

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 June 11, 2019, at 5:15 p.m. at the Banning Civic Center Council Chamber, 99 E. Ramsey Street, Banning, California.

Merle Malland- Banning Police Chaplain offered the invocation.

Councilmember Don Peterson 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

1. Proclamation Recognizing Heidi Meraz Upon Retirement from City Service after 26 Years of Service **ORAL**

Heidi Meraz was recognized with a plaque congratulating her on her devoted service to the City of Banning for the past twenty-six years.

2. RCTC 60 Truck Route Presentation **ORAL**

Cheryl Donahue, Public Relations Manager and Bryce Johnson, Construction/Capital Projects Manager with Riverside County Transportation Commission addressed the Council with respect to the construction rehabilitation work that has commenced on the 60 Freeway, which has the potential to impact the pass communities.

IV. REPORT ON CLOSED SESSION

1. **CONFERENCE WITH LABOR NEGOTIATORS** Pursuant to Government Code Section 54957.6 – City Designated Representative: Doug Schulze, City Manager, Kevin Ennis, City Attorney, Banning Police Officer Association (BPOA). **Direction given to City Manager Douglas Schulze on this item.**
2. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to paragraph (1) of subdivision (d) of Section 54956.9)
Name of Case: James Arthur Algea II and Cali Emerald Care, Inc. v. City of Banning
Case No. RIC 1903009. **Status report was provided and direction was given.**
3. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
(Pursuant to Paragraph (2) of Subdivision (d) Government Code Section 54956.9)
Number of Cases: One Case. **Direction was given to legal counsel with respect to this item.**
4. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to Subdivision (a) of Government Code Section 54956.9)
Name of Case: Sustainers Alliance for Environmental Responsibility (SAFER) v. City of Banning, et al. (Lawrence Equipment Warehouse Project)
Case No. RIC 1903059. **Direction was given to legal counsel regarding this item.**
5. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
(Pursuant to Government Code Section 54956.8)
Property: 4133 West Wilson Street, Banning, California

City Negotiators: Douglas Schulze, City Manager and Tom Miller, Electric Utility Director

Negotiating Parties: Dora and Art Nordquist

Under Negotiation: Price and terms for potential purchase of electrical equipment and meters in the Mountain Air Mobilehome Park. **Direction was given to Electric Utility Director Tom Miller and City Manager Douglas Schulze regarding this item.**

6. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

(Pursuant to Government Code Section 54957). **Item was concluded.**

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

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

City Attorney Kevin G. Ennis stated that if members of the public wanted to make public comments at this time on items on the workshop, they could also do so at this time.

Public Comments

Richard Bradford stated that he was pleased to see the City moving forward toward green source electricity and hoped that the City could do something to expedite those efforts; commented on building community in Banning and one of the things that would help in that regard would be if the City could donate bare land on lots that the City own on a temporary basis for the development of community gardens.

Inge Schuler stated that she wanted to thank Mr. Art Chacon, Code Enforcement Officer because he had been extremely prompt and helpful in trying to solve a major issue in the neighborhood because people were just letting the weeds grow; she wanted to thank him for his immediate response and his help in getting that problem solved; commented that she saw in the patch newspaper a notice for a historical meeting at the Beaumont's Women's Club on Thursday at 7:00 p.m., which was short notice and she could not make it; that she found the concern of the people in charge with the historical background and historical homes rather ironic in the view that you have pitched the Mills Act from the future agenda items; lastly she commented that Mr. Burgess and she had attended a WRCog meeting in Riverside last Thursday because she was curious to find out what exactly was the working order of TUMF program; that it was a very enlightening discussion with Christopher Gray and Daniel Ramirez-Cornejo; she stated that her questions were answered and that she now understood the program that it seems to be worthwhile.

