember Hanna nominated Councilmember Machisic as the assignment. Mayor Robinson asked if there were any further nominations. There were none. Nomination carried, with Councilmember Machisic abstaining.

Mayor Robinson nominated Councilmember Hanna as the alternate. Mayor Robinson asked if there were any further nominations. There were none. Nomination carried, with Councilmember Hanna abstaining.

CONSENT ITEMS

1. Resolution No. 2012-01, Authorizing the Destruction of City Records as Provided by Section 34090 of the California Government Code and Resolution No. 2003-26 of the City of Banning.

Recommendation: That the City council adopt Resolution No. 2012-01.

2. Accept the Right of Way Dedication from Mr. and Mrs. Carlton for Assessor's Parcel Numbers: 541-161-025, 541-161-023, 541-161-031, 541-161-024, 541-161-006 and 541-161-007.

Recommendation: That the City Council accept the right-of-way dedication from Mr. and Mrs. Carlton for Assessor's Parcel Numbers: 541-161-025, 541-161-023, 541-161-031, 541-161-024, 541-161-006 and 541-161-007 and direct the City Clerk to accept and record said dedication.

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

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

Mayor Robinson 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. Resolution No. 2012-01 UA, Authorizing the Submittal of an Application for Long-Term Easement from the City as "Applicant" to the San Bernardino National Forest for the Repair, Operation and Maintenance of the Existing Water Diversion and Conveyance Facilities, also known as the Whitewater Flume.

Motion Franklin/Hanna to approve Consent Item No. 1, Approving Resolution No. 2012-01 UA. Mayor Robinson opened the item for public comments. There were none. **Motion carried, all in favor.**

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

ORDINANCES-INTRODUCTION

1. Ordinance No. 1440, Amending Banning Municipal Code to Permit the City Manager to Sign Conveyances and Other Instruments.
(Staff Report – Andy Takata, City Manager)

City Attorney gave the staff report on this item stating that in terms of general review of your ordinances and procedures we found that there is not any specific ordinance that authorizes the City Manager to sign deeds, easements and official documents. The Mayor obviously has the authority to sign but very often we will have occasion when the Mayor is not around and it seems convenient to be able to have the authority of the City Manager to sign the documents. Of course this does not change when documents and agreements have to come to the City Council for approval but it is giving the City Manager the ministerial authority to sign in addition to the Mayor having the authority to sign. It will make things a little more convenient for staff in terms of getting documents executed and finalized.

Mayor Robinson asked the City Clerk to read the title of Ordinance No. 1440. City Clerk read: An Ordinance of the City Council of the City of Banning, California, Amending Chapter 3.24 of the Banning Municipal Code to Permit the City Manager to Sign Conveyances and Other Instruments.

Motion Hanna/Franklin to waive further reading of Ordinance No. 1440. Motion carried, all in favor.

Motion Franklin/Hanna that Ordinance No. 1440 pass its first reading. Motion carried, all in favor.

PUBLIC HEARINGS

1. Ordinance No. 1443, Re-establishing and Declaring Prima Facie Speed Limits Within Specified Speed Zones Throughout the City of Banning.
(Staff Report – Duane Burk, Public Works Director)

Public Works Director Burk gave the staff report on this item as contained in the agenda packet and also went over the speed limit changes as recommended on page 75.

Mayor Robinson said he had a couple of questions in regards to No. 37, Wilson Street – Sunset Avenue to 8th going to 45 miles per hour. That is pretty much residential there and is that something we really want to do on that street.

Mr. Burk said that is what the speed survey recommends currently. He believes at one time it was recommended at 45 miles per hour and we adjusted it down in that area because there was a major accident and also because of the trailer park there and they had requested a four way stop but it was found that it was not warranted and so the Council at that time lowered the speed limit and gave them a dedicated turn pocket into the trailer park.

Peter Liu, Traffic Engineering Consultant said that what Mr. Burk just stated was correct but in the recent recertification and from the speed radar survey a majority of the people are actually driving around 45 mph. In the last three years they don't believe there were any major accidents in that area so they felt the 45 mph speed zone is justified.

Mayor Pro Tem Franklin said because we are talking about Wilson all the way down to 8th Street and there is a school right there what impact does that have because if people see it is posted at 45 mph it is hard enough to get them to slow down now so what impact will that have on the school.

Mr. Liu said right in front of the school it is called the "school speed zone" which is 25 mph so during the school hours when children are present the speed limit is actually 25 mph.

Mayor Pro Tem Franklin asked when you were doing your survey were you finding that people were actually slowing down.

Mr. Liu said people are just driving at the normal speed and when they took the speed samples they don't take each car. They usually take one car for the whole pack so it is the leading vehicle. So it is a good example

There was Council and staff discussion regarding the speed in front of the school on Wilson Street, the safety of the kids, concern for people backing out of their driveways in that area. There was concern in regards to the speed on Ramsey Street from 22nd Street to 8th Street going to 40 mph and going east on 8th Street it drops to 25 mph and what impact will that have. There were also questions and discussion on No. 46, Sun Lakes Blvd. – Highland Springs to Country Club Drive going down to 25 mph and the use of golf carts that are street legal.

City Manager said he wanted to let the Council know that without the speed survey if you choose to go with a lower speed our police may have difficulty defending it.

The Council would like to have a report brought back on Item Numbers. 28, 37 and 46 in regards to their concerns.

Councilmember Hanna asked why an ordinance change is necessary because it does not explain why. Do we not have this in place?

City Attorney said if it is in an ordinance you have to do an ordinance to change it.

Councilmember Hanna said it was mentioned in the report that the speed limit posting really has little to do with how fast people go so we try to have posted speed limits that will reflect more or less what people are actually driving because we don't want most people to be driving illegally. What Mr. Liu said regarding Ramsey east of 8th Street she thought was very interesting in regards as to why do you have it posted at 25 mph and he said because the road was more narrow. She would suggest that people travel more slowly on that portion of the road because it is more narrow and there are other ways of actually reducing people's speeds by changing the perceived width of the street even by putting lines that narrow the drive path of the car and most people will go slower. That is a better way of actually controlling the speed if we are really concerned about how fast people are going on any portion. She doesn't see that strategy reflected in any of our actions and she is particularly concerned about new streets when we build new developments and so forth but we continue to build these very wide streets which encourage people to drive very fast.

There was more Council and staff discussion in regards to posted speed limits, stripping and narrowing lanes, traffic calming methods, the concern of raising speed limits and concern of lowering the speed on Sun Lakes Blvd. from Highland Springs Ave. to Country Club Drive in both directions.

Mayor Robinson opened the public hearing for comments from the public.

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, Banning City Treasurer
Gary Hironimus, resident
Don Smith, resident
Henri De Roule, resident

Mayor Robinson closed the public hearing on this item.

There was further Council and staff discussion regarding the concern about the stop sign on Mountain Avenue and the adoption of the ordinance this evening or possibly adopting it as recommended with the exception of those items of concern by Council.

City Attorney said that you can modify the ordinance to only include those portions of the table that you want.

Councilmember Botts recommended approval of the ordinance with the exception of 28, 37 and 46.

Councilmember Botts said he would trust that we have an absolute commitment from the City of Beaumont that they will in fact conform to this.

Mr. Burk said if they don't conform to this, we can bring it back to the Ad Hoc Committee. He wanted to clarify that the recommendation is to adopt the speed survey as it is with him to come back with modifications on 28, 37 and 46 and in regards to No. 6 to see if a stop sign is warranted on Mountain Avenue.

City Manager said in regards to the wide streets that you have we are currently looking at that as far as a change in our traffic for the General Plan going from Level Service C to Level D so once we do that it will actually not require some of those minor arterials to have four lanes.

Mayor Robinson asked the City Clerk to read the title of Ordinance No. 1443. City Clerk read: An Ordinance of the City Council of the City of Banning, California, Re-establishing and Declaring Prima Facie Speed Limits Within Specified Speed Zones Throughout the City of Banning as amended to come back with consideration on Numbers 28, 37 and 46.

Motion Machisic/Franklin to waive further reading of Ordinance No. 1443. Motion carried, all in favor.

Motion Machisic/Franklin that Ordinance No. 1443 pass its first reading. Motion carried, all in favor.

2. A Report Prepared Pursuant to California Health and Safety Code Section 33433 Regarding the Conveyance of Real Property by the City of Banning to JMA Village, LLC, A California Limited Liability Company and the Development of said Property Pursuant to the Provisions of a Purchase and Sale Agreement.
(Staff Report – Bill Manis, Economic Development/Redevelopment Director)

Economic Development Director Manis gave the staff report as contained in the agenda packet.

Mayor Pro Tem Franklin said that the price is actually determined by an appraisal and it is her understanding that we do have to sell and we cannot sell it for more than the appraised price.

Director Manis said since the project was actually purchased by the City we had this site appraised and its fair market value has been determined at the set price that we have in the purchase and sale agreement. We as a City cannot increase that price to make a profit. The net gain to us is the fact that this project as proposed will generate jobs in the community, it will increase our property tax value and will also generate sales tax which is outlined in the report.

Mayor Robinson opened the public hearing for comments from the public. There were none.

Art Pearlman addressed the City Council stating that he was here with his partner Mark Frost and with their attorney, Ed Dygert of Cox, Castle Nicholson. Mr. Pearlman said that many of you are aware that we started this project over three years ago and they are thrilled to be at this point. We are dealing with probably the worst of the three recessions that he has been through. We have a very unusual market place out there today but together with staff who have just been wonderful and the Council and all of their consultants we have all worked together to bring this

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project to where it is today. We have some unusual times out there at the State level, we have some unusual times just with the real estate industry but are confident that this will get finished and they have spent a tremendous amount of their own money already to date which has not been discussed so they are pretty well invested in the project and they look forward to breaking ground.

Councilmember Machisic said approximately two months ago there was a presentation on how you were going to raise some money overseas and how are we doing on financing.

Mr. Pearlman said that they are doing quiet well. As you are probably aware in talking to your brethren and sister city sort of speak there is not a lot of development going on right now and construction financing throughout the United States is virtually non-existent. We have been fortunate that you on the Council and Barbara Hanna as ex-Mayor have met with our two associates that we are dealing with to obtain what we refer to as "EB5" financing. Basically it is a method to bring dollars into this country from foreign nationals with benefits to them in terms of green card and educational benefits. Benefits to us in terms of the jobs we generate equate to the amount of money that gets invested per foreign national family. Without getting into the specifics of that program about a month and a half ago both he and Mark Frost fully executed with the EB5 group a letter of commitment for 100% financing of this project. The EB5 group have had several trips back to China and Vietnam and they have met with and brought back with them verbal commitments to invest in this specific project specifically within this city and have their next trip scheduled at the end of this month.

Mayor Robinson closed the public hearing at this time.

City Attorney said for clarification the staff report referred to the Health and Safety Code and we talked about this 33433 Report so it could seem like you are acting as the Redevelopment Agency and he wanted to clarify that the Redevelopment Agency back in March conveyed property to the City so this transaction is being made by the City of Banning. The transfer agreement included a provision that when you went to sell the property you would to the extent possible comply with the redevelopment requirements. So the purpose of that was to make sure that again, there wasn't a gift of property. That you would go through this process to indicate that there was fair value received for the property. That we would include non-discrimination covenants and non-speculation covenants and the sorts of things that the Redevelopment Agency is required to do by law. So the City is not required to do these things by law. It is only because of the terms of the transfer agreement that we are going through this process. This is a transaction by the City of Banning and not the Redevelopment Agency.

Motion Botts/Hanna: 1) that the City Council adopt Resolution No. 2012-03, Making and Approving Certain Findings and Approvals under Section 33433 of the California Health and Safety Code, and Approving a Purchase and Sale Agreement between the City of Banning; and (2) JMA Village, LLC; and Authorize the City Manager, on behalf of the City, to execute the Purchase and Sale Agreement with the Developer. Motion carried, all in favor.

Meeting recessed at 7:03 p.m. and reconvened at 7:10 p.m.

REPORTS OF OFFICERS

1. Water & Wastewater Rate Revenue Update
(Staff Report – June Overholt, Administrative Services Director/Deputy City Manager)

Director Overholt gave a power-point presentation on this item (see Exhibit “A”).

There was Council and staff discussion regarding the lost accounts due to the economy, routine capital maintenance, debt coverage, expected revenue, concern regarding recommendations from the consultant, fixed versus variable, why did we fall short, prices of water going up and are they included in some of our projections, the purchase of State Project water and the possibility of a study session on the rates.

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

There was a consensus of the Council to receive and file the report.

RECESS REGULAR CITY COUNCIL MEETING AND CALL TO ORDER A JOINT MEETING OF THE BANNING CITY COUNCIL SITTING IN ITS CAPACITY OF A SUCCESSOR AGENCY AND THE BANNING HOUSING AUTHORITY.

Mayor Robinson recessed the regular City Council Meeting and called to order a joint meeting of the Banning City Council sitting in its capacity of a Successor Agency and the Banning Housing Authority.

REPORTS OF OFFICERS

1. California Supreme Court Decision Concerning Redevelopment
(Staff Report – Bill Manis, Economic Development/Redevelopment Director)

Director Manis gave the staff report on this item as contained in the staff report. He said the staff report outlines a number of critical deadlines and actions the Council must take by specific dates in order to conform with all of the requirements of ABX 126. Also that the Council consider supporting Senate Bill 659 which just came out in draft form and the one main goal is to extend all of the deadlines under ABX 126 and push those out about 75 days and with that we are hopeful at the State level among cities that within that time period of the 75 days perhaps a new and/or revised redefinition will come out as part of a new bill so that we can keep a lot of the same functions we were doing as part of our dissolved Redevelopment Agency.

There were some further Council and staff discussion regarding transfers to the Housing Authority and Senate Bill 659.

City Attorney said that ABX 126 and ABX 127 are very lengthy so this bill just kind of goes through and takes specific dates that are in this voluminous bill and extends them. This is just

creating a window. The more significant bill for us long-term would be if there was some legislation that potentially allowed redevelopment to go forward in some manner and that is not this bill. This bill is just creating time for the formation of these oversight committees and undertaking other activities towards the continued program of abolishing the agencies.

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

Motion Botts/Machisic that the City Council adopt Resolution No. 2012-04, Determining that the City of Banning elects to, and shall retain the housing assets and functions of the dissolved Community Redevelopment Agency of the City of Banning pursuant to California Health and Safety Code Section 34176 and hereby transfers such housing functions and assets to the Banning Housing Authority. Motion carried all in favor.

Mayor Robinson turned the meeting over to the Housing Authority Chair.

Motion Botts/Machisic that the Authority Board adopt Resolution No. 2012-01 HA of the Banning Housing Authority accepting from the City of Banning the retained housing assets and functions of the dissolved Community Redevelopment Agency of the City of Banning. Motion carried, all in favor.

Chairperson Hanna said that we still have not seen a final Housing Element and it was something that was originally done in 2008 or 2009.

City Manager said that we have actually made a lot of progress with our consultant and we will be bringing back certain things with a discussion of having to rezone certain areas.

Director Zai said that this could be coming back in the next couple of months we should be able to submit our Housing Element to the State again for their review. If they approve the Housing Element, then it will come back to the City Council for final adoption.

Chairperson Hanna said last time we were able to look at it before it went to the State and she thinks that is a preferred approach so that we have a chance to consider it and maybe there are things that we want to see changed. Director Zai said that they can incorporate that.

Chairperson Hanna returned the meeting back to Mayor Robinson.

