

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

March 12, 2013
5:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

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

I. CALL TO ORDER

- . Pledge of Allegiance
- . Invocation – David Marshall Kealy
- . Roll Call - Councilmembers Botts, Miller, Peterson, Welch, Mayor Franklin

II. REPORT ON CLOSED SESSION

III. PUBLIC COMMENTS/CORRESPONSENCE/APPOINTMENTS

PUBLIC COMMENTS – *On Items Not on the Agenda*

A three-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. 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 for future study, research, and appropriate Council Action.) See last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

CORRESPONDENCE: Items received under the category may be received and filed or referred to staff for future research or a future agenda.

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

APPOINTMENTS:

1.	Appointments to Parks and Recreation Advisory Committee	1
2.	Appointment to Planning Commission	9

IV. CONSENT ITEMS

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

Motion: That the City Council approve Consent Item 1 through 10

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

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

1.	Approval of Minutes – Special Meeting (Closed Session) – 02/26/13	20
2.	Approval of Minutes – Regular Meeting – 02/26/13	22
3.	Approval of Minutes – Special Meeting – 03/05/13	29
4.	Ordinance No. 1461 – 2 nd Reading: An Ordinance of the City Council of the City of Banning, California, Repealing chapter 15.60 in its Entirety and Adding Chapter 15.60 to the Banning Municipal Code and Amending Chapter 17.08.070 of the Banning Zoning Code to Establish Density Bonus Standards Consistent With State Law for Affordable Residential Units	30
5.	Ordinance No. 1462 – 2 nd Reading: An Ordinance of the City Council of the City of Banning, California, Adding Chapter 17.42 to the Banning Zoning Code Regarding Reasonable Accommodations for Disabled Individuals	54
6.	Report of Investments for the Month of January 2013	64
7.	Approval of Accounts Payable and Payroll Warrants for the Month of January 2013	74
8.	City Business Permit for Care Ambulance Services, Inc.	77
9.	Resolution No. 2013-21, Amending the Benefit Plan for the Career Part-Time Classifications of Associate Civil Engineer and Senior Center Supervisor	78
10.	Resolution No. 2013-28, Authorizing Staff to Submit an Application for a Federal Surface Transportation Program (STP) Grant for Pavement Rehabilitation on Ramsey Street, From Hargrave Street to the East End of the City Limits	83

- Open for Public Comments
- Make Motion

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

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

VI. ITEMS FOR FUTURE AGENDAS

New Items –

- Consideration of an “in-house” attorney vs. contract
- Policy regarding presentations to City Council

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials

VII. ADJOURNMENT

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

NOTICE: Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. 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. 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].

**CITY COUNCIL AGENDA
REPORT OF OFFICERS**

DATE: March 12, 2013

TO: City Council

FROM: Heidi Meraz, Community Services Director

SUBJECT: Appointment of Parks and Recreation Commissioners

BACKGROUND: Three Parks and Recreation Commissioners, Bill Dickson, Carol Newkirk and Richard Sanchez, terms expired January 22, 2013 creating three vacancies on the Parks and Recreation Commission.

Availability of applications for residents interested in serving on the Parks and Recreation Commission was advertised in Record Gazette, on the City of Banning website, and on Channel 10. The deadline for applications to be received was on December 7, 2012. Commissioners Dickson and Sanchez submitted applications for consideration of reappointment, and one (1) additional was received by the City Clerk. The City Council interviewed the three applicants on March 5, 2013.

The Parks and Recreation Commission is made up of five members that are to be appointed by the City Council. The Commissioners serve four-year terms, which are staggered every two years concurrent with the city elections. The term of the newly appointed commissioners will expire on January 18, 2017.

Chapter 2.40 of the Banning Municipal Code governs the rules and responsibilities of the Parks and Recreation Commission. (see Attachment). The Commission serves as an advisory agency to the city council and the director of community services for the purpose of the formulation of rules, regulations and policies for all parks and recreation programs, activities, and fees. Parks and recreation commission members shall be registered voters of the City of Banning.

RECOMMENDED BY:



Andrew J. Takata
City Manager

PREPARED BY:


Heidi Meraz
Community Services Director

Attachment: Chapter 2.40 of the Banning Municipal Code

Chapter 2.40

PARKS AND RECREATION COMMISSION Sections:

- 2.40.010 Established—Purpose.**
- 2.40.020 Advisory agency designated—Powers and duties.**
- 2.40.030 Appointment of members.**
- 2.40.040 Conduct of meetings.**

2.40.010 Established—Purpose.

There is hereby established a parks and recreation commission of the city for the purpose of facilitating the integration of the parks and recreation activities for the city.

(Code 1965, § 15-1; Ord. No. 1438, § 1.A., 6-14-11)

2.40.020 Advisory agency designated—Powers and duties.

The city parks and recreation commission shall serve as an advisory agency to the city council and the director of community services for the purpose of the formulation of rules, regulations and policies for all parks and recreation programs, activities, and fees. Parks and recreation commission members shall be registered voters of the City of Banning.

(Code 1965, § 15-2; Ord. No. 1438, § 1.A., 6-14-11)

2.40.030 Appointment of members.

A. The parks and recreation commission shall consist of five members.

B. The parks and recreation commission shall serve four-year terms, which shall be staggered every two years concurrent with the city elections. Appointments shall be made by the city council. Applications shall be made available and the closing date announced at least two months prior to the expiration of the commissioner's term to be filled.

C. Members shall serve at the pleasure of the council and may be removed at any time by a majority vote of the entire council.

D. Any member who is unexcused for two consecutive regular meetings of the commission or six meetings within a twelve-month period, whether the six meetings are excused or not, will be deemed to have resigned their office and the city council may appoint a new member to serve in the resigned commissioner's place for the remainder of the term.

E. To be excused from any such meeting, a member shall notify the community services department, at least forty-eight hours prior to any such meeting. If a member is unable to attend due to illness, injury or family matters, a statement by the member at the next regular meeting of the commission shall constitute an excused absence. (Code 1965, § 15-3; Ord. No. 1438, § 1.A., B., 6-14-11)

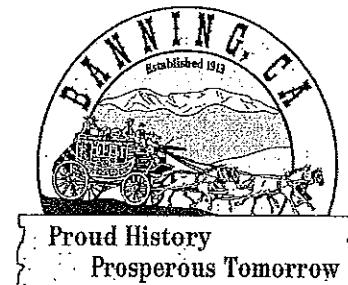
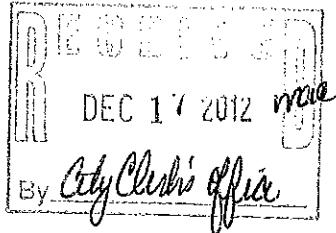
2.40.040 Conduct of meetings.

A. The commission shall meet at 6:00 P.M. on the third Wednesday of the following months: January, February, March, April, May, June, September, October and November.

B. Additional meeting may occur if deemed necessary by the city council or commission chairperson.

C. A majority of the voting members of the commission shall constitute a quorum.

(Code 1965, § 15-4; Ord. No. 1438, § 1.A., 6-14-11)



COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board: PARKS AND RECREATION COMMISSION

Name: WILLIAM DICKSON

Address: 5700 W. WILSON ST #55 Banning

Telephone Numbers: Home 747-8956 Office _____ Cell 1663-1170

If employed, where you work and position PARKS & REC Comm.

Length of residence in Banning 10 + yrs

Are you a registered voter in Banning? Yes No _____

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees, commissions and boards. Ample space is provided; please do not submit supplemental materials.

Provide a biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

PARKS & REC, PLANNING Comm. Vol. Police

STAGE COACH DAYS Comm. Play House Board Comm.

B-PAC, X-MAS SANTA SPONSORSHIP CHAMBER

What types of major issues should this committee, commission or board deal with?

MONEY TO HELP WITH PARK UPKEEP & STAFFING

Please identify specific problems facing the committee, commission or board on which you would like to serve and explain how you feel they might be resolved:

MONEY AND STAFF ARE OUR BIGGEST PROBLEMS.
WE HAVE GREAT STAFF, JUST NOT ENOUGH OF
THEM

Your name will be considered by the City Council upon receipt of your application.

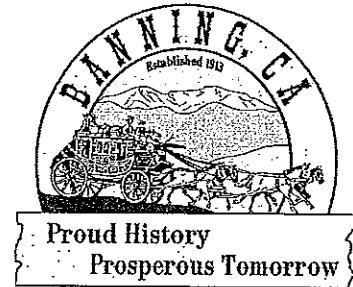
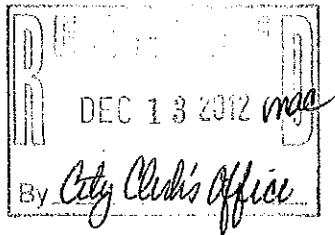
Please return to: City Clerk's Office/City of Banning
99 E. Ramsey Street
P. O. Box 998
Banning, CA 92220

RETURN BY: December 7, 2012
by 5:00 p.m.

Thank you for your willingness to serve your local government.

Date: 12-17-12

Signed: William Dec Daeo



COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board: PARKS AND RECREATION COMMISSION

Name: RICHARD SANCHEZ

Address: 942 50 12th St. Banning CA 92220

Telephone Numbers: Home 951 922 0986 Office 951 849-2239 Cell 951 218 3529

If employed, where you work and position GREAT American Realty

Length of residence in Banning 72 yr

Are you a registered voter in Banning? Yes No

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees, commissions and boards. Ample space is provided; please do not submit supplemental materials.

Provide a biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

School Banning High been on Parks
E Rec 35 yr (To Long) Airport Comm. Stage
Coach Days 35 yrs. School SARB Comm.
15 yr

What types of major issues should this committee, commission or board deal with?

Please identify specific problems facing the committee, commission or board on which you would like to serve and explain how you feel they might be resolved:

Your name will be considered by the City Council upon receipt of your application.

Please return to: City Clerk's Office/City of Banning
99 E. Ramsey Street
P. O. Box 998
Banning, CA 92220

RETURN BY: December 7, 2012
by 5:00 p.m.

Thank you for your willingness to serve your local government.

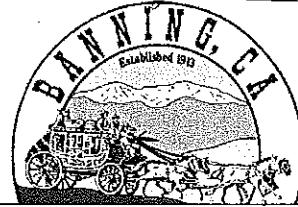
Date: 12-13-12

Signed: Rachel Denchy

RECEIVED

DEC 03 2012

BY: *Second Dept - J.H.*



Proud History
Prosperous Tomorrow

COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board: **PARKS AND RECREATION COMMISSION**

Name: Anne/ Elmore

Address: 1368 Wyte Way Banning, CA 92220

Telephone Numbers: Home (951) 849-4550 Office _____ Cell (951) 323-4416

If employed, where you work and position Self Employed

Length of residence in Banning 53 years

Are you a registered voter in Banning? Yes No _____

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees, commissions and boards. Ample space is provided; please do not submit supplemental materials.

Provide a biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

1977 Graduated Banning High School, 2012 - Current
Student University of Phoenix

Job: Self Employed Lali Jeans.com

2007-2012 San Gorgonio Memorial Hospital

Supervisor: Ranilo Blasco (951) 769-2133

Civic: 2006-2012 Coached Youth Basketball

2011 Assistant Coach Flag Football

2009 Assistant Coach Flag Football

Granddaughter played Softball six years

What types of major issues should this committee, commission or board deal with?

1. Cooperation between the City and School Board to allow Tennis and Walking on the school track
2. Denise of youth sports and lack of sports clinics
3. Lack of Senior sports League

Please identify specific problems facing the committee, commission or board on which you would like to serve and explain how you feel they might be resolved:

1. I am sponsoring a softball Clinic on Dec 13, 2012 with David Lindsey, Coach at Chaffey College, to improve the skills of the current High School Team
2. We are not taking advantage of the talents our senior citizens would love to share with the youth.
3. Sponsor Tennis Clinics
 - A. The City has only the public courts available
 - B. Cooperation between the City and school Board could make the courts at Nicolet Middle School available after school and weekends

Your name will be considered by the City Council upon receipt of your application.

Please return to: City Clerk's Office/City of Banning
99 E. Ramsey Street
P. O. Box 998
Banning, CA 92220

RETURN BY: December 17, 2012
by 5:00 p.m.

Thank you for your willingness to serve your local government.

Date: December 3, 2012 Signed: Dezell Chene

CITY COUNCIL AGENDA

DATE: **March 12, 2013**

TO: **City Council**

FROM: **Zai Abu Bakar, Community Development Director**

SUBJECT: **Planning Commission Appointment**

RECOMMENDATION: That the City Council select one candidate to fill the vacant position on the Planning Commission and extend the expiration of the candidate's term to May 10, 2015.

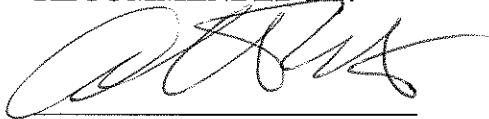
BACKGROUND: Planning Commissioner Dennis Arterberry term expired on February 24, 2013 which has created one vacant position on the Planning Commission. Commissioner Arterberry must submit an application if he is interested in continuing to serve on the Planning Commission.

Availability of applications for residents interested in serving on the Planning Commission was advertised in Record Gazette, the City's website, and Channel 10. The application submittal deadline closed on December 3, 2012. The City received three (3) applications. The City Council interviewed the three applicants on March 5, 2013.

The Planning Commission consists of five members appointed by the City Council. The Commissioners serve a four year term, which is staggered every two years concurrent with the City's elections. The term of the newly appointed commissioner will expire on February 24, 2015. In addition to this current recruitment process, staff will be required to take part in this selection process again in May of 2013 to fulfill another vacancy that is due to expire May 10, 2013. In an effort to ease processes in the future and provide consistency, staff respectfully requests to extend the expiration of this current appointment from February 24, 2015 to May 10, 2015.

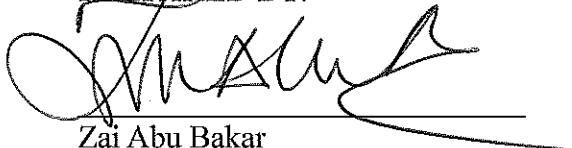
The Commission's rules and responsibilities are governed by Chapter 2.28 of the Municipal Code (see Attachment). The Commission's two (2) main functions are to review land development applications for compliance with the Zoning Code and to recommend policies changes to the General Plan or Zoning Code.

RECOMMENDED BY:



Andrew J. Takata
City Manager

PREPARED BY:



Zai Abu Bakar
Community Development Director

Attachment: Chapter 2.28 of the Banning Municipal Code

Chapter 2.28

PLANNING COMMISSION

Sections:

- 2.28.010 Planning commission—Membership requirements.**
- 2.28.020 Term and vacancies.**
- 2.28.030 Compensation.**
- 2.28.040 Rules of procedure.**
- 2.28.050 Duties and responsibilities.**
- 2.28.060 Conflict of interest requirements.**
- 2.28.070 Staff liaison.**
- 2.28.080 Meeting times and places.**
- 2.28.090 Adoption.**

2.28.010 Planning commission—Membership requirements.

A. Members of the planning commission shall be residents of the City of Banning who hold no other municipal office in the city. Members may not be employees of the city.

