

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

02/12/2019
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Welch on February 12, 2019, at 5:04 p.m. at the Banning Civic Center Council Chamber, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Council Member Happe
Council Member Peterson
Council Member Wallace
Mayor Pro Tem Andrade
Mayor Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT Doug Schulze, City Manager
Kevin Ennis, City Attorney
Rochelle Clayton, Deputy City Manager
Tim Chavez, Fire Battalion Chief
Vincent Avila, Interim Police Chief
Heidi Meraz, Community Services Director
Tom Miller, Electric Utility Director
Maryann Marks, Interim Community Development Director
Art Vela, Public Works Director/City Engineer
Ted Shove, Economic Development Manager
Marie A. Calderon, City Clerk
Daryl Betancur, Deputy City Clerk
Laurie Sampson, Executive Assistant
Leila Lopez, Office Specialist

1. CALL TO ORDER

Mayor Welch called the regular meeting of the City Council to order at 5:04 pm.

The Invocation was given by Elder Jim Price, Church of Jesus Christ of Latter Day Saints.

Councilmember Peterson led the Pledge of Allegiance.

Roll call- All members present.

2. AGENDA APPROVAL

A motion was made by Councilmember Wallace, seconded by Councilmember Happe to approve the agenda. Motion carried 5-0.

3. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS

City Manager Doug Schulze introduced newly hired Deputy City Clerk Daryl Betancur.

Mr. Betancur stated he was looking forward to working with the community and with all city staff.

4. REPORT ON CLOSED SESSION

City Attorney Kevin G. Ennis reported out of closed session as follows:

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Pursuant to paragraph (1) of subdivision (d) of Section 54956.9) Name of cases: Sierra Club v. City of Banning, Case RIC 1900544 and Golden State Environmental Justice Alliance v. City of Banning Case RIC 1900654. **No 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). **Direction given to City Manager and City Attorney.**
3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Potential initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9). **No reportable action.**
4. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Pursuant to paragraph (1) of subdivision (d) of Section 54956.9) Name of case: City of Banning and People of the State of California v. Supreme Cannabis Club, Tony Macias, and Maria Dolores Macias, Case RIC 1821127. **Status report was provided.**
5. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Pursuant to Government Code Section 54956.8): Property description: APN: 532-120-001, -002, -004, -005, -008 through -012, -019 & -020 located in the general vicinity of Ramsey Street and Hargrave Street. City Negotiator: Douglas Schulze, City Manager and Ted Shove, Economic Development Manager – Negotiating Parties: Fountain of Life Temple Church of God in Christ, Inc., Frank J. Burgess and Lorna Burgess, Burgess Family Trust, Frank J. Burgess, Humberto and Eulogia Ramirez, Family Trust, James Burgess Fall and Betty Lmai, Family Trust, Jen H. Huang, Krystal P. Cruz, Louis S. Lopez Trust, Raymond Ngoc and Lucy Nguyen Huynh Revocable Trust, the Shan Liang, Terra Firma Enterprises, LLC.; Under Negotiation: Price and Terms. **Direction given to Mr. Schulze and Mr. Shove. No final action.**
6. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8: Property description: APNs: 543-090-008, located in the general vicinity of Hathaway Street and Westward Avenue. City

Negotiator: Douglas Schulze, City Manager and Ted Shove, Economic Development Manager – Negotiating Parties: Douglas D & Adelheid F Finnie; Under Negotiation: Price and Terms. **Direction given to Mr. Schulze and Mr. Shove. No final action.**

7. CONFERENCE WITH LABOR NEGOTIATORS- Pursuant to Government Code Section 54957.6. **No reportable action.**

Agency Designated Representative: Doug Schulze, City Manager
Unrepresented employee: Community Development Director Candidate.

8. 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 Gorgonio Avenue and Martin Street. City Negotiator: Douglas Schulze, City Manager and Ted Shove, Economic Development Manager – Negotiating Parties: Mark Development, Inc.; Under Negotiation: Price and Terms. **Direction given to Mr. Schulze and Mr. Shove.**

5. PUBLIC COMMENTS (NON-AGENDA ITEMS)

Mayor Welch opened Public Comment for items not on the Agenda.

Ellen Carr representing Tender Loving Critters made few announcements regarding low cost spay and neuter clinic events, and provided dates. She made brief comments about increasing City pay for the Police Department Dispatchers.

Inge Schuler, Banning resident, thanked Interim Community Development Director Maryann Marks for her excellent support of the Planning Commission; spoke in disagreement about the new agenda format and other technical requirements.

Bill Hobbs thanked Mayor Welch for the great performance as MC at the veteran's expo; stated that he had enjoyed the presentation by Congressman Ruiz. Mr. Hobbs expressed contentment with the City Council; however, he stated that the City needs to change; that there needs to be more economic development to enable the city to thrive just like Beaumont; he thanked the City Manager for the recent event "Coffee with the City Manager" where he answered questions from members of the public.