Motion Botts/Machisic that the City Council add its support to Senate Bill (SB) 659 and communicate that quickly.

City Attorney asked Councilmember Botts to include directing the City Manager to take all other legislative actions that would be appropriate to support the continuation of Banning's Redevelopment Agency.

Councilmember Botts amended his motion to include what was stated by the City Attorney. Councilmember Machisic seconded the amendment. Motion carried, all in favor.

Mayor Robinson adjourned the joint meeting of the Banning City Council Sitting in Its Capacity of a Successor Agency and the Banning Housing Authority and reconvened the regular City Council Meeting.

ANNOUNCEMENTS/REPORTS

City Council

Councilmember Hanna –

- She stated that as Mayor last year she asked numerous times that we have a Disaster Council Meeting and it never occurred and she thinks that it is very important and very significant. She thought she would raise it as a parting gesture to our new Mayor that you Chair that Disaster Council Meeting but you do need the cooperation of staff to put that together.

Mayor Pro Tem Franklin –

- She reported on the San Geronio Pass Water Agency Meeting stating that something occurred at their last actually meeting in that at a prior meeting there had been a lot of discussion and agreement that they wanted to move from 7 boardmembers down to 5. When it came to the time to actually vote the vote was 3/2 to go with 7 members. So they are still going around on that issue but it looks like they are going to continue to have 7 members on their board. This is something that would actually have to be approved at the State level. We will have some information coming back after they actually vote at their next general meeting.
- Veteran's Expo will be held on January 21st and will be held at the Beaumont Civic Center from 10 a.m. to 1:00 p.m. This is for the entire Pass Area and it is to provide resources to all of our veterans, active military, their family and friends. Refreshments will be served.

Councilmember Machisic –

- Said that RCA (Regional Conservation Authority) signed an agreement with Anheuser Busch to buy 964 acres of land near Murrieta with the cost being \$42 million dollars. The Agency was assisted with financial help from the County of Riverside and Riverside County Transportation Commission (RCTC) through an advancement of Measure A money. The Agency is required to pay an additional part of the \$42 million plus interest in the future. The land will be turned over to the Agency in 9 parcels or as the money is paid. The land became available as the parent company of Anheuser Busch which is a Belgium Beer Company is divesting itself of all interest except for the core business which is beer. Also that bill is being led by Feinstein and Calvert in the House and the Senate and is to be heard in Committee in the next couple of months. The basis is that the government will give us a loan.
- Also there was no WRCOG (Western Riverside Council of Governments) meeting this month.

Councilmember Botts –

- He wanted to share that as serving on RCTC on your behalf he voted no to give the money to RCA. This became a very controversial issue. We were asked to contribute \$24 million out of Measure A and that comes right out of building highways and freeways and comes right out of the County and when they were asked to discuss this we were given no information

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about what project it was going for and there were reasons for that. The negotiations were confidential and so they couldn't tell us it was Anheuser Busch and how much money it was and ultimately the property would be sold off for development and ultimately now Murrieta wants some of the property for a college. These are all things that never came to them and he asked his college here to give him some help and this is one of the few times that he has really been conflicted in representing this City on the Transportation Commission. Councilmember Machisic's suggestion was that you need to do what is right for RCTC. It was very divided among the 29 cities and he did vote no but it was approved.

- He said that in regards to State Route 91 we have a \$1.5 billion dollar project to expand the 91 from the Orange County line adding four lanes, two toll lanes and two general purpose lanes and we have been going to Washington D.C. on several occasion to get a TIFIA loan and we were just awarded \$29 million dollars of that TIFIA loan from the Department of Transportation. Unfortunately we need another \$25 million and we had asked for \$45 million and so we are in the process of going back to Washington D.C. having them understand that we cannot do the project unless we have the full \$45 million dollars. But the good new is that they do recognize what a significant problem it is through Corona and the goods movement across the country.

Mayor Robinson –

- Stated that the SCAG (Southern California Association of Governments) Board will be discussing with the elected officials the RPC/SCS (Regional Transportation Plan/Sustainable Communities Strategy proposal for 2012-2035 on January 23, 2012 at Noon at the Riverside County Council Chambers located at 4080 Lemon Street.

City Committee Reports: Nothing to report.

Report by City Attorney: Nothing to report at this time.

Report by City Manager

- The Family Dollar has had the Commission review and the Design Review of their store and have a pre-construction meeting already scheduled so they would take over where Dick's Tires used to be which is located east of the old Ford dealership and west of Johnny's Russos.
- Also we are looking into those water issues that were brought up during public comments. We have had some issues with our website in regards to that but there is one lady that must be misunderstanding but one of them was offered a payment plan but we will talk to her and make sure it is all straightened out in regard to that.

Councilmember Hanna said that she was in another city and saw a Family Dollar Market and is this a market. Director Zai said this is just a smaller version where you can buy daily goods.

Councilmember Botts asked the City Manager if he could update them on the Dodge Dealership property.

City Manager said that they are currently going through plan check and once they are out of plan check they want to schedule a groundbreaking and would like to invite the Council But it

is moving ahead and they have been cleaning it up and working on the inside of the building which does not require a permit.

Mayor Robinson said speaking of groundbreaking we have our groundbreaking February 21st for the courthouse. Also he has not seen anything going on with the building that burnt which was part of the strip mall. Councilmember Hanna wanted to know about the house on 4th street.

Director Zai said that the issue with that project is that their superintendent passed away and that is why it has been on hold for some time. In regards to the house on 4th Street they are working with the property owner to get bids on the demolition and removal of asbestos and lead paint and things like that. She received the bids but unfortunately what happened was she didn't let the people know that there was a basement so that basement also needs to be removed so she has to go out and get new bids or additional bids.

ITEMS FOR FUTURE AGENDAS

City Manager reminded the Council that if they want to request items that you know you want you can just let the City Clerk know and she will put the items on for future agendas and then the Council will vote on it at that point in time whether you want it to be placed on that agenda. So if there is an item right now that you know you want the Council to consider at the next meeting, you can let Marie know.

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials
2. Review of Sign, CUP & Design Review Fees & Rates *(Feb. 14th)*
3. Policies & Procedures for Applicant re. Projects and Applicants for Commissions & Committees *(Commissions & Committees)*
4. Water Resources Report *(Workshop) (Feb.)*

Mayor Robinson said that the Council will now return to closed session.

ADJOURNMENT

By common consent the regular City Council meeting adjourned at 8:06 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.

Water & Wastewater Rate Status Update

1

- * Rates adopted by ordinance – October 2010
- * Issue: Both Water and Wastewater were not meeting Bond Coverage covenants
- * Both funds had a deficit cash flow in FY2010
- * Council adopted a four year rate plan
- * Update provides
 - * Status of revenues & debt coverage

11

2

Assumptions

- * This review was done using the methodology/format used by the study
- * Utilizes unaudited actuals for FY2011
- * Projections for FY12 through FY14 include cost inflators used in the study ranging between 2% to 5%
- * Most routine Capital maintenance and Capital projects have been removed from the projections
- * Study assumes revenues from all water or waste water sources to meet coverage obligations

3

Background

Wastewater Revenue

4

Wastewater Rates Approved Increases

Effective Date	Approved Rate Increase	Recommended Rate
October 2010	12 percent	12 percent
September 2011	10 percent	15 percent
September 2012	8 percent	15 percent
September 2013	8 percent	15 percent

Exhibit "A"
21
reg.mtg.-1/10/12

5

Wastewater Rate Study Observations

* Observations:

- ☒ Rates approved DID result in projected rate revenue increase of over \$209K
- ☒ Coverage ratio was met for FY11 (All funds)
- ☒ Coverage ratio expected to be met FY12 thru FY13 (All funds; without capital)
- ☒ Coverage ratio will NOT be met in FY14, if increase in debt payment of \$598K for the SRF loan proceeds for capital projects.

42

Wastewater – Fund 680 Operations Study vs. Actual FY 2011

	Study FY11	Actual FY11	Variance	%
Revenues from Rates	2,677,169	2,468,120	(209,049)	92%
Non Operating Revenues	198,254	1,121	(197,133)	
Requirements (Expenditures)	2,733,366	2,469,240	(406,183)	
	3,095,605	2,834,992	(260,613)	
Net Annual Cash Flows	(220,182)	(365,751)	(145,569)	

7

Wastewater – Cash Flow Status for Fund 680 Operations

	Actual FY10	Actual FY11	Budget* FY12	Projected* FY13	Projected* FY14
Revenues from Rates	2,185,987	2,468,120	2,701,500	2,917,620	3,151,030
Non Operating Revenues (incl. interest income for F680 only)	25,338	1,121	13,500	13,500	13,500
Total Gross Revenues	2,211,325	2,469,240	2,715,000	2,931,120	3,164,530
Requirements (Expenditures)	2,766,568	2,834,992	2,988,813	3,063,396	3,140,810
Net Annual Cash Flows	(555,243)	(365,751)	(273,813)	(132,276)	23,720

*Note: FY12 – FY14 have minimal (\$2,000) capital maintenance budget

8

Wastewater – Cash Flow Status for All Wastewater Funds

	Actual FY10	Actual FY11	Revised Budget* FY12	Projected* FY13	Projected* FY14
Revenues from rates	2,185,987	2,468,120	2,701,500	2,917,620	3,151,030
Non Operating Revenues (Ind. tertiary surcharge, impact fees, & int. income)	547,379	1,434,742	537,444	565,021	594,529
Total Gross Revenues	2,733,366	3,902,862	3,238,944	3,482,641	3,745,559
Requirements (Expenditures)	2,826,866	3,134,447	2,993,508	3,085,668	3,782,737
Net Annual Cash Flows	(93,500)	768,415	245,436	396,974	(37,178)

*Note: FY12 – FY14 have minimal (\$2K) capital maintenance budgeted

9

Wastewater – Debt Service Coverage All Wastewater Funds

	Actual FY10	Actual FY11	Budget FY12	Projected FY13	Projected FY14
Debt Service Coverage (w/ Connection Fees)	89%	205%	136%	156%	97%
Required Coverage (w/ Connection Fees)	115%	115%	115%	115%	115%

Note: FY12 – FY14 have minimal (\$2,000) capital maintenance budget

43

Wastewater Fund – Budget (with revised available balance)

Wastewater Funds	Revised Available balance @ 6/30/2011	Projected YTD Gain(loss)	Projected balance @ 6/30/2012
680 – Wastewater	1,402,605	(273,813)	1,128,792
681 – Wastewater Capital Facility	12,271,534	514,044	12,785,578
683 – BUA Wastewater Capital Project	3,435,719	3,000	3,438,719
685 – State Revolving Loan	809,890	1,705	811,595
689 – BUA Wastewater Debt Service	132,335	500	132,835
Combined Fund Balance >>>	18,052,083	245,436	18,297,519

11

10

12

Water Rates

Approved Increases

Effective Date	Approved Rate Increase	Recommended Rate
October 2010	15 percent	30 percent
September 2011	15 percent	7 percent
September 2012	7 percent	7 percent
September 2013	7 percent	7 percent

13

Water - F660 Operations

Study vs. Actual FY 2011

	Study FY11	Actual FY11	Variance	%
Revenues from Rates	8,101,654	7,247,851	(853,803)	89%
Non Operating Revenues	178,671	232,774	(54,103)	
	8,280,325	7,480,625	(799,700)	
Requirements (Expenditures)	8,443,383	7,357,248	(1,086,135)	
Net Annual Cash Flows	(163,058)	123,378	286,436	

15

Water Rate Study Observations

* Observations:

- ☒ Rates approved did NOT result in expected rate revenues
- ☒ Coverage ratio NOT met for FY11 (all funds)
- ☒ Coverage NOT likely to be met FY12 (All funds; minimal maintenance and no Capital projects)
- ☒ Coverage expected to be met for FY 13 and FY14 (All funds; minimal maintenance and no Capital projects)

14

Water Cash Flow Status

F660 Operations

	Actual FY10	Actual FY11	Budget FY12	Projected FY13	Projected FY14
Revenues from Rates	6,937,938	7,247,851	8,080,350	8,645,975	9,251,193
Non Operating Revenues	363,091	232,744	192,000	192,000	192,000
	7,301,029	7,480,625	8,272,350	8,837,975	9,443,193
Requirements (Expenditures)	7,909,909	7,357,248	8,158,042	8,340,496	8,529,796
Net Annual Cash Flows	(608,880)	123,378	114,308	497,479	913,397

16

Water Cash Flow Status All Water Funds

	Actual FY10	Actual FY11	Budget FY12	Projected FY13	Projected FY14
Revenues from Rates	6,937,938	7,247,851	8,080,350	8,645,975	9,251,193
Non Operating Revenues	640,658	308,555	319,100	310,500	310,500
	7,578,596	7,556,406	8,399,450	8,956,475	9,561,693
Requirements (Expenditures)	7,999,098	7,555,183	8,158,042	8,340,496	8,529,796
Net Annual Cash Flows	(420,502)	1,223	241,408	615,979	1,031,897

17

Water Debt Service Coverage

	Actual FY10	Actual FY11	Budget FY12	Projected* FY13	Projected* FY14
Debt Service Coverage (w/ Connection Fees)	60%	104%	114%	131%	149%
Required Coverage (w/ Connection Fees)	115%	115%	115%	115%	115%

* Note: Capital is limited to \$85,000 compared to study recommendation of \$900K

15

Water Fund – Budget (with revised available balance)

Water Funds	REVISED Available balance @ 6/30/2011	Projected YTD Gain(loss)	Projected balance @ 6/30/2012
660 – Water Operations	1,849,282	114,308	1,963,590
661 – Water Capital Facilities	4,601,628	79,000	4,680,628
663 – BUA Water Capital Project	2,492,682	25,000	2,517,682
669 – BUA - Water Debt Service	358,328	500	358,828
Combined Fund Balance >>>	12,294,207	233,808	12,528,015

19

Irrigation Fund – Budget (with revised available balance)

Reclaimed Water Funds	REVISED Available balance @ 6/30/2011	Projected YTD Gain(loss)	Projected balance @ 6/30/2012
662 – Irrigation Fund	2,992,287	15,000	3,007,287

20

Wastewater Funds

Capital projects in study

CIP projects	Projected Expenditures FY11 - FY14
WWTP Expansion - 1.5mgd	\$18,475,977
Existing WWTP improvements	\$1,623,493
Future CIP	\$1,147,692
Irrigation system/Reclaimed water	\$1,568,480

All projects on hold....

21

Water Funds

Capital projects in study

CIP projects	Projected Expenditures FY11 - FY14
Diversion of White Water Pipeline	\$3.5 M
Replace 20" transmission line in Banning Water Canyon	\$3.0 M
Construction of Add'l water wells	\$4.2 M
Annual Waterline Replacement Program	\$1.2 M

All projects on hold....

22

Next Steps

- * Operating budget and routine maintenance must be monitored to control spending within debt coverage ratio requirements
- * Continue to postpone major capital projects
- * Update rate study early FY13

23

4/6

CITY COUNCIL AGENDA

Date: January 24, 2012
TO: City Council
FROM: June Overholt, Administrative Services Director
SUBJECT: Approval of Accounts Payable and Payroll Warrants for Month of September 2011

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

FISCAL DATA: The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of September 2011.

