

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

03/27/18  
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Moyer on March 27, 2018, at 5:00 p.m. at the Banning Civic Center Council Chamber, 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 Rochelle Clayton, Interim City Manager  
Kevin Ennis, City Attorney  
Alex Diaz, Police Chief  
Heidi Meraz, Community Services Director  
Patty Nevins, Community Development Director  
Art Vela, Public Works Director/City Engineer  
Suzanne Cook, Deputy Finance Director  
Michelle Devoux, Fire Marshal  
Marie Calderon, City Clerk  
Laurie Sampson, Executive Assistant  
Leila Lopez, Office Specialist

The Invocation was given by Pastor Jerry Westholder. Council Member Franklin led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney Ennis listed the items 1) CONFERENCE WITH LABOR NEGOTIATORS – Pursuant to Government Code Section 54957.6. Agency Designated Representatives: George Moyer, Mayor and Robert Metea, Human Resources Director. Unrepresented Employee: Interim City Manager. Direction was given and there is an item on the open session agenda related to this matter. 2) PUBLIC EMPLOYEE APPOINTMENT: City Manager – Pursuant to Government Code Section 54957. A status report with an update on this matter was provided to Council. 3) CONFERENCE WITH LABOR NEGOTIATOR – Pursuant to Government Code Section 54957.6 Agency designated representative: Deputy City Manager Rochelle Clayton. Employee Organizations: Banning Police Management Association (BPMA). Direction was given to the City's negotiator regarding the matter. 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: Rochelle Clayton,

Interim City Manager and Ted Shove, Economic Development Manager – Negotiating Parties: BRAD Partners, LLC, Robert Ardolino; Under Negotiation: Price and Terms. Direction was given on whether to complete an ENA related to the project. 5) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Section 54956.9) Fields v. City of Banning, Riverside County Superior Court Case No. RIC 1102234 and Court of Appeal Case No. E057277. A status report was provided and matters to effectuate the dismissal of the case. 6) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Section 54956.9) Name of Cases: City of Banning v. Hendon, Riverside Superior Court Case No. RIC 1401424; In re: Marc L. Hendon, Sr., U.S. Bankruptcy Court, Central District of California – Riverside Divisions, Case No. 6:17-bk-18214-SY. A status report was provided regarding the bankruptcy action and issues related to it with no reportable action.

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

#### PRESENTATION

##### 1. Proclamation – Mental Health Month

Mayor Moyer read a portion of the proclamation prepared declaring May 2018 as Mental Health Month.

#### PUBLIC COMMENTS / CORRESPONDENCE / ANNOUNCEMENTS & REPORTS

#### PUBLIC COMMENTS

Ellen Carr informed everyone the Animal Action League will be at the Community Center March 28, 2018, with their mobile spay and neuter clinic and a low cost shot clinic from 10:00 a.m. until 2:00 p.m. They will be here again April 18-19, 2018. If anyone is interested in getting their pet spayed or neutered call (760) 366-1100 as soon as possible. In regard to her utility bills she had 31 days on last month's bill and 32 days on this month's bill, resulting in \$0.70 - \$1.60 charge. This combined with a rate increase in water may become a hardship. She would still like to know what "other pay" entails and what benefits the City employees receive.

Inge Schuler thanked Lt. Fisher and Animal Control for an efficient response to a starving horse. She requested continued (weekly) vigilance by the City's Code Enforcement division with cooperation from Animal Control.

Brian McDonald, Government Affairs Representative with Southern California Edison, provided an update on the West of Devers Project. Construction will begin in 2018 and will be intermittent and scheduled for completion in 2012. He encouraged the community to pay attention to posted signage and detours. The project hotline is 1-888-226-9916 for any questions or comments from community members.

Council Member Welch asked if this project would interfere with any of the youth programs held at City parks. Interim City Manager Clayton advised that letters will go out to property owners within 300 feet of the project and the notices will be posted on the City's website as well. Public Works Director Vela explained that the project does not run through any City parks. It runs from the Pardee project to the cemetery over to the Robertson's mine. Council Member Franklin suggested using social media to get the word out. She also asked how long the intermittent outages would be, as she is concerned about people with medical devices.

Jerry Westholder expressed his disappointment in the loss of Chief Diaz. He praised Jason Smith, Electric Operations Manager, for assisting him with some discrepancies found at his church. He is against any increases for in the water rates. He would like the City to take another look at this before increasing rates and consider its residents.

#### CORRESPONDENCE

There was no correspondence received.

#### ANNOUNCEMENTS & REPORTS

Council Member Welch sits on the Cannabis Ad Hoc Committee and they have scheduled a workshop for April 10<sup>th</sup> to make a recommendation.