B. Proof of residency shall be submitted at time of application to the commission through voter registration, utility bill at a physical address within the city boundaries. Residency shall be confirmed prior to appointment and maintained throughout the term served. (Code 1965, § 2-5.)

2.28.020 Term and vacancies.

A. The planning commission shall consist of five members.

B. Planning commissioners shall serve four-year terms, which shall be staggered every two years concurrent with the city elections. Appointments shall be made by the city council. Applications shall be made available and the closing date announced at least two months prior to the expiration of the commissioner's term to be filled.

C. Members shall serve at the pleasure of the council and may be removed at any time by a majority vote of the entire council.

D. Any member who is unexcused for two consecutive regular meetings of the commission or six

meetings within a twelve-month period, whether the six meetings are excused or not, will be deemed to have resigned their office and the city council may appoint a new member to serve in the resigned commissioner's place for the remainder of their term.

E. To be excused from any such meeting, a member shall notify the planning department, at least forty-eight hours prior to any such meeting. If a member is unable to attend due to illness, injury or family matters, a statement by the member at the next regular meeting of the commission shall constitute an excused absence. (Code 1965, § 2-6.)

2.28.030 Compensation.

A. Members of the planning commission shall not receive compensation; reasonable traveling expenses to and from conferences and/or special field trips and training sessions shall be reimbursed.

B. Upon authorization by the city manager, the planning commission and members of its staff, may attend city planning conferences or meetings, or hearings on city planning legislation, or matters affecting the planning of the city. The reasonable expenses of such attendance shall be charged upon the funds allocated to the commission.

C. All fundings shall be established through the City of Banning budget, which shall be approved by the city council. (Code 1965, § 2-7.)

2.28.040 Rules of procedure.

A. A quorum of the planning commission shall consist of a majority of the members (including any vacancies). A quorum must be present in order for the planning commission to hold a meeting.

B. In the event that only three commissioners are present, any actions recommending amendment to the Municipal Code or general plan must be unanimous; all other actions would require a majority vote of the commission in attendance. A tie vote shall constitute a denial of the matter or request brought before the planning commission.

C. The commission shall adopt rules for the transaction of business and shall keep a record of its transactions, findings, and determinations. The Brown Act and "Robert's Rules in Plain English" by

Doris P. Zimmerman (Harper Perennial) shall be incorporated into such rules.

D. The commission shall follow all applicable city fiscal and administrative policies and procedures. (Code 1965, § 2-8.)

2.28.050 Duties and responsibilities.

A. The planning commission shall exercise those functions of the planning agency of the city delegated to it in the Banning Municipal Code.

B. At the regular February meeting, the planning commission shall choose a chairperson and a vice-chairperson from among the planning commission members. The chairman and vice-chairman shall serve for one term. Both positions shall rotate every year. All members must be present to conduct this business.

1. The chairperson shall preside at all regular and special meetings and rule on all points of order and procedure during the meetings.

2. The vice-chairperson shall assume all duties of the chairperson in his or her absence.

3. In the event the chairperson and vice-chairperson are both absent, an acting chairperson shall be appointed from the commission for the meeting from those present.

C. The planning commission's scope of responsibility is to:

1. Prepare, review, adopt, and recommend to the city council for its adoption, a long range, comprehensive general plan to guide the future physical development and conservation of the city and its adjoining environs based on geographic, social, economic and political characteristics of the community;

2. Prepare, review, adopt and recommend to the city council for its adoption of special area specific plans for identifiable areas, wherein more detailed guidelines are needed to supplement the objectives of the general plan;

3. Review development applications submitted to the city for consistency with adopted plans and ordinances. Approve or deny applications when final authority is granted to the planning commis-

sion by the Municipal Code. Make a recommendation on those actions for which the city council is the final reviewing approval body;

4. Act as the appeal body on decisions made by the community development director;

5. Perform such other functions and duties as the city council may from time to time direct and/or provide within the Banning Municipal Code.

D. The commission may form ad-hoc subcommittees in accordance with the Brown Act, and make appointments to that subcommittee, as it deems necessary. A quorum of commission members may not be appointed to serve in a single subcommittee. Before forming a subcommittee, the commission shall establish a specific mission and term for the subcommittee.

E. The planning commission is an important function within the City of Banning, and as such, certain expectations are held by the city council in making the appointment of individuals to the commission. These expectations include the following:

1. Commissioners will attend all regular meetings and special meetings as they arise;

2. Commissioners will communicate expected and unexpected absences to the planning department, prior to the meeting;

3. Commissioners will communicate any potential conflicts of interest on agenda items to the planning department in advance of the hearing to allow confirmation of a quorum;

4. Commissioners will arrive on time to each meeting, fully participate, and remain in attendance until the end of each meeting;

5. Commissioners will prepare themselves for each meeting by reading the agenda, reports and other materials, and visiting the site, as necessary, and communicate any questions to the secretary in advance of the hearing.

Pursuant to Resolution 2000-41, if a commissioner visits the site prior to a hearing on the

matter, the commissioner shall disclose at the hearing such evidence and observation gathered during the site visit;

6. Commissioners are encouraged to attend the annual planner's institute (Monterey and Southern California) or an equivalent planning training program given by a University of California campus (or approved equivalent) and may attend other planning conferences and or training classes as the need and opportunities arise. The city will also provide regular in-service training and make-up training where attendance is required;

7. New commissioners are expected to become familiar with the city's general plan, the "Planning Commission Handbook" (prepared by the State of California), and relevant Municipal Code sections particularly those relevant to zoning to become familiar with these documents. The "Guide for New Members" distributed by the Planning Commissioners Journal and www.plannersweb.com are other valuable resources for new commissioners;

8. Applicants to the planning commission will be expected to attend a brief orientation session explaining the role of commissioners, the planning process, and the expectations of commissioners that are appointed; and

9. New commission members will attend an expanded orientation session with the liaison to the commission and other staff, as deemed necessary, to provide new appointees with a solid understanding immediately upon appointment. The orientation will include an overview of the planning process, a review of the commission's structure, policies and bylaws, a summary of available documents and resources, and a review of the commission's relationship with citizens, staff, developers, and the governing body.

F. The planning commission may serve on regional boards or commissions as directed by the city council.

G. The planning commission shall participate in annual meetings with the city council to discuss development activity, development doctrine, policies, etc. (Code 1965, § 2-8.1.)

2.28.060 Conflict of interest requirements.

A. The State of California Political Reform Act requires planning commission members to disclose interests in investments, real property, and income derived within the City of Banning or from sources doing business within the City of Banning. Filings are required within ten days of assuming office and on an annual basis.

B. Members shall not work for the "pass" cities, which include Beaumont, Calimesa, and Riverside County in roles, such as economic development, planning, or redevelopment.

C. If an apparent conflict of interest arises, the member shall inquire of the city attorney or staff prior to the meeting. (Code 1965, § 2-8.2.)

2.28.070 Staff liaison.

A. The staff liaison to the planning commission shall be the community development director.

B. The planning commission liaison, supported by the secretary to the planning commission (a staff position), shall be responsible for:

1. Confirming that a quorum will be present prior to each meeting;

2. Receiving and recording all exhibits, petitions, documents, or other material presented to the planning commission in support of, or in opposition to, any issue before the planning commission;

3. Signing all meeting minutes and resolutions upon approval;

4. Preparing and distributing agendas and agenda packets;

5. Facilitating the tape recording of meetings and preparation of minutes; and

6. Responding to all questions from planning commission members regarding agenda items in advance of meetings. (Code 1965, § 2-8.3.)

2.28.080 Meeting times and places.

A. The planning commission shall meet on the first Wednesday of each month at 6:30 p.m. at

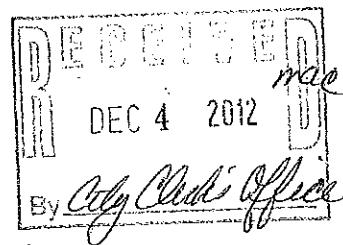
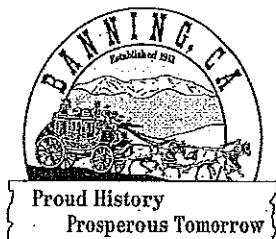
the city council chambers located at 99 E. Ramsey Street, or at such time and place as the commission may designate by resolution.

B. Commissioners will attend special meetings as they arise. (Code 1965, § 2-8.4.)

(Ord. No. 1427, § 1, 9-14-10)

2.28.090 Adoption.

A. This document, as adopted and amended by council resolution, shall serve as the bylaws for the commission. (Code 1965, § 2-9.)



COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board on
which you would like to serve: PLANNING COMMISSION

Name: DAVID ELLIS

Address: 324 MEADOWLARK LN. CITY

Telephone Numbers: Home 951 849 2991 Office _____

If employed, where you work and position _____

Length of residence in Banning 30+ YEARS

Are you a registered voter in Banning? Yes X No _____

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

Every aspect of my 30+ years in the Recreational Vehicle business depended heavily on problem solving and planning. Top results were achieved from understanding of the wants and needs, giving a well organized presentation with complete knowledge and then a final completion by exceeding expectations. PLANNING with knowledgeable goals creates outstanding outcomes as well as total satisfaction which will exceed expectations

What types of major issues should this committee or board deal with?

Purpose of securing and promoting public health, comfort, convenience, safety, welfare, prosperity, PEACE AND QUIET. FOR ALL OF BANNING.

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

I personally feel the City needs to move from mediocrity to perfection. IF you can't find time to do it right the first time, how will you find time to do it again.?

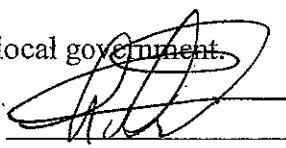
Your name will be considered by the City Council upon receipt of your application.

Please return to: City Clerk's Office/City of Banning
99 E. Ramsey Street
P. O. Box 998
Banning, CA 92220

RETURN BY: December 2, 2012
5:00 p.m.

Thank you for your willingness to serve your local government.

Date: 12/3/2012

Signed: 



RECEIVED
DEC 04 2012
BY: *Frank doan* - 11

COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board on
which you would like to serve: PLANNING COMMISSION

Name: Ron Klimczak

Address: 247 E. Barbour St

Telephone Numbers: Cell Home 909 844 8941 Office _____

If employed, where you work and position Self emp. 1 day a week

Record Gazette Banning, But, Cherry Valley + Coomo

Length of residence in Banning 32 yrs

Are you a registered voter in Banning? Yes ✓ No _____

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

I started college at Indiana U. on a journalism scholarship. After a year, I left to join the Navy. Later I attended San Bernad Valley college, where I need 3 units for an AA in Marketing, and 9 units for an AA in Real Estate. I spent 23 years in retail management, including store manager for Pic n Side and Givete R. For the past 18 years I have been a newspaper distributor, handling newspaper racks and store accounts for 3 to 5 papers in Banning, Banning, Cabazon, Cherry Valley, Yucaipa, and Calimesa. This was a small business, with no more than a employee.

What types of major issues should this committee or board deal with?

Revitalization of downtown, expanding tax base by growth while sticking to the city's growth plans, and are those plans visible

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

I don't believe anyone should be in this position who has their own agenda. This could cause bias in their evaluation of ideas and plans of others.

Your name will be considered by the City Council upon receipt of your application.

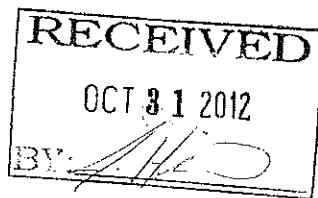
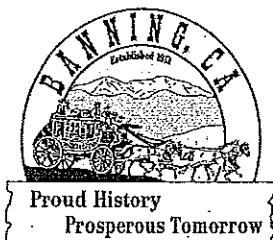
Please return to: City Clerk's Office/City of Banning
99 E. Ramsey Street
P. O. Box 998
Banning, CA 92220

RETURN BY: December 2, 2012
5:00 p.m.

Thank you for your willingness to serve your local government.

Date: 11/24/2012

Signed: RJH



COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board on
which you would like to serve: PLANNING COMMISSION

Name: Dennis Wayne Arterberry
Address: 174 W. Gilman St.

Telephone Numbers: Home 951-849-1695 Office 951-259-6902

If employed, where you work and position RE/MAX REALTY "REALTOR"

Length of residence in Banning 32 years

Are you a registered voter in Banning? Yes ✓ No _____

Requested below is information that will be used by the City Council as a screen process to determine which applicants will be interviewed for membership on City committees and boards. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

I have seen Banning change dramatically over 32 years. I work with Banning ROTARY and some of its Local Education programs. As a Realtor I have Brokered Land on Subway, Dinosaur Tires & Collision Center at 1575 W. Ramsey. I am continuing my education to obtain my BA in Real Estate, I have 2 years remaining. Currently I am 1 of 5 Commissioners, we have voted on matters that have improved this City.

What types of major issues should this committee or board deal with?

CEQA Guidelines, Signage on the 10,
Take Concerns at meetings From general public.
Hear issues that effect zone changes. Be present
for meeting to vote, Study each item to best
understand the impact it may have

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

I would like to see the Electronic Sign
Take the place of many Bill Boards. I
would also like to see Development in
South Banning Sunset - 8th st.

* I think we need to Bring business owners
Together and Address Signs. Property owners
who have Commercial lots should Sell & Develop
I would like to encourage growth.

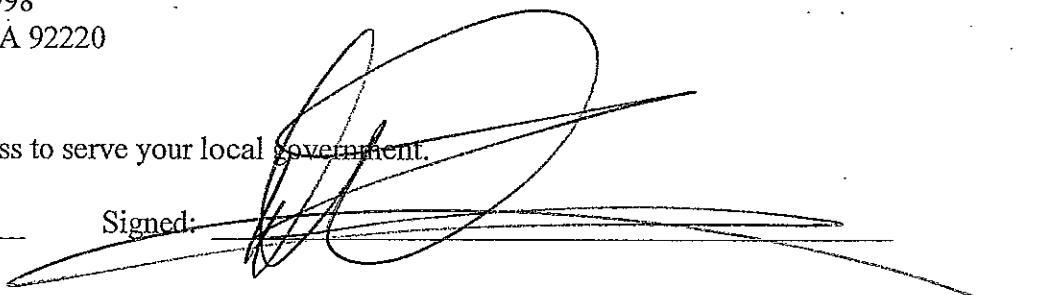
Your name will be considered by the City Council upon receipt of your application.

Please return to: City Clerk's Office/City of Banning
99 E. Ramsey Street
P. O. Box 998
Banning, CA 92220

RETURN BY: December 2, 2012
5:00 p.m.

Thank you for your willingness to serve your local government.

Date: 10/29/12

Signed: 

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

02/26/13
SPECIAL MEETING

A special meeting of the Banning City Council and the City Council Sitting In Its Capacity of a Successor Agency was called to order by Mayor Franklin on February 26, 2013 at 4:01 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT:

Councilmember Botts
Councilmember Miller
Councilmember Peterson
Councilmember Welch
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT:

June Overholt, Administrative Services Director
David J. Aleshire, City Attorney
Duane Burk, Public Works Director
Bill Manis, Economic Development Director
Marie A. Calderon, City Clerk

CLOSED SESSION

City Attorney announced that the closed session items are labor negotiations involving all of the bargaining units pursuant to the provisions of Government Code Section 54957.6.; a litigation matter pursuant to the provisions of paragraph (d) (1) of Section 54956.9 – Herrington v. City of Banning and Felizardo v. City of Banning; potential litigation in two matters pursuant to sub-paragraph (d) (4) of Section 54956.9; for the Successor Agency real property negotiations pursuant to the provisions of Government Code Section 54956.8 regarding Banning Airport & Adjacent Properties (APN: 532-130-012, 532-130-011, 532-130-018); and existing litigation pursuant to the provisions of paragraph (d) (1) of Section 54956.9 – Lloyd Fields v. City of Banning (Court of Appeal No. E057277).

