

4. Approval of Minutes – Special Meeting – 02/15/11

Recommendation: That the minutes of the special meeting of February 15, 2011 be approved.

5. Approval of Accounts Payable and Payroll Warrants for Month of November 2010

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

6. Approval of Accounts Payable and Payroll Warrants for Month of December 2010

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

7. Report of Investments for December 2010

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

8. Adoption of Resolution No. 2011-12 and 2011-13, Approving the Side Letter of Agreements Between the City of Banning and the International Brotherhood of Electrical Workers Local 47 Which Modify and Clarify the IBEW Memorandum of Understanding's Governing Both the Utility Unit Employees and the General Unit Employees for the Period July 1, 2010 through June 30, 2011.

Recommendation: That the City Council approve the Side Letter Agreements between the City of Banning ("City") and the International Brotherhood of Electrical Workers Local 47 ("IBEW") which modify and clarify the IBEW Memorandums of Understanding governing both the Utility Unit employees and the General Unit employees for the period July 1, 2010 through June 30, 2011.

Motion Machisic/Robinson that Consent Items 1 through 8 be approved. Mayor Hanna opened the item for public comments. There were none. **Motion carried, all in favor.**

PUBLIC HEARINGS

**Ed. note:
2/22/11 minutes,
public hearing
on animal ordinance
amendment.**

1. Amendment to Title 6 of the Banning Municipal Code to Regulate and Control the Keeping of Animals.
(Staff Report – Andy Takata, City Manager)

Councilmember Robinson said that because he owns a business that deals with animal care he will abstain from this discussion and he left the Council Chambers at this time.

City Manager stated that as you are aware we have been working with the City of Beaumont for animal control and we have had a lot of positive comments about their visibility, as well as, their handling of some of the animals. Even though our ordinance was closely related to what they had we wanted to have the exact same ordinance so that it would work, as well as, the exact same fees and that way they could have lifetime licenses for those who spy and

neuter and also the officers would not have to use two different sets of ordinances to enforce. He said that the relationship so far has been excellent. As far as costs year to date it is roughly \$63,000 dollars that we have been billed. He said that he thinks the animal control from the county including sheltering was going to be about \$350,000 for the whole year so basically we have seen a great amount of savings in regards to that. He said it has been a pleasure to work with Beaumont and he invited Frank Coe, Police Chief to come forward at this time.

Chief Coe addressed the Council introducing Sgt. Jeremy Duro who along with his sergeant duties oversees the Animal Control Program for the cities of Calimesa, Beaumont, and Banning and also they are in discussions with the Morongo Reservation to kind of complete the circle and cover from Calimesa to Cabazon. Basically, as the City Manager indicated, they are looking to make this as easy and seamless as possible. They have basically been enforcing their ordinance which is very close to the county's ordinance in all three cities. It is not their goal in any way, shape or form to use the ordinance as a way to penalize people to generate revenue from administrative citations. They actually reserve that for those significant problems that they cannot get through to the people to get them into compliance. It has actually been working very well and they have identified some issues and concerns within the community of Banning and they have addressed them. They have tried to work very closely with the residents to overcome any of their fears or concerns that we are going to utilize tactics that are going to take the animals and put them down and of course, that is not their goal. They offer several very unique programs and the signature program that they are most proud of is what they call the "lifetime license". Basically their goal there was to encourage responsible pet ownership. This would allow a pet owner to spay or neuter their animal and insert a microchip into the animal and then offer them the lifetime license and they will pay a fee of \$8.00 and although it is called "lifetime" they have to renew their license each time they get their rabies vaccination so if they get a one-year or a three-year vaccination it will go into their system and the person will get a reminder at that time. Also the license tags say "San Gorgonio Pass Animal Licensing". To date they have responded to approximately 1400 calls for service in 6 months. Out of those 1400 calls they have generated bills to the City of Banning which includes not only their responding to calls but also shelter costs, veterinarian costs in the amount of \$63,000. They have taken approximately 500 animals out of those 1400 calls to the shelter, assisted in issuing 300 licenses and have actually installed 178 microchips in Banning animals. Their goal is to again, encourage responsible pet ownership, get animals licensed, and to spay or neutered your pet. The phone is answered 24-hours a day and if you ever call 769-8500 to talk to animal services and you get a recording, he would like to know because that is their police emergency line so it is important that a human answers the phone.