Council Member Andrade attended a Bronco Spirit event last Saturday. She was impressed with the youth and felt it was a good community event. She also attended the Banning Pass Little League Opening Day and thanked Jim and Ann Price for everything. On Thursday there will be a Welcome Home Veterans event at the City of Beaumont and she encouraged the community to attend and show their support.

Council Member Franklin attended the Riverside County Transportation Commission last week. The Disaster Survival Expo will be on April 28<sup>th</sup> from 10:00 a.m. until 2:00 p.m. at Banning City Hall. The Water Alliance meeting will be held at 5:00 p.m. tomorrow at City Hall. Kiwanis will hold its Annual Easter Egg Hunt at 10:00 a.m. on Saturday at Sylvan Park.

Mayor Moyer advised that a 2x2 Meeting was held with the City of Beaumont and discussed transit complications and will meet again next week. A 2x2 Meeting was also held with the Banning Unified School District and discussed CNG. He reminded the community that Waste Management will hold a Community Clean-Up Day at Dysart Park on April 14<sup>th</sup> from 8:00 a.m. until 1:00 p.m. They will take electronics, but will not take paint and medications.

#### REPORT BY CITY ATTORNEY

City Attorney Ennis did not have anything to report.

## REPORT BY CITY MANAGER

Interim City Manager Clayton did not have anything to report.

## CONSENT ITEMS

Mayor Moyer indicated that Item 4 was being pulled from the Consent Calendar for separate consideration.

1. Minutes – Special Meeting – 3/13/18 (Closed Session)

Recommendation: Approve the Minutes from the March 13, 2018 Special Meeting of the Banning City Council (Closed Session)

2. Minutes – Regular Meeting 3/13/18

Recommendation: Approve the Minutes from the March 13, 2018 Regular Meeting of the Banning City Council

3. Accounts Payable and Payroll Warrants for February 2018

Recommendation: Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of February 2018

Mayor Moyer opened Consent Items 1 through 3 for public comment. Seeing none, closed public comment.

**Motion Franklin/Andrade to approve Consent Items 1 through 3. Motion carried, 5-0.**

Council Member Franklin indicated that she requested Consent Item 4 be pulled for discussion, as she has received questions and would like Public Works Director Vela to explain the report.

Director Vela advised that this report is to keep Council up to date on projects with contracts they are currently managing. Anything that doesn't have a contract will not appear on the list such as the Sun Lakes Extension or I-10 Interchange.

Mayor Moyer requested an update on the appraisals for the Joshua Palmer realignment at the next meeting.

4. Capital Improvement Projects Update

Recommendation: Receive and File

Mayor Moyer pointed out Item 7 from the Consent Items, congratulating the Water Department for their special recognition and thanked them for a good job.

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

**Motion Franklin/Peterson to approve Consent Item 4. Motion carried, 5-0.**

**REPORTS OF OFFICERS**

1. Resolution 2018-31, Confirming the Appointment of Rochelle Clayton to the Position of Interim City Manager and Approving an Interim City Manager Agreement with Rochelle Clayton

Deputy Human Resources Director Robert Meteau presented the Staff Report as contained in the Agenda packet.

Mayor Moyer made an announcement consistent with Section 54953(c)(3) of the Government Code and Section 2.5 of the City Council Rules of Procedure providing a summary of the recommendation for final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive as defined in Section 3511.1(d) of the Government Code.

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

**Motion Welch/Franklin to adopt Resolution 2018-31; 1) confirming the appointment of Rochelle Clayton to the position of Interim City Manager and 2) approving an Interim City Manager Agreement with Rochelle Clayton. Motion carried, 5-0.**

2. Resolution 2018-29, Authorizing the Police Department to Use Innovative Emergency Equipment to Outfit Five New Police Vehicles with Equipment and to Upgrade Current Patrol Vehicle Emergency Pursuit Bars under Riverside County Contract #SHARC-005516-006-09/19

Police Chief Alex Diaz thanked the Council and Citizens for allowing him to reach his goals over the last 13 years. He then presented the Staff Report as contained in the Agenda packet.

Council Member Franklin and Peterson asked for some clarification on the cost of the light bars.