Mayor Franklin opened the item for public comments. There were none. Meeting went into closed session at 4:02 p.m. and recessed at 5:03 p.m.

Meeting reconvened at 6:59 p.m. returned to open session at 7:00 p.m.

City Attorney stated that the Council met in closed session to discuss the two items that they had not concluded and one was the Fields litigation and the other one was real property

negotiations on the airport property. A status report was given on each of those matters and there was no reportable action taken.

ADJOURNMENT

By common consent the meeting adjourned at 7:02 p.m.

Marie A. Calderon, City Clerk

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

02/26/13
REGULAR MEETING

A regular meeting of the Banning City Council and a joint meeting of the City Council and the City Council Sitting in Its Capacity of a Successor Agency was called to order by Mayor Franklin on February 26, 2013 at 5:10 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Botts
Councilmember Miller
Councilmember Peterson
Councilmember Welch
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: June Overholt, Administrative Services Dir./Deputy City Manager
David J. Aleshire, City Attorney
Duane Burk, Public Works Director
Zai Abu Bakar, Community Development Director
Heidi Meraz, Community Services Director
Bill Manis, Economic Development Director
John McQuown, City Treasurer
Fred Mason, Public Utility Director
Jessica Hicks, Office Specialist
Marie A. Calderon, City Clerk

The invocation was given by Pastor Javier Hernandez, New Creation Church. Councilman Welch led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney announced that the Council met in closed session and they discussed the status of labor negotiations with the bargaining units; a status report was given on the cases of Herrington v. City of Banning and Felizardo v. City of Banning; and reported on potential litigation in two cases. For the Successor Agency the real property item regarding Banning Airport & Adjacent Properties was not completed and the existing litigation matter regarding Fields was not discussed and the Council and Successor Agency will go back into closed session to complete those matters.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/ANNOUNCEMENTS

PUBLIC COMMENTS – *On Items Not on the Agenda*

Bill Dickson, Coordinator for the Banning Police Volunteers addressed the Council stating that this is a great position to have and the City definitely needs our help so he is asking that for anyone that is interested in working with the volunteers to give him a call and they will be setting up interviews and hope to have an academy going on sometime around May. You can call him at 951-282-1138. This is a great service to the community so if you have some time come on down and he will give you an idea of exactly the things they do.

David Ellis, 324 Meadowlark Lane, addressed the Council stating he read an article in regards to the Cultural Alliance and he is so pleased that we finally have a Council that is bringing accountability and transparency to local government; what a breath of fresh air it is. He feels that every individual in this meeting and in this town should take advantage of this Council and bring to them their issues so that we may resolve them and have a prosperous town for all.

Bill Lamb, Chairman of Banning Stagecoach Days Association stated that he wanted to honor someone who has left their association but wanted to recognize her for many years of dedicated service and that is Sue Palmer, past Association President and he presented her with an appreciation certificate which he read for the benefit of the audience. He said that she was just recently honored as "Citizen of the Year" also. Mr. Lamb also reminded everyone that this year's Stagecoach Days event will be held September 6, 7 and 8 along with a two-day rodeo.

Mary Ann Melleby, 6308 Pointe Verda Circle addressed the Council stated that she was a member of the Banning Centennial Celebration Committee and wanted to make everyone aware of upcoming events. She said that Wednesday, Feb. 27th at 6:30 p.m. at Highland Springs Resort a Repertory Theater will hold auditions for a new musical play "Wyatt Earp – The Great Stagecoach Robbery". Roles are available for men, women, cowboys, saloon girls, children, youth, singers, dancers and comedians. Opening night is scheduled for April 3rd at Highland Springs Resort with additional performances on April 5, 6 and 7 at the Banning Women's Club. The second is a series of ten historical lectures will take place on Saturday March 9th at 7 p.m. at the Dorothy Ramon Learning Center with Tom Sitton the Curator Emeritus of the National History Museum of Los Angeles County and author of several books in the history of Los Angeles and Southern California. Mr. Sitton is the author of the 2010 published book "Grand Ventures: The Banning Family and the Shaping of Southern California". There is a \$5.00 per person cost for the lecture and tickets can be purchased through the Centennial website at www.banning100birthday.com or at the Banning Community Center or at the door. The Layenda Dance Company which has performed throughout the world will be presenting a Mexican Folklorico Ballet on Saturday, March 30th at 7 p.m. at Nicolet Middle School. The cost is \$10 per person and tickets are available at the Banning Chamber of Commerce, The Banning Community Center, La Casita and Consuelo's restaurants. For more information you can access the Banning Centennial website.

Ellen Carr, Tender Loving Critters Animal Rescue said that she would like to ask the citizens of Banning, Beaumont and Cabazon for a little more help. She knows that things are tough financially for everyone but it has really given them a kick and they do the best that they can do but if you have some spare change or whatever, please send it to them and they don't care if they are pennies because they lead to dollars. Think of the critters in this area and a lot of them

are homeless and you see them running the streets. Let us think about the voiceless of our community.

Gary Hironimus address the Council stating that originally the \$10,000 dollar funding given to the Cultural Alliance was in the very words of the Council that awarded it "seed money" to get them up and running until they could stand on their own two feet. But after \$1.3 million dollars the Alliance has never even attempted to stand on its own. After all, the gravy train from the Council and Redevelopment Agency was too easily tapped without questions or accountability. Now, the Alliance has resided in a city-owned building, rent free for four and a half years now even though their lease agreement allowed for the first two-years rent free, the Alliance is still in violation of that agreement for more than \$50,000 in back rent. So despite receiving over \$1 million dollars from us they never even bothered to pay their rent. How many of us could stay in a building without paying rent for more than three years. He knows that there are plenty of Alliance supporters in this community and even in this room and he has never had a problem with the Alliance themselves or the work that they do. What he has had a problem with is how the Alliance was funded and supported with Redevelopment money that was never intended for that purpose and then with the City's General Fund despite layoffs, reduced City hours and furloughed City employees. Their failure to pay even a modest rent is a slap in the face of every taxpayer and every City employee. He wanted to publicly command and support the City Manager and the City Council to evict the Alliance for non-payment of rent. In fact, in his opinion, the City should not only evict them but they should also sue them for \$50,000 in back rent owed and \$162,000 that the Grand Jury recommended be refunded as well. A private individual in these circumstances would certainly find themselves in court. He fails to see why the Alliance should be given free pass.

CORRESPONDENCE: There was none.

CONSENT ITEMS

1. Approval of Minutes – Special Meeting – 02/06/13

Recommendation: That the minutes of special meeting of February 6, 2013 be approved.

2. Approval of Minutes – Special Meeting – 02/12/13 (Closed Session)

Recommendation: That the minutes of special meeting of February 12, 2013 be approved.

3. Approval of Minutes – Regular Meeting – 02/12/13

Recommendation: That the minutes of the regular meeting of February 22, 2013 be approved.

4. Approval of Minutes – Special Meeting – 02/19/13

Recommendation: That the minutes of special meeting of February 19, 2013 be approved.

5. Resolution No. 2013-18 and 2013-22, Approving Changes to the Employer Paid Member Contribution (“EPMC”) of the California Employees’ Retirement System (“CalPERS”).

Recommendation: That the City Council adopt Resolution No. 2013-18, Approving an Updated Resolution for Employer Paid Member Contributions to the California Public Employee’s Retirement System (General Employees Unit); and adopt Resolution No. 2013-22, Approving an Updated Resolution for Employer Paid Member Contributions to the California Public Employees’ Retirement System (Utility Employees Unit).

6. Resolution No. 2013-25, Approving A Side Letter Agreement to the Memorandum of Understanding Between the International Brotherhood of Electrical Workers-Local 47 (IBEW) General Employees Unit and Utility Unit and the City of Banning. Funds.

Recommendation: That the City Council adopt Resolution No. 2013-25.

Motion Botts/Welch to approve Consent Items 1 through 6. Mayor Franklin opened the item for public comments. There were none. **Motion carried, all in favor.**

Mayor Franklin recessed the regular City Council meeting and called to order a joint meeting of the Banning City Council and the City Council Sitting in Its Capacity of Successor Agency.

CONSENT ITEMS

1. Resolution No. 2013-01 SA, Approving the Recognized Obligation Payment Schedule for the Period of July through December 2013 and Approving Certain Related Actions.

Recommendation: That the Successor Agency adopt Resolution No. 2012-01 SA, Adopting Its Recognized Obligation Payment Schedule (“ROPS”) for the Period of July through December 2013 and Approving Certain Related Actions.

Motion Welch/Miller to approve Consent Items 1. Mayor Franklin opened the item for public comments. There were none. **Motion carried, all in favor.**

Mayor Franklin recessed the joint meeting of the Banning City Council and the Banning City Council Sitting in Its Capacity of Successor Agency.

PUBLIC HEARING

1. Ordinance No. 1461 – Density Bonus
(Staff Report – Zai Abut Bakar, Community Development Director)

Director Zai gave the staff report as contained in the agenda packet. She stated that the purpose of this ordinance is to repeal the current ordinance that is in the Municipal Code and Zoning Code. That ordinance is outdated and State law came in to effect in 2005 and our current code is not

meeting the State requirements. There is no one right now that is requesting a density bonus. The purpose for us to have this ordinance is to first meet state law and the second thing is to provide a process for people or developers to apply for it if they choose to but the City does not have to approve it because we would have to review the application and make sure there is no impact on the surrounding communities or the environment plus the City would still need to follow and comply with the California Environmental Quality Act. This is not just straightforward; you have to go through the process. The density bonus is only applicable to any developer that is proposing affordable housing.

There was some Council and staff discussion regarding affordable housing, state guidelines, possible sanctions if not adopted, and also a certified housing element.

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

Mayor Franklin asked the City Clerk to read the title of Ordinance No. 1461. City Clerk read: Ordinance No. 1461, An Ordinance of the City Council of the City of Banning, California, Repealing Chapter 15.60 in its Entirety and Adding Chapter 15.60 to the Banning Municipal Code and Amending Chapter 17.08.070 of the Banning Zoning Code to Establish Density Bonus Standards Consistent with State Law for Affordable Residential Units.

Motion Botts/Welch to waive further reading of Ordinance No. 1461. Motion carried, all in favor.

Motion Botts/Welch that Ordinance No. 1461 pass its first reading. Motion carried, all in favor.

2. Ordinance No. 1462 – Reasonable Accommodations
(Staff Report – Zai Abut Bakar, Community Development Director)

Director Zai gave the staff report as contained in the agenda packet. She stated in regard to this ordinance she is trying to bring the Municipal Code up to date and this ordinance is to allow an opportunity for people to have access to housing because the federal law adopted a law in 1988 that requires that the City have reasonable accommodations in their code and stated that there was an example in the agenda packet.

There was some Council and staff discussion regarding procedures for someone to certify that they are a special need individual and would a renter be able to apply.

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

Mayor Franklin asked the City Clerk to read the title of Ordinance No. 1462. City Clerk read: Ordinance No. 1462, An Ordinance of the City Council of the City of Banning, California, Adding Chapter 17.42 to the Banning Zoning Code Regarding Reasonable Accommodations for Disabled Individuals.

Motion Welch/Miller to waive further reading of Ordinance No. 1462. Motion carried, all in favor.

Motion Welch/Miller that Ordinance No. 1462 pass its first reading. Motion carried, all in favor.

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

City Council

Councilman Miller –

- He stated that Congressman Ruiz met with the Council and it was really nice that he spoke to everyone that was willing to see him in the Pass Area. Various people from the audience asked questions and reaffirmed his assistance that social security and Medicare be supported. He also supported the veterans and their special medical needs. We appreciated his coming here and being willing to talk with us.

Councilmember Welch –

- He wanted to reiterate what Mary Ann Melleby said earlier. This is our 100th Anniversary year and a lot of effort has been placed on several different gatherings and programs throughout the city during the period of the year and they are all calendared on the City's website, the Centennial website and the Banning Chamber of Commerce website so he would encourage the residents to take advantage of some of these events to really see where they live.

City Committee Reports - None

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

Report by City Manager

Deputy City Manager Overholt reported -

- Many residents may have notice that they received a “weed abatement” postcard. The City typically does not send these out to all of the residents but there had been some complaints in the recent years and so as a result of that a decision was made to do a one-time notification to everybody in the city through these post cards that weed abatement is the responsibility of each property owner and the Fire Marshall and the Fire Department does do the weed abatement inspections, so please take the time to look at your property and make sure that you are in compliance and that will help you avoid any fees or inspection costs and all those things that come along with requiring the City to do the weed abatement for you.
- We need the Council's help in setting up a time to do interviews for the Planning Commission and Parks and Recreation Commission and would like to have these interviews conducted on Tuesday, March 5th. **There was Council consensus to have the interviews on March 5th at 9:00 a.m.**

ITEMS FOR FUTURE AGENDAS

New Items –

- Consideration of an “in-house” attorney vs. contract
- Policy regarding presentations to City Council

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials

Mayor Franklin stated that they would be returning to closed session.

ADJOURNMENT

By common consent the meeting adjourned at 5:42 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

03/05/2013
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Franklin on March 5, 2013 at 9:15 a.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Miller
Councilmember Peterson
Councilmember Botts
Mayor Franklin

COUNCIL MEMBERS ABSENT: Councilmember Welch

OTHERS PRESENT: Andy Takata, City Manager
Jessica Hicks, Deputy City Clerk

INTERVIEWS

1. Candidate Interviews for City of Banning Parks and Recreation Commission and Planning Commission.

Mayor Franklin went over the process that they would be using this morning for the interview process.

The candidates present for the Parks and Recreation Commission interviews were Annell Elmore and William Dickson. Incumbent, Richard Sanchez, was unable to make it to the interview because he was ill, so Councilmember Botts briefed the council on the incumbent. The City Council asked each of the candidates questions in regards to what motivated them to apply for this committee, their experience and background, the unique challenges and opportunities facing the City over the next 3 to 5 years specific to Parks and Recreation and how they may be able to address these challenges and opportunities, their understanding of the Parks and Recreation Commission and what they would hope to accomplish while on this committee. The candidates also had an opportunity to ask the Council questions.

The candidates present for the Planning Commission interviews were David Ellis, Ron Klimczak and Dennis Arterberry. The City Council asked each of the candidates questions in regards to what motivated them to apply for this committee, their experience and background, their understanding of the Planning Commission and what they would hope to accomplish while on this committee. The candidates also had an opportunity to ask the Council questions.

ADJOURNMENT

By common consent the meeting adjourned at 11:20 a.m.



Jessica Hicks, Deputy City Clerk

2nd Read.