Ellen Carr speaking on behalf of Tender Loving Critters remained the audience that Animal Action League will be in Banning June 25 and June 25; that if you wanted to make an appointment to get your pet spayed or neutered make sure you call 760-366-1100; she also stated they will also be back in July for three days on July 15, 16 and

17, which meant that at least 90 cats and dogs would be able to get spaded or neutered; commented that TLC was still offering the half price on microchipping for \$8.00; she stated that TLC wanted to say thank you to Heidi Meraz, Community Services Director because she has been wonderful and has been the perfect hostess at the Community Center; she also spoke on her behalf and stated that we needed to take care of the dispatchers; that even though it was no time for their contract renewal, that when it is time remember them; spoke about the Police Department Citizen Volunteers and stated that they could use more help as there were only 5 of them.

John Cunningham addressed the City Council about moving the City Council meeting to a later time to enable more working people to attend.

Sue McConnell spoke about the apartment project that was proposed to be built on Hardgrave that she has heard about; that the area did not need more apartments because it will require more water and that water was a precious commodity; stated that she wanted to get more information about that.

Mayor Welch stated that this was a matter that was on the agenda for discussion later on during this meeting.

CORRESPONDENCE

Deputy City Clerk, Daryl Betancur announced that there had been a letter of correspondence received from Tom Miller, Electric Utility Director in opposition to Rezoning of 1581 Charles Street, Banning, CA. APN: 543-090-008-5.

VI. CONSENT ITEMS

Mayor Welch asked if the Council wished to pull any items. Seeing none, he entertained a motion to approve the consent calendar as presented.

A motion was made by Councilmember Peterson, seconded by Councilmember Wallace to approve the rest of 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 – 5/28/19 Minutes (Closed Session)

Action: Approved by Minute Order No. 2019-079

2. Approval of Special Meeting – 5/28/19 Minutes (Workshop)

Action: Approved by Minute Order No. 2019-080

3. Approval of Regular Meeting – 5/28/19 Minutes

Action: Approved by Minute Order No. 2019-081

4. Receive and File Contracts Approved Under the City Manager's Signature Authority for the Month of May, 2019.

Action: Approved by Minute Order No. 2019-082

5. Receive and File Cash, Investments and Reserve Report for April, 2019.

Action: Approved by Minute Order No. 2019-083

VII. PUBLIC HEARING(S)

1. Adoption of Resolution, Approving the Cedar Hills Apartments ("The Project"), General Plan Amendment No. 18-2504: Zone Change No. 18-3503; Design Review No. 18-7011; and Environmental Assessment No. 18-1508 for the Proposed Development of a 96-Unit Apartment Facility and Associated Infrastructure on 7.08 Acres of Land Within the Low Density Residential (LDR) Land Use District (APNS 534-283-011 and 534-283-014).

Adam Rush, Community Development Director stated that this was an item that was continued from the May meeting due to some issues that have been raised; he stated that since then staff had met with representatives from the developer who are going to resubmit plans to integrate the extension of Wilson Street into the project; Mr. Rush commented that the resubmittal was taking some time because they have to go through Engineering; commented that staff had looked at their preliminary concept and given them direction.

Adam Rush, Community Development Director stated that at this time the applicant was requesting a continuance of the public hearing to the July 9 City Council meeting. He further commented that since there had been a question on this matter at the beginning of the meeting; that he wanted to provide a brief narrative about the project. He stated that at the May meeting, there was an item brought up by staff and by Councilmember Peterson in regards to the extension of Wilson Street that was not incorporated into the plan originally; that the developer had looked at the options and they were still willing to move forward.

Councilmember Peterson expressed that he tried to put himself in the position of the developer and these land owners; that they made an application and they had gone through process plans and they made it all the way through to Council

and suddenly it was revealed that they were missing a big piece of the puzzle, which was the Circulation Element related to the extension of Wilson Street; that he just wanted to know how that happen.

Mr. Rush stated that he had done some research and went back into the file and that the extension piece was something that was missed on the part of staff; that the plan was reviewed at the staff level sometime ago; that was not an excuse but as the Council may know there had been some turn over in the department and that in combination with the development maps, which showed alignments not parcels compromised the review process.

Councilmember Wallace asked that since they were going to incorporate Wilson Street, whether or not it will go through all the way to Hathaway; and asked about the houses on the path of that extension. She further articulated her discomfort with having apartments there rather than homes as she preferred.