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

**Motion Peterson/Welch to adopt Resolution 2018-29, authorizing the Police Department to utilize Innovative Emergency Equipment to outfit five new vehicles with equipment, remove equipment from three old patrol vehicles for use in the new vehicles, and upgrade existing emergency pursuit bars on patrol vehicles in an amount not to exceed \$62,978.00 (includes a 5% contingency), under Riverside County Contract #SHARC-005516-006-09/19. Motion carried, 5-0.**

3. Resolution 2018-30, Temporarily Suspending Certain Business Related Planning Department Application Fees

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

Council Member Peterson clarified that the Business License fee would not be waived. He asked if the Conditional Use Permit fee and Sign Permit fee will be waived, what other fees would need to be paid. Director Nevins informed the Council that there may be inspection fees. Council Member Peterson asked how the public would be informed of this if approved. Director Nevins advised the City can put the word out on social media, on the City's website and at the counter when anyone comes in. Mayor Moyer will let the local newspaper know. Director Nevins will bring back a report on a quarterly basis to keep the Council up to date.

Council Member Franklin asked about how this would impact the fee study. Director Nevins advised that the moratorium of fees would not affect the fee study. Council Member Franklin asked when the fee study would be coming back and Manager Clayton advised it goes back to the Finance Committee on April 16<sup>th</sup> and a workshop would be held on April 24<sup>th</sup>.

Council Member Welch is in support of a one year moratorium.

Council Member Andrade wanted it to be clear that this will only apply to new businesses coming in, not those already in existence.

Mayor Moyer advised that if the business does not have a sign, they could get a sign permit during this period.

Council Member Andrade is looking forward to seeing what businesses this attracts. She pointed out that the fiscal impact is approximately \$42,000 to the general fund based on fees collected last year. She asked some additional questions in regard to time frame to establish a business. Director Nevins provided information as needed.

The Mayor opened the item for public comment.

David Ellis suggested advertising this in some trade magazines, the Press Enterprise, and the Sun Telegram.

Seeing no further comments, the Mayor closed public comment.

**Motion Peterson/Welch to adopt Resolution 2018-30, temporarily suspending certain business related Planning Department Application Fees. Motion carried, 5-0.**

4. Options for the City's Compressed Natural Gas (CNG) Fueling Facility

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

Council Member Peterson asked for some clarification as to why the City of Beaumont is receiving so much money. Director Vela explained they have accumulated it over several years and hadn't spent it.

There was some discussion regarding the operation and maintenance costs. Council Member Franklin advised the 2x2 Committee recommendation is equitable sharing of all expenses.

Council Member Andrade requested clarification on which option is being recommended by the Budget & Finance Committee. Mayor Moyer indicated it is now Option two since the School District has \$400,000 to put toward the project.

The Council would like the operation and maintenance agreement to be finalized prior to moving forward.

The Mayor opened the item for public comment.

Kerry Mariner, School Board Trustee, informed the Council the Board approved the Resolution. She believes two separate systems would cost the taxpayers

Rick Pippenger recommended the Council not approve anything until something is brought back.

David Ellis asked for clarification on why the School District would be responsible for paying operation and maintenance of the facility and paying full retail price for the fuel.

Mayor Moyer informed the public the Council will not be moving forward with any type of construction and joint agreement.

Council Member Franklin clarified that the Council is being asked to provide staff with direction on which option to move forward with.

Seeing no further comments, the Mayor closed public comment.

**Motion Franklin/Peterson to direct staff to move forward with option 2 as presented and prepare an agreement with Banning Unified School District related to the fair and equitable operation and maintenance of the facility. Motion carried, 5-0.**

5. Resolution 2018-23, Awarding a Construction Agreement to Epsilon Engineering of Moreno Valley for Project No. 2017-01, Community Center and Senior Center Tenant Improvements, and Resolution 2018-24, Approving the reprogramming of Fiscal Year (FY) 2017/18 Community Development Block Grant (CDBG) Funding

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

Council Member Welch wanted to make sure there was still funding for Lions Park. Director Vela explained that the 18/19 funding is for Lions Park and provided an update on that project's progress.

Council Member Andrade asked for a detailed report from the Budget & Finance Committee in regard to the funding. She also asked what would be compromised at Lions Park with the reprogramming of these funds. Director Vela explained there would only be a delay on the Lions Park improvements with \$172,000 being reprogrammed to the Community Center and Senior Center tenant improvements. She expressed some concern with dipping into the City's reserves.

Mayor Moyer provided further clarification on the allocations of CDBG funds.

There was some discussion among the Council in regard to the repairs needed at the Community Center.

Council Member Franklin recommended staff request future funding not be reduced.

