

MINUTES
CITY COUNCIL

03/12/2019
REGULAR MEETING

COUNCIL MEMBERS PRESENT: Councilmember Happe
Councilmember Peterson
Councilmember 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
Daryl Betancur, Deputy City Clerk
Matthew Hamner, Police Chief
Heidi Meraz, Community Services Director
Tom Miller, Electric Utility Director
Art Vela, Public Works Director/City Engineer
Suzanne Cook, Deputy Finance Director
Adam Rush, Community Development Director
Ted Shove, Economic Development Manager
Laurie Sampson, Executive Assistant
Leila Lopez, Office Specialist

I. CALL TO ORDER

A regular meeting of the Banning City Council was called to order by Mayor Welch on March 12, 2019, at 5:00 p.m. at the Banning Civic Center Council Chamber, 99 E. Ramsey Street, Banning, California.

Bill Dunn, St. Stephens Episcopal Church offered the invocation.

Councilmember Colleen Wallace led the audience in the Pledge of Allegiance.

II. APPROVAL OF AGENDA

A motion was made by Councilmember Wallace seconded by Mayor Pro Tem Andrade to approve the agenda as presented. Electronic roll call vote was taken as follows:

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

III. PRESENTATION

None

IV. REPORT ON CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9). Name of Case: 420 Vibing Solutions, Inc. v. City of Banning, Case No. RIC 1822867. **Case has been dismissed.**
2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to Government Code Section 54957
Title: City Manager. **Matter was concluded.**
3. CONFERENCE WITH LABOR NEGOTIATOR
Pursuant to Government Code Section 54957.6
Title: Executive Employees. **Direction was given to Ms. Clayton as City Negotiator.**
4. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Pursuant to Paragraph (1) of subdivision (d) of Government Code 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 No. RIC 1821127. **Status report was provided. There was no final or reportable action.**

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

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

Inge Schuler thanked the Council and everyone involved in the decision to send the Planning Commission members to the League of California Cities, Planning Commissioners Conference.

Banaya Haggan spoke in opposition to the Council's decision at the last meeting to grant the 12 month extension to Diversified Pacific.

Rick Rutherford commented he would like the city to commit to using renewable energy sources such as green source electricity and solar by putting an item on the agenda.

Sandra Reed made comments about making Banning beautiful and for the City to find ways to beautify the City.

Jerry Westholder spoke about the Banning Police Audit; and asked that this be discussed in an open forum.

Don Haggan spoke about the Diversified Pacific 12 month extension, stating that he was opposed to this decision. Made brief comments about the Police Department Audit stating that it contained no specifics.

Don Smith spoke about the remaining trash left over at the Banning Development Center on Lincoln and inquired as to what the plan was for that site; also spoke on the issue of homelessness and having an enforceable ordinance to prevent people from digging into trash containers.

Diego Rose spoke about a multitude of community issues including taxes, quality of life, economic development, crime, cannabis, and having a more proactive government.

Timothy Smith spoke about the Parks & Recreation Master Plan, and the need for more soccer fields.

Frank Burgess spoke about discussing item No. 3 under consent. He stated that the Council should listen more to the voters, and in order to get more people to attend, the times for the meetings should be reconsidered.

VI. CONSENT ITEMS

Mayor Welch asked if the Council wished to pull any items. Councilmember Happe requested that item No. 5 be pulled; Councilmember Peterson requested that item No. 3, and 4 be pulled for separate discussions.

A motion was made by Councilmember Wallace, seconded by Mayor Pro Tem Andrade to approve the rest of the consent calendar as presented. Electronic vote was taken as follows:

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

1. Approval of Special Meeting – 2/26/19 Minutes (Closed Session)

Action: Approved by Minute Order No. 2019-033

2. Approval of Special Meeting - 2/26/19 Minutes (Workshop)

Action: Approved by Minute Order No. 2019-034

3. Approval of Regular Meeting – 2/26/19 Minutes (Regular Meeting) (Pulled)

Public Comments

Frank Burgess spoke on the minutes of February 26, and inquired about the public hearing items 1; and 2; and sought clarification as to why Councilmember Happe recused himself on one, but not the other public hearing.

Mayor Welch commented that Councilmember Happe's recusal was because he was within less than 500 feet from the project site; and consequently, the law required him to recuse as he could have a potential conflict.

City Attorney Kevin Ennis further explained the rationale with respect to the 500 feet rule.

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

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

Action: Approved by Minute Order No. 2019-035

4. Receive and File Contracts Signed Under City Manager Authority for February, 2019. (Pulled)

Councilmember Peterson inquired about the Banning Police Audit, and stated that he could not find any evidence of approval.

Dough Schulze, City Manager commented that the Audit was part of a public records request that was recently submitted; that it was in the former Human Resources Deputy Director's files and that staff will make sure it comes forward.