The reports are:

Expenditure approval lists

September 1, 2011	165,669.31
September 8, 2011	617,013.60
September 15, 2011	756,811.78
September 22, 2011	142,302.48
September 29, 2011	595,925.40
January 19, 2012	2,405,233.68 (September Month End)

Payroll check registers

September 9, 2011	7,108.75
September 23, 2011	5,753.59

Payroll direct deposits*


September 9, 2011	275,113.05
September 23, 2011	309,360.87

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

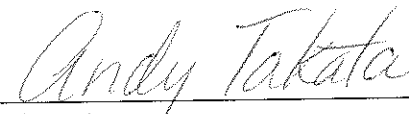
* Included on the September month end expenditure approval list of January 19, 2012.

Report Prepared by: Jenna Harrell, Accounts Payable

RECOMMENDED BY:


June Overholt
Administrative Services Director

APPROVED BY:


Andy Takata
City Manager

Fund/Department Legend:

General Fund – 001

Departments

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

All Other Funds

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

CITY COUNCIL AGENDA

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FISCAL DATA: The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of October 2011.

The reports are:


Expenditure approval lists	
October 6, 2011	262,517.94
October 13, 2011	156,149.23
October 20, 2011	742,798.29
October 27, 2011	77,709.70
January 19, 2012	3,875,724.63 (October Month End)
Payroll check registers	
October 7, 2011	5,047.77
October 21, 2011	6,354.07
Payroll direct deposits*	
October 7, 2011	289,210.66
October 21, 2011	270,753.05

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

* Included on the October month end expenditure approval list of January 19, 2012.


Report Prepared by: Jenna Harrell, Accounts Payable

RECOMMENDED BY:



June Overholt
Administrative Services Director

APPROVED BY:



Andy Takata
City Manager

51

Fund/Department Legend:

General Fund – 001

Departments

0001 – General
1000 – City Council
1200 – City Manager
1300 – Human Resources
1400 – City Clerk
1500 – Elections
1800 – City Attorney
1900 – Fiscal Services
1910 – Purchasing & A/P
2060 – TV Government Access
2200 – Police
2210 – Dispatch
2300 – Animal Control

2400 – Fire
2700 – Building Safety
2800 – Planning
3000 – Engineering
3200 – Building Maintenance
3600 – Parks
4000 – Recreation
4010 – Aquatics
4050 – Senior Center
4060 – Sr. Center Advisory Board
4500 – Central Services
4800 – Debt Service
5400 – Community Enhancement

All Other Funds

003 - Riverside County MOU
100 – Gas Tax Street Fund
101 – Measure A Street Fund
103 – SB 300 Street Fund
104 – Article 3 Sidewalk Fund
110 – CDBG Fund
111 – Landscape Maintenance
132 – Air Quality Improvement Fund
140 – Asset Forfeiture-Police Fund
144 – Local Law Enforcement Block Grant
146 – San Geronio Gang Task Force
148 – Supplemental Law Enforcement
149 – Public Safety Sales Tax Fund
150 - State Park Bond Fund
200 – Special Donation Fund
201 – Sr. Center Activities Fund
202 – Animal Control Reserve Fund
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420 – Traffic Control Facility Fund
421 – Ramsey/Highland Home Road Signal
430 – General Facilities Fund
441 - Sunset Grade Separation Fund
444 - Wilson Median Fund
451 – Park Development Fund

470 – Capital Improvement Fund
475 – Fair Oaks #2004-01 Assessment District
600 – Airport Fund
610 – Transit Fund
660 – Water Fund
661 – Water Capital Facilities
662 – Irrigation Water Fund
663 – BUA Water Capital Project Fund
669 – BUA - Water Debt Service
670 – Electric Fund
672 – Rate Stability Fund
673 – Electric Improvement Fund
674 - '07 Elec Revenue Bond Project Fund
675 – Public Benefit Fund
678 - '07 Elec Revenue Bond Debt Service Fund
680 – Wastewater Fund
681 – Wastewater Capital Facility Fund
683 – BUA Wastewater Capital Project Fund
685 – State Revolving Loan Fund
689 – BUA Wastewater Debt Service Fund
690 – Refuse Fund
700 – Insurance Fund
702 – Fleet Maintenance
703 – Information Systems Services
761 – Utility Billing Administration
810 – CRA – Low/Mod Fund
830 – CRA – Debt Service Fund
850 – CRA - Administration Fund
854 – CRA Low/Mod Bond Fund
855 - 2007 TABS Bond Proceeds
856 – 2003 TABS Bond Proceeds
857 – 2003 TABS Bond Proceeds Low/Mod
860 – CRA - Project Fund

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CITY COUNCIL AGENDA

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FROM: June Overholt, Administrative Services Director
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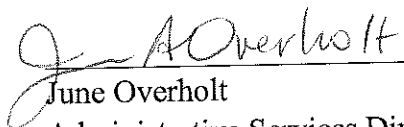
Expenditure approval lists	
November 3, 2011	365,349.77
November 9, 2011	376,584.05
November 17, 2011	149,637.79
November 23, 2011	1,413,152.11
January 19, 2012	3,034,525.18 (November Month End)
Payroll check registers	
November 4, 2011	11,727.31
November 18, 2011	5,670.23
Payroll direct deposits*	
November 4, 2011	276,642.42
November 18, 2011	329,570.71

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

* Included on the November month end expenditure approval list of January 19, 2012.
system separately from the weekly check register.


Report Prepared by: Jenna Harrell, Accounts Payable

RECOMMENDED BY:



June Overholt
Administrative Services Director

APPROVED BY:



Andy Takata
City Manager

Fund/Department Legend:

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1500 – Elections	3200 – Building Maintenance
1800 – City Attorney	3600 – Parks
1900 – Fiscal Services	4000 – Recreation
1910 – Purchasing & A/P	4010 – Aquatics
2060 – TV Government Access	4050 – Senior Center
2200 – Police	4060 – Sr. Center Advisory Board
2210 – Dispatch	4500 – Central Services
2279 - TASIN - SB621	4800 – Debt Service
2300 – Animal Control	5400 – Community Enhancement

All Other Funds

003 - Riverside County MOU	470 – Capital Improvement Fund
100 – Gas Tax Street Fund	475 – Fair Oaks #2004-01 Assessment District
101 – Measure A Street Fund	600 – Airport Fund
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104 – Article 3 Sidewalk Fund	660 – Water Fund
110 – CDBG Fund	661 – Water Capital Facilities
111 – Landscape Maintenance	662 – Irrigation Water Fund
115 – E.E.C.B.G. Fund	663 – BUA Water Capital Project Fund
132 – Air Quality Improvement Fund	669 – BUA - Water Debt Service
140 – Asset Forfeiture-Police Fund	670 – Electric Fund
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444 - Wilson Median Fund	857 – 2003 TABS Bond Proceeds Low/Mod
451 – Park Development Fund	860 – CRA - Project Fund

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2nd Read

ORDINANCE NO. 1440

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF BANNING, CALIFORNIA, AMENDING
CHAPTER 3.24 OF THE BANNING MUNICIPAL
CODE TO PERMIT THE CITY MANAGER TO
SIGN CONVEYANCES AND OTHER
INSTRUMENTS

WHEREAS, the City Council of the City of Banning ("City Council") has adopted regulations pertaining to the purchases of supplies and equipment; and

WHEREAS, Banning Municipal Code Chapter 3.24, among other items, sets forth the appropriate signatories on contracts for the city; and

WHEREAS, Government Code Section 40602 permits the City Council to designate the City Manager and other officers as appropriate signatories to contracts, conveyances and instruments requiring the city seal;

WHEREAS, the City Council desires to amend the Section 3.24.050 of the Municipal Code to permit the City Manager to sign all written contracts, conveyances and instruments requiring the city seal; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

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

SECTION 2. Amendment to Section 3.24.050 of the Municipal Code. Section 3.24.050 of the Municipal Code is hereby deleted in its entirety and replaced as set for the below.

"3.24.050 – City manager authorization to execute contracts, conveyances and instruments.

Pursuant to California Government Code Section 40602, the mayor must execute all contracts, conveyances, and instruments requiring the city seal on behalf of the city, unless another city officer or employee is authorized to do so. The city manager and/or his or her designee(s) are authorized to execute contracts, conveyances, and instruments requiring the city seal on behalf of the city."

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Banning hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

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SECTION 4. Publication; Effective Date. The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and shall be published in accordance with the law.

PASSED, APPROVED, AND ADOPTED this 24th day of January, 2012.

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 & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1440 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 10th day of January, 2012, and was duly adopted at a regular meeting of said City Council on the 24th day of January, 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

2nd Read

ORDINANCE NO. 1443

**AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, RE-
ESTABLISHING AND DECLARING PRIMA FACIE SPEED LIMITS WITHIN
SPECIFIED SPEED ZONES THROUGHOUT THE CITY OF BANNING**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
BANNING AS FOLLOWS:**

SECTION 1. The prima facie speed limits within the specified speed zone limits of the following specified streets are determined and declared to be as shown herewith as Exhibit "B".

SECTION 2. The Mayor shall sign this ordinance and the City Clerk shall attest thereto and shall publish it or a summary of it in a newspaper printed and published within the City, and thereafter this ordinance shall be in force and effect according to law.

PASSED, APPROVED AND ADOPTED this 10th day of January, 2012.

Don Robinson, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk

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

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

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CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1443 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 10th day of January, 2012, and was duly adopted at a regular meeting of said City Council on the 24th day of January, 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

EXHIBIT "B"

SPEED LIMIT CHANGES

ZONE	Street Name	From	To	EXISTING POSTED SPEED		PROPOSED SPEED	
				NB	SB	NB	SB
6	Mountain Ave	Mockingbird Lane	Wilson St	40	40	35	35
7	Highland Springs Ave (Northbound)	N. City Limit	Oak Valley Pkwy	50	55 (Beaumont)	50	50* (Beaumont)
8	Highland Springs Ave (Northbound)	Oak Valley Pkwy	Wilson St	50	55 (Beaumont)	50	50* (Beaumont)
9	Highland Springs Ave (Northbound)	Wilson St	Sun Lakes Bl	30	30 (Beaumont)	35	35* (Beaumont)
10	Highland Spring Ave (Northbound)	Sun Lakes Bl	S. City Limit	35	30 (Beaumont)	35	35* (Beaumont)
11	San Gorgonio Ave	Lombardy Lane	Wilson St	35	35	30	30
12	San Gorgonio Ave	Wilson St	Ramsey St	25	25	30	30
13	San Gorgonio Ave	Ramsey St	Lincoln St	25	25	30	30
19	Alessandro St	Repplier Rd	Wilson St	35	35	30	30
20	Alessandro St	Wilson St	Ramsey St	30	25	30	30
				EB	WB	EB	WB
27	Ramsey St	Sunset Ave	22nd St	35	35	40	40

(*) - City of Beaumont has agreed to keep speed limits consistent with City of Banning

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**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: January 24, 2012

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 (\$50,000) with Norman A. Traub Associates for Investigation Services for the City of Banning Police Department to \$75,000."


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 the current and past 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 during the last year, the limit (\$50,000) on the amended compensation for services with Norman A. Traub Associates will be reached shortly.

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 to cover this request through carry over funds from the Police Department's 2010-11 adopted budget under the professional services (001-2200-321-3311) and Repair Maintenance Equipment (001-2200-421-3006) accounts.

RECOMMENDED BY:



Leonard Purvis
Chief of Police

REVIEWED BY:



June Overholt
Administrative Services Director

APPROVED BY:



Andrew Takata
City Manager

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CITY COUNCIL AGENDA

DATE: January 24, 2012

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Resolution No. 2012-06, "Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2012/2013"

RECOMMENDATION: Adopt Resolution No. 2012-06, "Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2012/2013."

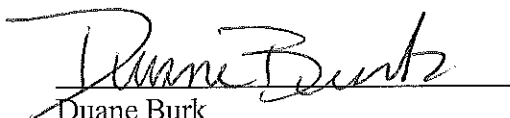
JUSTIFICATION: The City Council approved the formation of Landscape Maintenance District No. 1 ("the District") by adopting Resolution No. 1990-59 on August 14, 1990. The adoption of Resolution No. 2012-06 will enable the City Engineer to prepare for the assessment for Fiscal Year 2012/2013.

BACKGROUND: In accordance with the "Landscaping and Lighting Act of 1972" ("1972 Act") of the Streets and Highways Code, the City Council adopted a resolution on August 14, 1990 ordering the formation of Landscape Maintenance District No. 1, the boundaries of which are shown in Attachment "A". On May 10, 2005, the City Council approved Resolution No. 2005-36 ordering Annexation No. 1 (consisting of five tracts and three tentative tracts) to Landscape Maintenance District No. 1. The District, by special benefit assessments, provides funding for the servicing and maintenance of certain landscape areas within the City of Banning, all of which are located in the public right-of-way. The "1972 Act" requires that assessments are to be levied according to benefit rather than according to assessed value. Resolution No. 2012-06 will initiate the proceedings to update the District for Fiscal Year 2012/2013. A tentative schedule for updating the District, as required by the "Landscaping and Lighting Act of 1972," is attached hereto as Attachment "B" for your information.

FISCAL DATA: Not applicable. A detailed estimate will be prepared and forwarded with the Engineer's Report.

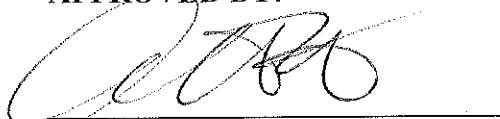
RECOMMENDED BY:

REVIEWED BY:


Duane Burk
Director of Public Works


June Overholt
Administrative Services Director

APPROVED BY:


Andy Takata
City Manager

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RESOLUTION NO. 2012-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, INITIATING PROCEEDINGS TO UPDATE LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR THE FISCAL YEAR 2012/2013, PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972

WHEREAS, the City Council, pursuant to the provisions of the "Landscaping and Lighting Act of 1972," Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500, desires to initiate proceedings to update the City of Banning's Landscape Maintenance District No. 1, and to levy and collect annual assessments to pay for the operation, maintenance and servicing of landscaping and all appurtenant facilities related thereto.

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

SECTION 1. The City Council desires to update Landscape Maintenance District No. 1 for Fiscal Year 2012/2013, pursuant to the "Landscaping and Lighting Act of 1972" (Section 22500 and following, Streets and Highways Code) for the purpose of the following improvements:

Maintaining and servicing street trees, parkways, median islands, perimeter strips and backup walls, side slopes adjacent to sidewalks and storm drains, open space areas, flood detention or retention basins, and the irrigation of the above improvements.

SECTION 2. The City Council hereby directs the City Engineer to prepare and file with the City Clerk an Engineer's Report in accordance with Article 4 of Chapter 1 of the "Landscaping and Lighting Act of 1972."

SECTION 3. The fee to be assessed will not exceed the reasonable cost of providing the service. The fee charged shall be based on the rate and methodology set forth in Resolution Nos. 1990-59 and 2005-36.

SECTION 4. The Mayor shall sign this resolution and the City Clerk shall attest and certify to the passage and adoption thereof.

PASSED, ADOPTED AND APPROVED this 24th day of January, 2012.

