

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

02/13/18  
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Moyer on February 13, 2018, at 5:15 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Council Member Andrade  
Council Member Franklin  
Council Member Peterson  
Council Member Welch  
Mayor Moyer

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Alejandro Diaz, Interim City Manager  
Kevin Ennis, City Attorney  
Rochelle Clayton, Deputy City Manager  
Tim Chavez, Fire Battalion Chief  
Patty Nevins, Community Development Director  
Art Vela, Public Works Director/City Engineer  
Ted Shove, Economic Development Manager  
Sonja De La Fuente, Deputy City Clerk  
Laurie Sampson, Executive Assistant  
Leila Lopez, Office Specialist

The Invocation was given by Elder Ralph Bobik with the Church of Jesus Christ of Latter Day Saints. Council Member Andrade led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

The City Attorney provided the following report on Closed Session: 1) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION. Significant exposure to litigation pursuant to paragraph (2) subdivision of (d) Government Code Section 54956.9: Two cases. A status report was provided. There was no final reportable action. 2) CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION Potential initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9: One case. There was no reportable action. 3) PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT - Public employment pursuant to Government Code Section 54957. Title: City Manager. Status report was provided. There was no final action. 4) CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8: Property description: APN: 532-130-012, 532-130-018, and 532-130-011, Banning Municipal Airport. City Negotiator: Alex Diaz, Interim City Manager and

Ted Shove, Economic Development Manager – Negotiating Parties: BRAD Partners, LLC; Under Negotiation: Price and Terms. Direction was given to the City's negotiator regarding price and terms. 5) CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8: Property description: APN: 541-181-032, 541-181-033, 541-181-034, and 541-181-035, located in the general vicinity of Ramsey Street between San Geronio Avenue and Martin Street. City Negotiator: Alex Diaz, Interim City Manager and Ted Shove, Economic Development Manager – Negotiating Parties: Vanir Group of Companies, Inc.; Under Negotiation: Price and Terms. Direction was given to the City's negotiator. There was no final agreement at this time.

## PUBLIC COMMENTS / CORRESPONDENCE / ANNOUNCEMENTS & REPORTS

### PUBLIC COMMENTS

Libi Uremovic asked about her Public Records Request regarding the City's bond fund accounts and bond requisitions. Mayor Moyer recommended she contact the City Clerk's Office, as they have the records she has requested. Ms. Uremovic indicated she would.

Ellen Carr shared that The Animal Action League will be at the Community Center February 19<sup>th</sup> and 20<sup>th</sup> from 10:00 A.M. until 2:00 P.M. and no appointment is needed for their low cost shot clinic. She also expressed concern regarding her 33 day utility bill. She also asked about the monthly charge variance.

Martin Sanderson, Cabazon resident, expressed his support of the I-10 Bypass project. He shared that 0.25% of the sales tax from the Outlets should be allocated to this project. He explained why the project is important to him.

Jerry Westholder provided an article (Exhibit "A") with information related to electric rates. He feels the City's utility bills are too high and that the City should not use any of the Electric Utility's money.

The Mayor stated the City takes its obligations to set rates fairly and compliance with state law seriously. The City is reviewing its compliance with laws regulating utility rates and if there are things the City needs to do to bring the City into further compliance, the City will do so.

Don Smith followed up on what Ellen Carr talked about in regard to the utility billing periods. He understands Phase I was to get the Smart Meters installed, Phase II is a transmission system to get the information from the meters to City Hall and that Phase III is the accounting system. He would like a staff report on what the timing is so they can know when to expect it to be complete.

Maxine Israel, Cabazon resident, shared her support of the I-10 Bypass project, as there are currently only two ways in and out of Cabazon and the bypass is needed for emergency purposes.

John Hagan thanked the Council for the I-10 Bypass Project Workshop and their participation and input. He suggested the Police Department look into a commercial enforcement division should the project move forward. He also recommended advertising the workshops.

Diana Morris, Cabazon resident, shared a story regarding her brother-in-law being electrocuted when he stopped to help someone who had a motor vehicle accident. She wonders if there had not been trains blocking emergency vehicles and Edison if it would have saved him. She plead with the Council to consider lives over extra vehicles in the City.

Inge Schuler asked when Council Member Peterson's recommendation to rescind resolutions supporting the HERO program would be on an agenda for discussion. She would like the City to include a condition of approval on project developers requiring them to demonstrate their financial security. She recommended the City participate in the Mills Act. Finally, she announced that I-10 Bypass Project has been around since 2013 and would have liked to know about it sooner. With this proposed bypass, the trucks would have to get off at Morongo Trail and feels a grade separation at Morongo Trail is needed.