City Manager asked Chief Coe to address how it is working with the animal sheltering.

Chief Coe said that unfortunately right now they do not have a shelter in the San Gorgonio Pass. They have a couple of different options that they are utilizing and they are actually expanding and this is something that Councilmember Robinson could become a party to. One of the things that they are trying to expand is creating "drop off centers" so that if a resident picks up a stray animal in the San Gorgonio Pass they can go to one of the "drop off centers" and animal control will come and pick up the animal and scan it for a microchip. If it has a microchip, they scan it and take it home. They have a temporary shelter system set up in the

City of Beaumont at the police station and are looking at expanding the kennel but have not found the space so they are looking at creating a temporary holding facility and their goal is to hold the animal for seven days and if after seven days no one has come to collect their animal, then it will be taken to the Ramona Shelter where they will assist in putting the animal up for adoption. If they do have to take the animal to the Ramona Shelter, they will take picture of the animal and it will put on-line. If your animal is down in San Jacinto and you don't have a way to go to San Jacinto and pick up your animal, they will go get the animal and bring it back. They are trying to make this as easy and seamless for the residents to reunite them with their lost animals. This whole program is a living program and they come up with new ideas everyday and it is all in the best interest of the citizens and their animals.

There were various Council questions in regards to licensing, costs to spay and neuter and to microchip, costs when your animal is picked up and boarding fees.

Councilmember Franklin said in our old code we have Section 17.40 that talks about some of the zoning and is this portion going to be included in your code also.

City Manager said yes. Chief Coe said your zoning codes will be amended to reflect what you have adopted here and they also had to do this as well.

City Manager said he wanted to let the Council know that we haven't abandoned our animal shelter. We are dealing with an individual who is interested in trying to create a non-profit for that animal shelter in order to bring it up to standard for today's animals, as well as, trying to get our business and business in the Pass in order to bring animals in. Obviously we do not give our business lightly when it comes to animals and we are very concerned that they go to the right place and are taken care of. That individual may be doing some capital improvements at the shelter when we sign the lease in lieu of some rent and that is not uncommon in regard to doing those things and it would be at fair market value currently for the rent.

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

Inge Schuler, resident
Ellen Carr, resident
Gary Hironimus, resident
John McQuown, Banning City Treasurer

Seeing no one else coming forward Mayor Hanna closed the public hearing.

Chief Coe answered the questions stating that in regards to microchips they are in the National Registry so when they get a chip inserted in the City of Beaumont it is uploading into the National Registry and the readers that they have are basically the same ones that the veterinarians have so they read actually the HomeAgain and AVID chips and in Beaumont they insert the AVID chips at their clinics. As far as the ordinance authorizing entry on to a property basically that still requires an inspection warrant so they would still need to go before a judge and ask for authorization based on what they tell the judge they expect to find

and locate on the property. The only time that they would go onto the property without a warrant would be a circumstance, for instance, if a neighbor called and said there is an animal in the backyard and it sounds like it is dying. The ordinance does give the authority to go on to the property for the protection of that living creature and usually the animal care officer would request a police officer to go with him. As far as the shelter in Thousand Palms basically he needed to sign a contract with Riverside County to give us that additional option of other shelters in the event the Ramona Shelter was filled and it is very cost prohibited to use them and so at this time they will stay with the Ramona Shelter. In regards to the mandatory spay and neuter basically the mandatory part of it would only kick in when the animal is apprehended by an animal care officer. They are not going to knock on doors and tell people that they have to spay or neuter their animals but they do encourage people to get their animal licensed and microchipped if possible. Their encouragement of responsible pet ownership is their fee structure. So they encourage people for \$8 to get that license. As far as not being able to find anything out about Ms. Carr's cat they have just started their photo program in probably the last 30 to 60 days and so her cat was probably before that period of time. In regards to his comment that the animals may stay in the truck all day that is not really their intention to drive around for 12 hours with an animal in the vehicle. Right now they are actually taking the animals to the shelter as quickly as possible because they have the facilities. As far as what goes on at the shelter he is not an expert about that and he is under the impression the shelter actually does do a basic evaluation of any animal. He is sure that all shelters probably tell pet owners or at least they should that your animal was here and we don't really know who they were in contact with and would encourage you to take your animal to your veterinarian and take any necessary precautions. Also, if you already have a microchip, they would encourage you to contact the Beaumont Police and if you have the registry information with a certificate from the provider, you can bring that information in and they will upload that information into their system.

