

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

05/08/18  
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Moyer on May 8, 2018, at 5:04 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  
Tim Chavez, Fire Battalion Chief  
Heidi Meraz, Community Services Director  
Patty Nevins, Community Development Director  
Art Vela, Public Works Director/City Engineer  
Vincent Avila, Police Lieutenant  
Suzanne Cook, Deputy Finance Director  
Robert Meteau, Deputy HR Director  
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 Franklin led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

The City Attorney indicated six items were discussed in Closed Session. 1) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Paragraph (1) of Subdivision (d) of Section 54956.9) Name of Case: Zugaza, LLC v. City of Banning, Case No. RIC 1700904. Mr. Curtis Wright, the City's representative, provided a status report and received direction. There is no final and reportable action. 2) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Paragraph (1) of Subdivision (d) of Section 54956.9) Name of Case: Turner v. City of Banning, Case No. RIC 1607623. A status report was provided by the City's outside Council. There is no final or reportable action. 3) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Paragraph (1) of Subdivision (d) of Section 54956.9) Name of Case: City of Banning v. Go Green Calming

Solutions, et al., Case No. RIC 1806731. A report was provided regarding the case and it continues. 4) 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 on the settlement of the case and that will come back to the next meeting. 5) PUBLIC EMPLOYEE APPOINTMENT: City Manager – Pursuant to Government Code Section 54957. 6) PUBLIC EMPLOYEE APPOINTMENT: Police Chief – Pursuant to Government Code Section 54957. A status report was provided regarding these two items.

## PUBLIC COMMENTS / CORRESPONDENCE / ANNOUNCEMENTS & REPORTS

### PUBLIC COMMENTS

Chris Wilson, resident on West Repplier, shared a concern regarding packages that have been stolen from his property. He has heard from neighbors they have noticed less police patrol in the area. He has purchased security equipment for his property, but hopes the Council shares this concern and follows-up with the police. He is also concerned with the City's website and feels it is woefully outdated in regard budget related information, as he would like to see how the City is spending the taxpayer's money.

Richard, resident of Banning, asked the City Council to consider setting a date requiring clean energy sources (i.e. wind, solar, or hydroelectric)

Jerry Westholder expressed his concern with the Downtown Revitalization Survey. He feels the City has lost money investing in such projects (i.e. San Geronio Inn, All City Dodge, The Haven, Banning Cultural Alliance, Art Gallery, Façade Grants, and the Courthouse). He is also concerned with the Grand Jury Report that recently came out questioning ethics and pointed out that Council is not to direct staff.

Inge Schuler indicated there was an earthquake today and that Dr. Lucy Jones shared at the recent Disaster Survival Expo regarding a seismologically resilient water piping system developed in Japan and feels it would be good if the City considers these for any future waterline projects. She believes there are eight companies in the United States that provide these. She would like to see the main lines leading into each District using this piping so there would be at least one point in each District the people could get safe water in case of an emergency.

Jacob Yousef, owner of the Mobil gas station on Highland Springs, expressed concern with the left turn pocket into his business being closed, as his business has been severely impacted. He would like to know when it will be open.

David Ellis stated that as of 5:21 p.m. on this day he is resigning his position of Planning Commissioner and a Letter of Resignation will be provided. He asked about Proposition 26 and if \$3 million would be refunded to the ratepayers. He also asked about Proposition 218 process, as he has heard some people received two notices, some didn't receive

one, and Spanish notices were not mailed. He expressed concern regarding a 2015 Banning Utility Authority complaint filed with the United States Securities and Exchange Commission. He expressed his disappointment with the Grand Jury's investigation and reminded the City Council to give direction only to the City Manager, not directly to subordinates. He also pointed out Section 10.5 of the Manual of Procedural Guidelines under Resolution 2013-103.

Don Smith thanked the Committee and City's staff for the Disaster Survival Expo. He believes it meets a City goal of providing services to the public. In regard to the left turn pocket being closed on Highland Springs, he believes the traffic situation is worse with it closed.

Seeing no further comments, the Mayor closed Public Comment.