Council Member Franklin clarified that the Riverside County Transportation Commission is not the party behind the I-10 Bypass, it is a County of Riverside Transportation Department project.

Dave Happy, Banning business owner and resident, spoke about the I-10 Bypass project and suggested a grade separation in Cabazon and a bypass on the north side of the freeway.

Heather Rhodes announced that Inland Behavioral Health Services is celebrating their 40<sup>th</sup> year in the Inland Empire. Their facility here in Banning is called Banning Family Community Health Center and they have been here for 5-6 years. She invited the Council and community to come out to see their facilities and what they offer.

David Ellis liked the meeting on the I-10 Bypass and is looking forward to a meeting where residents can come up and ask questions and get answers. The other thing he wanted to share that there are issues with sidewalks and crosswalks in the City. For example, there is not a crosswalk in front of his granddaughter's school. He also recommended a crosswalk at Florida and Wilson.

Janet, Whitewater resident, reminded everyone that having the bypass on the south side would still be trapped by the trains, but the bypass is needed. She asked the Council to consider putting themselves in the Cabazon resident's shoes.

Seeing no further comments, Mayor Moyer closed public comment.

## CORRESPONDENCE

There was no correspondence received.

## ANNOUNCEMENTS & REPORTS

Council Member Welch had nothing to report.

Council Member Andrade had nothing to report.

Council Member Franklin:

- The Downtown Ad-Hoc Committee went and met face to face with over 30 local businesses and provided them with a survey. They have received 31 of them back and data will be gathered and brought to a community workshop, then bring a recommendation back to the Council.
- The Healthy City Ad-Hoc Committee is working on two areas. One is a health fair scheduled for May 19<sup>th</sup> at Roosevelt Williams Park to coincide with the grand opening of the park. The second is community outreach where they plan on doing focus group questionnaires asking people what they want, what the challenges are to being healthy and compiling that information into a workshop for the general public then bring that back to the Council as well.
- Disaster Survival Expo on April 28, 2018. Dr. Lucy Jones will once again be keynote speaker.

Council Member Peterson had nothing to report.

Mayor Moyer had nothing to report.

## REPORT BY CITY ATTORNEY

City Attorney Ennis did not have anything to report.

## REPORT BY CITY MANAGER

Interim City Manager Diaz did not have anything to report.

## CONSENT ITEMS

Item 7 was pulled for discussion.

1. Minutes – Special Meeting – 1/23/18 (Closed Session)

Recommendation: Approve the Minutes from the January 23, 2018 Special Meeting of the Banning City Council (Closed Session)

2. Minutes – Regular Meeting – 1/23/18

Recommendation: Approve the Minutes from the January 23, 2018 Regular Meeting of the Banning City Council

3. Fire Department Update – 2017 Activity

Recommendation: Receive and File

4. List of Contracts Signed Under City Manager Authority

Recommendation: Receive and File

5. Biannual Audit of the City's Sanitary System Management Plan (SSMP)

Recommendation: Receive and File

6. Resolution Notice of Completion for Project 2016-03 – Street Improvements at Various Locations

Recommendation: Accept Project as Complete

8. Resolution 2018-16, Authorizing the Part Time Employee Classification and Compensation

Recommendation: Adopt Resolution 2018-16

Mayor Moyer opened the consent items 1 through 6 and 8 for public comment. Seeing none, closed public comment.

**Motion Welch/Peterson to approve Consent Items 1 through 6 and 8. Motion carried, 5-0.**

Council Member Peterson recused himself due to potential conflict of interest.

7. Planning Commission's Recommendation to Re-Acquire Rights-of-Way Previously Deeded to the Vanir Property.

Recommendation: Receive and File

Mayor Moyer opened consent item 7 for public comment.

Don Smith believes there is some benefits to having Livingston exist as a street. He does not see the benefit of getting Alessandro back.

Seeing no further comments, the Mayor closed public comment.

**Motion Franklin/Welch to approve Consent Item 7. Motion carried, 4-0 with Council Member Peterson not voting.**

#### REPORTS OF OFFICERS

1. Resolution 2018-15, Authorizing the Police Department to Purchase Five Vehicles through the National Auto Fleet Group in an Amount Not to Exceed \$122,128

Interim City Manager/Police Chief Alex Diaz presented the Staff Report as contained in the Agenda packet.