Don Robinson, Mayor

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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. 2012-06 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 24th day of January, 2012.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

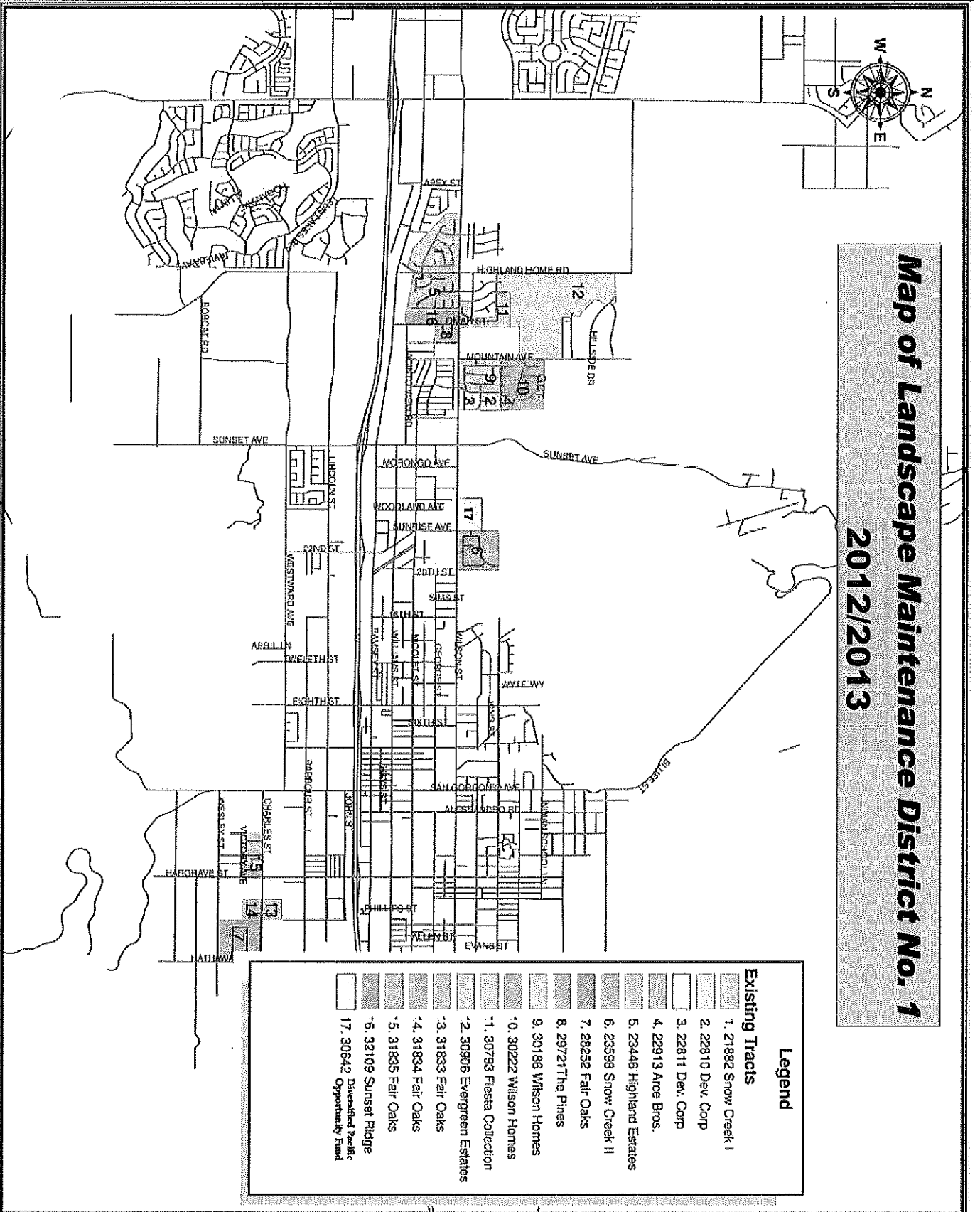
64

ATTACHMENT "A"

**LANDSCAPE MAINTENANCE DISTRICT NO. 1
FOR FISCAL YEAR 2012/2013**

Map of Landscape Maintenance District No. 1

2012/2013



ATTACHMENT “B”

TENTATIVE SCHEDULE UPDATING LANDSCAPE MAINTENANCE DISTRICT NO. 1

Item	Council Meeting
Resolution Initiating Update	January 24, 2012
Resolution of Intention (Approving Engineer’s Report)	April 24, 2012
Resolution Confirming Assessment (Public Hearing)	May 22, 2012

CITY COUNCIL/BANNING FINANCING AUTHORITY JOINT MEETING

DATE: January 24, 2012

TO: City Council & Banning Financing Authority

FROM: Fred Mason, Director of Electric Utility

SUBJECT: City Council Resolution No. 2012-07, "Appropriating Funds for the Downtown Corridor Underground Utilities Conversion Project".

RECOMMENDATION: Adopt City Council Resolution No. 2012-07, "Appropriating Funds for the Downtown Corridor Underground Conversion Project".


JUSTIFICATION: Resolution 2011-33 formed the Downtown Corridor Underground Utilities District for the undergrounding of utilities in the area from Fourth Street east to Hargrave Street and from Williams Street south to Livingston Street.

BACKGROUND: On May 10, 2011 the City Council adopted Resolution 2011-33 forming the Downtown Corridor Underground Utilities District. The undergrounding of Utilities in this expanded area is necessary to continue the City's beautification program as adopted in Resolution No. 2004-120.

On June 8, 2010 the City Council approved Resolutions 2010-41 authorizing the monies from the electric bonds to be re-directed to specific projects, including the Downtown Corridor Underground Utilities Conversion Project.

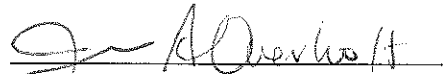
FISCAL DATA: An appropriation from the bond monies is necessary in order to cover expenses in relation to the Downtown Corridor Underground Conversion Project through the current Fiscal Year ending on June 30, 2012. The necessary appropriation is for \$750,000.00. The appropriation will be to the applicable accounts within the Electric Fund 674.

RECOMMENDED BY:



Fred Mason
Electric Utility Director

REVIEWED BY:



June Overholt
Administrative Services Director/
Deputy City Manager

APPROVED BY:



Andy Takata
City Manager

RESOLUTION NO 2012-07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AMENDING ITS 2011-12 FISCAL BUDGET AND APPROPRIATING FUNDS FOR DOWNTOWN UNDERGROUND UTILITIES CONVERSION PROJECT

WHEREAS, the budget for fiscal year 2011-2012 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 inter-fund 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, on May 10, 2011, the City Council adopted Resolution No 2011-33 forming the Downtown Corridor Underground Utilities District; and

WHEREAS, on June 8, 2010 the City Council adopted resolutions 2010-41 authorizing the monies from the electric bonds to be re-directed to specific projects, including the Downtown Corridor Underground Utilities Conversion; and

WHEREAS, an appropriation in the amount of \$750,000.00 is necessary in order to cover expenses through FY 2012, in relation to the Downtown Corridor Underground Conversion Project.

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

SECTION 1: An appropriation in the amount of \$750,000.00 is authorized from bond monies to fund 674.

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

PASSED, APPROVED AND ADOPTED this 24th day of January, 2012.

Don Robinson, Mayor
City of Banning

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

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

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2012-07 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 24th day of January, 2012, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

CITY COUNCIL AGENDA

Date: January 19th, 2011

TO: Mayor and City Council Members

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

SUBJECT: Ordinance No. 1444 & 1445, Ordinances of the City Council of the City of Banning, California. To Revoke and Amend Section 3.20 “Claims Against the City” and establish Section 3.21 “Financial Procedures”, of the Banning Municipal Code

RECOMMENDATION: The City Council adopt Ordinance No. 1444 an Ordinance of the City Council of the City of Banning, California revoking and amending section 3.20 of the Banning Municipal Code regarding claims against the city.

In addition, it is recommended that the City Council adopt Ordinance No. 1445 an ordinance of the City Council of the City of Banning, California establishing Section 3.21 “Financial Procedures” to the Banning Municipal Code.

BACKGROUND: Claims against the city for damages or money are governed by the Government Claims Act, California Government Code Sections 900 et seq.

On June 22, 1993 the City Council approved Ordinance 1121 to add Section 3.20.020 of the Banning Municipal Code, prescribing the method of filing a claim against the City.

On May 25, 1999, the City Council approved Ordinance 1240 to amend Section 3.20.010, “Claims or Demands Against the City—Form Contents”, further clarifying the procedures for filing a claim against the City.

Title 3, Chapter 3.20 of the Municipal Code, titled “Claims Against City” has not been updated since approval of Ordinance 1240. Ordinance No. 1444 adds new language to provide clarification based on case law regarding claims against the City. Because the existing ordinance is being revoked, Ordinance 1445 establishing Section 3.21 that provides governance regarding Financial procedures is needed to address how warrants will be issued.

DISCUSSION: Regarding Ordinance 1444, “Claims Against the City”, the first area of change relates to guidelines for filing class claims against the City. Public agencies have relied upon the California Supreme Court’s 1992 holding in *Woosley v. State of California*, to argue that class claims for local tax refunds were prohibited. However, recently, the California Supreme Court held in *Ardon v. City of Los Angeles* class claims for local tax refunds are prohibited only if an agency’s claiming procedures specifically prohibit or are inconsistent with class claims. The recent *Ardon* case creates uncertainty as to the applicability of local claims ordinances to class

claims for local tax refunds. Until State legislation is enacted, the best protection from these types of class claims is an ordinance that expressly prohibits such class claims.

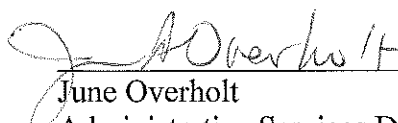
The second area of change relates to the "pay first, litigate later" requirement. Traditionally, in California a person challenging a claim against municipal taxes, fines or fees must first pay the disputed amount prior to filing a lawsuit. This is known as the "pay first, litigate later" or "pay first" requirement. This practice stems from Article XIII, § 32 of the California Constitution which requires that all taxes due to the State be paid before seeking judicial review of a tax assessment. The "pay first, litigate later" rule allows revenue collection to continue during litigation so funds necessary for essential public services are not withheld from the State. However, in *City of Anaheim v. Superior Court*, this State provision has recently been distinguished by the California Appellate Court. (179 Cal.App.4th 825, 831 (2009).) In a startling departure from the settled rule, the Second Appellate District Court of Appeal held that the "pay first, litigate later" rule did not apply. A group of online travel companies challenged the City of Anaheim's \$21.3 million tax assessment levied against them pursuant to a local transit occupancy tax. In the case the court held that the City could not rely on the California Constitution but needed its own local ordinance.

The City of Banning's Municipal Code does not contain a requirement to pay taxes, fines or fees before pursuing litigation. Adoption of Ordinance 1444 amended Section 3.20.060 of the Municipal Code would impose a "pay first, litigate later" requirement for litigating tax refund claims or tax disputes concerning any City taxes - requiring persons challenging the payment of taxes, fees, fines, and other payments to the City to make such payments prior to commencing any actions to recover such payments. Furthermore, it will provide the City with the same benefits as the State, protecting the City against delay tactics that could preclude payment of taxes, fees or fines legitimately due and owing to the City for several years.

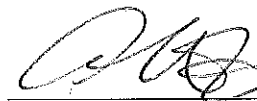
Adoption of Ordinance No. 1445, establishing Section 3.21 of the Municipal Code specifically addresses the administration of warrants paid by the City in its normal business operations. This was previously included in Section 3.20 that is being revoked with Ordinance No. 1444. In addition, language has been added that defines the accounting methods followed, identifies that an audit is needed annually and defines responsibility for handling of receipts and deposits.

FISCAL DATA: No immediate fiscal impact occurs.

RECOMMENDED BY:


June Overholt
Administrative Services Director/
Deputy City Manager

APPROVED BY:


Andy Takata
City Manager

ORDINANCE NO. 1444

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING AMENDING CHAPTER 3.20 OF THE MUNICIPAL CODE ENTITLED “CLAIMS AGAINST CITY” ADDING PROCEDURAL REQUIREMENTS FOR CLAIMS MADE AGAINST CITY IN COMPLIANCE WITH THE CALIFORNIA GOVERNMENT CODE.

WHEREAS, Chapter 3.20 of the Banning Municipal Code may be supplemented with standard provisions to replace and expand the City’s current procedures for individuals making a claim or demand against the City; and

WHEREAS, Section 3.20.010 of the Municipal Code is proposed to be amended in Chapter 3.20 to present the authority to which this chapter is hereby enacted; and

WHEREAS, Section 3.20.020 of the Municipal Code is proposed to be amended in Chapter 3.20 to require claims procedures to be governed by Section 900 et seq. of the California Government Code; and

WHEREAS, Section 3.20.030 of the Municipal Code is proposed to be amended in Chapter 3.20 to specify form requirements for claims, preventing claims to be filed on behalf of a class of persons unless verified by each member of that class; and

WHEREAS, Section 3.20.040 of the Municipal Code is proposed to be amended in Chapter 3.20 to allow the director over Risk Management to delegate claims to a third-party administrator, while maintaining supervision of the claims; and

WHEREAS, Section 3.20.050 of the Municipal Code is proposed to be amended to Chapter 3.20 to require persons bringing a challenge against the City to present such claims to the City prior to bringing its action; and

WHEREAS, Article XIII, Section 32, of the California Constitution sets forth what is commonly known as a “pay first, litigate later” requirement; and

WHEREAS, while such requirement has heretofore been assumed to be applicable to actions against cities, in a recent court opinion involving the City of Anaheim, the Court of Appeal held that such Constitutional protection does not apply to a city which does not have a “pay first, litigate later” code provision; and

WHEREAS, Section 3.20.060 of the Municipal Code is proposed to be amended to Chapter 3.20 to require persons challenging the payment of taxes, fees, fines, and other payments to the City to make such payments prior to commencing any actions to recover such payments; and

WHEREAS, Section 3.20.070 of the Municipal Code is proposed to be added to Chapter 3.20 to require persons bringing suit against the City or employee of the City to conform to Sections 940-951 of the California Government Code; and

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NOW, THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF THE CITY OF BANNING CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 3.20 of the Banning Municipal Code is hereby amended to read in its entirety as follows:

"Section 3.20.010 Authority.

This Chapter is enacted pursuant to Section 935 of the California Government Code.

Section 3.20.020 Claims Required.

All claims against the City for money or damages not otherwise governed by the Government Claims Act, California Government Code Sections 900 et seq., or another state law (hereinafter in this ordinance, "claims") shall be presented within the time, and in the manner, prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with Section 900 thereof) for the claims to which that Part applies by its own terms, as those provisions now exist or shall hereafter be amended, and as further provided by this Chapter.

Section 3.20.030 Form of Claim.

All claims shall be made in writing and verified by the claimant or by the guardian, conservator, executor or administrator of claimant. In addition, all claims shall contain the information required by California Government Code Sections 910 through 915.4. The foregoing reference to Government Code Sections 910 through 915.4 shall not be construed to authorize a class claim, and no claim may be filed on behalf of a class of persons unless verified by every member of that class.

Section 3.20.040 Delivery of Claims to the Director over Risk Management.

All documents setting forth claims or demands against the City which may come into the hands of the City Clerk or any other officer of the City shall be forthwith delivered to the director. The director shall audit each demand and investigate each claim for damages and shall cause the same to be promptly presented to the Third Party Administrator or City Attorney in compliance with the guidelines provided by the risk sharing joint powers authority the City is a member thereof. Notwithstanding the foregoing, the third-party administrator providing the general administration of claims shall be under the continued supervision of the director. Settlement authority is determined by resolution adopted by the City Council.

Section 3.20.050 Claim Prerequisite to Suit.

In accordance with California Government Code Sections 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by the City

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prior to the filing of any action on such claims and no such action may be maintained by a person who has not complied with the requirements contained in the sections of Chapter 3.20.

