

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

09/10/18  
REGULAR MEETING

An adjourned regular meeting of the Banning City Council was called to order by Mayor Moyer on September 10, 2018, at 5:01 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  
Robert Fisher, Interim Police Chief  
Tom Miller, Electric Utility Director  
Patty Nevins, Community Development Director  
Art Vela, Public Works Director/City Engineer  
Ted Shove, Economic Development Manager  
Robert Meteau, Deputy Human Resources Director  
Sonja De La Fuente, Deputy City Clerk  
Laurie Sampson, Executive Assistant  
Leila Lopez, Office Specialist

The Invocation was given by Merle Malland. Council Member Peterson led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

The City Attorney indicated four items were discussed in Closed Session. 1) PUBLIC EMPLOYEE APPOINTMENT: City Manager – Pursuant to Government Code Section 54957. This item is on this evening's agenda for final action. 2) 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 status report was provided and direction given. 3) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION potential initiation of litigation pursuant to Government Code Section 54956.9: One case. Direction was given to legal counsel on the matter. 4) CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to Government Code Section 54956.8: Property description: APN's 541-240-009 and 541-250-009, west side of Banning Municipal Airport property. City Negotiator: Art Vela, Public Works Director – Negotiating Party: Andy Marocco; Under Negotiation: Price and Terms of a potential sale or lease of the property.

## PUBLIC COMMENTS / CORRESPONDENCE / PRESENTATIONS / APPOINTMENTS

### PUBLIC COMMENTS

Ellen Carr with Tender Loving Critters provided information regarding scheduling an appointment with Animal Action League for low cost spay or neuter services. They will be in the City on September 18<sup>th</sup> and 19<sup>th</sup>. They can be reached at 760-366-1100. You can call and ask to be put on standby or next month's schedule. The shot clinic does not require an appointment and is from 10:00 a.m. until 2:00 p.m. each day they are here. She encouraged all to get required shots and microchips for licensing their pets. Citizens may call Riverside County Department of Animal Services at 951-358-7387 with any questions. She also reminded everyone to register their microchip.

Jerry Westholder thanked staff for bringing the Christy White contract back to Council for consideration. He voiced his opposition to Measure P.

Seeing no further comments, the Mayor closed Public Comment.

### CORRESPONDENCE

There was no correspondence.

### PRESENTATIONS

The Mayor and Council presented Sara Logan, with Operation Life Saver, with a Proclamation proclaiming September Rail Safety Month.

Sara Logan expressed her gratitude for the City's support of Rail Safety Month.

### APPOINTMENTS

1. Appointment of Community Development Block Grant Ad Hoc Committee Members

The Mayor appointed himself and Council Member Peterson with no objections.

### CONSENT ITEMS

Item 5 was pulled for discussion.

1. Minutes – Regular Meeting – 7/24/2018

Recommendation: Approve the Minutes from July 24, 2018, Regular Meeting of the Banning City Council.

2. Minutes – Special Meeting – 7/24/2018 (Closed Session)

Recommendation: Approve the Minutes from the July 24, 2018, Special Meeting of the Banning City Council.

3. Minutes – Regular Meeting – 8/28/2018

Recommendation: Approve the Minutes from the August 28, 2018, Regular Meeting of the Banning City Council.

4. Contracts Signed Under City Manager Authority for July and August

Recommendation: Receive and file list of contracts signed under the City Manager's Authority during the months of July and August 2018.

6. Update on Downtown Ad Hoc Committee Recommendation to Research Micro-Business Incubator

Recommendation: Receive and file the update from the Downtown Ad Hoc Committee.

7. Resolution 2018-97, Approving the Termination of a Development Agreement with All American Racing, LLC

Recommendation: Adopt Resolution 2018-97.

8. Resolution 2018-106, Establishing a Pre-Approved General Construction Management and Inspection Services Vendor List for Fiscal Year 2018/2019 through Fiscal Year 2020/21

Recommendation: Adopt Resolution 2018-106.

9. Resolution 2018-108, Accepting Community Development Block Grant (CDBG) Funds for Fiscal Year 2018/19

Recommendation: Adopt Resolution 2018-108.

10. Resolution 2018-109, Amending Resolutions 2018-72 and 2018-107 to Reschedule the Public Hearing for the Consideration of Rate Adjustments for the Collection, Transportation, and Disposal of Solid Waste to September 11, 2018

Recommendation: Adopt Resolution 2018-109.