The Mayor opened the item for public comment. Seeing none, closed public comment.

**Motion Franklin/Welch to adopt Resolution 2018-15 authorizing the Police Department to purchase three 2018 Ford Police Interceptor Patrol sedans and two Ford Fusion sedans through the National Auto Fleet Group in an amount not to exceed \$122,128. Motion carried, 5-0.**

2. Ordinance 1513, Recreational Vehicle, Recreational Trailer and Utility Trailer Parking

Police Lieutenant Robert Fisher presented the Staff Report as contained in the Agenda packet. (See Exhibit "B")

Mayor Moyer asked about 24 hours instead of four hours.

Council Member Franklin asked if Code Enforcement would be handling this and if there have been fewer violators since this has come up.

It was confirmed that Code Enforcement would handle once the additional officer is hired and there has not been a decrease in violations since the ordinance has come up.

Council Member Welch suggested an online permit process.

Council Member Andrade expressed her support of the ordinance, especially for safety reasons.

Council Member Peterson asked if transients were living in the motor homes or recreational vehicles. Lieutenant Fisher confirmed that they were.

Possible language changes to include no sleeping in recreational vehicles was discussed.

The Mayor opened the item for public comment.



John Hagan shared that he feels four hours is too short and asked about a permit fee.

Interim City Manager/Police Chief Diaz informed the public that there would not be a fee. The City's goal is not to harass residents, it is to come up with a program that helps both the City and the residents. He suggested, maybe calling it a 72 hour pass for residents.

Council Member Peterson feels the motor home owner should be allowed 24-48 hours, but would be okay with a detached trailer only being allowed four hours.

Jerry Westholder would prefer not requiring a permit and excluding residents from the requirement. He suggested differentiating between utility trailers and recreational vehicles and amending so the residents aren't punished.

Don Smith feels something needs to be done for safety reasons. For example, there is a resident in Banning who has had a 5<sup>th</sup> wheel parked in front of their residence for approximately three years.

Dave Happy believes four hours is too short and that 72 hours is appropriate.

Linda Pippenger recommended letting the Police Department do their job and get rid of junk, as it decreases home values.

David Ellis disagrees with differentiating between trailer and motor home. He suggested issuing a 48 hour pass by calling dispatch and posting street signs that read "no overnight camping on public streets."

Richard Rutheford suggested a phone call for the permit. He fears this is a reactive solution to the homeless issue and would like to see a solution for that.

Council Member Andrade agrees with Don Smith and feels the City needs to pass this primarily for safety reasons.

The Deputy City Clerk read correspondence from Gary Hironimus. (Exhibit "C")

Seeing no further comments, the Mayor closed public comment.

City Attorney Ennis addressed the question regarding the 1990 opinion of the Attorney General. He announced it was determined the opinion was overruled in the Court of Appeal in two cases. The City can adopt an ordinance such as this, limiting the types of vehicles parking on public streets. In regard to the question regarding work trailers, he also pointed out that there is a provision in the ordinance that provides exceptions for work trailers. Currently, there is not wording in the ordinance to allow for loading and unloading of recreational vehicles.

The Mayor asked if the ordinance could be amended tonight.

Interim City Manager/Police Chief Diaz informed the Council that a separate ordinance could be done regarding overnight camping.

The Mayor recessed the Regular Meeting at 6:45 P.M. so that the City Attorney could incorporate recommendations of Council into Ordinance 1513.

The Mayor reconvened the Meeting at 6:56 P.M.

The City Attorney read the revised wording of Ordinance 1513. (Exhibit "D")

**Motion Peterson/Andrade to introduce Ordinance 1513 Prohibiting the Parking of Recreational Vehicles, Recreational Trailers and Utility Trailers on the Public Right-of-Way Longer than Certain Specified Hours, Amending the Banning Municipal Code, and Making Required Findings under CEQA. Motion carried, 5-0.**

3. Opposition of Senate Bill (SB) 827, Planning and Zoning: Transit-Rich Housing Bonus

Interim City Manager/Police Chief Diaz presented the Staff Report as contained in the Agenda packet.

Mayor Moyer opened the item for public comment. Seeing none, closed public comment.

**Motion Franklin/Peterson to officially oppose SB827 and submit a letter to Governor Jerry Brown conveying the City's opposition. Motion carried, 5-0.**

4. Resolution 2018-17 Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2018/2019

Public Works Director Vela presented the Staff Report as contained in the Agenda packet.

Mayor Moyer opened the item for public comment. Seeing none, closed public comment.