**Section 3.20.060 Actions for Payment of Taxes, Fees or Fines; Payment
Required Prior to Commencement of Legal Action.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the City or an officer thereof to prevent or enjoin the collection of taxes, fees or fines sought to be collected pursuant to any provision or resolution ordinance of the City for the payment of all taxes, fees or fines. Payment of all taxes, fees or fines, interest and penalties shall be required as a condition precedent to seeking judicial review of the validity or application of any such tax, fees or fines.

Section 3.20.070 Suit.

Any action brought against the City upon any claim or demand shall conform to the requirements of Sections 940-949 of the California Government Code. Any action brought against any employee of the City shall conform with the requirements of Section 950-951 of the California Government Code.

SECTION 2. This Section is intended to revoke and replace Chapter 3.20 of the Banning Municipal Code. Except as expressly modified pursuant to this Ordinance, all other provisions of Chapter 3 shall remain unmodified and in full force and effect. All ordinances in conflict with the provisions hereof are superseded to the extent of such conflict. Upon the effective date of this Ordinance, all prior ordinances establishing procedural requirements for claims made against the City shall be repealed and rescinded, and shall be superseded by the provisions herein.

SECTION 3. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance, it being expressly declared that this Ordinance and each section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted, irrespective of the fact that one or more other section, subsection, paragraph, sentence, clause or phrase be declared invalid or unconstitutional.

SECTION 4. This Section is to be interpreted liberally and applied consistent with the interpretation and application of Article XIII, Section 32 of the California Constitution and Revenue and Tax Code Section 6931.

SECTION 5. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the city. Thereupon this Ordinance shall take effect (30) days after adoption and be in effect according to the law.

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SECTION 6. This Ordinance shall take effect and be in force thirty (30) days after the adoption by the City Council for the City of Banning.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Banning, California, on this 24th day of January 2012.

Don Robinson, 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 Ordinance No. ____ was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ____, and was duly adopted at a regular meeting of said City Council on the ____, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ORDINANCE NO. 1445

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ESTABLISHING SECTION 3.21 "FINANCIAL PROCEDURES" TO THE BANNING MUNICIPAL CODE.

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

Section 1. Code Amendment. Sections 3.21 of the Banning Municipal Code is hereby established as follows:

"Section 3.21 Financial Procedures

3.21.010 Warrants

All disbursements except petty cash are made on warrants. A combined demand-warrant is employed and signed by use of check signature plates (or most current technology) to imprint signatures of any two of the following: The Administrative Services Director, Finance Director, City Manager, and the Mayor or Council-Member.

The warrants shall be drawn on the city of Banning bank account.

Warrants shall be of four types:

1. General;
2. Payroll;
3. Return of deposit;
4. Such other warrants as may be necessary for expenditures from certain restricted and special accounts.

All warrants issued must be properly documented. No warrants shall be made payable to "bearer" or "cash."

All warrants appear on the warrant registers in numerical sequence. Voided or canceled warrants are so indicated on the registers and are properly defaced. There may be separate warrant registers to cover the different types of warrants.

Warrants may be issued by the Finance Department on a weekly basis for demands which are accompanied by supporting documents. Such disbursements shall only be for items which have followed the procurement procedures prescribed by this code and for which funds have been appropriated by the city council. Monthly warrant registers for these disbursed items shall be submitted to the city council for ratification at the next regularly scheduled council meeting after the issuance thereof.

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3.21.020 Accounting Methods

The basis of accounting is in conformity with generally accepted principles of municipal accounting.

3.21.030 Audit

An audit of the accounts and records is made annually by a certified public accountant.

3.21.040 Receipts, Deposit and Safekeeping of Moneys

All collections of cash are the responsibility of the administrative services director, who outlines the procedures pertaining to the physical aspects of the receipt, deposit and safekeeping of all moneys. Receipts are issued for all collections in a form as prescribed by the director and suitable to the nature of the collection. Cash is deposited daily. Cash on the premises shall be safeguarded through the use of locked cash drawers, safes, or other protective devices. Persons having access to cash shall be kept to a minimum and adequately bonded.”

Section 2. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance, it being expressly declared that this ordinance and each section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted, irrespective of the fact that one or more other section, subsection, paragraph, sentence, clause or phrase be declared invalid or unconstitutional.

Section 3. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the city. Thereupon this Ordinance shall take effect (30) days after adoption and be in effect according to the law.

Section 4. This Ordinance shall take effect and be in force thirty (30) days after the adoption by the City Council for the City of Banning.

PASSED, APPROVED AND ADOPTED, this 24th day of January, 2012.

Don Robinson
Mayor

ATTEST:

Marie A. Calderon
City Clerk

APPROVED AS TO FORM:

David J. Aleshire
City Attorney

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1445, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of January, 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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**CITY COUNCIL
PUBLIC HEARING**

DATE: January 24, 2012

TO: City Council

FROM: Zai Abu Bakar, Community Development Director

**SUBJECT: ZONE TEXT AMENDMENT (ZTA) NO. 11-97502
AMENDING SIGN REGULATIONS FOR FREEWAY-ORIENTED SIGNS**

RECOMMENDATION: That the City Council takes the following action:

1. Adopt a Categorical Exemption in compliance with CEQA Guidelines Section 15061(b)(3); and
2. Adopt Ordinance No. 1447 amending Sign Regulations for freeway-oriented signs, Section 17.36.110 of the Banning Municipal Code.

PLANNING COMMISSION RECOMMENDATION: On January 4, 2012, the Planning Commission held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zoning Text Amendment No. 11-97502. The Planning Commission discussed and asked questions of staff regarding the subject ZTA. There was no public comment. The Planning Commission considered the proposed Zoning Text Amendment and recommended approval of Ordinance No. 1447 to City Council by adoption of Resolution No. 2012-01.

JUSTIFICATION: Amending the sign regulations for freeway-oriented signs will encourage development of commercial businesses along the freeway corridor.

BACKGROUND: The City Council adopted the present Zoning Ordinance in January 2006. The sign regulations portion of the ordinance permitted new onsite freestanding freeway-oriented signs up to 55 feet in height. Onsite freestanding signs over 8 feet in height were prohibited (see Exhibit A – Graphic). Offsite signs were prohibited.

A year later, staff received a request to amend the City's Sign Regulations to permit freestanding freeway-oriented advertising signs for the purpose of offsite advertising. On September 25, 2007, the City Council adopted Ordinance No. 1377 which amended the Sign Regulations in the 2006 Zoning Ordinance. That amendment created six sign districts along the freeway corridor that would allow the placement of a large freeway-oriented sign in each district permitting both

on-site and off-site advertising. The stated purpose of creating the sign districts was to prevent visual clutter and preserve the aesthetics of the City. However, the ordinance acknowledged that the existing freestanding freeway-oriented signs could remain as “legal non-conforming”.

On February 10, 2009, the City Council adopted Interim Urgency Ordinance No. 1402 in response to requests from concerned citizens and property owners along the freeway corridor regarding the economic impact of restricting freestanding freeway-oriented signs to just six sign districts. The interim urgency ordinance and subsequent extensions again allowed freestanding freeway-oriented signs for such services as food, lodging, and automotive businesses only on a temporary basis. That interim urgency ordinance and subsequent extensions expired on December 24, 2010; therefore, the requirement for six sign districts along the freeway corridor was reinstated.

On April 25, 2011, the City Council held a joint study session with the Planning Commission regarding freeway-oriented signs and billboards and provided staff with policy direction to implement. At this time, staff is addressing regulations related to freeway-oriented signs as national chain restaurants and retailers require the ability to construct freeway-oriented signs as one of the necessary criteria when looking for places to locate their business. Regulations on billboards are on hold at this time because there is no pending interest for the billboard companies to consolidate the existing billboards and reduce their numbers in exchange for a digital billboard.

ANALYSIS: The City of Banning is bisected by Interstate 10 (I-10) from east to west and has over five miles of frontage along the freeway. Traffic counts prepared by Caltrans showed that for the year 2009 on average as many as 147,000 vehicles per day travel the interstate (see Exhibit B). The number of vehicles traveling the interstate is an opportunity for businesses located along this transportation corridor to capture motorist’s attention to exit the freeway to shop, eat at restaurants, or stay at hotels in the City of Banning. However, that opportunity needs to be balanced with scenic values and/or aesthetics, and the health, safety, and welfare of the community as it relates to freeway-oriented freestanding signs.

The need for this balance is identified by the Goals and Policies in the City’s General Plan as follows:

Economic Development Policy 6 states *“Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits”* (GP p. III-43).

Proposed Amendment

The current sign regulations that limit freeway-oriented signs to only six districts along the freeway frontage are too restrictive, especially in the present economic climate. The “sign district” project was not implemented because the cost to implement Ordinance No. 1377 was considerable. The project was not funded by the City, nor did any individual property owner propose to pay for a sign in their district. Subsequent to the adoption of Ordinance No. 1377,

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there was only one formal sign application submitted proposing to erect a freestanding freeway-oriented sign; however, this sign was never constructed.

The proposed amendment will accomplish the following items, subject to approval of a CUP:

- Allow freeway-oriented wall signs when in direct line of site of the freeway.
- Allow freeway-oriented freestanding signs when in direct line of site of freeway not to exceed 55 feet in height (by eliminating 6 sign districts).
- Allow freeway-oriented shopping center signs when in direct line of site of freeway that includes a city identification or logo.
- Review and approval of the CUP application requires findings related to the elevation of the freeway and property in question, the number and spacing of freeway-oriented signs, the use of the proposed sign, and the needs of the traveling public.

Amending the Sign Regulations to allow freeway-oriented signs will encourage and facilitate commercial development along the freeway through identification of freeway-oriented businesses. Requiring approval of a freeway-oriented sign by Planning Commission through the Conditional Use Permit (CUP) process will allow a balanced review and analysis of each proposal. Note the following statement of purpose as found in Section 17.52.010 CONDITIONAL USE PERMITS of the Zoning Ordinance:

“Conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing the use to established development standards and design guidelines.

This review shall determine whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use, against any negative or undesirable impacts which it may cause . . .”

Conclusion

The proposed amendment for freeway-oriented signs is not a substantial change from what the City has permitted in the past. If approved by City Council, it is anticipated that the availability of a freeway-oriented sign will again attract businesses to our commercial zones along the freeway corridor. Additionally, the regulations include the requirement for shopping centers to include a “city identification or logo” to enhance the identity of the City of Banning along with the shopping center. Specific design requirements for freeway-oriented signs are included in the proposed Ordinance No. 1447; and, each freeway-oriented sign application will be subject to review and approval of Planning Commission through the conditional use permit review process.

ENVIRONMENTAL DETERMINATION: The City Council, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the staff report dated January 24, 2012, and documents incorporated therein by reference, and any other evidence (within the meaning of

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Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

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

2. Multiple Species Habitat Conservation Plan (MSHCP):

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

REQUIRED FINDINGS FOR ZONE TEXT AMENDMENT NO. 11-97502: The Zoning Ordinance requires that each Zone Text Amendment meet certain findings in Section 17.116.050 in order to be approved by the City Council. The following findings are provided for council consideration:

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

Findings of Fact:

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

Furthermore, allowing freeway-oriented signs through the Conditional Use Permit process encourages development of businesses along the freeway. Economic

Development Policy 6 states *"Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits"*.

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

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The proposed amendment will modify and update development standards pertaining to freeway-oriented signs within the limits established by the Zoning Ordinance and Planning Commission through the Conditional Use Permit process.

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

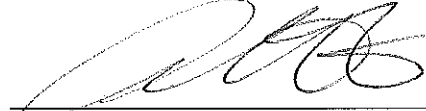
Findings of Fact:

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

PUBLIC COMMUNICATION: The proposed Zone Text Amendment was advertised in the Record Gazette newspaper on January 13, 2012. As of the date of this report, staff has not received any verbal or written comments for or against the proposal.

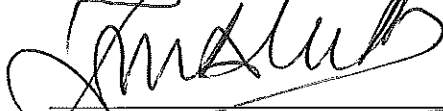
FISCAL DATA: There are no direct fiscal impacts associated with the adoption of Ordinance No. 1447.

APPROVED BY:



Andy Takata
City Manager

RECOMMENDED BY:



Zai Abu Bakar
Community Development Director

PREPARED BY:



Brian Guillot
Assistant Planner

Attachments:

1. Ordinance No. 1447

Exhibits:

- A. Graphic
- B. Caltrans traffic count data for Interstate 10

Attachment 1

(Ordinance No. 1447)

ORDINANCE NO. 1447

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
BANNING, CALIFORNIA APPROVING ZONING TEXT
AMENDMENT NO. 11-97502 AMENDING THE SIGN
REGULATIONS FOR FREEWAY-ORIENTED SIGNS**

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

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

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

WHEREAS, on September 25, 2007, the City adopted Ordinance No. 1377, creating six (6) sign districts and precluding the approval of any freeway-oriented signs subsequent to September 25, 2007 and preventing the placement of any new signage that is not within a sign district; and

WHEREAS, the City did not implement the use of "sign districts"; and

WHEREAS, on February 10, 2009, the City Council adopted Interim Urgency Ordinance No. 1402, which allowed freestanding freeway-oriented signs for such services as food, lodging, and automotive businesses; and

WHEREAS, that interim urgency ordinance and subsequent extensions expired on December 24, 2010, meaning that the requirement for six sign districts along the I-10 corridor was reinstated and is currently in place; and

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

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

WHEREAS, in light of the economic circumstances within the State of California in general, and the City of Banning specifically, the City Council believes that the current standards set for the use of signage may not appropriately take the economy, welfare and concerns of businesses and citizens into consideration; and

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WHEREAS, the City does not wish to implement the “sign district” concept, and finds that it is in the best interest of the City and its citizens to allow new freeway-oriented signs subject to location, height, size and sign area requirements and subject to the approval of a conditional use permit; and

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

WHEREAS, by regulating the location, height, size and sign area of freeway-oriented signs and requiring the approval of a conditional use permit for freeway-oriented signs, the City Council desires to minimize overhead visual clutter in the City and ensure traffic safety; and

WHEREAS, the City of Banning is proposing amending the Sign Regulations of the Zoning Ordinance for freeway-oriented signs in accordance with the proposed development standards and guidelines; and

WHEREAS, the City Council has authority per Chapter 17.116 of the Municipal Code to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

WHEREAS, the Planning Commission recommended adoption of Ordinance No. 1447 amending the Sign Regulations of the Zoning Ordinance by approving Resolution No. 2012-01 as stated in writing; and

WHEREAS, on the 13th day of January, 2012, the City gave public notice as required under Chapter 17.68 of the Zoning Ordinance by advertising in the Press Enterprise newspaper of the holding of a public hearing at which the amendment to the Zoning Ordinance would be considered; and

WHEREAS, on the 24th day of January, 2012, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the proposed amendment, and at which time the City Council considered Zone Text Amendment No. 11-97502; and

WHEREAS, at this public hearing on the 24th day of January, 2012, the City Council considered and heard public comments on the proposed Zone Text Amendment; and

WHEREAS, at this public hearing, the City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on the 24th day of January, 2012;

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

SECTION 1. ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the staff report dated January 24, 2012, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

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

2. Multiple Species Habitat Conservation Plan (MSHCP).

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

SECTION 2. REQUIRED FINDINGS.

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

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

Findings of Fact:

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states "*A balanced, well planned community including*

businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents”.

Furthermore, allowing freeway-oriented signs through the Conditional Use Permit process encourages development of businesses along the freeway. Economic Development Policy 6 states *“Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits”.*

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

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The proposed amendment will modify and update development standards pertaining to freeway-oriented signs within the limits established by the Zoning Ordinance and Planning Commission through the Conditional Use Permit approval process.