ORDINANCE NO. 1461

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF BANNING, CALIFORNIA, REPEALING CHAPTER
15.60 IN ITS ENTIRETY AND ADDING CHAPTER 15.60
TO THE BANNING MUNICIPAL CODE AND AMENDING
SECTION 17.08.070 OF THE BANNING ZONING CODE TO
ESTABLISH DENSITY BONUS STANDARDS
CONSISTENT WITH STATE LAW FOR AFFORDABLE
RESIDENTIAL UNITS**

SUMMARY: This ordinance establishes standards for awarding density bonuses.

WHEREAS, Government Code Section 65915 requires cities to provide certain incentives, concessions or density bonuses to an applicant constructing housing units, a portion of which are restricted as affordable units or units restricted for senior citizens. Banning's current density bonus ordinance is out-of-compliance with these State laws; and

WHEREAS, the City Council of the City of Banning would like to establish density bonus regulations as required by State law; and

WHEREAS, the Planning Commission did, on the 6th day of February 2013, hold a noticed public hearing as prescribed by law to consider repealing Chapter 15.60 in its entirety and adding Chapter 15.60 to the Banning Municipal and amending Section 17.08.070 of the Banning Zoning; and

WHEREAS, the City Council did, on the 26th of February 2013, hold a duly noticed public hearing as prescribed by law to consider the proposal repealing Chapter 15.60 in its entirety and adding Chapter 15.60 to the Banning Municipal and amending Section 17.08.070 of the Banning Zoning.

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

SECTION 1. The current Chapter 15.60 of the Banning Municipal Code is hereby repealed and replaced in its entirety with a new Chapter 15.60, entitled Density Bonus Provisions for Residential Units, to read as follows:

Chapter 15.60

DENSITY BONUS PROVISIONS FOR RESIDENTIAL UNITS

Section 15.60.010	Purpose.
Section 15.60.020	Definitions.
Section 15.60.030	Density bonuses for affordable and senior citizen housing.
Section 15.60.040	Additional density bonus for donations of land.

Section 15.60.050	Density bonus and incentives for condominium conversions.
Section 15.60.060	Density bonus & concessions/incentive for child care facilities.
Section 15.60.070	General provisions governing density bonus calculations.
Section 15.60.080	Incentives and concessions.
Section 15.60.090	Waivers & modifications of development standards.
Section 15.60.100	Parking incentives.
Section 15.60.110	Standards for density bonus housing developments.
Section 15.60.120	Application requirements.
Section 15.60.130	Density bonus housing agreements.
Section 15.60.140	Administrative fee.
Section 15.60.150	Violations of affordable housing requirements.
Section 15.60.160	State law amendments.

Section 15.60.010 - Purpose.

This chapter is being enacted: (1) to provide incentives for the production of housing for very low income, low income, moderate income and senior citizen households; (2) to provide incentives for the creation of rental housing serving lower and moderate income households; (3) to provide incentives for the construction of childcare facilities serving very low, lower and moderate income households; and (4) to implement Sections 65915, 65915.5, and 65917 of the California Government Code as required by Section 65915(a). In enacting this chapter, the City also intends to implement the goals, objectives, and policies of the City's General Plan Housing Element to encourage the construction of affordable housing in the City. It is also the City's intent to encourage the development of rental housing to serve an economically diverse community. Accordingly, the City desires to provide a density bonus upon the request of an applicant when the applicant is not otherwise required to include affordable or senior citizen restricted units in a project.

Section 15.60.020 - Definitions.

For purposes of this chapter, the following definitions shall apply. Unless specifically defined below, words or phrases shall be interpreted as to give this chapter its most reasonable interpretation.

"Affordable ownership costs" means average annual housing costs, including mortgage payments, property taxes, homeowners' insurance, and homeowners' association dues, if any, which do not exceed the following:

- i. Very low income households: 50% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.

- ii. Lower income households: 70% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.
- iii. Moderate income households: 110% of area median income, adjusted for assumed household size based on unit size, multiplied by 35%.

On an annual basis, the City shall make available copies of the U.S. Department of Housing and Urban Development household income limits applicable to owner-occupied affordable units subject to this chapter and may determine an inflation factor to establish the affordable ownership cost limits applicable to an affordable unit.

"Affordable rent" means annual rent, including utilities and all fees for housing services, which does not exceed the following:

- i. Very low income households: 50% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.
- ii. Lower income households: 60% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.

On an annual basis, the City shall make available copies of the U.S. Department of Housing and Urban Development household income limits applicable to tenant-occupied affordable units subject to this chapter and may determine an inflation factor to establish the affordable rent limits applicable to an affordable unit.

"Affordable units" are dwelling units which are affordable to very low, lower, or moderate income households as defined by this chapter or by any federal or state housing program and are subject to rental, sale, or resale provisions to maintain affordability.

"Applicant" means a developer or applicant for a density bonus who seeks and agrees to construct a qualified housing development on or after the effective date of this chapter pursuant to Section 65915, subdivision (b), of the California Government Code.

"Area median income" means area median income for Riverside County as published by the State of California pursuant to California Code of Regulations, Title 25, Section 6932, or a successor provision.

"Assumed household size based on unit size" means a household of one person in a studio apartment, two persons in a one bedroom unit, three persons in a two bedroom unit, and one additional person for each additional bedroom thereafter.

"Childcare facility" means a child day care facility other than a family day care home including, but not limited to, infant centers, preschools, extended day care facilities, and school age childcare centers.

"City" means the City of Banning, California, including the City's Redevelopment Successor Agency and/or the City's Housing Authority acting on behalf of the City.

"Common interest development" bears the same meaning as defined in Section 1351 of the California Civil Code.

"Density bonus" means a density increase over the otherwise allowable zoning maximum residential density on a site as of the date of application by the applicant to the City, granted pursuant to this chapter.

"Density bonus units" means residential units granted pursuant to this chapter which exceed the otherwise allowable zoning maximum residential density for a housing development.

"Density bonus housing agreement" means an agreement governing affordable and density bonus units as a condition of granting any density bonus, as further described in Section 15.60.130 of this chapter.

"Development standard" means any site or construction condition including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a housing development pursuant to any ordinance, general plan element, specific plan, or other local condition, law, policy, or regulation. A "site and construction condition" is a development condition or law that provides a specification for the physical development of a site and buildings on the site in a housing development.

"First approval" means the first of the following approvals to occur with respect to a housing development: specific plan, development agreement, planned development permit, tentative map, minor land division, use permit, design permit, building permit, or any other development entitlement permit listed in Titles 15, 16 and/or 17 of this code.

"Household income" means the combined adjusted gross household income for all adult persons living in a residential unit as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor provision.

"Very Low Income Household" shall have the same meaning as provided in California Health & Safety Code Section 50105.

"Lower Income Household" shall have the same meaning as provided in California Health & Safety Code Section 50079.5.

"Moderate Income Household" shall have the same meaning as provided in California Health & Safety Code Section 50093.

"Housing development" means one or more groups of projects for residential units in the planned development of the City. "Housing development" also includes a subdivision or common interest development, as defined in Section 1351 of the California Civil Code, approved by the City and consisting of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4 of the Government Code, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. For purposes of this chapter, "housing development" does not include projects for less than five (5) dwelling units.

"Incentives and concessions" are regulatory concessions as listed in Section 15.60.080 of this chapter.

"Market-rate unit" means a dwelling unit which is not an affordable unit or an inclusionary unit.

"Maximum residential density" means the maximum number of dwelling units permitted by the zoning ordinance and land use element of the General Plan or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the General Plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the General Plan, the General Plan density shall prevail. The maximum allowable density is based on the date an application for a housing development is deemed complete. This definition is used to calculate a density bonus pursuant to this chapter.

"Senior citizen housing development" means senior citizen housing as defined in Section 51.3 (a housing development developed, substantially rehabilitated, or substantially renovated for senior citizens that has at least 35 dwelling units) and Section 51.12 of the California Civil Code, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

"Specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identifiable, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete. Mere inconsistency with the zoning ordinance or General Plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

Section 15.60.030 - Density Bonuses for Affordable and Senior Citizen Housing.

A. Very Low and Lower Income Housing and Senior Citizen Housing. Upon written request to the City, an applicant for a housing development is eligible for one density bonus of twenty percent (20%) over the maximum residential density (except in the case of senior citizen housing, as provided below), provided that the applicant agrees to construct the housing development in accordance with one of the following criteria:

1. Five percent (5%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable rent or ownership costs to very low income households; or

2. Ten percent (10%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable rent or ownership costs to lower income households; or

3. A senior citizen housing development. For senior citizen housing developments, the density bonus shall be twenty percent (20%) of the number of senior housing units provided.

B. Moderate Income Housing. Upon written request to the City, an applicant for a housing development is eligible for one density bonus of five percent (5%) over the maximum residential density if the applicant agrees to construct the housing development in accordance with all of the following criteria:

1. At least ten percent (10%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable ownership costs to moderate income households; and

2. The housing development is a common interest project as defined by Section 1351 of the California Civil Code; and

3. All of the dwelling units in the housing development are offered for sale to the public.

C. Higher Density Bonus for Greater Contribution of Affordable Units. Upon written request to the City, an applicant for a housing development that is eligible for a density bonus based upon the contribution of affordable units, may receive a higher amount of density bonus if the percentage of very low, lower, and moderate income housing units exceeds the base percentage established in subsections (A) or (B) above, as follows:

1. Very low income units - For each one percent (1%) increase above five percent (5%) in affordable units for very low income households, the density bonus shall be increased by two and one-half percent (2.5%) up to a maximum of thirty-five percent (35%), as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

2. Lower income units - For each one percent (1%) increase above ten percent (10%) in affordable units for lower income households, the density bonus shall be increased by one and one-half percent (1.5%) up to a maximum of thirty-five percent (35%), as follows:

Percentage Low Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

3. Moderate income ownership units - For each one percent (1%) increase above ten percent (10%) in affordable units offered for sale to moderate income households, the density bonus shall be increased by one percent (1%) up to a maximum of thirty-five percent (35%), as follows:

Percentage Moderate Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16

Percentage Moderate Income Units	Percentage Density Bonus
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

D. Continued Affordability. Affordable units qualifying a housing development for a density bonus shall remain affordable as follows:

1. Very low income and lower income household units shall remain affordable to the designated income group for a minimum of thirty (30) years, or for a longer period of time if required by any construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the dwelling units.

2. An applicant shall agree to, and the City shall ensure, that the initial occupant of moderate-income units that are directly related to the receipt of the density bonus in a common interest development, are persons and families of moderate income and that the units are offered at an affordable housing cost. The local government shall enforce an equity-sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following shall apply to the equity-sharing agreement:

a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes that promote homeownership as described in subdivision (e) of Section 33334.2 of the California Health and Safety Code that promote homeownership.

b. For purposes of this subdivision, the City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

c. For purposes of this subdivision, the City's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

3. The resale price of any owner-occupied affordable unit shall not exceed the affordable ownership costs with the following exceptions: (i) customary closing costs and costs of sale; or (ii) costs of real estate commissions paid by the seller if a licensed real estate salesperson is employed; or (iii) consideration of permanent capital improvements installed by the seller.

5. These provisions for continued affordability shall be a provision of the density bonus housing agreement required by Section 15.60.130 hereof.

E. Specification of Basis for Density Bonus. Each applicant who requests a density bonus pursuant to this section, shall elect whether the bonus will be awarded on the basis of subsection (A)(1), (A)(2), (A)(3) or subsection (B) of this section. Each housing development is entitled to only one density bonus, which may be selected based on the percentage of either very low income affordable housing units, lower-income affordable housing units or moderate-income affordable housing units, or the development's status as a senior citizen housing development. Density bonuses from more than one of these categories may not be combined.

Section 15.60.040 - Additional Density Bonus for Donations of Land.

A. Upon written request, when an applicant for a tentative map, subdivision map, parcel map, or other residential development approval qualified for a density bonus pursuant to Section 15.60.030 also donates land to the City in accordance with this section, the applicant shall be entitled to an additional density bonus. Applicants donating land to the City shall be eligible for an additional fifteen percent (15%) density bonus at the site of the housing development if the donated land is suitable for the construction of very low income units equaling at least ten percent (10%) of the market-rate units being constructed for the project. The density bonus provided pursuant to this section shall be in addition to any density bonus granted pursuant to Section 15.60.030, up to a maximum combined density bonus of thirty-five percent (35%).

B. To qualify for the additional density bonus described in subsection (A) of this section, the donation of land must meet all of the following criteria:

1. The tentative map, subdivision map, parcel map, or other residential development must otherwise be subject to a density bonus pursuant to Section 15.60.030; and

2. The land must be transferred no later than the date of the approval of the final subdivision map, parcel map, or housing development application; and

3. The developable acreage and zoning classification of the land being transferred must be sufficient to permit construction of dwelling units affordable to very low income households in an amount not less than ten percent (10%) of the total number of market rate dwelling units in the proposed development (i.e., the proposed development before the addition of any density bonus); and

4. The donated land is at least one acre in size or is large enough to permit development of at least forty (40) units, has the appropriate General Plan land use designation, has the appropriate zoning and development standards for affordable housing and, at the time of project approval is, or at the time of construction will be, served by adequate public facilities and infrastructure; and

5. No later than the date of approval of the final map, parcel map, or other development application for the housing development, the donated land must have all of the applicable permits and approvals (other than building permits) necessary for the development of the very low income housing units on the donated land, except that the City may subject the proposed housing development to subsequent design review to the extent authorized by California Government Code Section 65583.2 subsection (i) if the design is not reviewed by the City prior to the time of transfer; and

6. The donated land is subject to a deed restriction ensuring continued affordability of the very low income units consistent with Section 15.60.030(D), which deed restriction shall be recorded upon the donated property at the time of its transfer; and

7. The land will be transferred to the City or to a housing developer approved by the City. The City reserves the right to require the applicant to identify a developer and to require that the land be transferred to that developer; and

8. The land is within the boundary of the proposed housing development or within one-quarter mile of the boundary of the proposed housing development; and

9. No later than the date of approval of the final map, parcel map, or other development application for the housing development, a proposed

source of funding for the construction of the very low income units shall be identified.

C. Additional Density Bonus Based on Greater Suitability of Land for Very Low Income Housing. For each one percent (1%) increase above the minimum ten percent (10%) in the number of very low income housing units that can be accommodated on the donated land, the maximum density bonus shall be increased by one percent (1%), up to a maximum of thirty-five percent (35%), as follows:

Percentage of Very Low Income Units That Can Be Accommodated on Donated Land	Percentage of Additional Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

Section 15.60.050 - Density Bonus & Incentives for Condominium Conversions.

A. An applicant for a conversion of existing rental apartments to condominiums is eligible for either a density bonus or other incentives of equivalent financial value, at the option of the City, if the applicant agrees to provide: (i) at least thirty-three percent (33%) of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or (ii) at least fifteen percent (15%) of the total units of the proposed condominium project to lower

income households as defined in Section 50079.5 of the Health and Safety Code, and (iii) the applicant agrees to pay for the reasonably necessary administrative costs incurred by the City pursuant to this section.

B. Condominium conversions qualified under subsection (A), above, may receive one of the following, at the City's option:

1. A flat density bonus of twenty-five percent (25%) to be provided within the existing structure or structures proposed for conversion, excepting that a condominium conversion is ineligible for this bonus if the apartments to be converted originally received a density bonus or incentives pursuant to any other provisions of this chapter or pursuant to California Government Code Section 65915. Qualified applicants may choose to implement a lower density bonus.

2. Incentives of equivalent financial value in the form of a reduction or waiver of requirements or fees which the City might otherwise apply as conditions of conversion approval. "Other incentives of equivalent financial value" shall not be construed to require the City to provide cash transfer payments or other monetary compensation to the condominium conversion project or its applicant.

C. The City reserves the right to place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value pursuant to this section as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

D. Condominium conversions are eligible only for the granting of a density bonus or incentive of equivalent value pursuant to this section, which bonus or incentive may not be granted in addition to, or combined with, any other incentives, concessions, density bonuses or waivers and reductions of development standards pursuant other sections of this chapter. Nothing in this section shall be construed to require the City to approve a proposal to convert rental apartments into condominiums.

Section 15.60.060 - Density Bonus & Concessions/Incentives for Childcare Facilities.

A. A housing development that is eligible for a density bonus pursuant to Section 15.60.030 which includes a childcare facility qualified under this section is also eligible for either of the following, at the option of the City, if requested in writing by the applicant:

1. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility; or

2. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

B. A childcare facility will only qualify the housing development for an additional density bonus or incentive or concession if it is (i) located on the premises of, as part of, or adjacent to the housing development, and (ii) the housing development is eligible for a density bonus pursuant to Section 15.60.030. As a condition of approving the additional density bonus for the housing development, the childcare facility must meet all of the following criteria:

1. The childcare facility shall be used exclusively for childcare for a period of time that is as long as or longer than the period of time during which the affordable units are required to remain affordable as stated in deed restrictions and pursuant to Section 15.60.030(D); and

2. Of the children who attend the child care facility, the percentage of children of very low income households, lower income households, or moderate income households shall be equal to or greater than the percentage of dwelling units in that housing development that are proposed to be affordable to very low income households, lower income households, or moderate income households pursuant to Section 15.60.030.

C. Notwithstanding any requirement of this section, the City shall not be required to provide a density bonus or concession or incentive for a childcare facility if it makes a written finding, based upon substantial evidence, that the community already has adequate childcare facilities.

Section 15.60.070 - General Provisions Governing Density Bonus Calculations.

A. For the purposes of any provisions in this chapter, an applicant may elect to accept a lesser percentage of density bonus than that to which the housing development is eligible.

B. When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded up to the next larger whole number.

C. For the purpose of calculating a density bonus, the dwelling units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the affordable units are located.

D. For the purposes of this chapter, the term "total units" or "total dwelling units" in a housing development does not include those units added by any density bonus.

E. Regardless of the number or extent of affordable units, senior housing, land dedication, childcare facilities or other qualifications for a density bonus provided in any single housing development, no housing development may be entitled to a total density bonus of more than thirty-five percent (35%).

TABLE 1: Density Bonus Summary

Types of Affordable Units Providing Eligibility for a Density Bonus	Minimum %	Bonus Granted	Additional Bonus for Each 1% Increase in Affordable Units	% Affordable Units Required for Maximum 35% Bonus
A density bonus may be selected from only one category, except that bonuses for land donation may be combined with others, up to a maximum of 35%, and an additional sq. ft. bonus may be granted for a childcare facility.				
Affordable Housing				
- Very low income	5%	20%	2.5%	11%
- Lower income	10%	20%	1.5%	20%
- Moderate income (ownership units only)	10%	5%	1%	40%
Senior citizen housing	Qualified senior citizen housing development	20% of the senior citizen housing units	--	--
Land donation for very low income housing	Land donated can accommodate 10% of market rate units, plus housing development qualifies for density bonus as an affordable or senior project.	15%	1%	30% of market-rate units (assuming housing development provides 5% very low income units)
Condominium Conversion				
- Lower income	15%	25% ⁽¹⁾	--	--
- Low/Mod income	33%	25% ⁽¹⁾	--	--
Child care facility	Housing development qualifies for density bonus as an affordable or senior project.	Sq. ft. in child care facility ⁽¹⁾	--	--
Notes:				
⁽¹⁾ Maximum of 25% bonus for condominium conversions, or an incentive of equal value, at the city's option.				

Section 15.60.080 - Incentives and Concessions.

A. Definition of a Qualified Concession or Incentive. An applicant for a density bonus pursuant to Section 15.60.030 may also submit to the City a written proposal for specific incentives or concessions as provided in this section. The applicant may also request a meeting with the City's city manager or his/her designee to discuss such proposal. For purposes of this chapter, concessions and incentives include any of the following:

1. Reductions in site development standards or modifications of zoning requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the California Health & Safety Code. These include, without limitation, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required. In order to qualify as a "concession or incentive," the City must be able to find that the requested reductions in site development standards result in identifiable, financially sufficient, and actual cost reductions; or

2. Approval of mixed use zoning in conjunction with the housing development if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial or other land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located; or

3. Other regulatory incentives or concessions proposed by the applicant or the City, so long as the City can find that such proposals result in identifiable, financially sufficient, and actual cost reductions.

B. Findings to Deny Concession or Incentive. The City shall grant the concession or incentive requested by the applicant unless the City makes a written finding, based upon substantial evidence, of any of the following:

1. The concession or incentive is not required in order to provide for affordable housing costs or for affordable rents for the targeted units to be set as specified in Section 15.60.030(D); or

2. The concession or incentive would have a specific adverse impact; or

3. The concession or incentive would be contrary to State or Federal law.

C. Number of Concessions or Incentives. If all other provisions of this section are satisfied, an applicant will be eligible for the following number of incentives and concessions:

1. One incentive or concession for housing developments where at least five percent (5%) of the total units are for very low income households, at least ten percent (10%) of the total units are for lower income households, or at least ten percent (10%) of the total units in a common interest development are sold to moderate income households; or

2. Two incentives or concessions for housing developments where at least ten percent (10%) of the total units are for very low income households, at least twenty percent (20%) of the total units are for lower income households, or at least twenty percent (20%) of the total units in a common interest development are sold to moderate income households.

3. Three incentives or concessions for housing developments where at least fifteen percent (15%) of the total units are for very low income households, at least thirty percent (30%) of the total units are for lower income households, or at least thirty percent (30%) of the total units in a common interest development are sold to moderate income households.

TABLE 2: Incentives and Concessions Summary			
Affordable Units or Category	% of Affordable units		
Pursuant to State Density Bonus			
Affordable Housing			
- Very low income	5%	10%	15%
- Lower income	10%	20%	30%
- Moderate income (ownership units only)	10%	20%	30%
Childcare Facility	(1)		
Maximum Incentive(s)/Concession(s)⁽¹⁾⁽²⁾⁽³⁾	1	2	3
Notes:			
(1) An incentive or concession may be requested only if an application is also made for a density bonus.			
(2) Incentives or concessions may be selected from only one category (very low, lower, or moderate).			
(3) No incentives or concessions are available for land donation.			

D. This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly-owned land, by the City or the waiver of fees or dedication requirements. Nor does any provision of this section require the City to grant an incentive or concession found to have a specific adverse impact.

E. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval.

Section 15.60.090 - Waivers & Modifications of Development Standards.

A. Applicants granted a density bonus pursuant to Section 15.60.030 may, by written proposal, seek a waiver, modification or reduction of development standards that would otherwise have the effect of physically precluding the construction of the housing development at the densities or with the concessions or incentives permitted pursuant to this chapter. The applicant may also request a meeting with the City to discuss such request for waivers and modifications.

B. To obtain a waiver or modification of development standards, the applicant shall show that the development standards will have the effect of physically precluding the construction of a housing development meeting the criteria of Section 15.60.030(A) and (B) at the densities or with the concessions or incentives permitted by this chapter.

C. A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Section 15.60.080.

D. The City may deny a request for any waiver, modification or reduction of development standards if the waiver, modification or reduction would have a specific adverse impact.

Section 15.60.100 - Parking Incentives.

Upon the written request of the applicant for a housing development meeting the criteria for a density bonus under Section 15.60.030, the City shall not require a vehicular parking ratio that exceeds the following:

1. Zero to one-bedroom units: one on-site parking space.
2. Two to three-bedroom units: two on-site parking spaces.
3. Four and more bedroom units: two and one-half parking spaces.

Guest parking and handicapped parking shall be included within the maximum number of spaces that may be required. If the total number of parking spaces required for a housing development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, a housing development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking. For purposes of this chapter, the parking ratios set forth in this section shall be deemed a concession or incentive available to the applicant under Section 15.60.080.

Section 15.60.110 - Standards for Density Bonus Housing Developments.

A. Affordable units qualifying a housing development for a density bonus shall be reasonably dispersed throughout the housing development and compatible with the design of market-rate units in terms of appearance, materials, and finished quality. The applicant may reduce the interior amenities and square footage of inclusionary units, provided all units conform to all other requirements of this code.

B. For developments with multiple market-rate units containing differing numbers of bedrooms, affordable units qualifying as a housing development for a density bonus shall be representative of the market-rate unit mix.

C. All building permits for affordable units qualifying a housing development for a density bonus shall be issued concurrently with, or prior to, issuance of building permits for the market rate units, and the affordable units shall be constructed concurrently with, or prior to, construction of the market rate units. Occupancy permits and final inspections for affordable units qualifying a housing development for a density bonus shall be approved concurrently with, or prior to, approval of occupancy permits and final inspections for the market rate units.

Section 15.60.120 - Application Requirements.

A. A written application for a density bonus, incentive, concession, waiver, or modification pursuant to this chapter shall be submitted with the first application for approval of a housing development and processed concurrently with all other applications required for the housing development. The application shall be submitted on the form prescribed by the City's Director of Community Development pursuant to Chapter 17.48 of this code and shall additionally include at least the following information:

1. Site plan showing total number of units, number and location of affordable units, and number and location of proposed density bonus units. The site plan shall describe the size, in square footage, of all affordable units and density bonus units.

2. A marketing plan that describes how the applicant will inform the public and those within the appropriate income groups of the availability of affordable units.

3. The location, structure (attached, semi-attached, or detached), proposed tenure (for sale or rental), and size of the proposed market-rate units, any commercial space, density bonus units, and/or affordable units.

4. Level of affordability proposed for each affordable housing unit and proposals for ensuring affordability.

5. Description of any requested incentives, concessions, waivers or modifications of development standards, or modified parking standards. The application shall include evidence that the requested incentives and concessions are required for the provision of affordable housing costs and/or affordable rents, as well as, evidence relating to any other factual findings required under Section 15.60.050.

6. If a density bonus or concession is requested in connection with a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings included in Section 15.60.080 can be made.

7. If a density bonus or concession/incentive is requested for a childcare facility, the application shall show the location and square footage of the childcare facilities and provide evidence that each of the findings included in Section 15.60.090 can be made.

8. For phased projects, a phasing plan that provides for the timely development of the number of affordable units proportionate to each proposed phase of development.

9. Any other information reasonably requested by the Planning Commission to assist with evaluation of the application.

B. An application for a density bonus, incentive or concession pursuant to this chapter shall be considered by and acted upon by the approval body with authority to approve the housing development (generally the City's Planning Commission) and subject to the same administrative appeal procedure, if any, as more particularly described in Chapter 17.68 of this zoning code. In accordance with State law, neither the granting of a concession, incentive, waiver, or modification nor the granting of a density bonus shall be interpreted, in and of itself, to require a General Plan amendment, zoning change, variance, or other discretionary approval. Provisions of this code governing standards of design review and/or special use permits that are more restrictive than, or contrary to, the provisions of this chapter shall be inapplicable to an application for density bonus.

C. For housing developments requesting a waiver, modification or reduction of a development standard, an application pursuant to this subsection shall be heard in conjunction with the application for density bonus in accordance with Chapter 17.68 of this zoning code. A public hearing shall be held by the Planning Commission and the Commission shall issue a determination. Pursuant to Government Code Section 65915, the Planning Commission shall approve the requested waiver/modification or reduction of development standards, unless one of the following conditions applies:

1. The development standards subject to the waiver/modification do not have the effect of physically precluding the

construction of the housing development at the densities or with the concessions or incentives permitted pursuant to this chapter.

2. The waiver/modification will have a specific adverse impact.

D. The decision of the City Planning Commission may be appealed to the City Council in accordance with Chapter 17.68. Notice of any City determination pursuant to this section shall be provided to the same extent as required for the underlying development approval.

Section 15.60.130 - Density Bonus Housing Agreements

A. In General. As a condition to approval of any density bonus pursuant to this chapter, the applicant shall agree to enter into a density bonus housing agreement with the City, which agreement shall be binding upon the applicant and all successors in interest. The form of the density bonus housing agreement will vary, depending on the manner in which the provisions of this chapter are satisfied for a particular development. The agreement shall be recorded as a restriction on the parcel or parcels on which the affordable units and the density bonus units will be constructed. The approval and recordation of the agreement shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The agreement must include, at minimum, all of the information required for the initial application as set forth in Section 15.60.120(A).

B. Density Bonus Housing Agreements for Ownership Units. In the case of housing developments consisting of ownership units, the density bonus housing agreement must provide the following additional conditions governing the sale and use of affordable units during the applicable affordability restriction period:

1. Affordable units shall be sold or resold only to very low income households, lower income households, or moderate income households in a common interest development, at an affordable ownership cost as defined by this chapter.

2. Affordable units shall be owner-occupied by very low or lower income households, or by moderate income households within a common interest development.

3. Any conditions as necessary or directed by the City Council (or other such governing body in the case of the Redevelopment Successor Agency or Housing Authority) for the subordination or prioritization of liens or mortgages upon the parcel underlying the owner-occupied affordable unit(s).

4. The purchaser of each affordable unit shall execute a deed instrument approved by the City, which instrument shall restrict the sale of the affordable unit in accordance with this chapter during the applicable affordability restriction period. Such instrument shall be recorded against the parcel containing the affordable unit and shall contain such provisions as the City may require to ensure continued compliance with this chapter and with Government Code Section 65915. With respect to moderate income affordable units, the instrument or agreement shall provide for equity-sharing as set forth in Government Code Section 65915. The deed restrictions required for affordable units shall specify that the title to the subject property shall only be transferred with prior written approval by the City.

5. Any additional obligations relevant to the compliance with this chapter.

C. Density Bonus Housing Agreements for Rental Units. In the case of housing developments consisting of rental units, the density bonus housing agreement must provide the following additional conditions governing the use of affordable units during the affordability restriction period:

1. Specific property management procedures for qualifying and documenting tenant income eligibility, establishing affordable rent and maintaining affordable units for qualified tenants.

2. Provisions requiring owners or managers of the housing development to verify household incomes for all tenants in affordable units and maintain books and records to demonstrate compliance with this chapter.

3. Provisions requiring owners or managers of the housing development to submit an annual report to the City, which includes the name(s), address, and income of each household occupying affordable units, and which identifies the bedroom size and monthly rent or cost of each affordable unit.

4. Provisions describing the amount of, and timing for payment of, administrative fees to be paid to the City for the on-going compliance monitoring of the provisions of this chapter pursuant to Section 15.60.140 below.