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

**Motion Andrade/Franklin to approve Consent Items 1 through 4 and 6 through 10. Motion carried, 5-0.**

Mayor Moyer asked about legislation passed in 2014 not being included when the Policy B-31 was adopted. Economic Development Manager Ted Shove explained that when the new City Attorney came on board, they reviewed the policy and made recommended updates to include items related to the legislation.

5. Update Policy B-31, Administrative Procedures – Acquisition Leasing, and Dispositions of City Owned Real Property.

Recommendation: Approve update to Policy B-31.

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

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

### **PUBLIC HEARINGS**

1. Resolution 2018-114, Accepting the 2018 Edward Byrne Memorial Justice Assistance Grant

Interim Police Chief Fisher presented the staff report as contained in the Agenda packet.

Council Member Franklin asked how long the recorders last. Interim Chief Fisher explained the ones they have lasted a few years, but they are now unable to get parts for them and it was recommended they get new equipment by the City's IT Department. Council Member Franklin asked if this was audio recording and not vide. Interim Chief Fisher confirmed it would record audio only.

The Mayor opened the Public Hearing. Seeing no comments from the public, closed the Public Hearing.

**Motion Peterson/Welch to adopt Resolution 2018-114, accepting grant funds provided by the Office of Justice Programs in the amount of \$11,604 for the Police Department to purchase additional Puma belt recorders. Motion carried 5-0.**

2. Ordinance 1530, Zone Text Amendment 18-97502 to Amend Various Sections of the Zoning Ordinance

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

Council Member Peterson requested clarification in regard to an existing auto parts store not being allowed to move across the street. Community Development Director Nevins clarified that a Zoning Text Amendment is required, but cannot be limited to one business. City Attorney Ennis explained State Law related to the matter and confirmed the Zone Text Amendment is required.

The Mayor opened the Public Hearing.

Don Smith believes this is a good clean up in solving some issues and helping businesses prosper. He doesn't believe claiming you are a landlord and your client might move or be put out of business is not a legal claim. He would like to include maintenance and properly installed chain link fencing in the ordinance.

Inge Schuler, Planning Commissioner, believes the Planning Commission did not approve tattoo businesses in Downtown Banning.

Ed Omari, owner of 263 W. Ramsey Street, indicated he is against the passage of Ordinance 1530. He provided history related to his decision to purchase the property.

Arthur D'Souza, owner of 321 W. Ramsey Street, expressed his support of passing Ordinance 1530. He believes this will provide opportunity to business owners.

Todd Chiriano, real estate broker and owner of American Federal Properties in Diamond Bar, California, indicated he is against the passage of Ordinance 1530. He indicated his client purchased the property due to the exclusivity on the property being the only auto parts store allowed in the area.

Jim Price, Planning Commissioner, believes the Planning Commission did not approve tattoo businesses in downtown Banning.

Scott Munson, retired from the Los Angeles Department of Water and Power, shared a prepared statement (see Exhibit "A").

There was discussion among Council and Staff related to whether or not tattoo businesses were approved by the Planning Commission.

There was also discussion regarding chain link fencing, and that the Planning Commission will review on a project by project basis.

Council Member Franklin would like "proper construction and maintenance" added to the chain link fencing portion of the ordinance, and would not support if not included.

The Mayor closed the Public Hearing and asked the City Clerk to read the title of Ordinance 1530, without tattoo establishments.

The Deputy City Clerk read the title of Ordinance 1530: "Ordinance 1530, and Ordinance of the City of Banning, California, Making Findings Pursuant to CEQA and Adopting Zoning Text Amendment 18-97502, Amending Various Sections of the City's Zoning Ordinance (Title 17 of the Banning Municipal Code) Relating to Alcohol Beverage Sales, Retail Auto Part Sales, Chain Link Fencing, Public Utility Facilities, Freeway Oriented City Identification Signs, Home Occupation Permits, and Design Review Approval Authority"

**Motion Peterson/Andrade to waive further reading of Ordinance 1530. Motion carried 4-1, with Council Member Franklin voting against.**

**Motion Peterson/Welch that Ordinance 1530 pass its first reading. Motion carried 4-1, with Council Member Franklin voting against.**

## ANNOUNCEMENTS & REPORTS

### CITY COUNCIL COMMITTEE REPORTS

Council Member Andrade attended the groundbreaking for the Pardee project today. It was very successful and she looks forward to their development. She would like them to be a part of the Banning Unified School District.

Council Member Peterson advised Stagecoach Days was successful and sold out on Saturday.