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

Findings of Fact:

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

SECTION 3. Ordinance No. 1377 is hereby repealed in its entirety.

SECTION 4. *Section 17.36.110(B)(2)* of the Banning Municipal Code is amended to read, in its entirety, as follows:

- “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 fifty (50) square feet of sign area. The fifty (50) square feet of sign area maximum for wall signs shall not apply to a freeway-oriented wall sign proposed to be located and designed in such a manner as to be viewed primarily in a direct line of sight from a main traveled roadway of a freeway or a freeway on-ramp/ off-ramp and advertising onsite retail or service-oriented businesses. Freeway-oriented wall signs shall be subject to all

requirements of section 17.36.110(B)(6), including requiring the approval of a conditional use permit.”

SECTION 5. *Section 17.36.110(B)(6)* of the Banning Municipal Code is amended to read, in its entirety, as follows:

“6. Freeway-Oriented Freestanding Sign. Freeway-oriented freestanding signs shall be allowed subject to the following requirements:

- a. Said sign shall be located and designed in such a manner as to be viewed primarily in a direct line of sight from a main traveled roadway of a freeway or a freeway on-ramp/ off-ramp. The phrase “viewed primarily in a direct line of sight from” shall mean that the message may be seen with reasonable clarity for a greater distance by a person traveling on the main traveled roadway of a freeway or on-ramp/off-ramp than by a person traveling on the street adjacent to the sign.
- b. Said signs shall be limited to on-site retail or services businesses. Shopping centers may have one freeway-oriented sign and shall include city identification or city logo as approved by planning commission. Said city identification or logo shall be excluded from the display face area calculation. When the display area of the sign is used for commercial speech, the copy must qualify as onsite as to the business or shopping center.
- c. Said sign shall not block another freeway-oriented freestanding sign. The applicant shall be responsible for providing the planning commission with evidence to assure satisfactory compliance with this requirement.
- d. Said sign shall be located in a planter area not less than fifty square feet with one dimension being at least six feet, unless from the evidence presented to the planning commission it can be determined that the area is not visible from public street or right-of-way, or the absence of the planter shall not be detrimental to the appearance of the area.
- e. Said sign shall not exceed an overall height of fifty-five feet.
- f. Said sign shall not exceed one hundred seventy-five square feet per display face.
- g. Said sign shall require approval of a conditional use permit. In addition to satisfying requirements set forth above in this section *17.36.110(B)(6)* of the Banning Municipal Code, the following findings must be made prior to approval of a conditional use permit for a freeway-oriented free standing sign, without consideration of message content of the proposed signs:
 - i. The elevation of the freeway in relation to the elevation of the abutting properties justifies the height requested, and is the minimum necessary.
 - ii. The number and spacing of freeway signs will not cause unnecessary confusion, clutter or other unsightliness in the general location.

- iii. The use identified, as well as its type, size and intensity, justifies the size, design and location of the sign requested.
- iv. The needs of the travelling public for identification and directional information justifies the sign requested.”

SECTION 6. *Section 17.36.110(B)(8)* of the Banning Municipal Code is amended to read, in its entirety, as follows:

“8. Any existing freestanding sign shall be considered legal and conforming, but shall not be altered or replaced except by approval of a conditional use permit.”

SECTION 7. SEVERABILITY.

If any section, subsection, sentence, clause, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Banning hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 8. PUBLICATION; EFFECTIVE DATE.

The City Clerk shall certify to the passage and adoption of this Ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This Ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2012.

Don Robinson, Mayor
City of Banning

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

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

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1447 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the _____th day of _____ 2012, and was duly adopted at a regular meeting of said City Council on the _____ day of _____, 2012, by the following vote, to wit:

AYES:

NOES:

ABSEN:

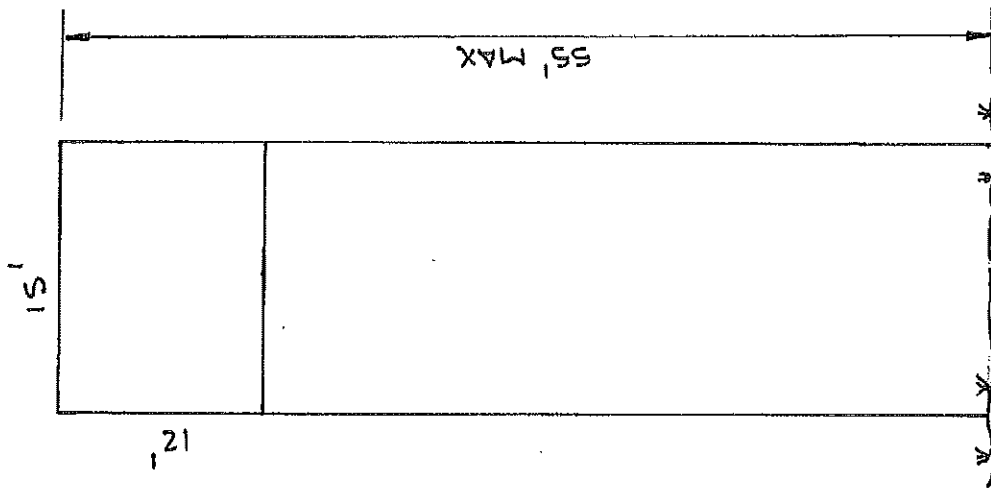
ABSTAIN:

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

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Exhibit A

(Graphic)



EXISTING SIGN REGULATIONS

17.36.110

AS OF

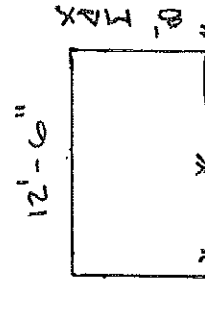
APRIL 25, 2011

6 SIGN DISTRICTS

120 ft

(SEVEN TOTAL SIGNS)

(A)

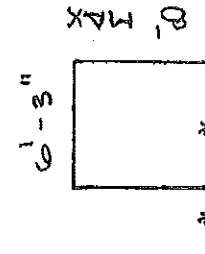


SHOPPING CENTER

ONE SIGN

100 ft

(B)



SINGLE BUSINESS

ONE SIGN

50 ft

(C)

Exhibit B

(Caltrans Traffic Counts)

2009 Caltrans Traffic Counts*

District	Route	County	Pre	Postmile	Description	Back Peak Hour	Back Peak Month	Back AADT	Ahead Peak Hour	Ahead Peak Month	Ahead AADT
08	010	RIV		9.307	HIGHLAND SPRINGS AVE INTERCHANGE	9,200	147,000	134,000	8,800	142,000	129,000
08	010	RIV		11.333	BANNING, SUNSET AVE	8,800	142,000	129,000	8,600	139,000	126,000
08	010	RIV	R	11.962	22ND ST	8,600	139,000	126,000	8,400	135,000	123,000
08	010	RIV		12.853	BANNING, JCT RTE 243, SOUTH EIGHTH ST	8,400	135,000	123,000	11,400	134,000	120,000
08	010	RIV		13.859	BANNING, HARGRAVE ST INTERCHANGE	11,400	134,000	120,000	10,500	123,000	110,000
08	010	RIV	R	14.76	EAST RAMSEY ST	10,500	123,000	110,000	10,800	126,000	113,000
08	010	RIV	R	16.544	RESERVATION RD/FIELDS RD INTERCHANGE	10,800	126,000	113,000	10,100	118,000	106,000

*<http://www.dot.ca.gov/hq/traffops/safesr/trafdata/index.htm>

[Files]

The files containing traffic volumes (also known as counts) on California state highways are available for downloading. These files can be imported into spreadsheets or data bases for viewing and analysis.

[Route Number]

All California state highways are listed in this booklet in order of Legislative Route number.

[Annual Average Daily Traffic (Annual ADT)]

Annual average daily traffic is the total volume for the year divided by 365 days. The traffic count year is from October 1st through September 30th. Very few locations in California are actually counted continuously. Traffic Counting is generally performed by electronic counting instruments moved from location throughout the State in a program of continuous traffic count sampling. The resulting counts are adjusted to an estimate of annual average daily traffic by compensating for seasonal influence, weekly variation and other variables which may be present. Annual ADT is necessary for presenting a statewide picture of traffic flow, evaluating traffic trends, computing accident rates, planning and designing highways and other purposes.

[Peak Hour]

Included is an estimate of the "peak hour" traffic at all points on the state highway system. This value is useful to traffic engineers in estimating the amount of congestion experienced, and shows how near to capacity the highway is operating. Unless otherwise indicated, peak hour values indicate the volume in both directions.

A few hours each year are higher than the "peak hour", but not many. In urban and suburban areas, the peak hour normally occurs every weekday, and 200 or more hours will all be about the same. On roads with large seasonal fluctuations in traffic, the peak hour is the four near the maximum for the year but excluding a few (30 to 50 hours) that are exceedingly high and are not typical of the frequency of the high hours occurring during the season.

[Traffic Profile]

These files list 2009 traffic volumes for all count locations on the California state highway system. Peak hours, peak month ADTs and annual ADTs are shown at each count location. Significant volume changes (breakpoints) in the traffic profile along each route are counted and identified by name and milepost value. In addition to the profile breakpoints, these files list county lines and well-known landmarks to aid in orientation. All traffic volume figures listed include traffic in both directions unless otherwise indicated.

[Milepost]

Each profile breakpoint is identified by the milepost value corresponding to that point on the highway. The milepost values increase from the beginning of a route within a count to the next county line. The milepost values start over again at each county line. Milepost values usually increase from south to north or west to east depending upon the general direction the route follows within the state.

The milepost at a given location will remain the same year after year. When a section of road is relocated, new milepost (usually noted by an alphabetical prefix such as "R" or "M") are established for it. If relocation results in a change in length, "milepost equations" are introduced at the end of each relocated portion so that mileposts on the remainder of the route within the county will remain unchanged.

[Peak Month ADT]

The peak month ADT is the average daily traffic for the month of heaviest traffic flow. This data is obtained because on many routes, high traffic volumes which occur during a certain season of the year are more representative of traffic conditions than the annual ADT.

[Back and Ahead]

Back AADT, Peak Month, and Peak Hour usually represents traffic South or West of the count location. Ahead AADT, Peak Month, and Peak Hour usually represents traffic North or East of the count location.

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**CITY OF BANNING
REPORT OF OFFICERS**

DATE: January 24, 2012

TO: Mayor and Members of the City Council

FROM: Bill R. Manis, Economic Development/Redevelopment Director

SUBJECT: Adoption of a City Council Resolution Relating to Assembly Bill 936

RECOMMENDATION:

That the City Council:

- (1) Adopt City Council Resolution No. 2012- 08 declaring that the City Council of the City of Banning, California, under Health and Safety Code Section 33354.8 that, during the period of January 1, 2010, to December 31, 2011, the City has not forgiven the repayment, wholly or partially, of any loan, advance, or indebtedness owed to the City by the Redevelopment Agency.

BACKGROUND/DISCUSSION:

Assembly Bill 936, adopted in the last session of the Legislature, became effective January 1, 2012. AB 936 arose out of a controversial decision by the City Council in San Diego to waive repayment of a certain loan it had given to its redevelopment agency. The effect of AB 936 was described by the California State Senate as follows:

"This bill would require that any time a city, county, or RDA forgives a debt of the other, it must adopt a resolution making specific findings. In addition, cities, counties, and RDA's are required to adopt a resolution by February 1, 2012, stating whether or not they forgave any loans, advances, or indebtedness between January 1, 2010, to December 31, 2011, owed by an RDA or a public body. The resolution must be sent to the State Controller."

Therefore, AB 936 requires two resolutions to be adopted by February 1, 2012. The first resolution by the RDA declaring whether the RDA has waived or forgiven any loan it gave to a "public body" (not defined in the law) between January 1, 2010, and December 31, 2011, and if it has, to describe the loan recipient, loan terms, and amount forgiven. The second resolution is by the City Council declaring whether it has waived or forgave any loans to the RDA during the same time period.

Staff has determined that the RDA did not waive or forgive any loan given to a "public body" during that time period. In addition, staff has determined that the City did not waive or forgive any loans to the RDA during that same time period.

Even though the RDA will be dissolved as of February 1, 2012, due to the California Supreme Court's ruling in *CRA v. Matosantos* (which upheld ABX126 and invalidated ABX127), the RDA will still be operating in the month of January (during the time period in which the resolutions are required to be

adopted). Staff is, therefore, recommending that the Banning City Council adopt that attached Resolution No. 2012-08 relating to AB 936.

FISCAL DATA:

There is no cost associated with the adoption of Resolution No. 2012-08 .

RECOMMENDED BY:

Bill R. Manis

Bill R. Manis
Economic Development /
Redevelopment Director

APPROVED BY:

Andy Takata

Andy Takata,
City Manager

REVIEWED BY:

June Overholt
Deputy City Manager/
Administrative Services Director

Attachment:

1. Resolution 2012-08

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ATTACHMENT 1

Resolution No. 2012-08

RESOLUTION NO. 2012-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, MAKING A DECLARATION UNDER HEALTH AND SAFETY CODE SECTION 33354.8 THAT, DURING THE PERIOD FROM JANUARY 1, 2010, TO DECEMBER 31, 2011, THE CITY HAS NOT FORGIVEN THE REPAYMENT, WHOLLY OR PARTIALLY, OF ANY LOAN, ADVANCE, OR INDEBTEDNESS OWED TO THE CITY BY THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING

WHEREAS, the City of Banning is a municipal corporation and general law city organized and existing under the Constitution of the State of California; and

WHEREAS, the Community Redevelopment Agency of the City of Banning, a public body, corporate and politic ("Agency"), is the redevelopment agency performing redevelopment functions within the territorial limits of the city pursuant to the California Redevelopment Law (Health & Safety Code § 33000 *et seq.*); and

WHEREAS, Health & Safety Code Section 33354.8 requires the adoption on or before February 1, 2012, of a resolution stating whether or not the repayment, wholly or partially, of a loan, advance, or indebtedness owed by a public body, has been forgiven during the period of time commencing January 1, 2010, through December 31, 2011; and

WHEREAS, Section 33354.8 of the California Health & Safety Code also requires that within ten (10) days after adoption of the resolution, the City of Banning must transmit a copy of the resolution to the California State Controller.

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

SECTION 1. Based upon the best knowledge of City staff and the City Council, during the period between January 1, 2010, and December 31, 2011, the City has not forgiven the repayment, wholly or partially, of a loan, advance, or indebtedness that has been owed by the Agency to the City.

SECTION 2. Not later than ten (10) days after the adoption of this Resolution, the City Clerk shall transmit a copy of this Resolution to the California State Controller.

SECTION 3. The City Clerk shall certify as to the adoption of this Resolution and shall cause the same to be process in the manner required by law.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Banning City Council this 24th day of January 2012.