Councilmember Peterson inquired about how the public would be able to view the Police Audit.

There were no public comments.

A motion was made by Councilmember Wallace, seconded by Councilmember Peterson 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: Received and Filed by Minute Order No. 2019-036

5. Adopt Resolution No. 2019-033; Amending two of the Electric Utility's Rate Schedules: Schedule DSG- Distributed Self Generation and Schedule A- Residential Services, for the Purpose of Clarifying Certain Conditions. (Pulled)

Councilmember Happe asked Electric Utility Director Tom Miller to speak on the intent of this proposal.

Tom Miller, Electric Utility Director made brief comments and explained the merits of the proposal and answered Council's questions. He stated that there had been some language changes in the Schedule DSG, and the Schedule A regarding residential services. He commented that the purpose with the language changes was to move where the production meter was close to the customers panel, which allows them to put other things behind that panel to do things or to use the energy that they were producing off their solar system however they want, but the City was not going to pay for it. Mr. Miller also explained briefly the language that was included in the different rate schedules with respect to credits and discount.

There were no public comments.

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

Action: Adopted Resolution No. 2019-33

6. Adopt Resolution No. 2019-34; Approving Agreement for Purchase and Sale and Escrow Instructions Between the City of Banning and James Burgess Fall, Jr., and Betty Imai Fall, Trustees of the James Burgess Fall, Jr. and Betty Imai Fall Family Trust in Connection with Ramsey-Hathaway Street Improvement Project (Portions of APN 532-120-018) for an amount Not-to-Exceed, \$6,665

Action: Adopted Resolution No. 2019-34

7. Revised Committee Assignments of Banning City Council for 2019.

Action: Approved by Minute Order No. 2019-037

VII. PUBLIC HEARING(S)

1. Resolution 2019-03; General Plan Amendment 18-2501; Ordinance No. 1541 approving Zone Change 18-3501 and making findings pursuant to CEQA; Design Review 18-7001; and Environmental Assessment 18-1501 for the Proposed Development of a 146,890 Square Foot Industrial Building within the General Commercial (GC) Land Use District Located on Developed and Undeveloped Property Located at 1897 West Lincoln Street, 1661 West Lincoln Street, 1617 West Lincoln Street, 1589 West Lincoln Street and Vacant Parcels to the East (APNs: 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045).....
(Staff Report – Adam Rush, Community Development Director)

Recommendation: 1) Open the public hearing, receive public comment, and close the public hearing; and 2) Adopt the Resolution 2019-03 (Attachment 1), Adopting an Initial Study / Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Environmental Assessment 18-1501), Approving General Plan Amendment 18-2501, and Approving Design Review 18-7001 for a Proposed 146,890 Square Foot Industrial Warehouse Building Project; and 3) Introduce, as read by title only, Ordinance No. 1541 (Attachment 2), an Ordinance of the City Council of the City of Banning, California, Approving Zone Change No. 18-3501 to Amend the Zoning Classification for Real Property Located on the North Side of Lincoln Street, East of 22nd Street at 1897 West Lincoln Street, 1661 West Lincoln Street, 1589 West Lincoln Street and Vacant Parcels to the East (APNs: 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045) from General Commercial (GC) to Business Park (BP) in Conformance with General Plan Amendment 18-2501. Ordinance 1541 pass its first reading.

Mayor asks the City Clerk to read the title of Ordinance 1541

“Ordinance 1541, an Ordinance of the City of Banning, California, Approving Zone Change No. 18-3501 to Amend the Zoning Classification for Real Property Located on the North Side of Lincoln Street, East of 22nd Street at 1897 West Lincoln Street, 1661 West Lincoln Street, 1589 West Lincoln Street and Vacant Parcels to the East (APNs: 538-230-014, 538-220-002, 538-220-003, 538-220-004, 540-180-041, 540-180-042, 540-180-043, 540-180-044 & 540-180-045) from General Commercial (GC) to Business Park (BP) in Conformance with General Plan Amendment 18-2501.

Motion: **I move to waive further reading of Ordinance 1541**
(Requires a majority vote of the Council)

Motion: **I move that Ordinance No. 1541 pass its first reading.**

Adam Rush, Community Development Director stated that at the request of the applicant, staff was recommending a continuation of this item to the April 9, Council meeting.

Public Comment

Michael Losso, Consulting Attorney spoke on behalf of the Supporters Alliance for Environmental Responsibility in support of the project.

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Wallace to continue the public hearing and agenda item to April 9. Electronic vote was taken as follows:

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

Action: Public Hearing and agenda item continued to April 9, by Minute Order No. 2019-038

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

Councilmember Happe, no report.

Mayor Pro Tem Andrade reported on having attended the Western Riverside Council of Governments (WRCOG) meeting, and provided an update on the HERO program in relation to the solar panels; stated that she would like to invite someone from the WRCOG to the next meeting to answer Council's questions on the HERO and PACE programs; attended the Science Fair Awards, and attended opening ceremony for Little League.

Councilmember Peterson made comments relative to the HERO and PACE programs; and stated that they have come to the City previously to provide information, but that there were still some legal issues surrounding these programs.

Councilmember Wallace attended the 2 x 2 School Board meeting; attended the State of Education in Riverside, and stated that we need to make our schools better and put them on the map.

Mayor Welch spoke about the opening ceremony of the Little League and thanked the parents; Jim, and Ann price for their work in building the program.

REPORT BY CITY ATTORNEY

Kevin Ennis, City Attorney clarified issues relative to Prop 215; and Prop 64; and spoke about the November 2018 Ballot measures related to Cannabis; stated that the City was moving forward with taking advantage of the opportunities that these ballot measures afforded to the City. In addition, Mr. Ennis stated that in contrast to other cities, the City does not have a Utility User Tax in response to comments made about the level of taxation in the City.

REPORT BY CITY MANAGER

Doug Schulze, City Manager reminded the audience about shoulder repair work that was to be done on SR60 from March 13-15; spoke about the Cannabis licensing issue stating that there has been a great deal of interest by 24 different parties; with two disqualifications; that we are preparing for the lottery.

Mr. Schulze stated that he takes considerable notes about the comments made during public comments, and that he tries to follow up at appropriate times. Spoke about solar energy and the timetable to commit to 100% renewal sources; commented that the City of Banning is a leader in terms of the percentage of renewable energy that makes up the profile in this community.

REPORT OF OFFICERS

1. Resolution, Approving an Agreement for the Purchase of Real Property at 1581 Charles St., Banning, in an Amount Not to Exceed \$475,020
(Staff Report – Ted Shove, Economic Development Manager)

Recommendation: 1) Approve the “Agreement for Purchase and Sale and Escrow Instructions Between City of Banning and Douglas D. Finnie and Adelheid F. Finnie, Trustees of the Finnie Family Trust dated July 27, 1990 located at 1581 Charles Street, Banning, (APN 543-090-0088)” 2) Authorize the City Manager to execute the Agreement for Purchase and Sale and Escrow Instructions and Certificate of Acceptance for Real Property located at 1581 Charles Street, Banning (APN 543-090-0088) 3) Authorize Administrative Services Director to make necessary budget adjustments and appropriations for FY 2019.

Ted Shove, Economic Development Manager presented the staff report.

Public Comment

Don Smith stated he had no objection to upgrading electrical systems; however, he expressed concern with the location being across from residential homes.

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: Approved Resolution No. 2019-35

**RECESS THE REGULAR MEETING OF THE CITY COUNCIL AND CALL TO ORDER A
JOINT MEETING OF THE BANNING CITY COUNCIL AND THE BANNING UTILITY
AUTHORITY**

- Roll Call – Board Members Happe, Peterson, Wallace, Vice Chairman Andrade, and Chairman Welch

IX. CONSENT ITEMS

(The following items have been recommended for approval and will be acted upon simultaneously, unless a member of the Utility Authority wishes to remove an item for separate consideration.)

Motion: Approve Consent items 1 through 1: Item ___, to be pulled for discussion. *(Resolutions require a recorded majority vote of the total membership of the Utility Authority)*

1. Receive and File Information Regarding the Agreed Upon Rules of Conduct of the San Gorgonio pass Ground Water Sustainability Agency

(Staff Report – Art Vela, Public Works Director)

Recommendation: Receive and File information regarding the agreed upon Rules of Conduct of the San Gorgonio Pass Groundwater Sustainability Agency (SGP-GSA).

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: Approved by Minute Order No. 2019-039 (UA)

**RECESS THE JOINT MEETING OF THE CITY COUNCIL AND UTILITY AUTHORITY
AND RECONVENE THE REGULAR MEETING OF THE BANNING CITY COUNCIL**

X. DISCUSSION ITEM None

**BANNING UTILITY AUTHORITY (BUA) – Next Meeting, March 26, 2019,
5:00 p.m.**

BANNING FINANCING AUTHORITY (BFA) – no meeting.

XI. ITEMS FOR FUTURE AGENDAS

1. Mills Act Update
2. Fee Suspension Update
3. Website Redesign
4. Street Naming Policy to Honor Land Owners
5. Contingency Plan for Residents During Emergencies
6. Appraisals Update
7. Honor Banning High School Senior Aliyah Amis
8. Golf Carts
9. Empty Lots Clean Up
10. Enterprise Zone
11. Police Audit

XI. ADJOURNMENT

By consensus, the meeting was adjourned at 6:24 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:
<http://banning.ca.us/ArchiveCenter/ViewFile/Item/2037> or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.**