**Motion Franklin/Welch to adopt Resolution 2018-17, initiating proceedings to update Landscape Maintenance District No. 1 for Fiscal Year 2018-2019. Motion carried, 5-0.**

#### PUBLIC HEARING

1. Resolution 2018-14, Adopting a 12 Month Extension of Time for Tentative Tract Map (TTM) 36939

Community Development Director Nevins presented the Staff Report as provided in the Agenda packet.



Council Member Peterson explained that he recently read that CalTech put out new maps and readjusted fault zones through Banning. He asked if the fault setback zone has changed in the new map.

Director Nevins explained that she has not seen and is not aware of any new maps.

Peter Pitassi with Diversified Pacific is not aware of any revisions to the state maps in this area. They are aware of some changes in Los Angeles and LA County and perhaps other parts of the state, but not in this area.

Council Member Welch asked if we are sure a new map exists. Staff is not aware of a new map.

Mayor Moyer asked if it would cause any harm if the item was continued to the February 27<sup>th</sup> Meeting so that staff could confirm there were not map changes. Director Nevins confirmed that the developer has 60 days after they request the extension, so it would not cause any harm.

The Mayor opened the Public Hearing.

Jerry Westholder recommended Council make sure this is done correctly.

David Ellis concurs with Council Member Peterson in regard to the faults.

Seeing no further comments, the Mayor closed the Public Hearing.

**Motion Welch/Peterson to continue the Public Hearing and Resolution 2018-14 to the February 27, 2018, City Council Meeting. Motion carried, 5-0.**

The Mayor recessed the Regular City Council Meeting and called to order a scheduled meeting of the Banning Utility Authority.

BOARD MEMBERS PRESENT: Board Member Andrade  
Board Member Franklin  
Board Member Peterson  
Chairman Moyer

BOARD MEMBERS ABSENT: Board Member Welch

#### CONSENT ITEMS

1. Resolution 2018-01 UA Approving an Agreement in the Amount of \$119,309 with Cla-Val for the Servicing of the City's Water Valves

Chairman Moyer opened the item for public comment. Seeing none, closed public comment.

**Motion Welch/Franklin to approve Consent Item 1. Motion carried, 5-0.**

The Mayor adjourned the scheduled Meeting of the Banning Utility Authority and called to order a joint meeting of the Banning City Council and the City Council sitting in its capacity of a Successor Agency.

**REPORTS OF OFFICERS**

1. Resolution 2018-01 SA, Approving the Recognized Obligation Payment Schedule (ROPS) 18-19 A and B

Deputy City Manager Clayton presented the Staff Report as contained in the Agenda packet.

The Mayor opened the item for public comment. Seeing none, closed public comment.

**Motion Franklin/Peterson to adopt Resolution 2018-01 SA, approving ROPS 18-19 A and B for the period of July 2018 through July 2019 and approving certain related actions. Motion carried, 5-0.**

The Mayor reconvened the regular City Council Meeting.

**ITEMS FOR FUTURE AGENDAS**

Council Member Peterson would like add the Mills Act as a future agenda item, preferably at the next meeting. Council Member Welch suggested staff reach out to the local Historical Society.

**ADJOURNMENT**

Mayor Moyer asked for a moment of silence in remembrance of Mary Malland, wife of Police and Hospital Chaplin Merle Malland.

By common consent the meeting was adjourned at 7:24 P.M.

Minutes Prepared by:



Sonja De La Fuente, Deputy City Clerk

**These Minutes reflect actions taken by the City Council. The entire discussion of this meeting can be found by visiting the following website: <https://banninglive.viebit.com/player.php?hash=tfFxdtebFCK> or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.**

# EXHIBIT A

# Bills show power rate disparities

## Exhibit "A"

By

JUNE 12, 2015, 10:57 AM

In Sacramento, a family using 500 kilowatt hours of electricity last October was charged \$58 for it. Customers in Los Angeles, also served by a public utility, paid \$79.

Pacific Gas & Electric charged \$93 for the same power. Southern California Edison billed customers \$97. And San Diego Gas & Electric topped the Southern California Public Power Authority survey at \$116 for 500 kilowatt hours.

The comparison of monthly bills from public and private electricity providers in California shows a notable discrepancy in the amounts customers pay for the same amount of power, depending on where they live and which provider serves them.

Especially for heavy users, bills are higher at the investor-owned utilities SDG&E, Edison and , overseen by the California Public Utilities Commission. The commission is required to make sure the rates are just and reasonable at the private utilities, and doesn't oversee the municipal districts.