Mr. Rush explained that in terms of the extension, the applicant will incorporate the half width, which includes 38 feet of pavement from the centerline to the curb and the 12 feet of landscaping for a total of 50 feet; the second half of that half width is going to be a City effort to ultimately complete that as it is evident that there are structures within that right away; he stated that is something the City was going to have to tackle at a later time.

Councilmember Happe expressed concerns about the issue of the right away not absorbing the whole brunt of the city's mistakes.

Mr. Art Vela, Director of Public Works/City Engineer and Mr. Adam Rush, Community Development Director provided answers to the pressing questions from Council relative to the 50 feet right way of the property line; the Circulation Element and other relevant topics on the Engineering side of the project and possible impacts.

There was an extensive discussion relative to the proposed configuration of the road being built only half way; with questions from Council regarding the future use of how the rest of the road could be build all the way through and the implications of such extension.

Mayor Welch open the public hearing

Public Comment

John Cunningham stated that it was his understanding that this was originally low density property; that somewhere it got changed to high density which was wrong to begin with, that we don't have the pieces to put it together so if we have high density we are going to have more traffic; thus it makes no sense to

continue on with this project; and because when I moved to Banning because it was low density most of the property in Banning are zoned low density; I have a half acre and I am small compare to most property owners in Banning.

Inga Schuler stated that she wanted to make sure that this mishap did not happen again; she stated that she felt terrible making decisions on the Planning Commission without having a complete set of facts or information about a particular project; she stated that she felt sorry for the Developer who came up with plans, and had everything done, only to be told at the last moment that by the way, you are building your homes on a right-of-way; stated that this was not acceptable at all; that this was done before Mr. Rush became the Community Development Director; that she did not know the exact date of the Circulation Element because they copy she had was not dated; commented that when we get together to redo the General Plan, that we should have some things to rectify this; that we stick to the provisions of the General Plan; she apologized to the Developer for having had that happen to them and that she hoped that they did not incur additional expenses.

Sue McConnell stated that with this project, there was going to be more traffic, less water; that Banning did not need more apartments; that there was a great deal of talk about beautifying Banning, and that this was not the way to do it; spoke against moving people out of their homes because they were on the path of a right-of-way for a project it was wrong.

City Attorney, Kevin G. Ennis spoke on the issue of whether or not the City Could just move people and articulated the manner in which these issues are resolved whether it was through negotiation with the property owners or other legal avenues.

A motion was made by Councilmember Happe, seconded by Councilmember Peterson to continue this item and the public hearing to July 9. Electronic vote was taken as follows:

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

Action: Approved by Minute Order No. 2019-084

2. Adoption of Resolution, Approving Tentative Tract Map (TTM) 36710, Variance No. 19-3001, Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) for a Proposal to Subdivide Four Lots Totaling 10.6 Acres Into 39 Single-Family Residential Lots and Three Lettered Lots and a Variance to Allow for a Reduced Lot Size and Width for a Lot 7, Assessor's Parcel Numbers 534-183-014, 534-200-004, 534-200-008 and 534-200-047

Adam Rush, Community Development Director indicated that the applicant was requesting consideration of a Mitigated Negative Declaration and Mitigation Monitoring Report and Program for a project proposing to subdivide four existing parcels, totaling 10.6-acres, into 39 single-family residential lots within the Low Density Residential (LDR) General Plan and Zone; that the application also includes a Variance application (19-3001) to allow for a reduction in the minimum size and minimum width for residential lot seven.

Mr. Rush also added that the project was considered at the May 1, 2019 Planning Commission meeting; that at that meeting, the Planning Commission voted 5-0-0 to recommend approval of the project to the City Council; commented that during the Commission's hearing, modifications were made to the recommended set of Conditions to provide clarity on the existing Edison easement that traverses from south to north, between lots 8-19.

Public Comment

Paul Cooper with United Engineering Group spoke on behalf of developer/property owner and answered Council's questions about the proposal.