5. Any conditions as necessary or directed by the City Council (or other such governing body in the case of the Redevelopment Successor Agency or Housing Authority) for the subordination or prioritization of liens or mortgages upon the parcel underlying the tenant-occupied affordable units.

6. The property owner of each for-rent housing development containing affordable units shall execute a deed instrument approved by the City, which instrument shall restrict the leasing of the affordable unit in accordance with this chapter during the applicable affordability restriction period. Such instrument shall be recorded against the parcel containing the affordable units and

shall include the provisions of this ordinance and shall provide, at a minimum, each of the following provisions: (a) The affordable units shall be leased to and occupied by eligible households; (b) The affordable units shall be leased at rent levels affordable to eligible households for the full duration of the affordability period; (c) Subleasing of affordable units shall not be permitted without the express written consent of the City; and (d) Title to the subject property shall only be transferred with prior written approval by the City.

7. Any additional obligations relevant to the compliance with this chapter.

Section 15.60.140 - Administrative Fee.

An administrative fee shall be charged to the applicant for City review of all materials submitted in accordance with this chapter and for on-going enforcement of the provisions of this chapter. The fee amount shall be established by City Council resolution. Fees will be charged for staff time and materials associated with the following activities: development review process, agreement drafting, project marketing and lease-up, and estimated City-incurred costs of monitoring long-term compliance of the affordable units.

Section 15.60.150 - Violations of Affordable Housing Requirements.

In the event it is determined that rents in excess of those allowed by operation of this chapter have been charged to a tenant residing in a rental affordable unit, the City may take the appropriate legal action to recover, and the rental unit owner shall be obligated to pay to the tenant (or to the City in the event the tenant cannot be located), any excess rent charges.

In the event it is determined that a sales price in excess of that allowed by operation of this chapter has been charged to a household purchasing an owner-occupied affordable unit, the City may take the appropriate legal action to recover, and the affordable unit seller shall be obligated to pay to the purchaser (or to the City in the event the purchaser cannot be located), any excess sales costs.

Nothing in this Section 15.60.150 limits or waives any other remedies the City may have available to it in law or equity.

Section 15.60.160 - State Law Amendments.

This chapter implements the laws for density bonuses and other incentive and concessions available to qualified applicants under Government Code Sections 65915 through 65918. In the event these Government Code sections are amended, those amended provisions shall be incorporated into this chapter as if fully set forth herein. Should any inconsistencies exist between the amended

State law and the provisions set forth in this chapter, the amended state law shall prevail."

SECTION 2. Section 17.08.070 is amended as follows:

"Section 17.08.070 Density Bonus. Refer to Chapter 15.60 of the Banning Municipal Code."

SECTION 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. 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.

PASSED, APPROVED, AND ADOPTED this 12th day of March, 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

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

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

David Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance 1461 was duly introduced at a regular meeting of the City Council of the City of Banning held on the 26th day of February, 2013, and was duly adopted at a regular meeting of said City Council on the 12th day of March, 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

2nd. Read.

ORDINANCE NO. 1462

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF BANNING, CALIFORNIA, ADDING CHAPTER 17.42
TO THE BANNING ZONING CODE REGARDING
REASONABLE ACCOMMODATIONS FOR DISABLED
INDIVIDUALS**

A. The Federal Fair Employment and Housing Act of 1988 and California's Fair Employment and Housing Act (the "Fair Housing Laws") impose an affirmative duty on local governments to make reasonable accommodations in their land use and zoning regulations and practices when such accommodation is necessary to afford individuals with disabilities an equal opportunity to housing.

B. Establishing a reasonable accommodation process will further the City's compliance with the Fair Housing Laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities.

C. Establishing a reasonable accommodation process will further the City's compliance with the Fair Housing Laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities.

D. This Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and because the Ordinance is categorically exempt from CEQA in that any of the reasonable accommodations permitted under this Ordinance would fall within either the Class 1 (Existing Facilities) or Class 3 (New Construction or Conversion of Small Structures) exemptions provided under Sections 15301 and 15303 of the CEQA Guidelines.

E. The proposed project was advertised in the Record Gazette newspaper January 25, 2013. As of the date of this report, staff has not received any comments.

F. The Planning Commission did, on the 6th of February 2013, hold a noticed public hearing as prescribed by law to consider the proposed addition of Chapter 17.42 to the Banning Zoning Code and voted to recommend the City Council approval of said request.

G. The City Council did, on the 26th of February 2013, hold a duly noticed public hearing as prescribed by law to consider the proposed addition of Chapter 17.42 to the Banning Zoning Code.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
BANNING, CALIFORNIA:**

SECTION 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. Addition of Chapter 17.42 to Title 17 of the Zoning Code. Chapter 17.42 is hereby added to Title 17 of the Banning Zoning Code to read as follows:

**“Chapter 17.42 - REASONABLE ACCOMMODATIONS IN CITY
HOUSING REGULATIONS AND DEVELOPMENT FOR DISABLED OR
HANDICAPPED INDIVIDUALS**

Sections:

- 17.42.010 - Purpose.**
- 17.42.020 - Definitions.**
- 17.42.030 - Requesting reasonable accommodation.**
- 17.42.040 - Decision on application.**
- 17.42.050 - Required findings.**
- 17.42.060 - Appeals.**
- 17.42.070 - Waiver of time periods.**

17.42.010 - Purpose.

It is the purpose of this chapter, pursuant to Fair Housing Laws, to provide individuals with disabilities reasonable accommodation in the application of the City's land use, zoning, and building standards, regulations, policies, and procedures and to establish relevant criteria to be used to ensure equal access to housing. The purpose of this chapter is to provide a process for individuals with disabilities to make requests for, and be provided, reasonable accommodation, when reasonable accommodation is warranted based upon sufficient evidence, from the various city laws, rules, policies, practices and/or procedures of the City, including land use and zoning regulations.

17.42.020 – Applicability.

- A. Any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities may seek relief from any land use, zoning or building standard, regulation, policy or procedure found in Titles 15 or Title 17 of this code to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities by requesting a reasonable accommodation in the manner prescribed in following Section 17.42.40.
- B. The City shall waive land use, zoning, and building standards, regulations, policies, and procedural requirements when such waiver is necessary to eliminate barriers to housing opportunities. Such waivers for reasonable accommodation may include, without limitation, a household's reasonable waiver of residential fence or structural height restrictions to accommodate specific disabilities, reasonable waivers of building size or set-back restrictions to accommodate necessary disability accommodations such as wheelchair ramps or expanded parking spaces.

C. The reasonable accommodation rules set forth in this chapter apply to proposals to modify existing structures as well as new development, as when a household applies to the City in order to modify their existing residence as necessary to reasonably accommodate a specific disability, subject to the findings and requirements of this chapter. Proposals to modify structures, especially single-family homes, should respect existing development patterns if reasonably possible.

17.42.030 - Definitions.

- A. "Applicant" means a person, business, or organization making a written request to the City for reasonable accommodation.
- B. "City" means the City of Banning.
- C. "Code" means the Banning Municipal Code.
- D. "Department" means the Community Development Department.
- E. "Director" means the Director of Community Development.
- F. "Disabled or Handicapped Person" means an individual with a qualifying disability under the Fair Housing Laws. Generally, any person with any mental or physical impairment, disorder or condition, which substantially limits one or more major life activities, including physical, mental and social activities and working. "Disabled or handicapped person" does not include impairments, disorders or conditions resulting from the current, illegal use of or addiction to a controlled substance, sexual behavior disorders, compulsive gambling, kleptomania, or pyromania.
- G. "Fair Housing Laws" means the "Fair Housing Amendments Act of 1988" (42 U.S.C. § 3601, et seq.), including reasonable accommodation required by 42 U.S.C. § 3604 (f)(3)(B), and the "California Fair Employment and Housing Act" (California Government Code Section 12900, et seq.), including reasonable accommodation required specifically by California Government Code Sections 12927 (c)(1) and 12955 (l), and Civil Code § 54, as any of these statutory provisions now exist or may be amended from time to time by either legislative act or published judicial decisions.
- H. "Reasonable Accommodation" means a modification or exception to the standards, regulations, policies and procedures contained in Title 15 or Title 17 of this code for the siting, development and use of housing or housing-related facilities, that would eliminate regulatory barriers and provide an individual with a disability equal opportunity for the use and enjoyment of housing of their choice, and that does not impose undue financial or administrative burdens on the City or require a fundamental or substantial alteration of the City's planning and zoning program.

17.42.040 - Requesting reasonable accommodation.

- A. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation, pursuant to this chapter, relating to the application of various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City.
- B. If an individual or representative needs assistance in making a request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant may be represented at all stages of the proceeding by a person designated by the applicant as his or her representative.
- C. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures must be filed on an application form provided by the department, shall be signed by the owner of the property and submitted to the director, and shall include the following information:
 - 1. The name, address and telephone number of the applicant;
 - 2. The name, address and telephone number of the individual with a disability for whom the reasonable accommodation is being requested;
 - 3. The name, address, and telephone number of the owner of the property for which the reasonable accommodation request is being made. If the applicant is someone other than the property owner, a letter of agency or authorization signed by the property owner consenting to the application being made is required;
 - 4. The address and current use of the property for which the reasonable accommodation request is being made;
 - 5. A description of how the subject property will be used by the disabled individual(s);
 - 6. A description of the reasonable accommodation request and the specific land use, zoning or building standard, regulation, policy or procedure to be modified or waived;
 - 7. The basis for the claim that the Fair Housing Laws applies to the individual(s) and evidence satisfactory to the City supporting the claim, which may include a letter from a medical doctor or other licensed health care professional, a handicapped license, or other appropriate evidence which establishes that the individual(s) needing the reasonable accommodation is disabled/handicapped pursuant to the Fair Housing Laws;
 - 8. The specific reason the requested accommodation is necessary to make the particular housing unit reasonably accessible and available to the disabled

individual(s);

9. Verification by the applicant that the property is the primary residence of the person for whom reasonable accommodation is requested; and
10. A filing fee in an amount as determined from time to time by resolution of the City Council, but not to exceed the reasonable estimated costs to the City in processing the application.

17.42.050 - Decision on application.

- A. The director may approve, conditionally approve, or deny an application for a reasonable accommodation for an existing use or a proposed new use that only requires a ministerial permit or approval. The director shall issue a written determination within thirty (30) days of the date of receipt of a completed application. The director may (1) grant the accommodation request in full, (2) grant the accommodation request subject to specified nondiscriminatory conditions that are consistent with the requested reasonable accommodation, or (3) deny the request. Notice of the director's determination shall be mailed first class to the applicant and adjacent property owners within three hundred (300) feet of the project boundary. The notice of the director's decision shall state the facts and evidence upon which the director's decision was based in connection with the findings stated in Section 17.42.060.
- B. If the project for which the request for a reasonable accommodation is made requires a discretionary permit or approval, then the application for a reasonable accommodation will be heard at the same time as, and in conjunction with, the applicable discretionary permit or approval. The Planning Commission shall consider an application at the next reasonably available regular Planning Commission meeting that occurs after the application for reasonable accommodation is complete. The application for reasonable accommodation shall be heard as a public hearing item. At the conclusion of the public hearing and determination thereon by the Planning Commission, the director shall issue a written statement of the Planning Commission's determination within thirty (30) days. The Planning Commission may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions that are consistent with the requested reasonable accommodation, or (3) deny the request. Notice of the Planning Commission's determination (which may be in the form of a resolution adopted by the commission) shall be mailed first class to the applicant and adjacent property owners within three hundred (300) feet of the project boundary. The notice of the Planning Commission's decision shall state the facts and evidence upon which the commission's decision was based in connection with the findings stated in Section 17.42.060.
- C. If necessary to reach a determination on any request for reasonable accommodation, the director may request further information from the applicant after the applicant has submitted its initial application. Such request for

additional information shall:

1. Be consistent with this chapter; and
2. Specify in detail what information is required; and
3. Request additional information only to the extent such information is reasonably necessary to render the findings required by this chapter.

In the event that a request for further information is made, the application will not be deemed "complete" until the applicant reasonably responds to the request with responsive information.

D. A reasonable accommodation that is granted pursuant to this chapter shall not require the approval of any variance as to the reasonable accommodation.

17.42.060 - Required findings.

The following findings must be made in order to approve any request for reasonable accommodation:

- A. The housing, which is the subject of the request for reasonable accommodation, will be occupied as the primary residence by an individual protected under the fair housing laws.
- B. The request for reasonable accommodation is necessary to make specific housing available to one or more disabled individuals protected under the Fair Housing Laws.
- C. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City. "Undue financial or administrative burden" is defined in the Fair Housing Laws.
- D. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City. "Fundamental alteration" is defined in the Fair Housing Laws.
- E. The requested reasonable accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

17.42.070 - Conditions of Approval.

In granting a request for a reasonable accommodation, the director or Planning Commission, as applicable, may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Section 14.44.060, the Fair Housing Laws and the intent of this chapter. Such conditions may generally include, but are not limited to, the following restrictions:

- A. The City's general/standard conditions of approval applicable to all projects;

- B. That the reasonable accommodation shall only be applicable to particular disabled individual(s); and/or
- C. That the reasonable accommodation shall only be applicable to the specific use for which application is made.

17.42.080 - Appeals.

- A. Director Decision. Any applicant who is dissatisfied by the decision made by the director on an application for a reasonable accommodation may appeal the director's decision to the Planning Commission. The appeal must be filed via written notice detailing the grounds for appeal, such notice must be received by the director within fifteen (15) days of the mailing of the director's decision. Upon the filing of a notice of appeal, the director will set the matter for a public hearing before the Planning Commission to occur not later than sixty (60) days from the date of filing. Notice of the appeal hearing will be given to the applicant by mail at least ten (10) days prior to the hearing. Any person who is dissatisfied by the decision of the Planning Commission may make a further appeal to the City Council in accordance with applicable procedures of Section 17.68.090 *et seq.* of this code. The Planning Commission's decision will be final absent a timely appeal to the City council.
- B. Planning Commission Decision. A decision of the Planning Commission on an application for a reasonable accommodation considered concurrently with another application for a discretionary approval is subject to the same appeal rights and procedures that apply to the other discretionary approval or pursuant to Section 17.68.090 *et seq.*, as applicable.

17.42090 - Expiration, Revocation, Termination.

- A. Expiration. Any reasonable accommodation approved under this chapter will expire within 12 months from the effective date of approval or at such alternative time specified as a condition of approval unless:
 1. A building permit has been issued and construction has commenced;
 2. A certificate of occupancy has been issued;
 3. The use is established; or
 4. A time extension has been granted.
- B. Revocation.
 1. Director Decisions. If the director was the last reviewing authority to grant a reasonable accommodation application, the director may revoke or modify such reasonable accommodation permit if the findings required in this section can be made with the support of substantial evidence.
 2. Planning Commission and/or City Council Decisions. If the Planning

Commission or City Council was the last reviewing authority to grant a reasonable accommodation application, the Planning Commission may revoke or modify such reasonable accommodation permit if the findings required in this section can be made with the support of substantial evidence. The Commission shall hold a public hearing to revoke or modify a reasonable accommodation granted pursuant to the provisions of this chapter. At least ten (10) days prior to the hearing, notice shall be delivered in writing to the applicant and/or owner of the property for which the reasonable accommodation was granted. Notice shall be deemed delivered two (2) days after being mailed, first class postage paid, to the owner as shown on the current tax rolls of the County of Riverside, and/or the project applicant.