The Mayor asked Public Works Director Art Vela for clarification on the closed left turn pocket on Highland Springs. Director Vela explained that he contacted the City of Beaumont about the left turn pocket and they indicated they would be conducting a traffic study in that location and would close it for those purposes. However, the duration of the study was not made clear at the time. Since that time, they have indicated it would be a three month closure. He has submitted a request for an update, and will request regular updates.

### CORRESPONDENCE

There was no correspondence received.

### ANNOUNCEMENTS & REPORTS

Council Member Franklin reported on the following:

- Holiday Wish, Cops vs. Clergy, and the Backpack Giveaway are all volunteer programs. The Disaster Survival Expo is a City program and she thanked those that helped execute a successful event. Good feedback and comments have been received from the community.
- The Downtown Ad Hoc Committee held a meeting last week and had 16 people from the community attend to provide input. There is also an online survey for people to take until May 5<sup>th</sup>.
- A Healthy City event will be held on May 19<sup>th</sup> and will be the 1<sup>st</sup> Annual Health Fair and 5K Run. The run begins at 9:00 a.m. and the Health Fair will be from 10:00 a.m. until 2:00 p.m. People can come into the Community Center to register or go online and the first 125 participants will receive a free t-shirt for the 5K run. There will be approximately 30 vendors, with cooking demonstrations, a kid zone, and other activities for the whole family.
- She attended a workshop in San Bernardino conducted by the Teamsters. The workshop focused on businesses working with cities and communities being better business partners.

- She attended the Southern California Association of Governments (SCAG) Annual Conference as the City's representative. There were several speakers. Something that stood out was a showcase of student projects.
- The Western Riverside Council of Governments General (WRCOG) Assembly will be held on June 21, 2018, and the keynote speaker will be Steve Forbes. At their last meeting they discussed several Bills, including topics such as CalPERS and how they're shifting liability to the cities, accessory units and cities potentially not being able to charge fees associated with building them, and another one where cities must accommodate 200% of Regional Housing Needs Assessment (RHNA).
- It is anticipated that a request to obtain funding for the truck climbing lanes on the 60 will be approved at the next RCTC meeting.

Council Member Peterson reported on the following:

- He, along with Council Members Welch and Franklin, attended a Law Enforcement Appreciation Committee (LEAC) Annual Awards Banquet in Riverside on April 27, 2018. Two officers from the Banning Police Department were recognized; Derek Thesier and Christopher Sayeski for their life saving efforts.
- He expressed his disappointment in former City Councils that he feels did not properly spend redevelopment funds on revitalizing the downtown.

Council Member Franklin reminded the Council that the Downtown Ad Hoc Committee was appointed by this Council.

Council Member Andrade explained that the Downtown Ad Hoc Committee is focusing on what can be done to make the downtown more viable and ensure businesses don't leave. She would like suggestions from the community on how to improve the downtown, instead of focusing on any mistakes made in the past.

Council Member Welch had nothing to report.

Mayor Moyer had nothing to report.

#### REPORT BY CITY ATTORNEY

City Attorney Ennis attended the League of California Cities City Attorney Conference last week and learned of some new cases, statutes, and emerging trends, along with some strategies on how to deal with them.

#### REPORT BY CITY MANAGER

Interim City Manager Clayton did not have anything to report.

## CONSENT ITEMS

1. Minutes – Regular Meeting – 4/10/2018

Recommendation: Approve the Minutes from April 10, 2018 Regular Meeting of the Banning City Council.

2. Minutes – Special Meeting – 4/10/2018 (Closed Session)

Recommendation: Approve the Minutes from the April 10, 2018 Special Meeting of the Banning City Council (Closed Session).

3. Minutes – Special Meeting – 4/10/2018 (Workshop)

Recommendation: Approve the Minutes from the April 10, 2018 Special Meeting of the Banning City Council (Workshop).

4. Minutes – Special Meeting – 4/11/2018 (Town Hall)

Recommendation: Approve the Minutes from the April 11, 2018 Special Meeting of the Banning City Council (Town Hall).

5. Minutes – Special Meeting – 4/19/2018

Recommendation: Approve the Minutes from the April 19, 2018 Special Meeting of the Banning City Council.

6. Approval and Ratification of Accounts Payable and Payroll Warrants for March 2018

Recommendation: Approve and Ratify the Accounts Payable and Payroll Warrants for March 2018.