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. 2019-61**

3. Adoption of Resolution, and Ordinance No. 1547 Making Findings Pursuant to CEQA, Ordinance No. 1547 Amends Chapter 17.12 "Commercial and Industrial Zoning Districts" and 17.36 "Sign Regulations of Title 17 "Zoning" of the Banning Municipal Code to Authorize Electronic Message Centers in the Downtown Commercial Zoning District, Subject to a Conditional Use Permit (CUP) and Development Agreement; and Adoption of Resolution Denying Zoning Text Amendment (ZTA) 19-97502, Subject to the Findings and Conclusions Incorporated Herein, City of Banning Downtown Commercial Zoning District.

Adam Rush, Community Development Director stated that at the recommendation of the Planning Commission staff was bringing this to the Council for approval; that the item before the Council entails the placement of Electronic Message Centers within the Downtown Commercial Zoning District;

that Zoning Code Text Amendments fall within the purview of the Planning Commission and that a recommendation from the Commission was sought regarding the proposed Zoning Text Amendment; he indicated that after receiving the Planning Commission's recommendation, the City Council will make a final determination on the proposed amendments to Chapter 17.12 and 17.36 of the Municipal Code, concerning Electronic Message Centers within the Downtown Commercial Zoning District.

Public Comment

Mr. Alex Garcia addressed the Council regarding his proposal. He stated that a 30 foot height sign will be visible from the freeway but will not be readable; that CalTrans required a limit of 1200 square feet; that in order to draw people to your City, the City needed to have something magnificent similar to the Beaumont sign, which he owns already; that the sign will have a welcome sign to Banning; that this will be a monument sign; he further commented that according to AAA statistics that when you place a monument sign like this in your city, it had the potential of raising revenues by 30% for the businesses.

He stated that according to CalTrans you could not place another monument sign like this within 1,000 feet; thus, the oversaturation argument was not accurate.

Matt stated that one thing to keep in mind was the light emitting by these signs at night and how that may distract drivers at night time; he asked if there were any limits.

There were questions from the City Council on a number of issues including the height of the sign and how the height is determined; issues of aesthetics, placement; maintenance issues; design; benefits to the community; over saturation of similar sign, appropriateness; and the timing for the placement of the sign.

Deputy City Clerk, Daryl Betancur read the title of the Ordinance No. 1547 into the record.

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

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

Action: Introduced Ord. 1547 for first reading and introduction by Minute Order No. 2019-085

4. Resolution Adopting a Notice of Exception and Approving General Plan Amendment to Incorporate the City of Banning's 2017 Local Hazard Mitigation Plan (LHMP) Into the Safety Element of the General Plan.

Adam Rush, Community Development Director provided a brief summary on the background of this item indicated that back in 2004, the City Council adopted the Local Hazard Mitigation Plan (LHMP); that subsequent to the Council's adoption, this plan was approved by the Federal Emergency Management Agency (FEMA) and transmitted to the Riverside County Office of Emergency Services (OES); that in order for Banning to be eligible for the maximum level of reimbursement funding, from the State of California, for expenses incurred as a result of the local hazards, natural disasters, and/or declared public safety emergencies; that state law required that the LHMP be incorporated into the City's Safety Element of the City General Plan pursuant to AB2140.

Mr. Rush commented that therefore, this proposed GPA will incorporate the LHMP into the Safety Element; that staff was not proposing any revisions to the LHMP in conjunction with the proposed General Plan Amendment; that the only changes, to the General Plan Safety Element, were to amend the text to incorporate the Local Hazard Mitigation Plan and to add it to the General Plan Safety Element.

Public Comment

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. 2019-62

5. Adopt Resolution, Confirming the Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Years 2019/2020.

Art Vela, Director of Public Works/ City Engineer stated that this was an item that was brought to the City Council on an annual basis; that this item was the last action in affirming the assessment for the Landscape Maintenance District No. 1; he stated that just as a reminder on April 23, 2019, the City Council adopted Resolution No. 2019-44, approving the Engineer's Report; that if approved the Resolution would allow the City to generate the needed revenue in the form of assessments to offset the expenses and the general operation and maintenance for the Landscape Maintenance District No. 1.

Councilmember Happe inquired if there were other items on the agenda tonight similar to this, with Mr. Vela stating that there was another item approving the maintenance contract for the Landscape Maintenance District No. 1 contract.

Public comment

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. 2019-63

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

Councilmember Happe reported on having attended the I-10 Business Summit, which was well attended by many dignitaries and business groups from the San Gorgonio Pass area; he stated that this was a good opportunity for networking and identifying common goals for the Cities in the Pass; that it was a good opportunity to learn about the common interest that we have in the Pass; learned about the truck route 60 project and I-10 projects, which was supposed to help the entire pass.

Mayor Pro Tem Andrade reported also reported on her attendance at the I-10 Business Summit; she stated that it was an eye-opener and to network with business owners; thanked the Chamber of Commerce for coordinating this effort; thanked the Street crews for going around and planting trees to beautify the cities; that they need to work on the irrigation system before planting new trees as well as remove some old ones that were dying; commented on the Downtown clean-up with a good outcome and thanked all those who participated and came out to help. Mayor Pro Tem Andrade

thanked former Planning Commissioner Mr. Jim Price for his work on the Planning Commission and the Little League events and wished him well in the future.

Mayor Welch reported on the Town Hall meeting held at the Boys and Girls Club on Tuesday, June 4: thanked staff for coordinating it and stated that it was a successful meeting.

Councilmember Wallace reported having attended the Riverside County Community Action Partnership membership meeting where it was discussed that they will be reaching out to all cities including Banning about different topics such as economic development, beautification projects and other City improvement efforts.

REPORT BY CITY ATTORNEY

None.

REPORT BY CITY MANAGER

City Manager, Douglas Schulze spoke about TUMF Ordinance and stated that issue had been reviewed by the City Attorney's Office and said review had been completed with staff bringing that back at the June 25th City Council meeting; spoke about the issue brought to his attention about 30 utility customers that had not been billed for quite some time, he stated that these were for customers that received credits for solar; that billing for those customers had not been complete because of a software issue and staff had been working with the vendor who has not been responsive and has not been able to figure out how to fix the problem.

Mr. Schulze further commented that this past week staff was directed to manually calculate those bills so that statements can be sent out to customers; provided a status report on Director recruitment; spoke regarding the community town hall meeting and stated that one piece that had not been talked about was what are the next steps; stated that it was a good turn out with about 30 people in attendance, but that it would be nice to have even more community input; that he was considering putting together a booth or table at the 4th of July event so we can do additional community outreach before moving forward with an Request for Proposal (RFP) document.

REPORT OF OFFICERS

1. Adopt Resolution Approving an Agreement for Two Years for Fire Services with Riverside County Fire Department.

Todd Hopkins, Division Chief presented the staff report and indicated that this was a two-year Agreement; that since 1998, the City of Banning has entered into this agreement with the Riverside County Fire Department for medical, fire protection and other emergency response. Two type 1-engine companies of three firefighters (including one paramedic) per engine provide this protection.

The second engine providing fire protection to the south-west City area is split funded three ways with Beaumont and Riverside County.

Chief Hopkins explained in detail the services they provide for the City as part of the contract and answered Council's questions relative to the cost of services and whether or not the City could afford creating its own Fire Department.

Public Comment

There were no public comments.

A motion was made by Councilmember Peterson, seconded by Councilmember Happe to adopt resolution as presented. Electronic vote was taken as follows:

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

Action: Adopted Resolution No. 2019-64

2. Adopt Resolution, Approving Service Agreements with JP Nelson & Sons Construction, Inc., and Deguire Weed Abatement, Inc., for Weed Abatement Services.

Police Chief, Matthew Hamner provided the staff report and stated that he was bringing a Resolution seeking approval for a contract for Weed Abatement services, which will help in meeting goal 4 of public health and safety; he stated that the scope of work for these services included the removal of vegetation and debris from properties in the City of Banning to reduce fire danger and to be in compliance with the City's Municipal Codes; he further commented that staff had advertised the Request for Proposals (RFP) on the PlanetBids website, which sent notifications of the opportunity to eighteen (18) Weed Abatement Service Contractors; that in response to these efforts, the City received four (4) proposals from the following Weed Abatement Contractors, including: JP Nelson & Sons Construction, Inc.; Environmental Klean Up, Inc.; Deguire Weed Abatement, Inc.; and West SWPPP Services.

Chief Hamner stated that the proposals from JP Nelson & Sons Construction, Inc., and Deguire Weed Abatement, Inc., were recognized by staff as the most cost effective and responsive bids made; that two contractors were selected for this year's services to better address the expected above normal weed growth, caused by the higher than typical rainfall amounts, in a timely manner.

Public Comment

There were no public comments.

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

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

Action: **Adopted Resolution No. 2019-65**

3. Adopt Resolution, Establishing Fiscal Year 2020 Service Charges for the Collection, Transportation, and Disposal of Solid Waste.

Art Vela, Director of Public Works/City Engineer presented the staff report indicating that the City of Banning ("City") entered into a Franchise Agreement ("Agreement") for the Collection, Transportation, and Disposal of Solid Waste with Waste Management of the Inland Empire (WM) in 1993 for an eight-year period; that subsequently, the City Council at its regular meeting on April 24, 2001, adopted Resolution 2001-35, extending the Agreement through the First Amendment for an additional five years as allowed per the Agreement, from July 1, 2001 to June 30, 2006. The Agreement was also re-negotiated to include automated services.

Mr. Vela further provided a narrative on the history of the Agreement stating that on March 15, 2002 under Resolution 2002-28 and execution of the Second Amendment, the contract was re-negotiated to extend the Agreement for an additional five-year period from July 1, 2006 to June 30, 2011; that on December 12, 2006 under Resolution 2006-99 and with the execution of the Third Amendment, the agreement terms were modified and conditions of the Agreement for the collection of Bulky Waste were adjusted; that on June 28, 2011 under Resolution 2011-53 and with the execution of the Fourth Amendment, bulky item services were adjusted and the term was extended for an additional ten years from July 1, 2011 to June 30, 2021.

He further commented that on September 11, 2018, the Fifth Amendment was processed revising the methodology for determining the annual rate adjustment calculation; that the Agreement allows for an annual rate adjustment and requires that adjustments adhere to the requirements of Proposition 218 (Prop 218), including: 1) providing notification to all affected property owners and rate payers of the proposed rates and instructions for those who wish to protest the rate increases; 2) holding a public hearing at least forty-five (45) days after mailing the notifications; and 3) rejecting the proposed rate adjustments if written protests are

presented by a majority (fifty percent plus one) of affected property owners or rate payers; only one protest per parcel would apply.

Mr. Vela stated that a Prop 218 process was last administered in July of 2018 and approved by rate payers and City Council under Resolution 2018-110 at a Public Hearing on September 11, 2018. The approval allowed for rates to be adjusted annually, utilizing an approved methodology, for a five (5) year period; that to date under the most recently approved Prop 218 process and City Council approved Resolution 2008-110, a rate adjustment was implemented in October 2018. As a result, four (4) remaining future adjustments are permitted to occur July 1 of 2019, 2020, 2021 and 2022.

There were several questions from Council regarding the length of the contract and whether or not this could be put out for an RFP to solicit competition. Mr. Vela stated that the direction given to staff had been to negotiate with the service provider; that there were pros and cons in bringing in a new services provider.

Public Comment

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. 2019-66**

4. Adopt Resolution, Approving the Fourth Amendment to Custodial Services Agreement with Merchants Building Maintenance, Inc. of Pomona, California for Fiscal Year 2019/2020 in the Amount of \$76,769.24.

Art Vela, Director of Public Works/City Engineer presented the staff report and stated that this item along with several others he had on the agenda tonight were rather of a routine nature; he provided a brief narrative on the RFP process stating that a Request for Proposals (RFP) was published in October of 2015; that on February 9, 2016, the City Council had approved Resolution 2016-04, awarding an agreement for custodial services to Merchants Building Maintenance, LLC in the amount of \$79,243.10; that the original agreement was for a fifteen (15) month period ending June 30, 2017; commented that under the approval of Resolution 2016-04, the agreement has a renewal option for an

additional three (3) single years upon annual review and approval by City Council with extension and services terminating no later than June 30, 2020.

Public Comment

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. 2019-67**

5. Adopt Resolution, Approving the Fourth Amendment to the Landscape Maintenance Services Agreement for City Facilities with Artistic Maintenance, Inc., of Lake Forest, California for Fiscal Year 2019/20 in the Amount of \$52,044.

Art Vela, Director of Public Works/City Engineer presented the staff report stating that on November 10, 2015 City Council approved Resolution 2015-95, "Approving a Landscape Maintenance Services Agreement with Artistic Maintenance, Inc. of Lake Forest, California". On June 14, 2016, upon annual review of services and within the renewal option, City Council approved Resolution 2016-40 extending the agreement for FY 2016/2017 through June 30, 2017. On May 9, 2017, Council approved the Second Amendment with Artistic Maintenance under Resolution 2017-47 in the amount of \$46,180 exercising the renewal option and extending the agreement to June 30, 2018. Most recently, on May 8, 2018 under Resolution 2018-51, City Council approved the third Amendment to the agreement with Artistic extending the agreement to June 30, 2019.

Public Comment

There were no public comments.

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

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

Action: Adopted Resolution No. 2019-68

6. Adopt Resolution, Awarding a Professional Services Agreement to Artistic Maintenance, Inc., for the Operation and Maintenance of Landscape Maintenance District No. 1 for Fiscal Year 2019/2020 in the Amount of \$78,150.

Art Vela, Director of Public Works/City Engineer presented the staff report stated that on April 12, 2019, staff released a RFP through the PlanetBids program notifying qualified firms of the opportunity to provide proposals, RFP 19-030, "Operation and Maintenance of LMD No. 1"; that the deadline to submit proposals was May 7, 2019 and two (2) firms responded with submittals; further, he stated that an evaluation committee consisting of three (3) City staff members, evaluated the two (2) proposals that were received based on price, experience and project understanding, approach (implementation plan) and methodology and consequently the evaluation committee had ranked Artistic Maintenance the highest and as such it was recommended that an award of the Agreement be made to Artistic Maintenance, Inc.

Public Comment

There were no public comments.

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

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

Action: Adopted Resolution No. 2019-69

7. Adopt Resolution Approving the Fiscal Year 2019/20 – 2021/22 Short Range Transit Plan, Authorizing the Submittal of the FY 2019/20 Local Transportation Fund Claim.

Heidi Meraz, Director of Community Services presented the staff report and commented that the Short Range Transit Plan (SRTP), is prepared annually and provides a detailed description of services and operations along with statistics and projections to validate funding requests that will be submitted to RCTC that year. The revenues and expenses for the transit department for the city budget is based on the information provided within the 2019/20-2021/22 SRTP document.

Public Comment

There were no public comments.

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. 2019-70

8. Banning Electric Utility (BEU) Mapping Pilot Project as Approved in the Mid-Year Budget Resolution.

Tom Miller, Electric Utility Director stated that the purpose of tonight's item was to request authorization to hire some professional consulting services for \$24,345; and, entering into a purchase contract to Partner Software in the amount of \$80,500; and, entering into a purchase contract to Reavis Code Utility Solutions in the amount of \$25,500, and, authorizing a contingency of \$29,155 for additional proprietary software and or hardware needs.

Public Comment

There were no public comments.

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. 2019-71

9. Adopt Resolution, Authorizing Annual Rate Adjustment for City Attorney in Excess of 3%.

City Attorney Kevin G. Ennis announced that he will be abstaining from this item in his official capacity and accordingly left the dais.