Council Member Franklin reported on the following:

- A constituent contacted her and complimented Electric Utility Director Tom Miller for his successful handling of a sticky situation.
- She thanked the Stagecoach Days Committee for their work.
- The Healthy City Committee met and reviewed the survey results, which indicated the interest in more activities in the cities. Therefore the City will be doing pop-ups once a month from 10:00 a.m. until Noon at different parks to do activities with young people. They will also do clean-ups at different parks and the community's involvement will be requested. A Farmer's Market was also of interest and the Hospital will be working on something with the County.
- The Western Riverside Council of Governments discussed the homelessness issue and many cities are getting together to try to solve some of the issues. They received a presentation and she will provide a copy to staff.
- The Southern California Association of Governments has \$4.4 million in grants to award and one of the programs is for replacing trees and she has provided the information to staff to see if there is something the City can do to get more trees in the City. They also discussed the programs replacing redevelopment agencies, which are the Community Revitalization Investment Authority and the Enhanced Infrastructure Financing District.

Council Member Welch had nothing to report.

The Mayor reported on the following:

- He attended the Pardee groundbreaking and was glad to see something positive happening, as the project has been in the works for 30 years.
- He read a letter received a letter from John Groman complimenting Ben Coffey with the Electric Utility Department.

- Advised town hall meetings would be held in each of the five districts to inform citizens about the three propositions on the ballot.
- Stagecoach Days was successful.
- City staff will begin accepting applications at the Community Development counter for the housing programs on September 12<sup>th</sup>.

#### REPORT BY CITY ATTORNEY

City Attorney Ennis had nothing to report.

#### REPORT BY CITY MANAGER

Interim City Manager Clayton had nothing to report.

#### REPORTS OF OFFICERS

1. Resolution 208-115, Approving City Manager Employment Agreement with Doug Schulze

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

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

The Mayor requested the term "Mayor" be changed to "City Council" under Item 8 under Other Terms Conditions of Employment. Staff

The Mayor read the following Government Code Section 54953(c)(3) Announcement:

Consistent with Section 54953(c)(3) of the Government Code and Section 2.5 of the City Council Rules of Procedure, the Mayor, Mayor Pro Tempore, or other presiding officer shall orally report a summary of a recommendation for a 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, during the open regular meeting in which the final action is to be taken and prior to the motion to approve. The City Manager is a local agency executive as defined in Section 3511.1(d) of the Government Code, and the oral report is required prior to approval of the attached Agreement as addressed in the Staff Recommendation section of this report.

- Employee will receive an annual salary of \$210,048.85 during his term as City Manager.
- If the City terminates the agreement without cause, Mr. Schulze is entitled to six months' salary plus insurance coverage for himself and his dependents, subject to limitation by Government Code section 53260.



- In addition to the standard benefits offered to previous City Managers since November 2015, Mr. Schulze is entitled to an advance of 80 hours of vacation leave upon reporting for work.

**Motion Peterson/Welch to adopt Resolution 2018-115, approving an Employment Agreement with Doug Schulze for the position of City Manager with recommended changes. Motion carried 5-0.**

2. Policy B-33, Reference Validation of Private Parties Doing Business with the City of Banning

Economic Development Manager Ted Shove presented the Staff Report as contained in the Agenda packet.

Council Member Peterson asked why the ex-parte certification was included in the policy.

It was explained that it is standard language in all of the City's Requests for Proposal that go out from the City and any vendor interested in doing business with the City must sign it.

Council Member Peterson indicated he hadn't seen it before and explained he was offended by it and requested to see it on another document.

Interim City Manager Clayton explained it is standard language that goes out in each Request for Proposal (RFP) and referred Council to page 661-707 in the agenda packet to view a recent RFP with ex-parte language.

Council Member Franklin asked if this met the requirement of the Grand Jury. Economic Development Manager Shove explained that it meets the portion regarding reference validation.

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

**Motion Peterson/Welch to approve Policy B-33, Reference Validation of Private Parties Doing Business with the City of Banning. Motion carried 5-0.**

3. Resolution No. 2018-111, Co-Op Agreement with Riverside County Flood Control and Water Conservation District (RCFCWCD) for the Banning Master Drainage Plan Line H Stage 1 Project

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

The Mayor confirmed they would repair anything they destroy.

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



**Motion Peterson/Welch to adopt Resolution 2018-111, approving a Cooperative Agreement with RCFCWD for the Banning Master Plan Line H Stage 1 Project, adjusting the Public Hearing date to the Regular City Council Meeting on September 11, 2018 at 5:00 p.m. Motion carried 5-0.**

4. Resolution 2018-117, Amending Professional Services Agreement with Christy White Associates

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

Council Member Franklin asked what the total increase to the contract would be. Interim City Manager Clayton indicated it would increase by \$2,471 for a total contract amount of \$34,671. She asked if they had done audits like this before. Christy White advised they have not done an audit like this before, but are prepared to do it.