7. Contracts Approved Under City Manager Authority

Recommendation: Receive and file list of contracts approved under the City Manager's authority.

8. Resolution 2018-56, Approving the Tentative Agreement for a Successor Memorandum of Understanding (MOU) Between the City of Banning and the Banning Police Management Association (BPMA)

Recommendation: Adopt Resolution 2018-56, authorizing the City Manager or her designee to execute for and on behalf of the City approving the Tentative Agreement for a Successor Memorandum of Understanding (MOU) between the City of Banning and the Banning Police Management Association (BPMA).

9. Resolution 2018-50, Authorizing a Letter of Opposition to Assembly Bill (AB) 2065

Recommendation: Adopt Resolution 2018-50 authorizing the Mayor to sign a Letter of Opposition to AB 2065 addressed to California's Governor.

10. Resolution 2018-51, Approving the Third Amendment to the Landscape Maintenance Services Agreement with Artistic Maintenance, Inc. for the Landscape Maintenance of City Facilities for Fiscal Year 2018/2019

Recommendation: Adopt Resolution 2018-51, approving Amendment No. 3 to the Landscape Maintenance Services Agreement with Artistic Maintenance, Inc. for the landscape maintenance of City facilities for Fiscal Year 2018/2019.

11. Resolution 2018-55, Approving the Renewal of the Landscape Maintenance Contract with Artistic Maintenance, Inc. for Landscape Maintenance District No. 1 for Fiscal Year 2018/2019

Recommendation: Adopt Resolution 2018-55, approving the renewal of the Landscape Maintenance Contract with Artistic Maintenance, Inc. for Landscape Maintenance District No. 1 for Fiscal Year 2018/2019.

The Mayor opened Consent Items 1 through 11 for public comment. Seeing none, closed public comment.

**Motion Peterson/Welch to approve Consent Items 1 through 11. Motion carried, 5-0.**

#### REPORTS OF OFFICERS

1. Review of Draft Municipal and Zoning Code Amendments to Allow, Regulate, and Zone for Certain Commercial Cannabis Uses: Indoor Commercial Cultivation, Manufacturing Level 1, and Testing Laboratories; and Review of a Draft Ballot Measure to Impose a Municipal Tax on Such Activities

Community Development Director Patty Nevins and presented the Staff Report as contained in the Agenda packet and shared a slide presentation along with Maricela Marroquin of the City Attorney's office. (See Exhibit "A")

Council Member Peterson asked if all of the recommendations made by the Cannabis Ad Hoc Committee at the last meeting had been included. It was confirmed they had included recommended changes.

The Mayor opened the item for public comment.



David Ellis expressed concern with the odor that may come from cultivation, and asked if that had been addressed. He also suggested lowering electric rates. Mayor Moyer indicated that a proper air filtration system will be required. Council Member Peterson explained cultivation would only be allowed indoors.

Don Smith supports allowing everything instead of phasing it in. However, his concern is with enforcement, as there are illegal businesses already operating and they are not being shut down.

Jerry Westholder agrees with Mr. Smith and feels this needs to be looked at a little longer and harder. Mayor Moyer indicated Council has authorized positions in the Police Department to specifically in anticipation of the enforcement requirements.

John Hagan asked if there is a 600-foot distance requirement from residents. Director Nevins clarified the 600-foot requirement is only from schools or parks, not residents. Council Member Peterson explained that any cultivator would need to obtain a Conditional Use Permit and go through an approval process.

Seeing no further comments, the Mayor closed public comment.

The Council did not have any recommended changes to the proposed Ordinance and Tax Measure as presented.

2. Ordinance 1521, Amending the Banning Municipal Code, Section 8.20.070 (Fireworks Violation) and Resolution 2018-59, Establishing a Fine

Lieutenant Vincent Avila presented the Staff Report as contained in the Agenda packet along with a PowerPoint presentation. (See Exhibit "B")

Council Member Peterson clarified that this would remove the need for the City Attorney to prosecute a fireworks infraction and instead allowing an officer to write a citation and process through traffic court, saving money for the City.

The Mayor opened the item for public comment.