Don R. Robinson, Mayor
City of Banning

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

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

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, MARIE A. CALDERON, City Clerk of the City of Banning, California, hereby certify that Resolution No. 2012-08 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 24th day of January 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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**JOINT MEETING
CITY COUNCIL OF THE CITY OF BANNING,
ACTING IN ITS CAPACITY AS THE SUCCESSOR AGENCY, &
THE COMMUNITY REVELOPMENT AGENCY OF THE CITY OF BANNING
REPORT OF OFFICERS**

DATE: January 24, 2012

TO: Mayor and Members if the City Council/Chair and Agency Board Members

FROM: Bill R. Manis, Economic Development/Redevelopment Director

SUBJECT: Initial Enforceable Obligations Payment Schedule (EOPS) Resolution and the Preliminary Draft Recognized Obligation Payment Schedule (PDROPS) Resolution

RECOMMENDATION:

That the Successor Agency:

- (1) Adopt Resolution No. 2012- 01 SA of the City Council of the City of Banning acting in its capacity as Successor Agency to the Community Redevelopment Agency of the City of Banning, California receiving and adopting its Enforceable Obligation Payment Schedule (EOPS) and receiving and adopting a Preliminary Draft Recognized Obligation Payment Schedule (PDROPS) pursuant to Health and Safety Code Section 34177 and transmitting the draft PDROPS to the necessary agencies (Attachment 1); and

That the Agency Board:

- (2) Adopt CRA Resolution 2012-02 of the Community Redevelopment Agency of the City of Banning, California amending and updating its Enforceable Obligation Payment Schedule (EOPS) and adopting a Preliminary Draft Recognized Obligation Payment Schedule (PDROPS) pursuant to Health and Safety Code Section 34177 and transmitting the draft PDROPS to the Successor Agency (Attachment 2).

BACKGROUND/DISCUSSION:

In response to the recent State Supreme Court decision to eliminate redevelopment in California, ABX126, the redevelopment agency "Opt-Out" bill, requires the Agency Board to make final amendments to its EOPS (Exhibit A to the attached Resolutions) and to adopt a PDROPS (Exhibit B to the attachment Resolutions) before transmitting both schedules to the City of Banning as the Successor Agency.

The EOPS must list all obligations of the Redevelopment Agency that are enforceable including the following:

- Bonds
- Required debt service
- Reserve set-aside
- Payments required under the indenture or similar documents governing the issuance of any outstanding bonds of the Redevelopment Agency

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- Loans of monies borrowed by the Redevelopment Agency, including, but not limited to, monies borrowed from the Low and Moderate Income Housing Fund
- Payments required by the federal government
- Pre-existing obligations to the State
- Obligations imposed by State law
- Legally enforceable payments required in connection with the Redevelopment Agency employees, including, but not limited to, pension payments, pension obligation debt service, and unemployment payments
- Judgments or settlements
- Legally binding and enforceable agreements or contracts
- Contracts or agreements necessary for the continued administration or operation of the Redevelopment Agency to the extent, including, but not limited to, agreements to purchase or rent office space, equipment and supplies, and insurance.

The Redevelopment Agency previously adopted an EOPS in August 2011. Pursuant to the requirements of ABX126, it is necessary to update and make any final amendments to the EOPS before transmitting the schedule to the City of Banning, acting as the Successor Agency to the Community Redevelopment Agency of the City of Banning. Accordingly, staff has updated and amended the EOPS.

A second action is also required approving a PDROPS for the first six months of 2012. The PDROPS allows the Successor Agency to make payments, other than for bonded indebtedness, in accordance with the requirements of ABX126. The PDROPS is needed so that pledges of revenues associated with enforceable obligations of our former Redevelopment Agency can be honored.

In light of the foregoing, the PDROPS is included as part of this staff report, along with the requisite resolution adopting the schedule and transmitting the PDROPS to the Successor Agency. Instructions to post the EOPS and PDROPS on our City website and deliver the two schedules to the appropriate State and County agencies are in both resolutions.

Staff recommends that the Successor Agency approve and adopt Resolution No. 2012-01 SA and the Agency Board approve and adopt CRA Resolution 2012-02 allowing the Successor Agency to make the necessary payments for the various obligations outlined in the EOPS and PDROPS. Staff further recommends that the Successor Agency and Agency Board authorize the City Manager/Executive Director and/or the Deputy City Manager/Administrative Services Director to sign all paperwork and to take all necessary actions to forward the documents to the Successor Agency, State, and County.

FISCAL DATA:

The elimination of the Community Redevelopment Agency of the City of Banning will effectively remove the primary economic development tool available to our local community. While a token amount of administrative monies are provided to the Successor Agency for wind-down activities, the flexibility, resources, and funding the community once had, are eliminated. Staff will bring an expanded financial discussion as the implementation path of ABX126 is further developed at the State and County level.

RECOMMENDED BY:

Bill R. Manis

Bill R. Manis
Economic Development /
Redevelopment Director

APPROVED BY:

Andy Takata

Andy Takata,
City Manager/Executive Director

REVIEWED BY:

June Overholt
Deputy City Manager/
Administrative Services Director

Attachments:

1. Resolution 2012-01 SA
2. CRA Resolution 2012-02

Exhibits to Attachments:

- A. EOPS
- B. PDROPS

ATTACHMENT 1

Resolution No. 2012-01 SA

RESOLUTION NO. 2102-01 SA

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING ACTING IN ITS CAPACITY AS SUCCESSOR AGENCY TO THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING, CALIFORNIA RECEIVING AND ADOPTING ITS ENFORCEABLE OBLIGATION PAYMENT SCHEDULE (EOPS) AND RECEIVING AND ADOPTING A PRELIMINARY DRAFT RECOGNIZED OBLIGATION PAYMENT SCHEDULE (PDROPS) PURSUANT TO HEALTH AND SAFETY CODE § 34177 AND TRANSMITTING THE DRAFT PDROPS TO THE NECESSARY AGENCIES

WHEREAS, the Community Redevelopment Agency of the City of Banning ("Redevelopment Agency") is a public body, corporate and politic, organized and existing under the California Community Redevelopment Law (Health & Safety Code §§ 33000 *et seq.*); and

WHEREAS, the City of Banning is a municipal corporation and a general law city organized and existing under the Constitution of the State of California ("City"); and

WHEREAS, on December 29, 2011, the California Supreme Court issued its opinion in the case *California Redevelopment Association, et al. v. Ana Matosantos, etc., et al.*, Case No. S196861, and upheld the validity of Assembly Bill X126 ("ABX126") and invalidated Assembly Bill X127; and

WHEREAS, the Court's decision results in the implementation of ABX126 which dissolves all the redevelopment agencies in the State of California as of February 1, 2012; and

WHEREAS, the City is, by operation of law, the Successor Agency to the Redevelopment Agency for purposes of winding-down the Redevelopment Agency under ABX126; and

WHEREAS, pursuant to a provision of ABX126, codified as Health and Safety Code Section 34177, the City as Successor Agency is required to adopt the "Enforceable Obligation Payment Schedule" (the "EOPS") and "Preliminary Draft Recognized Obligations Payment Schedule" ("PDROPS") transmitted to it by the Redevelopment Agency; and

WHEREAS, the Redevelopment Agency, having considered the matter, has determined, in its legislative discretion, to update and amend the EOPS and adopt a PDROPS, and has transmitted such schedules to the Successor Agency; and

WHEREAS, the EOPS and PDROPS shall be posted on the Redevelopment Agency's website or, upon the Redevelopment Agency's dissolution under ABX126, on the Successor Agency's website; and

WHEREAS, the Successor Agency reserves the right, regardless of any actions taken pursuant to this Resolution, to challenge the legality of ABX126 and seek reimbursement for compliance costs of this state-mandated program.

NOW, THEREFORE, the City Council of the City of Banning, in its capacity as Successor Agency, resolves as follows:

SECTION 1. The foregoing Recitals are true and correct and are incorporated herein.

SECTION 2. The amended and updated EOPS, attached hereto and incorporated herein by reference as Exhibit "A", is hereby received and adopted pursuant to Health & Safety Code Section 34177.

SECTION 3. The PDROPS, attached hereto and incorporated herein by reference as Exhibit "B", is hereby received and adopted pursuant to Health & Safety Code Section 34177.

SECTION 4. The City Manager or his designee is hereby directed to post this Resolution, the amended EOPS, and the PDROPS on the Successor Agency's website and to provide notice of adoption of the EOPS and the PDROPS by the Successor Agency to the County auditor-controller, the State Controller and the State Department of Finance. A notification providing the website location of the posted schedules and notifications of any amendments shall suffice to meet this requirement.

PASSED, APPROVED, AND ADOPTED at a joint meeting of the City Council of the City of Banning, acting at its capacity as the Successor Agency, and the Community Redevelopment Agency of the City of Banning, this 24th day of January 2012.

Don R. Robinson, Mayor
City of Banning – Successor Agency

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

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

ATTEST:

Marie Calderon, City Clerk

CERTIFICATION:

I, MARIE CALDERON, City Clerk of the City of Banning, seating as the Successor Agency, California, do hereby certify that Resolution No. 2012-01 SA was adopted by the City of Banning, seating as the Successor Agency, of the City of Banning at a regular meeting held on the 24th day of January, 2012, and that the same was adopted by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning

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ATTACHMENT 2

CRA Resolution No. 2012-02

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CRA RESOLUTION NO. 2012-02

A RESOLUTION OF THE COMMUNITY REDEVOPMENT AGENCY OF THE CITY OF BANNING, CALIFORNIA AMENDING AND UPDATING ITS ENFORCEABLE OBLIGATION PAYMENT SCHEDULE (EOPS) AND ADOPTING A PRELIMINARY DRAFT RECOGNIZED OBLIGATION PAYMENT SCHEDULE (PDROPS) PURSUANT TO HEALTH AND SAFETY CODE § 34177 AND TRANSMITTING THE DRAFT PDROPS TO THE SUCCESSOR AGENCY

WHEREAS, the Community Redevelopment Agency of the City of Banning ("Redevelopment Agency") is a public body, corporate and politic, organized and existing under the California Community Redevelopment Law (Health & Safety Code §§ 33000 *et seq.*); and

WHEREAS, the City of Banning is a municipal corporation and a general law city organized and existing under the Constitution of the State of California ("City"); and

WHEREAS, on December 29, 2011, the California Supreme Court issued its opinion in the case *California Redevelopment Association, et al. v. Ana Matosantos, etc., et al.*, Case No. S196861, and upheld the validity of Assembly Bill X126 ("ABX126") and invalidated Assembly Bill X127; and

WHEREAS, the Court's decision results in the implementation of ABX126 which dissolves all the redevelopment agencies in the State of California as of February 1, 2012; and

WHEREAS, the City is, by operation of law, the Successor Agency to the Redevelopment Agency for purposes of winding-down the Redevelopment Agency under ABX126; and

WHEREAS, pursuant to a provision of ABX126, codified as Health and Safety Code Section 34177, the City as Successor Agency is required to maintain an "Enforceable Obligation Payment Schedule" (the "EOPS"), which schedule was adopted by the Agency on August 23, 2011, by Resolution No. 2011-30. The Agency now wishes to amend and update its EOPS; and

WHEREAS, pursuant to a provision of ABX126, codified as Health and Safety Code Section 34177, the Agency is required to receive and file a "Preliminary Draft Recognized Obligation Payment Schedule ("PDROPS") and transmit such PDROPS to the Successor Agency. A PDROPS was received and filed by the Agency Board on September 27, 2011; however, as a result of the judicial stay and decision from *California Redevelopment Association, et al. v. Ana Matosantos, etc., et al.*, the Agency is required to update and adopt such PDROPS; and

WHEREAS, the Agency, having considered the matter, has determined, in its legislative discretion, that it is in the best interests of the Agency to update and amend the EOPS and adopt a PDROPS and transmit these schedules to the Successor Agency. The PDROPS shall be posted on the Agency's website or, in the event of the Agency's dissolution under ABX126, on the Successor Agency's website; and

WHEREAS, Health & Safety Code Section 34177 requires redevelopment agencies to provide the PDROPS to their successor agency so that pledges of revenues associated with enforceable obligations of the former redevelopment agency are honored; and

WHEREAS, the Agency reserves the right, regardless of any actions taken pursuant to this Resolution, to challenge the legality of ABX126 and seek reimbursement for compliance costs of this state-mandated program.

NOW, THEREFORE, BE IT RESOLVED, the Community Redevelopment Agency of the City of Banning, resolves as follows:

SECTION 1. The foregoing Recitals are true and correct and are incorporated herein.

SECTION 2. The amended and updated EOPS, attached hereto and incorporated herein by reference as Exhibit "A", is hereby adopted pursuant to Health & Safety Code Section 34177(g).

SECTION 3. The PDROPS, attached hereto and incorporated herein by reference as Exhibit "B", is hereby adopted pursuant to Health & Safety Code Section 34177(h).

SECTION 4. The Executive Director or his designee is hereby directed to transmit the EOPS and PDROPS to the City of Banning acting in its capacity as Successor Agency.

SECTION 5. The Executive Director or his designee is hereby directed to post this Resolution, the amended EOPS, and the PDROPS on the Agency's website and to provide notice of adoption of the EOPS and the PDROPS to the County auditor-controller, the State Controller and the State Department of Finance. A notification providing the website location of the posted schedules and notifications of any amendments shall suffice to meet this requirement.

PASSED, APPROVED, AND ADOPTED at a joint meeting of the City Council of the City of Banning, acting in its capacity as the Successor Agency, and the Community Redevelopment Agency of the City of Banning this 24th day of January 2012.

John Machisic, Chairman
Community Redevelopment Agency
City of Banning

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

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

ATTEST:

Marie Calderon, Agency Secretary

CERTIFICATION:

I, MARIE CALDERON, Agency Secretary of the Community Redevelopment Agency of the City of Banning, California, do hereby certify that CRA Resolution No. 2012-02 was adopted by the Community Redevelopment Agency of the City of Banning at a regular meeting held on the 24th day of January, 2012, and that the same was adopted by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, Agency Secretary
Community Redevelopment Agency
City of Banning

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EXHIBIT A

Enforceable Obligation Payment Schedule (EOPS)

ENFORCEABLE OBLIGATION PAYMENT SCHEDULE
 Per AB 26 - Section 34167 and 34169 (*)