3. Required Findings. Any decision to modify or revoke a reasonable accommodation can be made only if at least one (1) of the following findings can be made with the support of substantial evidence:
 - a) Circumstances have changed so that one or more of the findings contained in Section 17.42.060 can no longer be made;
 - b) The reasonable accommodation was obtained by misinformation, misrepresentation or fraud; or
 - c) One or more of the conditions of the reasonable accommodation have not been met.
4. Notice and Appeal. Written notice of any decision to revoke or modify a reasonable accommodation permit shall be mailed by first class mail to the owner as shown on the current tax rolls of the County of Riverside and/or the applicant. The determination may be appealed in accordance with Section 17.42.080.

C. Termination. If the individual with a disability who initially occupied the applicable dwelling ceases to reside at the premises, the reasonable accommodation will remain in effect only if the director determines that: (1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with this code, or (2) the accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling. The director may request that any successor-in-interest to the property provide documentation that subsequent occupants are persons with disabilities. Failure to provide such documentation within ten (10) days of the date of a written request by the director will result in the termination of a previously-approved reasonable accommodation and the applicable premises must subsequently be made to conform to code.

17.42.100 - Waiver of time periods.

Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided for in this chapter or may request a continuance regarding any

decision or consideration by the City of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the City, shall not constitute failure by the City to provide for prompt decisions on applications and shall not be a violation of any required time period set forth in this chapter.”

SECTION 3. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidance or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

SECTION 4. The City Clerk is directed to cause this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

PASSED, APPROVED, AND ADOPTED this 12th day of March, 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

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

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

David Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance 1462 was duly introduced at a regular meeting of the City Council of the City of Banning held on the 26th day of February, 2013, and was duly adopted at a regular meeting of said City Council on the 12th day of March, 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

CITY COUNCIL AGENDA

Date: March 12, 2013

TO: City Council

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

SUBJECT: Report of Investments for January 2013

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

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

BACKGROUND: This report includes investments on hand at the end of January 2013. As of January 31, 2013, the City's operating funds totaled \$68,539,325. Included in operating funds is \$752,819 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of January 31, 2013 approximately 45% of the City's unrestricted cash balances were invested in investments other than LAIF.

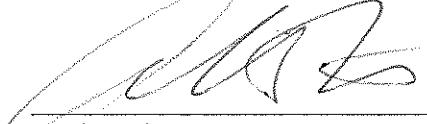
Presented are three months of Investment Reports. January is a first issue, while November and December are included to provide multiple months of statements for comparison.

FISCAL DATA: The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) decreased to 0.300% in January. The average rate for all investments in January was 0.252%.

RECOMMENDED BY:


June Overholt
Administrative Services Director/
Deputy City Manager

APPROVED BY:


Andy Takata
City Manager

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Summary Schedule of Cash and Investments

Operating Funds		Amount
<i>Petty Cash</i>		2,805

<i>Bank Accounts</i>	Interest	
	Rate	Amount
Wells Fargo Bank	0.000%	4,201,003
Bank of America-Airport	0.300%	3,382
Bank of America-Parking Citations	0.300%	3,998
Bank of America-CNG Station	0.300%	3,268

Money Market and Bank Account Sub-Total **4,211,649**

Government Pools

Account #1 Operating Amount	36,587,579	
Account #1 CRA Bond Cash Bal.	752,819	
Local Agency Investment Fund: Account #1	0.300%	37,340,399
Account #2 Sucessor Agency Cash Bal	348	
Local Agency Investment Fund: Account #2	0.300%	348

Government Pool Sub-Total **37,340,747**

Operating Cash Balance **41,555,201**

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 0.000% **1,288,865**

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 0.224% **25,695,259**

Operating Funds Total **68,539,325**

Fiscal Agent

	Amount
US Bank	36,318,056

Fiscal Agent Total **36,318,056**

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City of Banning Investment Report

January 31, 2013

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Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Date	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
4,201,003	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	4,201,003	n/a	4,201,003
3,382	Bank of America-Airport	n/a	0.30%	daily	varies	3,382	n/a	3,382
3,998	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,998	n/a	3,998
3,268	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,268	n/a	3,268
	Sub-total							4,211,649
<u>Government Pools</u>								
37,340,399	L.A.I.F. account #1	n/a	0.300%	daily	varies	37,340,399	n/a	37,340,399
348	L.A.I.F. account #2	n/a	0.300%	daily	varies	348	n/a	348
								37,340,747
<u>Investments-US Bank/Piper Jaffray</u>								
3,000,000	FNMA Deb	n/a	0.600%	5/29/2015	5/16/2012	3,000,000		3,003,750
3,000,000	Federal Farm Credits Bks	n/a	0.600%	5/22/2015	5/16/2012	3,000,000		3,004,320
2,000,000	FNMA MTN	n/a	0.550%	12/4/2014	6/27/2012	2,000,000		2,002,060
2,000,000	Federal Home Loan Bks	n/a	0.375%	7/30/2015	1/30/2013	2,000,000		1,999,620
15,685,509	Money Market	n/a	0.020%	daily	varies	15,685,509	0	15,685,509
	US Bank/Piper Jaffray Average Rate=							25,695,259
	Average Rate All=		0.252%					

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 28, 2012. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 123 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

January 31, 2013

Individual Investments with Fiscal Agent

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

	<u>Amount</u>
	2,805

Bank Accounts

	Interest	
	Rate	Amount
Wells Fargo Bank	0.000%	15,123
Wells Fargo Bank-Investment Account	0.100%	5,448,074
Bank of America-Airport	0.300%	4,541
Bank of America-Parking Citations	0.300%	4,024
Bank of America-CNG Station	0.300%	<u>3,716</u>

Money Market and Bank Account Sub-Total 5,475,478

Government Pools

Account #1 Operating Amount	33,565,768	
Account #1 CRA Bond Cash Bal.	746,795	
Local Agency Investment Fund: Account #1	0.326%	34,312,563
Account #2 Sucessor Agency Cash Bal	348	
Local Agency Investment Fund: Account #2	0.326%	<u>348</u>

Government Pool Sub-Total 34,312,911

Operating Cash Balance **39,791,194**

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund	0.000%	1,785,304
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Other Investments

Investments-US Bank/Piper Jaffray - See Page 2	0.197%	25,697,049
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Operating Funds Total 67,273,547

Fiscal Agent

	<u>Amount</u>
US Bank	<u>35,517,221</u>

Fiscal Agent Total 35,517,221

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City of Banning Investment Report

December 31, 2012

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Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Date	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
15,123	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	15,123	n/a	15,123
5,448,074	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	5,448,074	n/a	5,448,074
4,541	Bank of America-Airport	n/a	0.30%	daily	varies	4,541	n/a	4,541
4,024	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,024	n/a	4,024
3,716	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,716	n/a	3,716
Sub-total								5,475,478
<u>Government Pools</u>								
34,312,563	L.A.I.F. account #1	n/a	0.326%	daily	varies	34,312,563	n/a	34,312,563
348	L.A.I.F. account #2	n/a	0.326%	daily	varies	348	n/a	348
Sub-total								34,312,911
<u>Investments-US Bank/Piper Jaffray</u>								
3,000,000	FNMA Deb	n/a	0.600%	5/29/2015	5/16/2012	3,000,000		3,004,230
3,000,000	Federal Farm Credits Bks	n/a	0.600%	5/22/2015	5/16/2012	3,000,000		3,005,130
2,000,000	FNMA MTN	n/a	0.550%	12/4/2014	6/27/2012	2,000,000		2,002,420
17,685,269	Money Market	n/a	0.020%	daily	varies	17,685,269	0	17,685,269
Sub-total								25,697,049
Average Rate All=								0.256%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on August 28, 2012. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 103 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

December 31, 2012

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Individual Investments with Fiscal Agent

TRUSTEE Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve	Minimum Reserve	Interest Requirement	12/31/2012 Market Value
COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A							
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 5-Ct	0.040%	daily	188,943	6.17	188,051
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003							
2003 CRA Tax Allocation Bonds	2028	US Treasury Bill	4.61%	7/28/2011	971,763	0.80	978,980
		US Bank Mmkt 5-Ct	0.040%	daily			34,598
		US Bank Mmkt 5-Ct	0.050%	daily			22
		US Bank Mmkt 5-Ct	0.000%	daily			8
Surplus Fund							
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	US Bank Mmkt 5-Ct	0.040%	daily	273.02	8,327,453	
Reserve Fund		US Bank Mmkt 5-Ct	0.040%	daily	61.49	1,875,475	
Special Fund		US Bank Mmkt 5-Ct	0.030%	daily			37
Surplus Fund		US Bank Mmkt 5-Ct	0.000%	daily			9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Interest Account		US Bank Mmkt 5-Ct	0.000%	daily			3
Principal Account		US Bank Mmkt 5-Ct	0.000%	daily			5
		US Bank Mmkt 5-Ct	0.040%	daily	110.83	3,303,039	
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Interest Account		US Bank Mmkt 5-Ct	0.060%	daily			18
Principal Account		US Bank Mmkt 5-Ct	0.040%	daily			25
Reserve Fund		US Bank Mmkt 5-Ct	0.040%	daily	2,310,710	75.77	2,310,967
Project Fund		US Bank Mmkt 5-Ct	0.040%	daily	69.53	1,601,201	
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES							
US Bank Mmkt 5-Ct			0.060%	daily	16.91	17	
US Bank Mmkt 5-Ct			0.040%	daily	87.63	2,672,228	
Acquisition & Construction			0.040%	daily	473.99	14,225,085	
*Paid Semi-Annually-Deposited into Money Mkt Account							
		Total			1,176.14	35,517,221	

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

2,805

Bank Accounts

	Interest	Rate	Amount
Wells Fargo Bank		0.000%	8,518
Wells Fargo Bank-Investment Account		0.100%	5,448,804
Bank of America-Airport		0.300%	14,800
Bank of America-Parking Citations		0.300%	6,164
Bank of America-CNG Station		0.300%	5,030

Money Market and Bank Account Sub-Total

5,483,316

Government Pools

Account #1 Operating Amount	33,565,818		
Account #1 CRA Bond Cash Bal.	746,745		
Local Agency Investment Fund: Account #1		0.324%	34,312,563
Account #2 Sucessor Agency Cash Bal	348		
Local Agency Investment Fund: Account #2		0.324%	348

*Government Pool Sub-Total*34,312,911**Operating Cash Balance****39,799,032**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund	0.000%	677,394
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Other Investments

Investments-US Bank/Piper Jaffray - See Page 2	0.197%	25,691,626
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Operating Funds Total**66,168,052****Fiscal Agent**

US Bank

Amount

36,426,795

Fiscal Agent Total**36,426,795**

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City of Banning Investment Report

November 30, 2012

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Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Date	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
8,518	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	8,518	n/a	8,518
5,448,804	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	5,448,804	n/a	5,448,804
14,800	Bank of America-Airport	n/a	0.30%	daily	varies	14,800	n/a	14,800
6,164	Bank of America-Parking Citations	n/a	0.30%	daily	varies	6,164	n/a	6,164
5,030	Bank of America-Parking Citations	n/a	0.30%	daily	varies	5,030	n/a	5,030
		Sub-total						5,483,316
<u>Government Pools</u>								
34,312,563	L.A.I.F. account #1	n/a	0.324%	daily	varies	34,312,563	n/a	34,312,563
348	L.A.I.F. account #2	n/a	0.324%	daily	varies	348	n/a	348
								34,312,911
<u>Investments-US Bank/Piper Jaffray</u>								
3,000,000	FNMA Deb	n/a	0.600%	5/29/2015	5/16/2012	3,000,000		3,004,230
3,000,000	Federal Farm Credits Bks	n/a	0.600%	5/22/2015	5/16/2012	3,000,000		3,005,580
2,000,000	FNMA MTN	n/a	0.550%	12/4/2014	6/27/2012	2,000,000		2,002,280
17,679,536	Money Market	n/a	0.020%	daily	varies	17,679,536	0	17,679,536
								25,691,626

City of Banning Investment Report

November 30,

Individual Investments with Fiscal Agent

CITY COUNCIL AGENDA

Date: **March 12, 2013**

TO: **City Council**

FROM: **June Overholt, Administrative Services Director**

SUBJECT: **Approval of Accounts Payable and Payroll Warrants for Month of January 2013**

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 January 2013.

The reports are:

Expenditure approval lists

January 3, 2013	42,953.48
January 10, 2013	299,818.79
January 17, 2013	948,209.76
January 24, 2013	125,946.88
January 30, 2013	68,174.11

March 5, 2013	2,412,712.52 (January Month End)
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Payroll check registers

January 11, 2013	5,509.92
January 25, 2013	5,585.15

Payroll direct deposits*

January 11, 2013	275,074.26
January 25, 2013	272,120.48

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.

Report Prepared by: Jenna Harrell, Accounts Payable

RECOMMENDED BY:

J. Overholt
June Overholt
Administrative Services Director

APPROVED BY:

A. Takata
Andy Takata
City Manager

CITY of BANNING

Fund/Department Legend

Fund/Department Legend

0001 General Fund Departments

0001 – General	204 – D.A.R.E. Donation Fund
1000 – City Council	300 – City Administration COP Debt Service
1200 – City Manager	360 – Sun Lakes CFD #86-1
1300 – Human Resources	365 – Wilson Street #91-1 Assessment Debt
1400 – City Clerk	370 – Area Police Computer Fund
1500 – Elections	375 – Fair Oaks #2004-01 Assessment Debt
1800 – City Attorney	376 – Cameo Homes
1900 – Fiscal Services	400 – Police Facilities Development
1910 – Purchasing & A/P	410 – Fire Facilities Development
2060 – TV Government Access	420 – Traffic Control Facility Fund
2200 – Police	421 – Ramsey/HIGHLAND Home Road Signal
2210 – Dispatch	430 – General Facilities Fund
2279 – TASIN – SB621 (Police)	441 – Sunset Grade Separation Fund
2300 – Animal Control	444 – Wilson Median Fund
2400 – Fire	451 – Park Development Fund
2479 – TASIN – SB621 (Fire)	470 – Capital Improvement Fund
2700 – Building Safety	475 – Fair Oaks #2004-01 Assessment District
2740 – Code Enforcement	600 – Airport Fund
2800 – Planning	610 – Transit Fund
3000 – Engineering	660 – Water Fund
3200 – Building Maintenance	661 – Water Capital Facilities
3600 – Parks	662 – Irrigation Water Fund
4000 – Recreation	663 – BUA Water Capital Project Fund
4010 – Aquatics	669 – BUA Water Debt Service Fund
4050 – Senior Center	670 – Electric Fund
4060 – Sr. Center Advisory Board	672 – Rate Stability Fund
4500 – Central Services	673 – Electric Improvement Fund
4800 – Debt Service	674 – '07 Electric Revenue Bond Project Fund
5400 – Community Enhancement	675 – Public Benefit Fund
	678 – '07 Electric Revenue Bond Debt Service Fund
	680 – Wastewater Fund
	681 – Wastewater Capital Facility Fund
	682 – Wastewater Tertiary
	683 – BUA Wastewater Capital Project Fund
	685 – State Revolving Loan Fund
	689 – BUA Wastewater Debt Service Fund
	690 – Refuse Fund
	700 – Risk Management Fund
	702 – Fleet Maintenance
	703 – Information Systems Services
	761 – Utility Billing Administration
	805 – Redevelopment Obligation Retirement Fund
	810 – Successor Housing Agency
	830 – Debt Service Fund
	850 – Successor Agency
	855 – 2007 TABS Bond Proceeds
	856 – 2003 TABS Bond Proceeds
	857 – 2003 TABS Bond Proceeds Low/Mod
	860 – Project Fund

All Other Funds

002 – Developer Deposit Fund	
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	
148 – Supplemental Law Enforcement	
149 – Public Safety Sales Tax Fund	
150 – State Park Bond Fund	
190 – Housing Authority Fund	
200 – Special Donation Fund	
201 – Sr. Center Activities Fund	
202 – Animal Control Reserve Fund	
203 – Police Volunteer Fund	

CITY COUNCIL AGENDA

DATE: **March 12, 2013**

TO: **City Council**

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

SUBJECT: **City Business Permit for Care Ambulance Service, Inc.**

RECOMMENDATION: The City Council review and consider approving a City Business Permit for Care Ambulance Service, Inc. to provide non-emergency medical transport services within the city limits of Banning.