Don Smith thanked the Police Department for looking into this and seeing what could be done. He believes \$100 is not a big enough fine. The City Attorney explained there are fines for 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> violation.

Seeing no further comments, the Mayor closed public comment.

Council Member Franklin asked if statistics could be shared in the future.

The Mayor asked the Deputy City Clerk to read the title of Ordinance 1521.

The Deputy City Clerk read the title of Ordinance 1521.

**Motion Franklin/Welch to waive further reading of Ordinance 1521. Motion carried, 5-0.**

**Motion Franklin/Andrade that Ordinance 1521 pass its first reading. Motion carried, 5-0.**

**Motion Andrade/Franklin to adopt Resolution 2018-59, establishing a fine. Motion carried, 5-0.**

3. Pavement Rehabilitation of North Hargrave Street

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

Mayor Moyer asked if staff was working on a waterline down Ramsey Street. Director Vela confirmed they are, east of this location. The Mayor asked if this could be combined with that project. Director Vela indicated he is thinking of combining this project with the Ramsey/Hargrave project. The Mayor asked for a time frame and Director Vela indicated the design on the waterline should be done around September/October as long as the plans for the rest of the project are complete and the Right of Way Dedication on the northwest corner is done.

Council Member Peterson suggested reaching out to the constituent who has come to the Council Meeting in the past regarding Hargrave. Council Member Franklin indicated she spoke with her on Saturday and informed her it would be on this Agenda.

Council Member Franklin asked if staff could look into the water pipes Ms. Schuler discussed during Public Comment.

The Mayor opened the item for public comment.

David Ellis shared that a constituent in the area had expressed opposition to the speed bump on Hargrave north of Ramsey on the west side. He suggested addressing that now. Director Vela indicated it is part of the Hargrave/Ramsey intersection project and that would be fixed.

Seeing no further comments, the Mayor closed public comment.

Council Member Franklin indicated that after a constituent had brought up her concerns at a Council Meeting and Director Vela met with her and some residents in the area to address any concerns.

4. Resolution 2018-45, Declaring the Intention to Levy and Collect Assessments, Approving the Engineer's Report and Setting the Date for the Public Hearing for Landscape Maintenance District No. 1



Public Works Director Art 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 Peterson/Welch to adopt Resolution 2018-45; declaring the Intent to Levy and Collect Assessments, approving the Engineer's Report, and setting the date for the Public Hearing for Landscape Maintenance District No. 1. Motion carried, 5-0.**

5. Resolution 2018-44, Adopting the Water Supply Assessment (WSA) for Banning Distribution Center

Public Works Director Art 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 Peterson/Welch to adopt Resolution 2018-44, approving the WSA prepared by Albert A. Webb Associates for Banning Distribution Center. Motion carried, 5-0.**

6. Status of the Public Information Officer (PIO) Recruitment

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

Council Member Franklin asked if the PIO would work on the City's website. Interim City Manager confirmed

Council Member Welch expressed his support of this position, as it helps with the City's transparency.

Council Member Andrade expressed her support of the position, as the previous PIO was very helpful to the community.

Council Member Franklin expressed her support of the position, as she believes it would be helpful to have someone keeping constituents informed of things affecting the community.

Council Member Peterson expressed his opposition of the position, as he does not believe the City can afford it at this time and believes money would be better spent on a position in Public Works. He feels the three IT people on staff should be able to update the website.

Council Member Franklin suggested hiring a part-time consultant.

Council Member Andrade explained that having a PIO is a necessity.

Mayor Moyer agreed with a lot of what has been discussed. He would prefer getting someone to help get projects moving in Public Works, Community Development, and Community Services.

The Mayor opened the item for public comment.

Laura Leindecker suggested tailoring the position to what the City needs. She expressed the importance of getting information to the community

Chris Wilson agrees with Council Member Andrade in that the City's website is out of date and needs to be updated. He explained that it is very difficult to get information from the site. He believes the salary range is low for a good PIO. He recommended the City consider telecommuting, improving its web presence, verifying a good IT infrastructure is in place, and offering affordable utilities to improve the business climate.

Jerry Westholder opposes hiring a PIO, as he feels it is a luxury and the City needs to be frugal.