Council Member Andrade advised the only thing that changed was the insurance requirements. She questioned why they didn't want to increase their insurance to business with more clients. Christy White indicated they had not been required to provide the level of insurance required. Council Member Peterson explained the cost to increase after the fact is passed on to the client.

There was discussion held regarding insurance requirements from Public Entity Risk Management Authority (PERMA). Interim City Manager Clayton advised all templates for contracts have been updated with the new requirements.

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

**Motion Welch/Peterson to adopt Resolution 2018-117, approving the 1<sup>st</sup> Amendment to the Professional Services Agreement with Christy White Associates. Motion carried 5-0.**

The Mayor recessed the meeting at 7:00 P.M. and reconvened at 7:07 P.M.

The Mayor recessed the regular meeting and called to order a meeting of the Banning Housing Authority.

Board Members Present: Andrade, Franklin, Peterson, Welch, and Chairman Moyer

#### CONSENT ITEMS

1. Resolution 2018-03 HA, Approving the Purchase of an Affordability Covenant in the Form of a Regulatory Agreement for 1323 E. Christie Street – Habitat for Humanity San Geronio Pass Area

Economic Development Manager Ted Shove presented the Staff Report as contained in the Agenda packet.

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

Chairman Moyer recommended recovering any money the City is able to.

**Motion Franklin/Peterson to adopt Resolution 2018-03 HA, approving the purchase of an Affordability Covenant in the form of a Regulatory Agreement for 1323 E. Christie Street (APN 541-052-007), by Habitat for Humanity San Gorgonio Pass Area. Motion carried 5-0.**

Chairman Moyer adjourned the Housing Authority meeting and called to order a scheduled meeting of the Banning Utility Authority.

Board Members Present: Andrade, Franklin, Peterson, Welch, and Chairman Moyer

#### CONSENT ITEMS

2. Notice of Completion for Project 2017-17W, "Repair of Wells and Pumps"

Staff pulled this item and continued it to the next regular meeting of the City Council scheduled for September 25, 2018.

1. Notice of Completion for Project 2016-02W, "Banning Water Canyon Pipeline Phase 1"

Board Member Peterson asked if any Indian relics were found. Public Works Director Vela advised there were not.

The Chairman opened Consent Item 1 for public comment. Seeing none, closed public comment.

**Motion Peterson/Welch to Consent Item 1. Motion carried 5-0.**

#### REPORTS OF OFFICERS

1. Resolution 2018-05 UA, Approving the Second Amendment to the Maintenance and Operations Agreement with Suez Water Environmental Services, Inc. and Discuss Options for Maintenance Operations of the City of Banning's Wastewater Treatment Plant

Public Works Director Art Vela presented the Staff Report and as contained in the Agenda packet along with a PowerPoint Presentation (see Exhibit "B").

Board Member Franklin asked for further explanation regarding the sludge plant and Director Vela provided the information.

Board Member Franklin asked Director Vela to outline some of the awards received under Suez. Director Vela shared that in 2007 the Wastewater Treatment Plant was awarded Plant of the Year. In 2008 they received second place for the same award. In 2008 the Wastewater Treatment Plant received a Safety Award from the Colorado River Basin Section. Then again in 2016 the Wastewater Treatment Plant received the Plant of the Year Award.

Board Member Franklin asked about required training and certifications. Director Vela explained he is not certain and would have to gather that information and provide it at a later date. She expressed concern with trying to fix something that isn't broken.

Board Member Peterson agreed Suez has done an outstanding job, but expressed his concern with the cost. He understands why staff would want to keep it the same, but would like staff to continue to think about alternatives to reduce the cost.

The Chairman opened the item for public comment.

Don Smith cautioned the Council on going in-house and provided history as to why. He would recommend maybe issuing a Request for Proposal first.

Seeing no further comments, the Chairman closed public comment.