The utilities commission, which is the subject of separate state and federal investigations into possible favoritism and back-channel communications with utility executives, says costs are higher at private companies in part because they operate under different rules.

"There are federal and state regulatory requirements that apply to investor-owned utilities that do not apply to publicly owned utilities," spokeswoman Terrie Prosper said. "Publicly owned utilities have access to very-low-cost federal preference power from federally operated dams that the investor-owned utilities do not have access to, and many publicly owned utilities have access to low-cost financing that makes their capital investments much less expensive."

The municipal utilities say their rates are lower because there is no profit margin and their revenue is reinvested into the public service.

"Simply put, money spent here stays here," said Heather Raymond, a spokeswoman for the city of Riverside, which has delivered its own water and power since 1895. "That's great news for communities like Riverside that have utilities that are able to give back in the way of community support."

## Electric bills differ

A Southern California Public Power Authority survey, comparing October 2014 bills at different usage levels, found that the private companies tend to charge more than municipal utilities.

	200 kWh	500 kWh	1,000 kWh	2,000 kWh
Edison	\$31	\$97	\$255	\$543
PG&E	\$32	\$93	\$264	\$598
SDG&E	\$35	\$116	\$312	\$723
PRIVATE AVERAGE	\$32	\$102	\$277	\$621
Anaheim	\$29	\$84	\$182	\$380
Azusa	\$32	\$82	\$168	\$340
Banning	\$38	\$100	\$212	\$509
Burbank	\$29	\$76	\$163	\$348
Iton	\$20	\$73	\$188	\$451
andale	\$33	\$74	\$161	\$341

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bids.

Critics have said the Riverside utilities department artificially increased rates to cover other city costs, and in Pasadena, a city employee was arrested in December and charged with embezzling \$6.4 million of power customer payments.

For-profit utilities say they do their best to keep rates and rate increases to a minimum. They point out that they provide more renewable power than most public utilities and are working to deliver even more.

Imperial ID	\$28	\$65	\$127	\$250
Los Angeles	\$30	\$79	\$168	\$345
Pasadena	\$34	\$88	\$196	\$396
Riverside	\$40	\$81	\$172	\$364
Sacramento	\$31	\$58	\$136	\$311
Vernon	\$21	\$47	\$91	\$179
PUBLIC AVERAGE	\$30	\$76	\$164	\$351

“Under the law, we can’t buy electricity generated from coal while the municipal utilities are permitted to do so,” said Russell Worden, managing director for state regulatory operations at Edison. “And we have a greater number of renewables in our generation portfolio.”

Salary and benefits paid to executives at investor-owned utilities — generally higher than those paid by public agencies — also affect rates, consumer advocates say.

Public salaries criticized at the Los Angeles utilities department reached \$345,000, compared with \$11.6 million in cash and equity in 2014 for the CEO of PG&E, an investor-owned utility or IOU.

“Public utility executives don’t make nearly as much as IOU executives do, and they are typically smaller agencies with smaller staffs, so executive compensation is a big cost driver,” said Stephanie Chen of the Greenlining Institute, a Berkeley nonprofit group.

## Response

Bryan Cope of the Southern California Public Power Authority, a coalition of public providers, said there is more to the higher rates charged by investor-owned utilities than executive compensation. The companies can be motivated to build substations and transmission lines even when they are not needed, he said.

“They make money off infrastructure for their shareholders, so the more infrastructure they build, the more money they make,” Cope said.

San Diego Gas & Electric said looking solely at electric rates doesn’t tell the whole story. Spokeswoman Amber Albrecht said several other factors result in the different energy costs imposed by municipal and investor-owned utilities.

“This includes the number of customers, the type of customers, energy consumption, if the utility has a service fee and the regulatory process,” she said. “In our service area, our customers use less energy, which means fewer (kilowatt hours) to spread costs to maintain a safe and reliable energy network.”

to four tiers, the cost of each level climbing as would raise rates.

a baseline minimum of 14.88 cents per kilowatt

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hour. The PG&E base rate starts at 16.35 cents per hour, and the SDG&E baseline cost is 17.4 cents.

“Even with this, the fact is that the average SDG&E bill continues to be among the lowest in the nation,” Albrecht said.

The Public Utilities Commission is now considering a change to its long-standing rate structure. Under the so-called time-of-use standard, the number of tiers would be reduced to two and customers would pay sliding costs depending on when they use the power they consume.