Don Smith explained that when the City had a PIO the citizens were receiving information and that stopped when the position became vacant. He suggested hiring a webmaster first, but remember that a priority of the Council's is better communication with the public. He believes the City needs to do a better job advertising the City.

Seeing no further comments, the Mayor closed public comment.

Interim City Manager Clayton will address this at the Budget Workshop.

#### ITEMS FOR FUTURE AGENDAS

Mayor Moyer suggested adding a Webmaster.

Council Member Peterson recommended contracting with someone to design the website and look into getting the electronic billboard message sign in front of City Hall.

Council Member Franklin would like a staff analysis of various Senate and Assembly Bills affecting local jurisdictions (i.e SB821, SB828, and others). She would also like a refresher provided to the Council regarding Council Members directing staff.

Council Member Peterson would like staff to verify Robertson's has scales to attain tonnage.

## ADJOURNMENT

By common consent the meeting was adjourned at 7:11 P.M.

Minutes Prepared by:

A handwritten signature in blue ink, appearing to read 'Sonja De La Fuente', is written over a horizontal line.

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=Tv0sl1uXqhR> or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.**

## **Exhibit “A”**

**to the May 8, 2018, Regular Meeting Minutes**

# Cannabis Ordinances

## City Council Workshop

City of Banning  
99 E. Ramsey Street  
Banning, CA 92220

May 8, 2018  
5:00 P.M.



## New Ordinances & Tax Measure

### Municipal Code Amendments:

- Draft Cannabis Regulatory Permit Requirement – Add Chapter 5.35 to Business Licenses and Regulations
- Draft Cannabis Conditional Use Permit Requirement – Add Chapter 17.53 to Zoning

Draft Tax Measure (Ordinances will be dependent upon voter approval of tax measure)

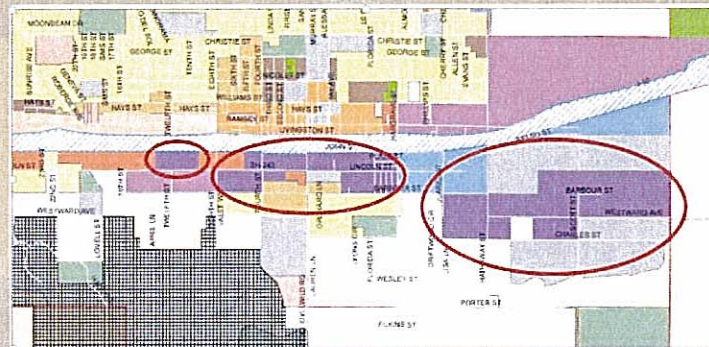


## Uses Conditionally Permitted via Cannabis Conditional Use Permit

- Cultivation
- Manufacturing Level 1
- Testing

## Industrial Zoning Districts

Industrial land use districts





## **Exhibit “B”**

**to the May 8, 2018, Regular Meeting Minutes**

## Fireworks Enforcement

Presented by:  
Lieutenant Avila

Currently Banning Municipal Code section 8.20.070 allows  
for the removal of any dangerous fireworks and / or Safe and  
Sane fireworks





This section also allows for an officer to arrest the violator for a misdemeanor. It is recommended that this section be amended to allow the officer discretion in citing an infraction or administrative citation



A violation of California Health & Safety Code section 12677 is a misdemeanor and is prosecuted by the District Attorneys office for dangerous fireworks





A violation of Banning Municipal Code section 8.20.070 is a misdemeanor and is prosecuted by the City Attorney – for both dangerous and Safe & Sane fireworks

### WHAT ARE STATE-APPROVED FIREWORKS?



Amending Banning Municipal Code section 8.20.070 to be cited as an infraction would allow a police officer to directly file the case in traffic court.



Amending Banning Municipal Code section 8.20.070 to be issued as an administrative citation pursuant to Chapter 8.20 will also allow Code Enforcement to issue a cite.



It is recommended that the Banning Municipal Code be amended to give officers the discretion to cite fireworks violations as a infraction





## In conclusion

### This ordinance will:

- Continue to allow officers to remove dangerous fireworks
- Cite as a misdemeanor or infraction.
- Reduce court costs.