**Motion Peterson/Franklin to adopt Resolution 2018-05 UA: 1) Approving the Second Amendment to the Maintenance and Operations Agreement with Suez Water Environmental Services, Inc. 2) Authorizing the Interim City Manager or designee to make necessary budget adjustments, appropriations and transfers related to the Maintenance and Operations Agreement. 3) Authorizing the Interim City Manager to execute the Second Amendment to the Maintenance and Operations Agreement with Suez Water Environmental Services, Inc. Motion carried 5-0.**

2. Resolution 2018-11 UA, Approving the Award of a Contract for the Design of Altitude Valves at San Gorgonio and Southwest Reservoirs to Michael Baker International of Temecula, CA

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

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

**Motion Welch/Franklin to adopt Resolution 2018-11 UA, approving the award of a contract for the Design of Altitude Valves for the San Gorgonio and Southwest Reservoirs in the amount of \$55,225. Motion carried 5-0.**

3. Resolution 2018-13 UA, Approving the Award of a Professional Services Contract for the Design of Well C-8 to Hazen and Sawyer of Palm Desert, CA

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

The Chairman asked about grants. Director Vela indicated he hasn't seen anything yet, but will continue to look.

Board Member Franklin asked if Development Impact Fees would be used to pay for this. Director Vela confirmed they would.

There was discussion among the Board and staff regarding City wells.

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

**Motion Franklin/Peterson to adopt Resolution 2018-13 UA, 1) Approving an Agreement with Hazen and Sawyer of Palm Desert, CA for the Design and Inspection Services for the City of Banning Well C-8, Project 2018-02W in the amount of \$671,296. 2) Authorizing the Interim City Manager or her designee to execute the agreement with Hazen and Sayer. 3) Establishing a \$25,000 Project Contingency and authorizing the Interim City Manager to execute amendments to the Agreement within the contingency amount. Motion carried 5-0.**

The Chairman adjourned the Banning Utility Authority Meeting and the Mayor reconvened the regular meeting.

## DISCUSSION ITEMS

1. Downtown Ad Hoc Committee Recommendations

Economic Development Manager Ted Shove presented the Staff Report as contained in the Agenda packet.

The Mayor asked Mr. Shove what he would recommend as the expert. Mr. Shove recommended expanding citywide communication and improving blighted store fronts. He believes that will come with housing growth. Industrial Development would be another item to focus on. Staff is also working with a local entrepreneur to do community events such as a harvest festival and winter festival and depending on how those things go they will proceed into spring and summer.

The Mayor opened the item for public comment.

Don Smith recommended making downtown Banning look safe by making sure all of the street lights are working and added if needed, landscaping is maintained, trash

receptacles. This might make it easier for the owners to lease their buildings. He also recommended implementing proactive code enforcement activity (i.e. notice weeds are on the lots or something is broken). He suggested holding special events downtown so visitors can discover the businesses located there.

Council Member Peterson asked Interim Police Chief Fisher about public safety downtown. Interim Chief Fisher indicated there is a problem with the homeless and they are assisting in locating placement for them. A specific officer has been assigned to the homeless issue. He advised there is crime downtown, such as theft.

Jerry Westholder suggested offering incentives to the right clientele into the buildings. He indicated that if we build it, the people will come. He recommended waiving fees or lowering utility rates for businesses as incentives. He also suggested looking into the YMCA and possible homeless programs they may offer.

Seeing no further comments, the Mayor closed public comment.

Council Member Welch suggested utilizing the Ring of Honor for special events. He encouraged more community celebrations and citizens having pride in the community and the downtown.

Council Member Franklin would like to move forward with the recommendations from the community and businesses. She indicated the school district had a community event downtown last week and there were hundreds of kids. She encouraged being positive about our City for our young people. She recommended moving forward with the recommendations of the Downtown Ad-Hoc Committee.

The Mayor would like to see staff move forward with the recommended items if there is funding available.

The Council recommended staff proceed with recommendations in the prioritized order listed in the Staff Report.

## 2. Police Recruitment and Retention

Interim Police Chief Robert Fisher presented the Staff Report as contained in the Agenda packet. He indicated he checked with other agencies and it appears Banning is the second-lowest paid in the County. He shared some recruiting bonuses other agencies offer.

The Mayor indicated there are seven open positions that need to be filled, five out on disability, and others in backgrounds with other agencies.

Council Member Welch wondered if the City had a higher pay scale would there be people available to fill the positions. Interim Chief Fisher advised some agencies recruit strait from the Academy.

Council Member Peterson advised the City needs to be competitive to be considered by candidates.

Council Member Franklin would like to know the average salary of the officers.

There was discussion regarding the City staff paying into both Social Security and the Public Employee Retirement System (PERS), which immediately affects take-home pay. Most all other agencies do not pay into both.

Interim Chief Fisher will bring back salaries and benefits package.

Council Member Peterson advised he and the Mayor spoke with the Police Officers Association President and Vice President and they advised a salary increase and the City paying more into PERS for the officers would fix the problem with officers leaving and recruiting new officers.

Council Member Franklin expressed concern with offering incentives without commitment requirements.