Commission officials say the plan allows residents and small business owners to save by using lower-cost electricity during off hours. Critics say it will raise costs for lower-volume users and lower expenses for medium-sized and large users.

“They are trying to pit big businesses against small businesses against residents and against poor people,” said [redacted], a San Francisco attorney and former president of the California Public Utilities Commission. “Lots of people can’t control their energy use during the day.”

Lynch cited the ongoing investigation into regulator relationships with utility executives as a concern for customers who want their rates low.

“We need PUC commissioners who are committed to the ratepayers — not the (utility) companies,” Lynch said. “They are supposed to protect the ratepayers.”

## Latest: CPUC

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## MORE

In April, a commission study found that residential electric customers in California pay an average of 16 cents per kilowatt hour, among the highest rates in the nation. Like the utilities, the study noted that the bills still come out lower in California because people use less energy.

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...t in the 50 states,” the study said. “Our electricity consumption per capita in California



The 28-page white paper is titled "Comparative Analysis of Utility Services & Rates in California," but it did not compare investor-owned utility costs with publicly owned utilities. It also excluded an examination of rates, focusing instead on monthly billings.

"We do not have the information for publicly owned utilities," said Prosper, the commission spokeswoman.

Political activist Ben Davis Jr. is working to qualify an initiative for the state ballot next year that would create the California Electrical Utility District, an agency that would provide public power across the state.

Under the initiative, which needs more than 365,000 signatures to qualify, for-profit utilities would go away and the utilities commission, energy commission and independent system operator would combine into a single public agency governed by 11 elected board members.

"Really, we need to shake up the whole thing," said Davis, who predicted his effort will fizzle without donations to hire paid signature gatherers. "It's been shown that public power averages 15 to 20 percent cheaper than private utilities."

Cope, the Southern California Public Power Authority director, said most municipal utility districts were formed 100 years ago or more, before companies like Edison, PG&E and SDG&E became politically influential and unlikely to give up territory.

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# EXHIBIT B

## Parking enforcement

Presented by:  
Chief of Police  
Alex Diaz

- The intent of the proposed regulations is to regulate parking or storage of RV's and utility trailers. At the direction of the City Council, staff has embarked on a comprehensive, citywide evaluation of parking.

The goals are to: (1) identify parking issues, concerns, and needs



(2) to identify implementation strategies to address the stated issues, concerns, and needs.





As indicated by Police Department personnel it is permissible to park a recreational vehicle, recreational trailer, or a utility trailer on City streets



the vehicle could be marked and tagged for 72 hours, which normally causes the owner to move their vehicle in front of their neighbor's residence.



The Police Department recently received complaints regarding recreational vehicles and utilities trailers that are being stored on residential streets



Some vehicles are registered in Beaumont and parked on city street in Banning





While a recreational vehicle can be stored on a single family lot, it may not be parked on dirt



Problems with RV and trailer parking include:  
expired registration.



Reduced visibility to oncoming traffic



Weeds and other debris collect around vehicles which have been parked for an extended period of time





Storing trash



Trailers normally do not have a parking brake and are secured with bricks or rocks



Some residents have complained of the lack of parking in their neighborhoods



Some residents have also complained about animal trailers and the odor which accompany it





Citizens often times consider a trailer as blight in their neighborhood



Some citizens consider signage as blight in their neighborhood



Lastly, this ordinance will prohibit extension cords from being extended across city sidewalks.



## In conclusion

This ordinance will:

- Reduce blight
- reduce view obstruction
  - Maintain a balance between providing an adequate supply of parking to serve new growth.
  - prevent vegetation from growing in the streets
  - prevent debris from collecting under vehicles and the reduction of visual blight from city streets.

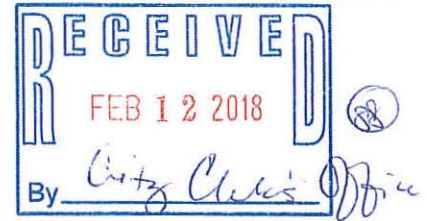


# EXHIBIT C

## Exhibit "C"

**Sonja De La Fuente**

**From:** Gary Hironimus <ghironimus@hotmail.com>  
**Sent:** Monday, February 12, 2018 11:56 AM  
**To:** Sonja De La Fuente; Marie Calderon  
**Subject:** Ordinance 1513



As I am unable to attend the Feb 13 Regular Council Meeting, please read and record the following during the public comments section during discussion of Item V.2. Ordinance 1513:

Council Members;