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

**Motion Franklin/Welch to adopt Resolution 2018-23; a) approving a Construction Agreement with Epsilon Engineering of Moreno Valley for Project No. 2017-01, Community Center and Senior Center Tenant Improvements, in the amount of \$393,554 plus a 10% contingency for a total project budget of \$432,910 and rejecting all other bids, b) authorizing the Interim City Manager or her designee to make necessary budget adjustments, appropriations, transfers and approval of change orders related to the Construction Agreement within the 10% contingency, and c) authorizing the Interim City Manager or her designee to execute the Construction Agreement, and 2) adopt Resolution 2018-24; a) approving the reprogramming of FY 2017/18 CDBG funding originally allocated for the expansion of Lions Park (Program 5.BN.36-17) in the amount of \$172,516 to Project No. 2017-01, Community Center and Senior Center Tenant Improvements (Program 5.BN.34-16), and 2) authorizing the Interim City Manager or her designee to make necessary budget adjustments, appropriations, and transfers related to the reprogramming of FY 2017/18 CDBG funds and any other additional related actions as necessary to reprogram 2017/18 CDBG funds. 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  
Board Member Welch  
Chairman Moyer

BOARD MEMBERS ABSENT: None

#### REPORTS OF OFFICERS

##### 1. Resolution 2018-04 UA, Approving the Purchase of a Dump Truck

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

Chairman Moyer questioned the effectiveness of PlanetBids, as it seems the City is receiving a lot of minimum bids.

Board Member Andrade recommended advertising everywhere to attract more bidders.

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

**Motion Peterson/Welch to adopt Resolution 2018-04 UA, 1) approving the purchase of a new 2019 Dump Truck from Los Angeles Truck Centers, LLC of Los Angeles in the amount of \$121,499, and 2) authorizing the Interim City Manager or her designee to make the necessary budget adjustments, appropriations and transfers related to the purchase of the dump truck. Motion carried, 5-0.**

##### 2. Water and Wastewater Proposition 218 Notice of Proposed Rate Update

Interim City Manager Clayton presented the Staff Report as provided in the Agenda packet.

Board Member Peterson explained that if the notice is going to a property owner the Assessor's Parcel Number (APN) will be listed, if it is going to a renter then the account number will be listed. He wanted it to be clear that all rate payers would count.

Manager Clayton indicated that the notice will be in English and Spanish on the website and at the counter in City Hall.

City Attorney Ennis clarified that if a property owner of apartment building submits a protest and a renter of an apartment unit who is the customer submits the protest, only the customer (tenant) will be counted, so that two votes per unit are not counted.

There was some discussion held regarding Proposition 218 and the noticing requirements and the process.

The Chairman opened the item for public comment.

David Ellis would like some clarity on the protest form. He would like to know how many protest forms are needed to stop the rate increase. Manager Clayton explained it is 50% plus one and there are approximately 10,000 water meters in the City. He would like mobile home renters.

City Attorney Ennis explained that if the City doesn't have a legal right to bring a collection action against an individual mobile home owner because that person isn't the customer, then they would not in that instance be entitled to file a protest.

Jerry Westholder would like clarification in regard to which notice is correct in the agenda packet. Manager Clayton explained the updated notice is correct and is the notice that will be sent out. He encouraged the public to protest the rate increase.

Ellen Carr asked why the notice was being sent out separately from the bill. If not she suggested a note in the bill notifying the customers to look out for the notice. Manager Clayton explained that a lot of times people get their bill and don't notice other things in the envelope.

Board Member Andrade explained the importance of clearly marking the envelope this is Proposition 218 Notice.

Chairman Moyer announced the fact that one does not need to be a registered voter to file a protest.

Council Member Peterson reminded all that failure to respond is a "yes" vote to raise the rates.

Chairman Moyer encouraged everyone to read the information and make an informed decision.

Seeing no further comments, the Chairman closed public comment.

**Motion Welch/Andrade to approve the updated Proposition 218 Notice and authorize Staff to mail written notice to customers and property owners of the proposed update to Water and Wastewater rates in compliance with all requirements of Proposition 218 and California State Law for the scheduled Public Hearing on May 22, 2018. Motion carried, 5-0.**

The Mayor adjourned the scheduled Meeting of the Banning Utility Authority and reconvened the regular City Council Meeting.

### ITEMS FOR FUTURE AGENDAS

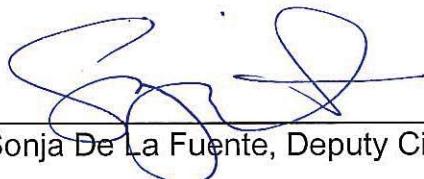
There were no items for future agendas.

### ADJOURNMENT

Mayor Moyer asked for a moment of silence in remembrance of Alfred Pasquali.

By common consent the meeting was adjourned at 7:05 P.M.

Minutes Prepared by:



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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=OEnMXFb4DfIF> or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.