Community Development Director said that in regards to the question from Inge Schuler regarding the fowls currently the Zoning Code Chapter 17.40 addressed the fowls and currently there are five zoning districts in the city that allows the keeping of the fowls and they are ranch-agriculture, ranch-agriculture hillside, rural residential, rural residential hillside, and very low density residential and there are also maximum limits. She said that for clarity the language in Section 6.02.040 of the Banning Municipal Code shall be amended to read, "No person, either as owner, agent or employee, shall keep any roosters, peacocks, or pigeons, doves, ducks or other birds or fowl, domestic or otherwise within the City of Banning with the exception of the zoning districts in which the fowls are permitted by Chapter 17.40 of the Banning Zoning Code.

Mayor Pro Tem Machisic thanked Chief Coe and the City of Beaumont for coming forward and organizing this program dealing with animal control. He said that our cities whether you are talking about Calimesa, Banning or Beaumont or the Reservation we are pretty small and as a result we can't offer all the services that the people would like to have and one of the things that we have to do is that we have to operate as a region. He thinks that animal control is one of the things that we have to operate as a region and when we do that that means that some of the individual things that the City of Banning has been doing for a large number of years we have to mesh into this united organization and that requires change. This is a great step forward for the City of Banning.

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Mayor Hanna asked the City Clerk to read the title of Ordinance No. 1437. City Clerk read: An Ordinance of the City Council of the City of Banning, California, Amending Title 6 of the Banning Municipal Code by Adopting by Reference the Entirety of Title 6 of the Beaumont Municipal Code Entitled "Animals" Relative to Animal Control and Regulation.

Motion Botts/Machisic to waive further reading of Ordinance No. 1437. Motion carried, all in favor with Councilmember Robinson not voting.

Motion Machisic/Franklin that Ordinance No. 1437 pass its first reading as amended. Motion carried, all in favor with Councilmember Robinson not voting.

City Manager said that Councilmember Machisic did mention about the regional thing and there are other regional things that we are trying to explore with Beaumont. Also, even though we have the savings he would like to remind the Council that we still have a structural deficit and that savings would go towards taking care of part of that structural deficit that we currently have.

Councilmember Robinson returned to the Council Chambers at this time.

2. Ordinance No. 1436 of the City of Council of the City of Banning, California, Amending Banning Municipal Code Chapter 8.32 and 8.48 Relating to Graffiti Prevention, Removal and Cost Recovery.
(Staff Report - Phil Holder, Lieutenant)

Lt. Holder addressed the Council stating that the City's current graffiti ordinance was enacted in 1965 and it is obviously outdated and inadequate to handle our current problems. The proposed changes will address the growing problem by implementing safeguards to prevent opportunities for graffiti vandals and discouraging their activities through penalties and restitution including parental civil liability. He read the eight principles that the provision will provide (see Exhibit A).

There was some Council and staff discussion regarding statistics on graffiti, discussion with other utilities and costs to the City, how many are juveniles, and liability of parents at this time and avenues on seeking restitution.

Councilmember Franklin asked Lt. Holder if he would clarify Item No. 2 for the public because it is a little confusing and where does the money come from for the reward.

Lt. Holder said that unfortunately sometimes you may have a business owner or a homeowner where graffiti has been placed on their property and they have chosen either because they don't want it there or they are indifferent, they don't remove the graffiti themselves. This would allow the City to have access to that property to cover up the graffiti and then it would be up to the City to determine if they want to seek reimbursement for the cost of repainting that graffiti. The money for the reward for conviction obviously we would know who committed the crime and we would see restitution from the minor, the adult or the parents of the minor. To report graffiti you can call and leave a message on the Graffiti Hotline at 951-922-3290.