This Ordinance 1513 is problematic in a number of ways. State law already restricts on-street parking, of ANY vehicle, to just 72 hours. They also have to be moved MORE than ½ mile prior to that 72 hour period, or they are considered to still be in the same location. So then why are the vehicles shown in that presentation with the paint marks not being towed? And how will anything change with a 4 hour limit rather than a 72 hour limit? Are Banning officers now expected to return to every RV or trailer they see within 5-6 hours to ticket/call for a tow? Don't they have better things to concentrate on? And of course, RVs/trailers cannot be parked OFF THE STREET on a dirt or gravel driveway while cars and trucks can?!? Why the difference? That ridiculous discrepancy in the city's code is what forces many RVs and trailers onto the street in the first place. Allow them on dirt or gravel driveways OFF the street, and ¾ of this problem goes away.

My Daughter, right on Hoffer St, has had items stolen right off of her front porch, as have others in the area. The thieves are brazen enough to walk right up on the porch, while being filmed, while my daughter was home getting ready for work, with no attempt to hide their face. There are sketchy people walking and looking into vehicles at all hours in many areas. But instead of patrolling for suspicious activity, our officers are going to spend their time scrutinizing every RV and trailer they see, and driving back by to make sure that it is no longer there a few hours later? Really? Are they still going to paint the tires? Otherwise how can they be sure that it WAS there just 4 hours ago? This sounds like a logistical nightmare to me, and I'm extremely pro-police. I just would rather they focus on more important things.

And what about the legality of treating RVs differently than other vehicles. I get it, those trailers shown in the presentation are run down, trashed eyesores. But we all know that there are others that don't look like that. RV's are legal on every street, road, and highway in the nation, just as any other street legal vehicle, and as such are subject to the exact same rules and laws of any other vehicle. The California State Attorney General, in SAG Opinion 89-602, has already ruled that in order to restrict the parking of ANY vehicle on City streets, that restriction must apply to ALL vehicles. It's 11 pages, and quite an interesting document. But the conclusion of that SAG Opinion is this:

"A California city has no authority to prohibit the parking of particular categories of vehicles on its residential streets during all or certain hours of the day, with the exception of commercial vehicles having a manufacturer's gross vehicle weight" rating of 10,000 pounds or more."

So if you are going to restrict the parking of RVs to just 4 hours, then according to the law you must restrict the parking of ALL vehicles to just 4 hours. Boy, Banning PD is sure going to be busy, aren't they? Yes, 89-602 was written in 1990. But absent any subsequent SAG opinion or court ruling to the contrary or invalidating that Opinion, I do believe that it is still valid today. The 11 page document goes into a lot of detail on the applicable DMV sections/laws (22507 & 22507.5), the interpretation of those laws, and the results of several court cases in reaching that conclusion. So exactly which part of those 11 pages, put out by the State Attorney General, does

the City Council and City Attorney disagree with? Does the City Council and/or the City Attorney really feel that they know better than the highest law enforcement official in the State?

Banning already has the ability to address every vehicle in that presentation; ticket and tow after 72 hours. If that was already being done, we probably wouldn't be discussing this here tonight. And if you can't do it after 72 hours, why will a 4 hour window be any different, without a massive increase in personnel, manhours and overtime, all of which could be more effectively used for other purposes. The only thing this ordinance will actually do is hurt those that are not violating the law to begin with, by making it difficult to load or unload before & after a camping trip. Nothing more.

Gary Hironimus



*Gary Hironimus - Sent from my Verizon Motorola Smartphone*

# EXHIBIT D

**ORDINANCE 1513**

**AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, PROHIBITING THE PARKING OF RECREATIONAL VEHICLES, RECREATIONAL TRAILERS AND UTILITY TRAILERS ON THE PUBLIC RIGHT-OF-WAY LONGER THAN CERTAIN SPECIFIED HOURS, AMENDING THE BANNING MUNICIPAL CODE, AND MAKING REQUIRED FINDINGS UNDER CEQA**

**WHEREAS**, the City of Banning has seen an increase in complaints regarding the parking and/or storage of recreational vehicles, recreational trailers and utility trailers in residential and commercial areas throughout the City; and

**WHEREAS**, oversized vehicles, such as recreational vehicles, recreational trailers and utility trailers, when parked on residential streets, can create a safety hazard by reducing visibility from driveways and intersections; and

**WHEREAS**, the parking and/or storage of recreational vehicles and trailers causes visual blight in the City; and

**WHEREAS**, it is therefore necessary and in the interest of the health, safety and welfare of the residents of Banning to amend the Banning Municipal Code to adopt restrictions on the parking of recreational vehicles and trailers.