BACKGROUND / ANALYSIS:

Per Banning Municipal Code 5.04.110 "Registration for Business Tax Certificate", Council approval is required for any business providing ambulance services.

Mr. Rick Richardson is the CEO for Care Ambulance Service, Inc, which is a private Basic Life Support (BLS/CCT) ambulance service that intends to provide non-emergency medical transportation for both critical and non-critical patients in the City of Banning and County of Riverside.

Care Ambulance Service, Inc. holds a valid and current Riverside County Community Health Agency, Department of Public Health permit, which authorizes them to operate within the boundaries of Riverside County. The company has a fleet of vehicles that are painted and distinguished as ambulances, which are registered with the California Department of Motor Vehicles, as required by law, and have passed inspection with the California Highway Patrol.

Care Ambulance Service, Inc. will not be providing emergency response services as American Medical Response (AMR) is under contract with Riverside County to provide such services. Presently there are five ambulance companies that provide non-emergency medical transport services in the City of Banning.

FISCAL IMPACT: None

RECOMMENDED BY:


June Overolt
Administration Services Director/
Deputy City Manager

APPROVED BY:


Andrew Takata
City Manager

CITY COUNCIL AGENDA

DATE: March 12, 2013

TO: Mayor and City Council

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

SUBJECT: Resolution No. 2013 -21 Amending Career Part-Time Benefits

RECOMMENDATION: Adopt Resolutions No. 2013-21 approving Career Part Time Benefit Plan

JUSTIFICATION: The City has negotiated with various bargaining groups and unrepresented employees seeking compensation concessions which include having each employee agree to pay the entire CalPERS employee rate thus reducing the Employer Paid Member Contribution (EPMC) in exchange for certain salary adjustments that will provide cost savings to the City.

BACKGROUND: In 2004, Council approved the concept of the Career Part-Time Classification. In February 2005, Council approved the creation of the Career Part-Time Classification for Associate Civil Engineer and Senior Center Supervisor. Currently, only the Associate Civil Engineer position is filled. This position reports to the Public Works Director and actively works on the Landscape Maintenance Districts, the National Pollution Discharge Elimination Solution (NPDES) and Water Quality Management Plan (WQMP) permits, plan and reporting requirements.

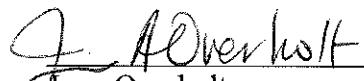
Changes to the Benefit Plan are needed to reflect the changes made with the other employee groups. Although these positions are not represented by any bargaining group, the benefits have similarities with employees represented by SBPEA.

The Benefit Plan for the Career Part-Time Classification has been summarized in Resolution No 2013-21.

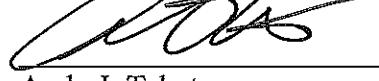
A separate staff report and Resolution have been presented with this agenda that incorporate the changes to the CalPERS pension benefit. Currently, the City pays the entire amount of the required employee contribution. This is known as Employer Paid Member Contributions or EPMC. The Career Part-Time employee has agreed to pay the employee rate of 8% for non-sworn miscellaneous members effective the first full pay period that includes the adoption of the Resolution by City Council. Effective the first full pay period ending March 17, 2013, there will no longer be any City Employer Paid Member Contribution on behalf of any Career Part-Time employees. These changes including a concurrent seven percent (7%) salary increase and three salary range adjustment and the elimination of the management incentive pay (2%) are included in the attached Resolution regarding the Benefit Plan.

FISCAL DATA: There will be savings to various City Funds including the General Fund related to the CalPERS pension costs.

RECOMMENDED BY:


June Overholt
Administrative Services Director/Deputy City Manager

APPROVED BY:


Andy J. Takata
City Manager

RESOLUTION 2013-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AMENDING THE BENEFIT PLAN FOR THE CAREER PART-TIME CLASSIFICATIONS OF ASSOCIATE CIVIL ENGINEER AND SENIOR CENTER SUPERVISOR

WHEREAS, the City Council approved the creation of two Career Part-Time classifications, the Associate Civil Engineer and the Senior Center Supervisor, at its meeting on February 22, 2005 along with a reduced salary and benefit package and directed staff to return with documentation to effect necessary budget adjustments for FY 2004-2005; and

WHEREAS, the City Council subsequently adopted Resolution No. 2005-23 at its regular meeting on March 8, 2005 to amend the approved budget to fund the new Career Part-Time classifications of Associate Civil Engineer and Senior Center Supervisor, and which set forth in Exhibit "A" thereto the reduced salary and benefits package afforded the new Career Part-Time classifications; and

WHEREAS, the City Council subsequently amended Resolution No. 2005-23 through Resolution 2009-29 at its regular meeting on April 14, 2009 to amend the approved budget and benefit package of the Career Part-Time classification of Associate Civil Engineer; and

WHEREAS, the Career Part-Time classifications are "at will" and are not represented by a bargaining group; and

WHEREAS, the City has experienced budget deficits leading to reductions in the workforce and service levels over the last several years;

WHEREAS, the City has negotiated compensation reductions with employee bargaining groups and unrepresented employees in order to reduce on going expenditure levels both now and in the future; and

WHEREAS, the position of Associate Civil Engineer is the only Career Part-Time classification currently in the budget and filled; and

WHEREAS, the Benefit Plan for the Career Part-Time classifications needs to be updated to reflect changes in compensation and benefits for those positions; and

WHEREAS, the City Council now desires to adopt an amended and restated resolution of salaries, compensation and benefits for the Career Part-Time classifications, which restates and replaces any and all pre-existing salary, compensation and benefit resolutions for the Career Part-Time classifications, including, but not limited to Council Resolution No. 2005-23 and Council Resolution No. 2009-29.

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

SECTION 1. The City Council hereby approves that effective the first full pay period that includes March 12th, concurrently with and contingent upon the City ceasing all Employer Paid Member Contributions (currently 8%) and eliminating the 2% management incentive pay, the Career Part-Time classifications will receive a 7% salary raise and 3 range salary adjustment (for example Associate Professional Engineer – Range 72 to Range 75).

SECTION 2. The City Council hereby approves that Career Part-Time classification employee will remain eligible for the CalPERS retirement plan known as “two and one-half at fifty-five” retirement (2.5% @ 55) formula for Miscellaneous Employees. Effective the first full pay period that includes March 12th, the Career Part-Time classification employee will pay the full member contribution rate to the retirement plan with CalPERS, which is currently 8% for miscellaneous members in the 2.5% @55 formula. Therefore, the City shall cease all Employer Paid Member Contributions for the employee. Member Contribution is made on a prorata basis based on actual eligible compensation.

SECTION 3. The City Council hereby approves that the maximum level of benefits and other compensation, not including salary, for the Career Part-Time classifications shall be as follows and shall not exceed the following levels:

- A. Career Part-Time classification employees shall be “at will”.
- B. Career Part-Time classification employees shall be considered hourly.
- C. Career Part-Time classification employees shall be considered part – time. Hours worked per week cannot exceed 30 hours, must be approved by the department head and be within the adopted budget.
- D. Career Part-Time classification employees shall be eligible for a two (2) step increases, if available within the range, after 2080 hours of service.
- E. Career Part-Time classification employees will no longer receive the 2% management incentive pay concurrently with the implementation of the salary raise and adjustment described in Section I.
- F. Career Part-Time classification employees will no longer be eligible for an auto allowance.
- G. Existing Career Part-Time classification employees will continue to receive the Retention Incentive as defined in Resolution 2006-04 on prorata basis; however, Career Part-Time classification employees hired after the date of

adoption of this Resolution shall not be eligible for the Retention Incentive per Resolution 2012-49.

H. Career Part-Time classification employees shall accrue leave balances (vacation, sick) on a prorata basis in a prorata amount derived from the leave rates and caps set forth in the most recent SPBEA MOU or side letter setting such accrual rates. Career Part-Time classification employees are not eligible for cash out of any accrual hours except upon termination in accordance with the provisions for same set forth in the most recent SPBEA MOU or side letter establishing such provisions. Employees shall be eligible to use existing leave balances but cannot exceed the limitations established in item C.

I. Career Part-Time classification employees shall be eligible for Life Insurance in the amount of \$50,000 paid by the City.

J. Career Part-Time classification employees shall be eligible for the Education Incentive and Cafeteria Plan capped at 25% of benefits provided in the most recent SPBEA MOU or side letter establishing such benefits.

K. Career Part-Time classification employees shall pay the employee's portion of FICA and the City shall be responsible for payment of the employer's portion. Payment is made on a prorata basis based on actual compensation.

L. Career Part-Time classification employees shall pay the cost of membership in the short term and long term disability insurance programs selected by the City and Insurance/Benefits Advisory Committee.

M. Career Part-Time classification employees shall be eligible to participate in employee paid benefit programs that may be offered from time to time.

N. Career Part-Time classification employees remain covered by the City's Personnel Rules and Regulations.

SECTION 4. The Administrative Services Director is authorized to make the necessary budget adjustments as applicable.

PASSED, APPROVED, AND ADOPTED this 12th day of March, 2013.

Deborah Franklin, Mayor
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

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

David Aleshire, 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. 2013-21 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of March, 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
CONSENT**

DATE: **March 12, 2013**

TO: **City Council**

FROM: **Kahono Oei, City Engineer**

SUBJECT: **Resolution No. 2013-28, “Authorizing Staff to Submit an Application for a Federal Surface Transportation Program (STP) Grant for Pavement Rehabilitation on Ramsey Street, from Hargrave Street to the East End City Limits.”**

RECOMMENDATION:

- I. Adopt Resolution No. 2013-28, “Authorizing Staff to Submit an Application for a Federal Surface Transportation Program (STP) Grant for pavement rehabilitation on Ramsey Street, from Hargrave Street to the East End City Limits.”
- II. Authorize the Public Works Director to execute and submit the application to the Riverside County Transportation Commission (RCTC).

JUSTIFICATION: It is essential for the City Council to authorize the submittal of the application for a federal Surface Transportation Program grant from the RCTC in order to obtain funds for pavement rehabilitation on Ramsey Street, from Hargrave Street to the East End City limits.

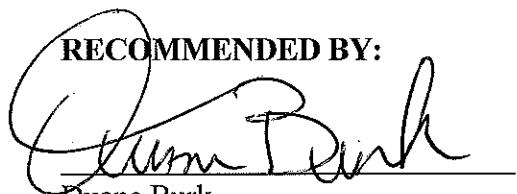
BACKGROUND: The Surface Transportation Program was first established as one of the primary funding sources under the federal transportation act of 1991 and the current transportation act, “Moving Ahead for Progress in the 21st Century” (MAP-21) was signed into law in July of 2012. In March of 2013, the RCTC announced a call for applications for grants for federal Surface Transportation Program projects that include road rehabilitation and reconstruction projects. Approximately \$12.5 million in grant funds will be available for Riverside County cities. STP grants are not guaranteed, and will be distributed on a competitive basis to the highest scoring applications submitted by cities. The grant application is due to RCTC by April 1, 2013, and agencies will be notified of awards in May of 2013. If this Resolution is approved, staff will prepare the necessary STP grant application and exhibit and submit the package to the RCTC.

The engineer’s estimate for the construction of the project is approximately \$500,000.00. The scope of work for the project consists of cold planning, 1-1/2’ to 2-1/2’ of asphalt concrete (A.C.) overlay, adjusting manholes and water valve covers to grade, striping and signage, and removal and reconstruction of handicap ramps, traffic control, and cleaning of the job site, within the project limits and in accordance with City of Banning Standard Specifications.

Since the project is federally-funded, all federal and state environmental regulations (NEPA, etc.) will have to be met and these documents will be prepared in-house.

FISCAL DATA: Engineering Division staff will prepare the STP grant application in-house. Based on the preliminary information from RCTC, the maximum grant amount that the City can receive is \$164,758.00, and the remaining funds of \$336,000.00 will be allocated at the time of the award of the construction contract.

RECOMMENDED BY:



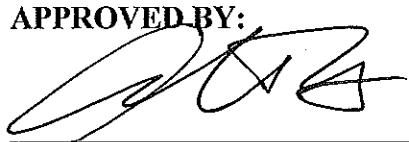
Duane Burk,
Director of Public Works

REVIEWED BY:



June Overholt,
Administrative Services Director/
Deputy City Manager

APPROVED BY:



Andy Takata,
City Manager

RESOLUTION NO. 2013-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, "AUTHORIZING STAFF TO SUBMIT AN APPLICATION FOR A FEDERAL SURFACE TRANSPORTATION PROGRAM (STP) GRANT FOR PAVEMENT REHABILITATION ON RAMSEY STREET, FROM HARGRAVE STREET TO THE EAST END CITY LIMITS."

WHEREAS, the Surface Transportation Program was first established as one of the primary funding sources under the federal transportation act of 1991 and the current transportation act, "Moving Ahead for Progress in the 21st Century" (MAP-21) was signed into law in July of 2012; and

WHEREAS, in March of 2013, the Riverside County Transportation Commission (RCTC) announced a call for applications for grants for federal Surface Transportation Program (STP) projects, that include road rehabilitation and reconstruction projects; and

WHEREAS, Engineering Division staff will prepare and submit the STP grant application in-house, for pavement rehabilitation on Ramsey Street, from Hargrave Street to the East End City limits; and

WHEREAS, if the City is successful in obtaining a STP grant, and based on the preliminary information from RCTC, the maximum grant amount that the City can receive is \$164,758.00, and the remaining funds of \$336,000.00 will be allocated at the time of the award of the construction contract.

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

SECTION 1. The City Council of the City of Banning hereby authorizes staff to submit an application for a federal Surface Transportation Program (STP) Grant for pavement rehabilitation on Ramsey Street, from Hargrave Street to the East End City limits.

SECTION 2. The City Council of the City of Banning hereby authorizes the Public Works Director to execute and submit the application to the Riverside County Transportation Commission (RCTC). This authorization is valid for thirty (30) days.

PASSED, APPROVED AND ADOPTED this 12th day of March, 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

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

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-28 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 12th day of March, 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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