Project Name / Debt Obligation	Payee	Description	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month												Total
					Jan. 2012**	Feb.	Mar.	April	May	June							
1) 2003 Tax Allocation Bonds (All)	US Bank	Bonds	\$ 13,738,552.36	\$ 981,900.00	536,900.00									\$ 536,900.00			
2) 2003 Trust Indenture	Various	Per Indenture												\$ -			
3) 2007 Tax Allocation Bonds (All)	US Bank	Bonds	\$ 48,863,291.95	\$ 1,715,520.00	1,210,520.00									\$ 1,210,520.00			
4) 2007 Trust Indenture	Various	Per Indenture												\$ -			
5) Loan Payable to LMHIF (All)	Low-Mid Using Fund	SERAF Payment Loan	\$ 2,298,433.00	\$ -										\$ -			
6) Note Payable (DT)	Glick	Note	\$ 246,369.09	\$ 20,531.00										\$ 10,265.50			
7) Note Payable (All)	DeZorzi	Note	\$ 1,236,365.43	\$ 87,691.00	7,307.58	7,307.58	7,307.58	7,307.58	7,307.58	7,307.58	10,265.50	7,307.58	7,307.58	\$ 43,845.48			
8) Advances	City Water & Electric	Advance	\$ 7,000,000.00	\$ -										\$ -			
9) Advances (MMV)	Pwr Pbt Rebate Fund	Advance	\$ 167,443.58	\$ 83,045.48					64,784.11					\$ 64,784.11			
10) City Admin Costs	City of Banning	Per FY11 Coop & Reprint Agreement	\$ 722,940.00	\$ 722,940.00	6,920.46	6,920.46	6,920.46	6,920.46	6,920.46	6,920.46	6,920.46	6,920.46	6,920.46	\$ 41,522.76			
11) Contractual Services	City of Banning	Per Contracts	\$ 156,500.00	\$ 156,500.00	13,041.67	13,041.67	13,041.67	13,041.67	13,041.67	13,041.67	13,041.65	13,041.67	13,041.67	\$ 78,250.00			
12) Annual Continuing Disclosure	Urban Futures, Inc.	Continuing Disclosure Services for Bonds	Per Agreement	\$ 3,600.00					3,600.00					\$ 3,600.00			
13) Bond Paying Agent Fees	US Bank	Per Agreement	\$ 6,700.00	\$ 6,700.00					6,700.00					\$ 6,700.00			
14) Fiscal Consulting Services	Urban Futures, Inc.	Economic Development / Wind-down	\$ 230,000.00	\$ 7,890.00	2,500.00	6,390.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	\$ 28,890.00			
15) Soccer Field	City of Banning	Rosevelt Williams Soccer Fields	\$ 1,500,000.00	\$ 1,200,000.00													
16) Street Improvement	City of Banning	West Ramsey Street Improvements	\$ 2,242,402.00	\$ 2,242,402.00													
17) Street Improvement	City of Banning	East Ramsey Street Improvements	\$ 243,900.00	\$ 243,900.00													
18) Mixed Use Project	City of Banning	Village at Paseo San Geronimo and Downtown Infrastructure improvements - Phase 1 & 2	\$ 2,746,248.40	\$ 2,746,248.40													
19) Airport Master Plan	City of Banning	Development on the airport property and the surrounding area.	\$ 250,000.00	\$ 250,000.00													
20) San Geronimo Inn Site Demolition and Preparation	City of Banning	Demolition of existing buildings, removal of underground storage tanks, site preparation to restore areas and public improvements.	\$ 291,650.00	\$ 291,650.00													
21) Downtown Art Alley	City of Banning	Art Park, including benches and seating area, and improvements in Downtown	\$ 221,578.00	\$ 221,578.00													
22) Low-Mid Income Housing	Riverside Housing Development Corporation	Low-Mid Housing Programs - FTHB and Exterior Rehab	\$ 389,200.00	\$ 389,200.00													
23) Low-Mid Income Housing	San Geronimo Pass	Purchase of Low-Mid SFR for Low Income Families	\$ 375,000.00	\$ 375,000.00													
24) Low-Mid Income Housing	Habitat for Humanity	Per FY11 Coop & Reprint Agreement	\$ 186,750.00	\$ 186,750.00	15,562.50	15,562.50	15,562.50	15,562.50	15,562.50	15,562.50	15,562.50	15,562.50	15,562.50	\$ 93,375.00			
25) Facade Agreement	Arts District Holdings, LLC	Facade Agreement for 127 N. San Geronimo	\$ 49,845.00	\$ 49,845.00													
26) Facade Agreement	Ramsey Villa LLC/Fred Lawson	Facade Agreement for 225 E. Ramsey Street	\$ 230,000.00	\$ 230,000.00													
27) Facade Agreement	Williams Villen	Facade Agreement for 171 N. San Geronimo	\$ 194,000.00	\$ 194,000.00													
28) Facade Agreement	Marshall Nickels & Marteen Talum	Facade Agreement for 74 W. Ramsey Street	\$ 148,000.00	\$ 148,000.00													
29) Facade Project	Robert Rochelle	Facade Project for 65 W. Ramsey St.	\$ 200,000.00	\$ 200,000.00													
30) Facade Project	Thomas Melias	Facade Project for 41 W. Ramsey St.	\$ 204,000.00	\$ 204,000.00													
31) Facade Project	Moon Yoo	Facade Project for 57 and 65 S. Second St.	\$ 175,000.00	\$ 175,000.00													
Totals - This Page			\$ 84,307,468.81	\$ 13,113,890.88	\$ 1,792,752.21	\$ 49,222.21	\$ 58,132.21	\$ 112,616.32	\$ 47,832.21	\$ 58,097.69	\$ 2,118,652.85						
Totals - Page 2			\$ 1,887,063.53	\$ 1,887,063.53	\$ -	\$ 2,000.00	\$ 2,000.00	\$ 4,000.00	\$ -	\$ 309,749.00	\$ 328,749.00						
Totals - Page 3			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -						
Totals - Page 4			\$ 5,012,719.71	\$ 5,012,719.71	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -						
Totals - Other Obligations			\$ 91,207,252.05	\$ 20,013,674.12	\$ 1,792,752.21	\$ 51,222.21	\$ 60,132.21	\$ 116,616.32	\$ 47,832.21	\$ 367,846.69	\$ 2,447,401.85						
Grand total - All Pages																	

* Commencing February 1, 2012.
 ** Per AB X1 26, as amended
 *** Amounts to be determined.

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EXHIBIT B

Preliminary Draft Recognized Obligation Payment Schedule (PDROPS)

RECOGNIZED OBLIGATION PAYMENT SCHEDULE
 Per AB 26 - Section 34169(h)*

Project Name / Debt Obligation	Payee	Description	Payment Source	Total Due During Fiscal Year	Payments by month						Total
					Jan. 2012**	Feb.	Mar.	April	May	June	
1) 2003 Tax Allocation Bonds (AI)	US Bank	Bonds	Prop. Tax Tr. Fund	\$ 961,900.00	536,900.00						\$ 536,900.00
2) 2003 Trust Indenture	Various	Per Indenture	Prop. Tax Tr. Fund								\$ -
3) 2007 Tax Allocation Bonds (AI)	US Bank	Bonds	Prop. Tax Tr. Fund	\$ 1,715,520.00	1,210,520.00						\$ 1,210,520.00
4) 2007 Trust Indenture	Various	Per Indenture	Prop. Tax Tr. Fund								\$ -
5) Loan Payable to LMLHF (AI)	Low-Mid Rising Fund	SERAF Payment Loan	Prop. Tax Tr. Fund								\$ -
6) Note Payable (DT)	Glick	Note	Prop. Tax Tr. Fund	\$ 20,591.00						10,295.50	\$ 10,295.50
7) Note Payable (AI)	DeZorzi	Note	Prop. Tax Tr. Fund	\$ 87,691.00	7,307.58	7,307.58	7,307.59	7,307.58	7,307.58	7,307.58	\$ 43,845.48
8) Advance	City Water & Electric	Advance	Prop. Tax Tr. Fund								\$ -
9) Advance (MW)	Pwr Pch Rebate Fund	Advance	Prop. Tax Tr. Fund	\$ 83,045.48				64,784.11			\$ 64,784.11
10) City Admin Costs	City of Banning	Per FY11 Coop & Reprint Agreement	Prop. Tax Tr. Fund	\$ 722,940.00	6,920.46	6,920.46	6,920.46	6,920.46	6,920.46	6,920.46	\$ 41,522.76
11) Contractual Services	City of Banning	Per Contracts	Prop. Tax Tr. Fund	\$ 156,500.00	13,041.67	13,041.67	13,041.67	13,041.67	13,041.67	13,041.65	\$ 78,250.00
12) Annual Continuing Disclosure	Urban Futures, Inc.	Continuing Disclosure Services for Bonds	Prop. Tax Tr. Fund	\$ 3,600.00							\$ 3,600.00
13) Bond Paying Agent Fees	US Bank		Prop. Tax Tr. Fund	\$ 6,700.00			6,700.00				\$ 6,700.00
14) Fiscal Consulting Services	Urban Futures, Inc.	Economic Development / Wind-down	Prop. Tax Tr. Fund	\$ 7,890.00	2,500.00	6,390.00	5,000.00	5,000.00	5,000.00	5,000.00	\$ 28,890.00
15) Soccer Field	City of Banning	Roosevelt Williams Soccer Fields	Bond Proceeds	\$ 1,200,000.00							
16) Street Improvement	City of Banning	West Ramsey Street Improvements	Bond Proceeds	\$ 2,242,402.00							
17) Street Improvement	City of Banning	East Ramsey Street Improvements	Bond Proceeds	\$ 243,900.00							
18) Mixed Use Project	City of Banning	Village at Paseo San Geronimo and Downtown infrastructure improvements - Phase 1 & 2	Bond Proceeds	\$ 2,746,248.40							
19) Airport Master Plan	City of Banning	Development on the airport property and the surrounding area.	Bond Proceeds	\$ 250,000.00							
20) San Geronimo Inn Site Demolition and Preparation	City of Banning	Demolition of existing buildings, removal of underground storage tanks, site preparation to restore areas and public improvements	Bond Proceeds	\$ 291,650.00							
21) Downtown Art Alley	City of Banning	Art Park, including benches and seating area, and improvements in Downtown	Bond Proceeds	\$ 221,578.00							
22) Low-Mid Income Housing	Riverside Housing Development Corporation	Exterior Rehab	LML Housing Fund	\$ 389,200.00							
23) Low-Mid Income Housing	San Geronimo Pass Habitat for Humanity	Purchase of Low-Mid SFR for Low Income Families	LML Housing Fund	\$ 375,000.00							
24) Low-Mid Income Housing	City of Banning	Per FY11 Coop & Reprint Agreement	LML Housing Fund	\$ 186,750.00	15,562.50	15,562.50	15,562.50	15,562.50	15,562.50	15,562.50	\$ 93,375.00
25) Facade Agreement	Arts District Holdings, LLC	Facade Agreement for 127 N. San Geronimo	Bond Proceeds	\$ 49,845.00							
26) Facade Agreement	Ramsey Villa LLC/Fred Lawson	Facade Agreement for 225 E. Ramsey Street	Bond Proceeds	\$ 230,000.00							
27) Facade Agreement	Williams Willen	Facade Agreement for 171 N. San Geronimo	Bond Proceeds	\$ 194,000.00							
28) Facade Agreement	Marshall Nickels & Marteen Tatum	Facade Agreement for 74 W. Ramsey Street	Bond Proceeds	\$ 148,000.00							
29) Facade Project	Robert Rochelle	Facade Project for 65 W. Ramsey St.	Bond Proceeds	\$ 200,000.00							
30) Facade Project	Thomas Mehas	Facade Project for 41 W. Ramsey St.	Bond Proceeds	\$ 204,000.00							
31) Facade Project	Moon Yoo	Facade Project for 57 and 65 S. Second St.	Bond Proceeds	\$ 175,000.00							
Totals - This Page				\$ 13,113,890.88	\$ 1,792,752.21	\$ 49,222.21	\$ 58,132.21	\$ 112,616.32	\$ 47,832.21	\$ 58,097.69	\$ 2,118,652.85
Totals - Page 2				\$ 1,887,063.53	-	\$ 2,000.00	\$ 2,000.00	\$ 4,000.00	-	\$ 309,749.00	\$ 328,749.00
Totals - Page 3				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals - Page 4				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Totals - Other Obligations				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Grand total - All Pages				\$ 15,000,954.41	\$ 1,792,752.21	\$ 51,222.21	\$ 60,132.21	\$ 116,616.32	\$ 47,832.21	\$ 367,846.69	\$ 2,447,401.85

* Per AB X1 26
 ** Per AB X1 26, as amended
 *** Amounts to be determined.

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**CITY COUNCIL
REPORT OF OFFICERS**

DATE: January 24, 2012

TO: Mayor and Members of the City Council

FROM: Bill R. Manis, Economic Development/Redevelopment Director

SUBJECT: Adoption of a City Council, acting as the Successor Agency, Resolution Relating to the City Managers Authority under ABX126

RECOMMENDATION:

That the City Council, acting as the Successor Agency:

- (1) Adopt City Council Resolution No. 2012-02 SA declaring that the City Council of the City of Banning, California, acting as the Successor Agency to the Community Redevelopment Agency of the City of Banning, California, authorizing the City Manager to undertake all administrative actions necessary to comply with ABX126.

BACKGROUND/DISCUSSION:

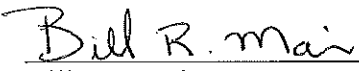
When the California State Supreme Court issued its opinion relating to Assembly Bill X126, dissolving redevelopment agencies throughout California, the City by operation of the law takes on the responsibility of the Successor Agency. ABX126 requires the Successor Agency to wind up the affairs and dissolve the Community Redevelopment Agency of the City of Banning by February 1, 2012.

To prepare for the dissolution of the Agency by February 1, 2012, the City may need to undertake additional actions necessary and not currently known to ensure compliance with ABX126. In order to effectively comply with the upcoming actions and timelines, staff is recommending that the City Council authorize the City Manager and his authorized designees to take all administrative actions under ABX126 to allow the Agency to be dissolved by February 1, 2012, and to take on subsequent actions as necessary.

FISCAL DATA:

There is no cost associated with the adoption of Resolution No. 2012-02 SA.

RECOMMENDED BY:



Bill R. Manis
Economic Development /
Redevelopment Director

APPROVED BY:



Andy Takata,
City Manager

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REVIEWED BY:

June Overholt
Deputy City Manager/
Administrative Services Director

Attachment:

1. Resolution No. 2012-02 SA

ATTACHMENT 1

Resolution No. 2012-02 SA

RESOLUTION NO. 2012-02 SA

A RESOLUTION OF THE CITY OF BANNING, CALIFORNIA, ACTING AS SUCCESSOR AGENCY TO THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING, CALIFORNIA AUTHORIZING THE CITY MANAGER TO UNDERTAKE ALL ADMINISTRATIVE ACTIONS NECESSARY TO COMPLY WITH ABX126

WHEREAS, the City of Banning is a municipal corporation and a general law City organized and existing under the Constitution of the State of California ("City"); and

WHEREAS, the Community Redevelopment Agency of the City of Banning ("Redevelopment Agency") is a public body, corporate and politic, organized and existing under the California Community Redevelopment Law (Health & Safety Code §§ 33000 *et seq.*); and

WHEREAS, on December 29, 2011, the California Supreme Court issued its opinion in the case *California Redevelopment Association, et al. v. Ana Matosantos, etc., et al.*, Case No. S196861, and upheld the validity of Assembly Bill X126 ("ABX126") and invalidated Assembly Bill X127; and

WHEREAS, the City is, by operation of law, the Successor Agency to the Redevelopment Agency for purposes of winding-down the Redevelopment Agency under ABX126; and

WHEREAS, the Court's decision results in the implementation of ABX126 which dissolves all redevelopment agencies in the State of California as of February 1, 2012; and

WHEREAS, pursuant to and consistent with Health and Safety Code § 34173(d)(1), a portion of ABX126, the City will serve in its capacity as the "Successor Agency" to the Agency to wind up the affairs of the dissolved Agency pursuant to ABX126; and

WHEREAS, to prepare for the dissolution of the Agency by February 1, 2012, the City may need to undertake additional actions necessary and not currently known to ensure compliance with ABX126 such that the City Council desires to authorize the City Manager and his authorized designees to take all actions necessary under ABX126 to allow the Redevelopment Agency to be dissolved as of February 1, 2012.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, IN ITS CAPACITY AS SUCCESSOR AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The foregoing Recitals are true and correct and are incorporated herein.

SECTION 2. The City Manager is hereby designated as the chief administrative officer of the Successor Agency and the City Manager or his designee is hereby authorized to take such further administrative actions and sign such other and further documents as is necessary and proper to implement ABX126 to allow the Redevelopment Agency to be dissolved as of February 1, 2012.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Banning City Council, seating as the Successor Agency, this 24th day of January 2012.

Don R. Robinson, Mayor
City of Banning – Successor Agency

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

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

ATTEST:

Marie Calderon, City Clerk

CERTIFICATION:

I, MARIE CALDERON, City Clerk of the City of Banning, seating as the Successor Agency, California, do hereby certify that Resolution No. 2012-02 SA was adopted by the City of Banning, seating as the Successor Agency, of the City of Banning at a regular meeting held on the 24th day of January, 2012, and that the same was adopted by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning