

MINUTES
CITY COUNCIL

04/23/2019
REGULAR MEETING

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT Douglas Schulze, City Manager
Kevin G. Ennis, City Attorney
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 April 23, 2019, at 5:00 p.m. at the Banning Civic Center Council Chamber, 99 E. Ramsey Street, Banning, California.

Merle Malland, Chaplain, Banning Police Department offered the invocation.

Mayor Pro Tem Andrade led the audience in the Pledge of Allegiance.

II. APPROVAL OF AGENDA

A motion was made by Councilmember Peterson seconded by Councilmember Wallace 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

1. Mental Health Month **ORAL**

Mayor Welch presented a proclamation declaring the month of May as Mental Health Month in the City of Banning. Carol Schaudt accepted the proclamation on behalf of the Behavioral Health Commission of Riverside County.

IV. REPORT ON CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to Government Code Section 54956.8:
Property Description: APN: 532-130-011 and 012, located in the general vicinity of adjacent and south of the Banning Airport, adjacent and west of the Morongo Reservation [Southern California Gas Company]
City Negotiator: Ted Shove, Economic Development Manager
Negotiating Parties: Southern California Gas Companies
Under Negotiation: Potential Sale of Property. **Direction provided to City Negotiator.**
2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to Government Code Section 54956.8:
Property Description: APN: 532-100-003, -043, 537-261-043, 537-100-027, -028, -029, -032, -044, located in the vicinity of Ramsey Street and Highland Home Road
City Negotiator: Ted Shove, Economic Development Manager
Negotiating Parties: Khan Properties and Holdings, LLC
Under Negotiation: Potential Acquisition of the Property. **Direction provided to City Negotiator.**
3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to Government Code Section 54956.8:
Property Description: APN: 532-130-011, 532-180-034 & -035, located in the general vicinity of adjacent and south of the Banning Airport, adjacent and west of the Morongo Reservation
City Negotiator: Ted Shove, Economic Development Manager
Negotiating Parties: Truck Terminal Properties
Under Negotiation: Potential Sale of the Property. **Direction provided to City Negotiator.**

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

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

Mr. Frank Burgess stated for the record that at no point he had taken any photos in the Chamber of the Police Chief.

Inge Schuler expressed a concern about the minutes regarding public comments and correspondence received. She stated that it was her understanding that letters received under public comments/correspondence were attached to the minutes; she stated that in the past even lengthy correspondence were read into the record; Ms. Schuler also stated that when announcements are made, the dates of these should be included in the minutes.

Ellen Carr spoke on behalf of Tender Loving Critters and stated that Animal Action League will be in Banning on May 7th and 8th; commented that if anyone in the community wanted to make an appointment to use their services to call 760-366-1100; that if appointments were taken, then there was a waiting list; stated that if folks microchipped their pets, they also needed to register the pet with the chip company. Lastly, Ms. Carr asked for the City to remember the dispatchers as they are the heart of the department and they provide a valuable service to the community.

Paul Perkins spoke on the subject of the goals and objectives the City Manager had recently discussed and stated that there was one goal that remained to be done and that was to remove the social security requirement from the City; stated that all City employees had two retirements one social security and the other CalPERS; commented that he was in favor of the city dropping the social security tax of 12 percent, giving 6 percent back to the employees and the other 6 percent back to the City thereby reducing the City's costs; spoke on the subject of software for timely utility according to what was articulated in the goals; commented that the issue of smart meters for electric and possibly water had been going on for several years; that this was the right time to have electric utility billing automated as soon as possible. Mr. Perkins also stated that the City's website was bad and that it needed to be improved, spoke about community wide internet access.

Laura Leindecker spoke about the Chamber of Commerce celebrating the unity between the Chamber and the City on April 27; stated that the Chamber was also celebrating first responders; spoke on the chili cook off from 10 a.m. to 3:00 p.m. Ms. Leindecker complemented Community Services Director, Heidi Meraz for the great service provided in coordinating this and other events; stated that the community was welcome to participate in this event; that everyone was welcome.

Sandra Reed stated that she wanted to see the City more beautiful; stated that her dream was to make Banning beautiful and that she needed people's help in this effort; commented that through volunteering, planting flowers, and engaging the community

Banning could be beautiful; she urged people to get involved and asked anyone wishing to contribute to contact her at 951-325-0471.

Elizabeth Lopez commented that she had resided in Banning for many years and that she concurred with the earlier speaker as far as making Banning beautiful; spoke about the entrances to the City, which were not very appealing; that nobody takes care of the East side; that the community needed to come together; she offered to volunteer 909-492-6045.

CORRESPONDENCE

Deputy City Clerk, Daryl Betancur stated that a 20 page document had been received regarding the first public hearing on Ordinance No. 1541, Zone Change 18-3501 (Lawrence Equipment) and had been provided to the Mayor, members of the City Council, city staff and placed in the back table for public view; Mr. Betancur stated that said correspondence will be included as part of the record.

VI. CONSENT ITEMS

Mayor Welch asked if the Council wished to pull any items. There were no consent items pulled.

Mayor Welch open public comment on consent items, seeing none, he entertained a motion to approve the consent calendar.

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

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

1. Approval of Special Meeting – 4/09/19 Minutes (Closed Session)

Action: Approved by Minute Order No. 2019-059

2. Approval of Regular Meeting – 4/09/19 Minutes (Regular Meeting)

Action: Approved by Minute Order No. 2019-060

3. Receive and File Cash, Investments and Reserve Report for the Month of April 2019.

Action: Approved by Minute Order No. 2019-061

4. Approval and Ratification of Accounts Payable and Payroll Warrants Issued for the Month of March 2019.

Action: Receive and File by Minute Order No. 2019-062

5. Public Works Capital Improvement Project Tracking List for April 2019.

Action: Receive and Filed by Minute Order No. 2019-063

6. Receive and File Police Statistics Report for March 2019.

Action: Receive and File by Minute Order No. 2019-064

7. Adopt Ordinance No. 1542, Approving Zoning Text Amendment 19-97501 Amending Chapter 17.53 of Title 17 of the Banning Municipal Code to reduce the separation requirements between commercial cannabis cultivation, manufacturing, and testing laboratory uses and residentially zoned property and amending the definition of "Canopy Space." (***Second reading and adoption***).

Action: Adopted Ordinance No. 1542

8. Consideration and Approval of a Temporary Right of Entry Agreement with Southern California Gas Company.

Action: Adopted Resolution No. 2019-43

9. **Adopt Resolution Declaring the Intention to Levy and Collect Assessments for Fiscal Year 2019/2020, Approving the Engineer's Report and Setting the Date for the Public Hearing for Landscape Maintenance District No. 1.**

Action: Adopted Resolution No. 2019-44

10. **Funding Agreement for Economic and Business Development Services with Banning Chamber of Commerce.**

Action: Receive and File by Minute Order No. 2019-065

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).

Mayor Welch opened the public hearing at 5:35 p.m.

Adam Rush, Community Development Director presented the staff report and engaged in a lengthy discussion by stating that this was a continued public hearing from February 26, which had been continued several times since. He explained through a PowerPoint presentation the project specifics, stating that the expansion was on the easterly portion of the project site; explained the zoning in relation to the General Plan, and presented the conceptual landscaping plan.

Community Development Director Adam Rush stated that the Planning Commission unanimously recommended adoption of the resolution and the change of zone to the City Council, that the item was heard on February 26 with some objections received; since then, staff had been working with the applicant, City Attorney's office, and internal staff to provide responses to the received objections; the letter received on February 26 was sent to the applicant's consultants to address air quality and biological concerns, he stated that on April 12, he had received responses to these concerns; that staff reviewed the responses and prepared the staff report; subsequently, the responses were sent to the City Attorney's office and some additional updates were made.

In summary, Mr. Rush stated staff had modified and updated the findings to the resolution; that staff had updated the findings in the ordinance, and therefore staff was recommending three additional conditions of approval, which were not intended to be environmental or mitigation measures but they were conditions of approval recommended through the updated reports and were reiterating existing regulations that were already going to be required on the project such as air quality mitigation protocols that had to be followed under U.S. Fish and Wildlife and CVFW; he asserted that as the City Clerk had indicated this morning staff received another correspondence from the same law office that provided the February 26 correspondence in response to the staff report including the applicant's responses.

Mr. Rush explained the three new additional conditions of approval as follows:

Recommended Condition No. 1 – Prior to Issuance of a Grading Permit:

Birds and their nests are protected by the Migratory Bird Treaty Act (MBTA) and California Department of Fish and Wildlife (CDFW) Codes. Removal of vegetation or any other potential nesting bird habitat disturbances shall be conducted outside of the avian nesting season (February 1 through August 31). If habitat must be cleared during the nesting season, a preconstruction nesting bird survey shall be conducted. The preconstruction nesting bird survey must be conducted by a qualified biologist. If nesting activity is observed, appropriate avoidance measures shall be adopted to avoid

any potential impacts to nesting birds. The nesting bird survey must be completed no more than 3 days prior to any ground disturbance. If ground disturbance does not begin within 3 days of the survey date, a second survey must be conducted. Prior to issuance of a permit for rough grading, the Project's consulting biologist shall prepare and submit a report, documenting the results of the survey, to the Community Development Director.

Recommended Condition No. 2 – Prior to Issuance of a Grading Permit:

Prior to the issuance of a grading permit, the owner / applicant shall obtain a BMP (Best Management Practices) Permit for the monitoring of the erosion and sediment control BMPs for the site. The Public Works Department will conduct NPDES (National Pollutant Discharge Elimination System) inspections of the site based on Risk Level to verify compliance with the Construction General Permit, Stormwater ordinances and regulations until completion of the construction activities, permanent stabilization of the site and permit final. Grading and construction sites of "ONE" acre or larger required to develop a STORM WATER POLLUTION PREVENTION PLAN (SWPPP) - the owner/applicant shall submit the SWPPP to the Public Works Department for review and approval prior to issuance of a grading permit.

Recommended Condition No. 3 – Prior to Issuance of a Grading Permit:

The use of "Tier IV" equipment is recommended for certain grading and earth movement activities, as detailed in the updated Air Quality/GHG Analysis entitled "Response to the Comments Provided by SWAPE on the Lawrence Equipment Industrial Warehouse Project Initial Study/Mitigated Negative Declaration," dated April 8, 2019. The applicant shall incorporate Tier IV equipment into the Project Design, as specified by the report referenced herein. The Community Development Department and the SCAQMD shall monitor compliance with the Air Quality report, as revised, through implementation of this Condition of Approval.

Community Development Director Adam Rush stated that staff just wanted to make sure that we were being as environmentally responsible as possible; the applicant had accepted these conditions of approval; and that we had their concurrence; he commented that the applicant was present with their consultants should the council have any questions.

Staff recommended that any additional public comments were received; that the City Council close the public hearing; and the City Council adopt the resolution as incorporated and as revised; that the City Council introduce and adopt the revised ordinance and thereby approve the design review for the project.

Public Comment

Douglas Chermak attorney for Brazeau Drury, LLP in Oakland, California addressed the City Council with respect to the project site; stated that his office had submitted the February 26 letter that Community Development Director Rush had mentioned earlier;

that he had submitted an additional letter this morning; commented that he was here in support of that letter and on behalf of SAFER (Sustainers Alliance for Environmental Responsibility) a non-profit, public benefit corporation, whose purposes included contributing to the enhancement and preservation of the environment and advocating for programs, policies, and development projects that promote not only good jobs but also a healthy natural environment and working environment.

Mr. Chermak further stated that he wanted to touch on the key points in the letter, which included comments from the same experts that were included in the February 26 correspondence, those comments represented substantial evidence of a fair argument that the project will still have significant environmental impacts that need to be analyzed in a full environmental impact report; he argued that it was not appropriate to go forward approving a project with a mitigated negative declaration in light of the evidence that they had submitted.

He further stated that he wanted to highlight what those comments were in two key areas, with respect to significant impacts on biological resources, they had submitted an additional letter from Dr. Shawn Smallwood, Ph.D., in support of the letter earlier submitted in February, in essence, there was still an inadequate baseline in the environmental document with respect to analyzing impact on species; stated that the City had not conducted a consistency analysis per the Multiple Species Habitat Conservation Plan; that the City had not performed surveys for special status species and wildlife, notwithstanding the additional comments from the applicant's biologist, Dr. Smallwood explained how there had not been in fact any adequate detection surveys at this point.

He stated that Dr. Smallwood introduced evidence from current studies, and from literature and his own observations identifying special status species that would be present at the site; that the City should also conduct surveys for burrowing owls in accordance with the California Department of Fish and Wildlife guidelines; asserted that the occurrence of so many species at and near the site warrants the preparation of an environmental impact report; he stated that Dr. Smallwood also noted the shortcomings with the mitigated negative declaration to the extent that it attempted to rely on the Habitat Conservation Plan, which in and out of itself failed to meet its goals and objectives; the mitigated negative declaration also failed to adequately analyze wildlife movement via wildlife corridors at the project site.

Mr. Chermak outlined a number of deficiencies in the environmental report and stated that Dr. Smallwood recommended certain mitigation measures that should be included in an adequate impact analysis, which included: adequate protection surveys, compensatory mitigation and potential wildlife rehabilitation; that the air quality impacts were still inadequately analyzed in the MMD with respect to particulate matter. Finally, Mr. Chermak urged the Council to consider these comments and order the preparation of an environmental impact report.

Ellen Carr spoke on behalf of Tender Loving Critters stating that she was concerned for the humane treatment of all animals that could potentially be on the subject property site that are protected; that the City was obligated to do surveys to check; she urged that these animals be protected.

Oleg Ivaschuk, Frank Burgess, Laura Leindecker spoke in favor of the project citing various reasons among them: local employment, economic development, business creation, and benefits to the local economy base; that the City of Banning really needed businesses.

Melissa Fowler, Senior Biologist with PaleoWest spoke on behalf of DJL Properties, LLC stated that she had surveyed the project site for sensitive biological resources including United States Fish and Wildlife Service (USFWS) designated critical habitat, special-status plant and wildlife species, and sensitive vegetation communities. She further spoke of the methodology employed stating that lists of potential special-status species were queried from USFWS (2018a, 2018c, and 2018d); and the California Natural Diversity Database; that the results of these queries and other environmental analyses were reviewed in support of the biological resources assessment.

Ms. Fowler further stated that the project disturbance areas and suitable habitat for jurisdictional waterways, special-status species, and nesting birds within a 100-foot buffer were surveyed with 30-foot pedestrian transects where access was permitted; that inaccessible areas of the project site were surveyed using binoculars. She asserted that with respect to Dr. Shawn Smallwood's contention of impacts, she stated that Dr. Smallwood conducted a site visit of the proposed project site on February 2, 2019 and since this was a rainy day, his survey was conducted solely from his car window rather than a walk on the project site as she had; this meant that he did not survey the site with pedestrian transects; she further stated that regarding Dr. Smallwood's assertion that the City had not performed a consistency analysis per the Western Riverside County Multiple Species Habitat Conservation Plan, she argued that the project site did not fall within the land covered by a criteria cell unit of the Western Riverside County Multiple Species Habitat Conservation Plan contrary to what was asserted by Dr. Smallwood; and that boundaries of the Western Riverside County MSHCP were obtained from the County's database and the project site does not fall within the special survey area.

Ms. Fowler concluded that there was no critical habitat within the project area based on the biological resources assessment conducted within the project area; that no special-status plant or wildlife species were observed during the assessment; furthermore, the majority of special-status species that had been documented within the regional vicinity of the project site were not expected to occur because there is a lack of suitable habitat. She recommended that if construction mobilization occurs within the nesting season, a preconstruction survey was suitable; should active nests be identified, buffers should be established around the active nest until it has successfully fledged to adhere to Migratory Bird Treaty Act (MBTA) and California Fish and Wildlife and Game Codes. Lastly, she stated that with BMP's in place and

preconstruction nesting bird surveys, significant impacts to biological resources were not anticipated from the proposed project.

Ms. Fowler answered Council's questions relative to the survey methods she employed, which were the subject of some concern.

Mr. Vince Mirabella consultant on the project for DJL Properties, LLC, stated that he had prepared the health risk assessment, spoke about the level of emission control; and briefed the City Council about the type of equipment proposed to be used on the project site and answered Council's questions.

Mr. Wade Riggering spoke on behalf of DJL Properties, LLC and stated that he was part of the environmental team for Lawrence Equipment; that he was the person who brings all the consultants together; he stated that the documents presented as part of the project had been part of his work product, he summarized for the Council a number of points including the use of tier IV equipment, air quality, that tier IV was what it was used in the modeling; that the entire team of project managers, construction staff, environmental staff and architects discussed thoroughly what equipment was going to be on site; he further commented that ultimately due diligence had been made to satisfy the conditions of approval of the project.

Mayor Welch closed the public hearing at 6:02 p.m.

Councilmembers engaged in a substantial discussion about the merits of the project, and the length of time this project had been in the works; that there had been numerous delays; that there was nothing wrong with the Mitigated Negative Declaration, and that generally speaking, it was a good project because it was a project that would generate jobs and would provide other community benefits. It was also expressed by the Council that this was a good site for this type of project.

City Attorney Kevin Ennis reiterated that the Council's actions with respect to this item were to: 1) consider adoption of Resolution 2019-03; 2) approving General Plan Amendment 18-2501; and 3) approving Design Review 18-7001.

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Peterson to approve the items as read into the record by the City Attorney. Electronic vote was taken as follows:

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

A motion was made by Mayor Pro Tem Andrade, seconded by Councilmember Wallace to waive further reading and introduce by title only Ordinance No. 1541 as presented. Electronic vote was taken as follows:

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

Deputy City Clerk, Daryl Betancur read the title of Ordinance No. 1541 into the record.

Action: Waived further reading and introduced Ordinance No. 1541

Action Adopted Resolution No. 2019-03

2. Discuss and Consider Approving a Twelve (12) Month Extension for Tentative Parcel Map 33326 Located Generally North of Sun Lakes Boulevard and East of Highland Springs Avenue; APN # 419-140-057 Granting the Requested Twelve (12) Month Extension.

Adam Rush, Community Development Director presented the staff report and answered Council's questions in relation to the requested extension. Mr. Rush stated that this was the second to last extension granted.

There were a number of questions from the Council relative to the length of time this project had been in process, which according to record dates back to 2006, questions were asked of the applicant about the intentions with this property.

Mayor opened the public hearing at 6:10 p.m.

Public Comment

Bo Cooper representing the property owner stated that his client had purchased this property back in 2007; that they had been marketing it since then, he stated that due to its configuration it had been a challenge finalizing and recording a final map because they do not know what the final map was going to look like.

Mayor Welch closed the public hearing at 6:23 p.m.

A motion was made by Councilmember Happe, 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: Approved 12 month extension by Minute Order No. 2019-066

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

Councilmember Happe. No report.

Mayor Pro Tem Andrade reported on the Coffee with the City Manager event in her District with representatives from all over the city being present; thanked the staff for organizing this meeting; spoke about a local meeting she and Councilmember Wallace attended here in Banning with the elected women of Riverside County, which was a good opportunity to showcase the City; mentioned the Easter egg hunt at Sylvan Park, which was a successful event where the community came together. She thanked Chief Hamner for participating, and former Councilmember Franklin for helping organize this event.

Councilmember Wallace stated she had attended the 2x2 meeting with the School Board; reported that she had asked School Board officials if they were interested in serving on the Downtown Ad-hoc Committee, and two Board members expressed interest in attending the next meeting.

Councilmember Peterson. No report.

Mayor Welch. No report.

REPORT BY CITY ATTORNEY

None.

REPORT BY CITY MANAGER

City Manager, Douglas Schulze reported on the Cannabis dispensary lottery process stating that the City had received 25 applications that were submitted for the lottery, two of those were rejected at the review process, both of those applicants appealed that decision, which caused some substantial delays due to the time it took to identify a hearings officer to hear those appeals; he stated that the City had entered into an agreement with the Office of Administrative Hearings and dates had been set up for those hearings; he also reported on the Coffee with the City Manager event, and that staff was planning additional meetings for Districts 2 and 4.

Mr. Schulze provided an update on city recruitments indicating that all authorized dispatcher positions had been filled; with Sol Avila, being appointed as Executive Assistant to Chief Hamner, and that staff was working on filling other critical positions. He mentioned that he wanted to remind Mayor Welch that the School District had asked Councilmembers to identify one of the schools to adopt; two Councilmembers had actually selected schools; and that we needed preferences from other Councilmembers.

REPORT OF OFFICERS

1. Adopt Resolution Amending Classification and Compensation Plan.

City Manager, Douglas Schulze presented the staff report and answered Council's questions. He explained that the Administrative Services Director/Deputy City Manager position had become vacant following the resignation of Ms. Rochelle Clayton; he explained that the Administrative Services Director was responsible for financial services, human resources and risk management, information technology, utility billing, and oversight of the City Clerk's functions, that the amount of time required to properly manage these functions and supervise the direct reports did not allow for additional duties, which would be assigned to a Deputy City Manager, consequently, he was proposing to eliminating the Deputy City Manager responsibilities from that job description and reclassifying that position to Administrative Services Director only.

There were several questions from the City Council regarding the structural reorganization, salary savings, and whether or not the position of Deputy City Manager was an additional budgeted position. City Manager Douglas Schulze responded that he did not intend to fill the position at this time.

There was no public comment.

A motion was made by Councilmember Wallace, seconded by Mayor Welch 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. 2019-45

2. Adopt Resolution Approving a Professional Services Agreement with CPS HR Consulting for Executive Recruitment Services in an Amount Not to Exceed \$27,000.

City Manager, Douglas Schulze presented the staff report and answered Council's questions relative to the recruitment process, length of time for the recruitment and any guarantees of an applicant remaining on the job.

There was no public comment.

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. 2019-46

3. Adopt Resolution of the City Council of the City of Banning, California, Authorizing Application for, and Receipt of SB 2 Planning Grants Program Funds.

Adam Rush, Community Development Director presented the staff report and answered questions on the application process, intend, and type of funding received for this competitive grant.

There was no public comment.

A motion was made by Councilmember Happe 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. 2019-47

4. Adopt Resolution, Awarding a Construction Agreement for Project No. ATP-5214 (012) "ATP Cycle 2 – Bicycle and Safe Routes to School Improvements" to Calpromax Engineering, Inc., Placentia, California, in the Amount of \$882,814 and Establishing a Total Project Budget of \$905,095 and Rejecting all Other bids.

Art Vela, Public Works Director/City Engineer presented the staff report providing a brief history of the process that led to the selection of this contractor, and answered Council's questions.

There was no public comment.

A motion was made by Councilmember Happe 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: Adopted Resolution No. 2019-48

5. Discuss and Consider One-Year Suspension of Certain Business Related Planning Department Application Fees.

Ted Shove, Economic Development Manager presented the staff report and indicated that last year on March 27, 2018, the Council had approved a one-year fee suspension on certain business planning department applications fees, and that those fees included conditional use permits, sign permits and one-time home occupation permits, the intent of the fee suspension was to promote economic growth and improve the City's competitive position for business recruitment. He stated that the purpose of this item tonight was to determine if the Council had any intention of extending this for another year or terminating the fee suspension.

There was a brief discussion on how the fee suspension initially started with Councilmembers articulating the merits of continuing with any economic incentive that the City can afford in order to attract new businesses; although some Councilmembers addressed the need for promoting the fee suspension more aggressively to ensure businesses were taking advantage of the program, and using this benefit.

Public comment

Paul Perkins commented that the City should have a way to FastTrack starting a business in the City in order to stimulate economic development.

A motion was made by Councilmember Happe seconded by Councilmember Peterson to extend the fee suspension of certain business related Planning Department Application Fees. Electronic vote was taken as follows:

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

Action: Adopted Resolution No. 2019-49

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
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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. Adopt Resolution of the Utility Authority, Awarding a Professional Services Agreement to Falen Law Offices, LLC for Legal Services Related to the Transfer of the San Gorgonio Flume System in the Amount of \$100,000 and Awarding a Professional Services Agreement to Churchwell White, LLP in the Amount of \$100,000 for Legal Services to the Water and Wastewater Divisions of the Public Works Department.

Art Vela, Director of Public Works/City Engineer presented the staff report. He explained that the Water and Waste Water Divisions of the Public Works Department were currently engaged in several projects and activities that required specialized legal representation; some of the projects included the San Gorgonio Flume or the transfer of that flume from SCE to the City of Banning, it also included current activities related to sustainable ground water management act, something new to California; that we are currently getting into compliance with.

Director of Public Works Art Vela further commented that the City also held a seat on the committee of the Beaumont Water Master, which he currently chairs and that in order to meet these specialized legal consultations, an RFP was developed back in October, 2018 resulting in six responses, which were evaluated against specific criteria; he reiterated that he was very comfortable making the recommendation of awarding these professional services agreements to these two law firms.

Following Mr. Vela's presentation, there were several comments and questions from the Council relative to whether or not these firms have brought legal actions against the government and whether or not they had prevailed. Other issues raised whether or not they had any issues practicing in the State of California.

Public Comment

Paul Perkins asked a question related to the Flume cost allocation. Director of Public Works/City Engineer, Art Vela stated that these law firms would be representing the City of Banning's interests; that the members of the joint group had their own legal representation.

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. 2019-07 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, May 14, 2019,
5:00 p.m.**

BANNING FINANCING AUTHORITY (BFA) – no meeting.

XI. ITEMS FOR FUTURE AGENDAS

1. Website Redesign
2. Policy on Naming Streets to Honor Landowners
3. Emergency Contingency Plan for Residents
4. Golf Carts
5. Digital Billboards

XII. ADJOURNMENT

By consensus, the meeting was adjourned at 8:11 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.