Council Member Peterson suggested Council direct staff to offer \$4 per hour increase and reduce their PERS contribution to 6% and offer a recruiting bonus for one year to see how it works.

Interim City Manager Clayton suggested \$3 per hour increase and reduce PERS Contribution to 5%. Council Member Peterson would agree with this as well.

The Mayor opened the item for public comment.

Don Smith reminded Council they have three propositions on the ballot that must be passed to add money to the general fund to fund the Police Department. He advised that in the 1970's the City employees voted to remain in Social Security. He believes the only way to get out of this would be to get congressional legislation allowing Banning to do this. He recommended pursuing this, even if it takes up to 10 years.

John Hagan agrees with improving the package offered to police officers. He cautioned against offering bonuses.

Jerry Westholder advised the largest cost to a business is hiring and that it is cheaper to retain employees with raises and incentives than hiring and training new employees. He suggested looking into a non-compete clause for up to five years.

Seeing no further comments, the Mayor closed public comment.



Council Member Peterson recommended the Interim City Manager's recommended 4% reduction in PERS contribution by police officers and \$3 per hour pay increase be brought forward to Council for consideration. The Council supported this recommendation.

### 3. Planning Commissioner Resignation/Recruitment

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

Council would like staff to proceed with the recruitment of a Planning Commissioner to fill the vacancy and have the Deputy City Clerk issue a Press Release and post in the required locations for a period of 30 days. The Council would like the applications in advance.

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

Council Member Franklin suggested recruiting Planning Commissioners by District. Council Member Peterson thinks it would be too difficult to get by District. This would need to be considered on a future agenda.

Council Member Franklin asked when the last time electric rates were increased. Interim City Manager Clayton advised 2013.

The Mayor reminded the public there would be a Public Hearing to consider a rate increase from Waste Management on Tuesday, September 11, 2018, at 5:00 p.m. in the Council Chamber.

### ITEMS FOR FUTURE AGENDAS

None

### ADJOURNMENT

By common consent the meeting was adjourned at 9:03 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=JwNT3Pm5Rlcd> or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.**



## **Exhibit “A”**

**to the September 10, 2018, Adjourned Regular  
Meeting Minutes**

C.P.R.A. REQUEST 9/10/18

Agenda Item ZTA 18-97504 (#3 Auto retail sales) 9/10/2018

Dear Banning City Mayor and City Council members;

My name is Scott Munson and I'm periodically involved with Mr. Ed Omari's business investments. I'm a retired engineer with 34 years of experience at the L. A. Dept. of Water & Power (LADWP). I retired as Assistant Director of Engineering for the water system and I was the manager of the planning section for part of my career. In that section, I worked with numerous cities regarding zoning and environmental issues with LADWP properties.

Changes or modifications to the General Plan can have serious affects to currently operating businesses. In my experience, when any "use" changes were proposed to a property, there was often a study done to evaluate the benefits to the city and, MOST IMPORTANTLY, THE NEGATIVE & POSITIVE IMPACTS to the current legal businesses invested in the city.

The City of Banning's proposed changes to retail auto parts sales in the Downtown Commercial Zone affects ONLY ONE currently operating business which is located on Mr. Omari's property. Thus, I request that a study be done showing the affects that this ZTA has on Mr. Omari's property. Mr. Omari has invested in this City based upon the 2005 General Plan and Zoning Ordinance and, **as a partner with you in this City's economic success, he and you deserve this study so that all ramifications are known.** Time does not appear to be critical for this particular issue of the proposed ZTA and thus the "findings" of this study should be distributed to all interested parties for review before the next City Council vote on this issue. Therefore, I request that you defer voting on part 3 of this ZTA until all of the "findings" are complete.

Also, for a better understanding of the "need" for this proposed ZTA and as allowed for under the Calif. Public Records Act, I am requesting to review all documents and notes relating to the issue of "staff being approached regarding the inability of an existing auto parts related business to expand within the DC zone."

Finally, when investors invest in cities, one of the main things they look for is clear and solid zoning and a continuously upheld General Plan. This proposed ZTA (regarding auto parts sales) does NOT uphold the General Plan and is NOT a minor clarification. It is a major change to the General Plan, goes against the stated vision of the DC zone and is bad for the business environment of Banning.