City Manager, Douglas Schulze stated that the City had entered into an Agreement with RWG in September of 2017 for RWG to serve as City Attorney; that the legal services agreement established compensation, expenses billing, as well as a process for adjustment of rates; that commencing on July 1, 2019

and annually thereafter the hourly rates that were set forth in the agreement automatically increased by a percentage change equivalent to the Consumer Price Index (CPI) for the Los Angeles-Long Beach-Anaheim Urban Consumers; commented that such calculations were made over month to month over April of the prior year.

Mr. Schulze also commented that in the event that the annual adjustments equaled or exceeds 3 percent of if there were any other adjustments to rates prior written consent of the City Council was required.

Mr. Schulze expressed concern about the City's total cost for legal services and stated that he would strategize as to the best way to curtail or minimize the use of City Attorney services in order to control costs.

There was a brief discussion relative to whether or not the idea of the City having its own in-house counsel would be a viable one and other options for the acquisition and provision of legal services; unsolicited City Attorney calls to the City Council; and rates for various types of services.

Mayor Welch suggested for the City Manager to look into this and provide suggestions as well as pros and cons on the issue of legal services.

Public Comment

There were no public comments.

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

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

Action: Adopted Resolution No. 2019-72

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. REPORTS OF OFFICERS

1. Adopt Resolution of the Utility Authority, Approving an Agreement in the Amount of \$174,907 with Hemet Manufacturing Co., Inc., dba Genesis Construction for the Altitude Valve at Southwest Reservoir; Establishing a Total Project Budget of \$192,398; and Rejecting all Other Bids

Art Vela, Director of Public Works/City Engineer addressed the Council relative to this item and stated that in the water system there were several pressure zones, with the largest being the main pressure zone; that pressure zone included fire reservoirs that were designed to have a total source capacity of fourteen and half million gallons; stated that to date, staff had not been able to realize that level of storage due to some elevation differences in the reservoirs as well as pressure variations in the system.

Further, Mr. Vela commented that the City of Banning's water system depends on storage reservoirs for fire protection, operational flexibility, and for emergencies, such as extended power outages. The largest pressure zone in the water system is the Main Zone and extends from the Sun Lakes development at one end to the Water Yard near the intersection of Bluff Street and Mias Canyon Road at the other end. There are five separate storage reservoirs, and due to friction losses in the distribution system there are instances where the water levels in the reservoirs can differ significantly. To keep from overflowing the reservoirs and wasting water, levels must be kept lower than their design capacities, thereby losing useful storage.

Additionally, Mr. Vela commented that at the September 10, 2018 meeting, the Banning Utility Authority awarded a professional services contract to Michael Baker International for the design of Altitude Valves at the Southwest and San Gorgonio Reservoirs. The design was completed, and based on the Engineer's estimate of construction costs, staff made the decision to only bid the improvements at the Southwest Reservoir. Once this project is constructed, staff will re-evaluate the need for the improvements at the San Gorgonio Reservoirs.

There were several questions from Council members about solar capacity that the system was not reaching, and whether or not this action would eliminate part of that problem; Councilmember Happe inquired about what it would take to reach full capacity.

Public comment

There were no public comments.

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

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

Action: **Adopted Resolution No. 2019-10 UA**

X. DISCUSSION ITEM

Electric Cost of Service Analysis Committee Report.

Tom Miller, Electric Utility Director stated that he had a meeting with Mr. Jerry Westholder where they discussed Mr. Westholder helping co-chairing an Ad-hoc Committee and that Mr. Westholder had agreed to assist in developing the electric cost of service analysis; reported that collectively they had developed a plan of action about pursuing this matter.

There were no public comments.

BANNING UTILITY AUTHORITY (BUA) – Next Meeting, June 25, 2019, 5:00 p.m.

XI. ITEMS FOR FUTURE AGENDAS

1. Website Redesign
2. Wildfire Mitigation Plans
3. 553 E. Ramsey Receivership

XII. ADJOURNMENT

By consensus, the meeting was adjourned at 8:59 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=rHU44d5aVfxs> by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.