6. CORRESPONDENCE

None

7. APPOINTMENTS

7.1 Parks & Recreation Commission Appointments

Nominations for Parks and Recreation Commissioners were made as follows:

A motion was made by Councilmember Peterson, seconded by Councilmember Happe to nominate Shelby Waldron for a seat on the Parks & Recreation Commission. Electronic vote was taken as follows.

AYES: Happe, Peterson, Andrade, & Welch
NOES: Wallace
ABSTAIN: None
ABSENT: None

A motion was made by Councilmember Wallace, seconded by Mayor Welch to nominate Leroy Miller for a seat on the Parks & Recreation Commission. Electronic vote was taken as follows.

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

A motion was made by Councilmember Peterson, seconded by Councilmember Wallace to nominate Arthur J. Cabral for a seat on the Parks & Recreation Commission. Electronic vote was taken as follows.

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

8. CONSENT ITEMS

A motion was made by Councilmember Peterson, seconded by Councilmember Wallace, to approve the consent calendar with the exception of item 8.5, which was pulled for a separate discussion by Councilmember Happe. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Public Comment:

Inge Schuler spoke in disagreement to page 47 of the minutes of the January 22, 2019 City Council meeting stating that the minutes as written did not accurately reflect her comments; and that her comments were "truncated". *Public written comments were submitted and made part of the record.*

8.1 Approval of Minutes from the Following City Council Meetings:

January 22, 2019, Planning Commission Interviews
January 22, 2019, Special City Council Meeting
January 22, 2019 Regular City Council Meeting

Action: Approved by Minute Order No. 2019-020

- 8.2 Receive and File Contracts Approved under the City Manager's Signature Authority for the Month of January 2019.

Action: Approved by Minute Order No. 2019-021

- 8.3 Adopt Resolution No. 2019-14, Accepting a Federal Surface Transportation Program (STP) Grant and Approving the Execution of California Department of Transportation (Caltrans) Program Supplemental Agreement No. 005-F to the Existing Administering Agency-State Master Agreement Including Related Documents for Project No. 2014-06, "Ramsey Street Pavement Rehabilitation, Hargrave Street to West of Hathaway Street."

Action: Adopted Resolution No. 2019-14

- 8.4 Application for Authorization to Access State and Federal Level Summary Criminal History Information for Employment Including Volunteers and Contractors, and for Licensing or Certification Purposes for Cannabis Regulatory Permits.

Action: Adopted Resolution No. 2019-20

- 8.5 Adopt Resolution No. 2019-19, Approving and Accepting the Right-of-Way Dedication from APN# 541-181-032 and APN# 541-181-033 along Livingston Street for Road Purposes. (Pulled)

Councilmembers Happe and Peterson recused from voting on this item.

There was a brief discussion on this item with the consensus to table item to date uncertain.

Public Comment

Don Smith made comments related to the right-of-way.

A motion was made by Mayor Pro Tem Andrade to table item 8.5, seconded by Mayor Welch. Electronic vote was taken as follows:

AYES: Wallace, Andrade, & Welch
NOES: None

ABSTAIN: Happe & Peterson
ABSENT: None

Action: Tabled by Minute Order No. 2019-022

- 8.6 Adopt Resolution No. 2019-23, Approving an Agreement for the Purchase of Right-of-Way Dedication from Fountain of Life Temple of God in Christ, Inc. in an Amount Not-to-Exceed \$20,560.

Action: Adopted Resolution No. 2019-23

- 8.7 Adopt Resolution No. 2019-22, Approving an Agreement for the Purchase of Right-of-Way Dedication from Krystal P. Cruz in an Amount Not-to-Exceed \$17,100.

Action: Adopted Resolution No. 2019-22

9. ANNOUNCEMENTS & REPORTS

Mayor Pro Tem Andrade reported on having attended the WRCOG meeting in Riverside where two important issues were discussed; 1) the housing and transportation needs of populations; and 2) the fellowship program; she stated that she would report more on these items later.

Councilmember Happe, no report.

Mayor Welch reported on having attended the Mayor's and City Manager's meeting where significant policy issues were discussed on a number of topics including transportation, education, and public safety, which impact the cities of Banning, Beaumont and Calimesa.

Councilmember Peterson commented that he was opposed to the HERO and PACE programs, which the Western Riverside COG administers and asked his colleagues for a future status report on the lending practices by these two programs and the corresponding investigations relative to funding concerns and practices.

10. CITY COUNCIL COMMITTEE REPORTS

None

11. REPORT BY CITY ATTORNEY

City Attorney Kevin Ennis clarified two points that were discussed during the public comment portion of the meeting. The first issue had to do with the minutes, and how much information is included in the minutes. He stated that the rules state that the City Clerk provides an abbreviated record of the meeting proceedings.

He mentioned that minutes of the meeting do not need not be verbatim; thus, councilmember comments will not be included, but will be provided in summary format as best at the Clerk can. He stated that this rule also applies to public comments.