Thank you for your consideration in this matter,

*Scott Munson*

Scott Munson (818-882-3203)

20649 TULSA ST  
CHATS WORTH, CA 91311



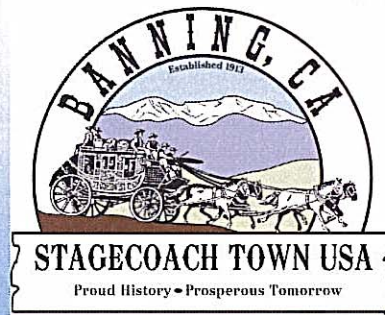
**Exhibit “B”**

**to the September 10, 2018, Adjourned Regular  
Meeting Minutes**



# RESOLUTION 2018-05UA

SEPTEMBER 10, 2018



## BACKGROUND

- IN JANUARY OF 1993 THE CITY COUNCIL DIRECTED STAFF TO EVALUATE POSSIBILITY OF CONTRACTING THE WASTEWATER TREATMENT PLANT (WWTP; WATER RECLAMATION FACILITY).
  - AT THAT TIME STAFF PRESENTED THE FOLLOWING REASONS FOR CONTRACTING OUT THE O&M OF THE WWTP
    - EXPECTED SAVINGS IN THE RANGE OF 20% TO 45%
    - EXPERIENCED CONTRACTOR WOULD EXTEND THE LIFE OF THE FACILITIES THROUGH MAINTENANCE PROGRAMS
    - GETTING AND REMAINING IN COMPLIANCE WITH STATE AND FEDERAL REGULATIONS
- IN JUNE, 1993 THE CITY OF BANNING AWARDED A CONTRACT TO JMM OPERATIONAL SERVICES, INC FOR THE O&M OF THE WWTP.
  - JMM OPERATION SERVICES, WAS LATER ACQUIRED BY UNITED WATER SERVICES, INC. ("UNITED WATER") BETWEEN 1993 AND 1998.
- THE CONTRACT WITH UNITED WATER WAS EXTENDED FROM 1998 TO 2003, 2003 TO 2013 AND AGAIN FROM 2013 TO 2018.



## SCOPE OF WORK/CONTRACT REQUIREMENTS

- PROVIDE FIVE (5) FULLTIME CERTIFIED OPERATORS (10,400 HOURS) TO STAFF WWTP 7 DAYS A WEEK, 8 HOURS DAYS, INCLUDING AFTER HOUR ON-CALL COVERAGE.
- OPERATION AND MAINTENANCE OF WWTP AND FOUR LIFT STATIONS INCLUDING:
  - PREVENTATIVE MAINTENANCE OF TREATMENT PLANT EQUIPMENT AND BUILDINGS
  - LANDSCAPE MAINTENANCE INCLUDES GROUNDS MAINTENANCE OF 69 ACRES
    - WEED ABATEMENT
    - EROSION ABATEMENT
    - PERCOLATION PONDS (10 PONDS, 25 ACRES)
      - DISCING, DEWEEDING, SLOPE MANAGEMENT
    - WEED ABATEMENT OF SLUDGE BEDS
    - IRRIGATION REPAIRS
    - LAWN AND TREE CARE

## SCOPE OF WORK/CONTRACT REQUIREMENTS

- PAY FOR CONSUMABLES (E.G. CHEMICALS, LUBRICANTS, OFFICE SUPPLIES, ETC.)
- PAY FOR CONTRACTED SERVICES
- PROVIDE A LAB ANALYSIS PROGRAM
- PAY FOR MINOR CAPITAL EXPENSES; UP TO \$2000/OCCURRENCE AT WWTP AND UP TO \$1500 AT LIFT STATIONS PER YEAR
- PERMITS AND REGULATORY REPORTING
- TECHNICAL SUPPORT (ENGINEERING, PROCESS AND COMPLIANCE)
- EFFLUENT DISCHARGES WILL AT ALL TIMES MEET THE REQUIREMENTS OF REGULATORY AGENCIES
- CURRENT BASE MONTHLY RATE OF \$58,681 (\$704,172/YEAR)
- CURRENT AGREEMENT IS SET TO EXPIRE IN SEPTEMBER 30, 2018



## PREVAILING WAGE IMPACTS TO CONTRACT

- CA PREVAILING WAGE REQUIREMENTS APPLY TO CONSTRUCTION, ALTERATION, DEMOLITION, INSTALLATION, REPAIR AND MAINTENANCE WORK DONE UNDER CONTRACT PAID IN WHOLE OR IN PART BY PUBLIC FUNDS.
- IT WAS AGREED THAT SEVERAL TASKS WITHIN THE SCOPE OF WORK OF THE O&M OF THE WWTP ARE CONSIDERED ACTIVITIES THAT ARE REQUIRED TO COMPLY WITH PREVAILING WAGE LAW.
- IT WAS ESTIMATED THAT 1,758 HOURS ARE SPENT ON PREVAILING WAGE ACTIVITIES.
  - 1,038 HOURS WERE WORKED AT AN HOURLY RATE LESS THAN THE PREVAILING WAGE RATE
- \$42,008 IS THE REQUIRED INCREASE TO THE CONTRACT TO PAY THE MINIMUM PREVAILING WAGE RATE; INCREASE OF 5.97% FROM CURRENT CONTRACT AMOUNT.
- THE NEW CONTRACT AMOUNT WOULD BE \$62,182/MONTH (\$746,180/YEAR).