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

**SECTION 1.** A new section 10.12.105 is hereby added to Article I (Stopping or Parking Prohibitions and Limitations) of Chapter 10.12, (Stopping, Standing and Parking) of the Banning Municipal Code regarding Recreational Vehicles, Recreational Trailers and Utility Trailers to read as follows:

"Section 10.12.105 Recreational Vehicles, Recreational Trailers and Utility Trailers

- A. No person shall park or leave standing any Recreational Vehicle, Recreational Trailer or Fifth Wheel, regardless of length or width, upon any public street or highway in the City for a period of time exceeding forty eight (48) hours.
- B. No person shall park or leave standing any utility trailer, horse or animal trailer, boat trailer or other trailer for personal watercraft, all-terrain vehicles (ATFs) or other vehicles, regardless of length or width, upon any public street or highway in the City for a period of time exceeding twenty four (24) hours.
- C. No person shall place electrical cords, extension cords, hoses, cables or other items across, above or on the parkway or sidewalk from a residential

or commercial property to a Recreational Vehicle, Recreational Trailer or Utility trailer parked on a public street.

D. The following definitions will govern the construction of the words and phrases used in this section:

1. "Recreational Vehicle" shall have the meaning set forth in the California Health and Safety Code Section 18010, as may be amended from time to time, and shall include house cars as defined by California Vehicle Code 362, as may be amended from time to time, and attached trailers.
2. "Trailer" shall mean a trailer, semitrailer, camp trailer, (including tent trailers), un-mounted camper, trailer bus, trailer coach, utility trailer, vehicle dolly or flat trailer as defined in Sections 242, 243, 550, 630, 635 and 636 of the California Vehicle Code, as may be amended from time to time, or fifth-wheel travel trailer, as defined in Section 324 of the California Vehicle Code, as may be amended from time to time.
3. Successive acts of parking within a one half (1/2) of a mile area shall be presumed to be a single act of parking for purposes of this ordinance.

E. This section shall not apply to:

1. Any vehicle parked in connection with, and in the aid of, the active performance of a service to or on a property in the block in which such vehicle is parked;
2. Any vehicle owned by a city, county, state, public entity or licensed contractor engaged in the installation, maintenance, or repair of any public property, utility or highway; or
3. Any authorized emergency vehicle.

F. Any person who violates any provision of this section is guilty of an infraction and will be subject to a parking citation, towing or both.

G. The time limitations on standing or parking in this section will not relieve any person from the duty to observe other and more restrictive provisions of the California Vehicle Code or the Banning Municipal Code prohibiting or limiting the standing or parking of vehicles in specified places or at specified times."



## **SECTION 2. SEVERABILITY**

If any section, subsection, clause or phrase or portion of this code is for any reason to invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of all other provisions of this ordinance.

The Mayor and City Council hereby declare that it would have passed the ordinance codified in this chapter; and each section, subsection, sentence, clause and phrase or portion thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases or portions thereof be declared invalid or unconstitutional.

## **SECTION 3. CEQA**

The adoption of this Ordinance is not a "project" under the California Environmental Quality Act because the Ordinance does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4). The proposed ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") and the City's CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that this Ordinance to regulate the parking of recreational vehicles, recreational trailers, and utility trailers on City streets will have a significant effect on the environment. Placing restrictions on recreational vehicle, recreational trailer, and utility trailer parking pursuant to this Ordinance will not result in a permanent alteration of property or the construction of any new or expanded structures or other direct or indirect physical changes in the environment. The parking regulations affect recreational vehicles, recreational trailers, and utility trailers, and not any fixed or permanent structures, and have no potential to significantly affect the environment.

## **SECTION 4. PUBLICATION, EFFECTIVE DATE**

The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which time 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) calendar days after its final passage, the City Clerk shall cause a summary of this Ordinance to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California. The City Clerk shall cause the Ordinance to be printed, published, and circulated.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_,  
2018.

\_\_\_\_\_  
George Moyer, Mayor  
City of Banning

**ATTEST:**

\_\_\_\_\_  
Sonja De La Fuente, Deputy City Clerk  
City of Banning

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

\_\_\_\_\_  
Kevin G. Ennis, City Attorney  
Richards, Watson & Gershon, APC

**CERTIFICATION:**

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance 1513 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 13th day of February, 2018, and was duly adopted at a regular meeting of said City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Sonja De La Fuente, Deputy City Clerk  
City of Banning, California