Second, on the issue of time limitations, he commented that there is a time limit on speaker comments; and that councilmembers were allowed to ask questions of the public, however, discussion of the merits of an item are neither appropriate nor allowed.

12. REPORT BY CITY MANAGER

City Manager Doug Schulze commented on several items, which included a brief statement about the minutes, which could be easily linked to the video; spoke about the Coffee with the City Manager event, which was successful and mentioned that about 70 residents from District 3 attended.

City Manager, Doug Schulze stated that he hoped to do more of these in the future; spoke briefly about the goal setting and strategic planning workshop planned for February 28; and provided a status report on the starting date of the new Chief of Police.

Mr. Schulze also provided two legislative alerts, one on AB213, and the other on HR530.

A brief discussion ensued relative to clarity on what these bills were intended to do with Mr. Schulze answering council's questions.

12.1 Meeting Order and Start Times

City Manager Doug Schulze reported on a citizen request to alter the order of the meetings.

A lengthy discussion took place regarding the logistics of accommodating the reordering of the workshop and closed session meetings; Mayor Pro Tem Andrade requested consideration for the regular meeting to start at 6:00 p.m. in consideration of her work schedule.

Don Smith spoke in favor of reordering the agenda to make it more accessible to people to attend.

Direction was given to staff to move forward with reordering the starting times of the workshop and the closed session meetings.

12.2 Request to add AB213 and HR530 for discussion to agenda. (Add-on)

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Happe to add this item to the agenda. Motion carried unanimously.

Following a lengthy discussion on the merits of these legislative bills, the City Council authorized staff to send letters of support.

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Happe to authorize staff to send letters of support on AB213 and HR530 as drafted. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

13. REPORTS OF OFFICERS

13.1 Adopt Resolution No. 2019-04, Approving Final Payment to Southern California Edison in the amount of \$96,705.61 for the Relocation of Overhead Transmission Facilities related to the Mid-County Justice Center.

Deputy City Manager Rochelle Clayton presented the staff report.

There were no public comments.

A motion was made by Councilmember Peterson, seconded by Mayor Pro Tem Andrade to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Action: Adopted Resolution No. 2019-04

13.2 Adopt Resolution No. 2019-15, Authorizing the City Manager to enter into a Software Services Agreement with OpenGov, Inc. for Cloud-Based Financial and Budgeting Subscription Solutions.

City Manager Doug Schulze presented the staff report.

There were no public comments.

A motion was made by Councilmember Peterson, seconded by Mayor Pro Tem Andrade to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None

ABSENT: None

Action: Adopted Resolution No. 2019-15

- 13.3 Adopt Resolution No. 2019-16, Authorizing the Electric Utility Heavy Duty Trucks and Equipment Replacement Program and the Purchase of two Heavy Duty Trucks.

Electric Utility Operations Manager Jason Smith presented the staff report and answered Council's questions.

There were no public comments.

A motion was made by Councilmember Peterson, seconded by Councilmember Wallace to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch

NOES: None

ABSTAIN: None

ABSENT: None

Action: Adopted Resolution No. 2019-16

- 13.4 Adopt Resolution No. 2019-17, Approving a Task Order Engaging Black and Veatch Corporation to Complete a Resource Study not to exceed \$50,000.

Electric Utility Director Tom Miller presented the staff report.

There were no public comments.

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Happe, to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch

NOES: None

ABSTAIN: None

ABSENT: None

Action: Adopted Resolution No. 2019-17

- 13.5 Adopt Resolution No. 2019-21, Authorizing the City Manager to enter into an Employment Agreement with Adam Rush for Community Development Director Services.

City Manager Doug Schulze presented the staff report.

There were no public comments.

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Happe, to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Action: Adopted Resolution No. 2019-21

Mayor Welch recessed the regular meeting of the Banning City Council and called to order a joint meeting of the Banning City Council, and Banning Utility Authority at **7:05 p.m.**

1. CALL TO ORDER

Board Members, Happe, Peterson, Wallace, Vice Chairman Andrade and Chairman Welch. All members were present.

2. REPORTS OF OFFICERS

21 Adopt Resolution No. 219-02 UA, Approving an amendment to the Professional Services Contract for the Design of Well C-8 with Hazen and Sawyer of Palm Desert, CA. for \$42,087.

Utility Director Tom Miller presented the staff report and answered Council's questions.

Don Smith provided comment on this item.

A motion was made by Councilmember Peterson, seconded by Councilmember Happe, to approve the item as presented. Electronic vote was taken as follows:

AYES: Happe, Peterson, Wallace, Andrade, & Welch
NOES: None
ABSTAIN: None
ABSENT: None

Mayor Welch adjourned the Utility Authority meeting and reconvene to the Regular City Council meeting at 7:18 p.m.

ADJOURNMENT

By consensus, the regular meeting was adjourned at 7:18 P.M.

Minutes Prepared by:



Daryl Betancur, 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=CnzIB0BOCu2L> , or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.