## IN-HOUSE O&M OF WWTP

- THE BUDGET AND FINANCE COMMITTEE EXPRESSED INTEREST IN THE IN-HOUSE OPERATION AND MAINTENANCE OF THE WASTEWATER TREATMENT/RECLAMATION PLANT
- STAFF PERFORMED A **LIMITED** SURVEY OF FOUR AGENCIES: CITY OF REDLANDS, CITY OF SAN BERNARDINO, CITY OF COACHELLA AND EASTERN MUNICIPAL WATER DISTRICT.
  - SURVEY DID NOT CONSIDER DIFFERENCES IN BENEFIT PACKAGES, DEDUCTIBLES (E.G. SOCIAL SECURITY, PERS CONTRIBUTIONS, ETC.)



	HOURLY RATES				ESTIMATED FULLY BURDENED ANNUAL SALARIES		
POSITION	AVERAGE LOW	AVERAGE MEDIAN	AVERAGE HIGH	COB FULLY BURDEN FACTOR	AVERAGE LOW	AVERAGE MEDIAN	AVERAGE HIGH
Chief Plant Operator	\$46.07	\$51.69	\$57.67	70.00%	\$162,892.91	\$182,781.14	\$203,931.73
O&M Tech 3	\$31.86	\$35.46	\$39.31	70.00%	\$112,670.22	\$125,393.63	\$138,993.09
O&M Tech 2	\$28.72	\$31.98	\$35.45	70.00%	\$101,560.11	\$113,083.05	\$125,345.90
O&M Tech 1	\$24.60	\$27.33	\$30.27	70.00%	\$86,983.83	\$96,654.79	\$107,034.72
O&M Tech 1/OIT*	\$20.97	\$23.27	\$25.76	70.00%	\$74,164.95	\$82,297.75	\$91,071.45
					<b>\$538,272.02</b>	<b>\$600,210.36</b>	<b>\$666,376.88</b>

\*OIT: OPERATOR IN TRAINER

	LOW	AVERAGE	HIGH
SUEZ CONTRACT	\$746,148	\$746,148	\$746,148
ESTIMATED FULLY BURDENED SALARIES	<\$538,272>	<\$600,210>	<\$666,377>
<b>ESTIMATED SAVINGS</b>	<b>\$207,876</b>	<b>\$145,938</b>	<b>\$79,771</b>
ESTIMATED ADDITIONAL EXPENSES (CHEMICALS, UTILITIES, FLEET, ETC.)	<\$80,000>	<\$80,000>	<\$80,000>
<b>ESTIMATED REVISED SAVINGS</b>	<b>\$127,876</b>	<b>\$65,938</b>	<b>&lt;\$229&gt;</b>



## RECOMMENDATION

- SUEZ HAS PROVEN TO BE A RESPONSIBLE CONTRACTOR CAPABLE OF EFFECTIVELY MANAGING THE WWTP.
- ITS IMPORTANT THAT THE CITY PRESERVE THE CONTINUED SUCCESSFUL O&M OF THE CITY'S WWTP.
- STAFF RECOMMENDS APPROVAL OF THE 2<sup>ND</sup> AMENDMENT TO THE CONTRACT WITH SUEZ:
  - ADJUSTMENT TO COMPENSATION RELATED TO PREVAILING WAGES
  - EXTENSION IN TERM FOR ONE (1) YEAR WITH OPTION TO RENEW FOR A SECOND YEAR.

## ALTERNATIVES

- REJECT AMENDMENT NO. 2
  - 300 DAYS TO FIND REPLACEMENT FOR SUEZ
- GIVE STAFF DIRECTION TO PREPARE FORMAL ANALYSIS FOR IN-HOUSE O&M
- GIVE STAFF DIRECTION TO PREPARE REQUEST FOR PROPOSALS (RFP) FOR THE O&M OF WWTP
  - NOTE: UPCOMING UPGRADES TO THE WWTP WILL CHANGE THE SCOPE OF WORK FOR THE O&M OF THE WWTP

