

In accordance with City Council Resolution 1995-21, the minutes of meetings of the City Council and the Boards, Commissions, and Committees of the City shall be prepared as Action Minutes.

The following information comprises the minutes for the regular meeting of the City Council.

MINUTES
CITY COUNCIL

11/12/2019
REGULAR MEETING

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT Douglas Schulze, City Manager
 Kevin G. Ennis, City Attorney
 Marie Calderon, City Clerk
 Sonja De La Fuente, Deputy City Clerk
 Matthew Hamner, Police Chief
 Art Vela, Public Works Director/City Engineer
 Adam Rush, Community Development Director
 Jennifer Christensen, Administrative Services Director
 Ralph Wright, Community Services Director
 Tom Miller, Electric Utility Director
 Suzanne Cook, Deputy Finance Director
 Ted Shove, Economic Development Manager
 Phil Holder, Police Captain
 Carla Young, Business Relations 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 November 12, 2019, at 5:16 p.m. at the Banning City Council Chamber, 99 E. Ramsey Street, Banning, California.

Elder Ralph Bobik, Church of Jesus Christ of Latter-Day Saints, offered the invocation.

Councilmember Peterson led the audience in the Pledge of Allegiance.

II. APPROVAL OF AGENDA

City Manager Schulze requested moving Report on Closed Session and Public Comment items ahead of the Presentation. A motion was made by Councilmember Andrade, seconded by Councilmember Wallace, to approve the agenda with the requested changes. Electronic vote was taken as follows:

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

III. REPORT ON CLOSED SESSION

City Attorney Ennis provided a report on Closed Session as follows:

- 1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Case: The City of Banning, et al. v. Cali Emerald Care, Inc., et al., Case No. RIC 1904157. **A report was provided regarding the case including the issuance of a preliminary injunction and lockout order.**
- 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. **A status report was provided regarding litigation in the case including a grant of the City's demur.**
- 3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Cases: Sierra Club v. City of Banning, Case No. RIC 1900544, and Golden State Environmental Justice Alliance v. City of Banning; Case No. RIC 1900654 (Banning Distribution Center Project). **A status report was provided and there is no final or reportable action at this time.**
- 4. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
pursuant to Paragraph (1) of subdivision (d) of Section 54956.9
Name of Case: Supporters Alliance for Environmental Responsibility (SAFER) v. City of Banning, et al. (Lawrence Equipment Project), Case No. RIC 1903059. **A status report was provided and there is no final resolution to the case.**

5. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant Exposure to Litigation pursuant to paragraph (2) subdivision (d) of Section 54956.9 (one case). **A status report was provided on the matter with no reportable action.**
6. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Properties and Owners/Negotiating Parties: Real Property located in the vicinity of Ramsey and Hathaway – 1909 E. Ramsey Street, 2933 E. Ramsey Street, APN 532-120-011 – Ramirez Family Living Trust; 1933 E. Ramsey Street, APN: 532-120-012 – Liang; 1679 E. Ramsey Street, APN 532-120-019 – Tierra Firma Enterprise, LLC; Northeast corner of Ramsey Street and North Hathaway Street, APN 532-120-020 – Frank J. Burgess and Lorna D. Burgess, Trustees; Southeast corner of Ramsey Street and Hathaway Street, APN 532-140-005– Frank Burgess; 1483 E. Ramsey St, APN 541- 170-019 – Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust; 1573 E. Ramsey St, APN 541-170-021 – Jen H. Huang
City Negotiators: Douglas Schulze, City Manager and Ted Shove, Economic Development Manager
Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements. **A report was provided by Ted Shove and Paula Baeza regarding price and terms for acquisition of one of the parcels of property related to Ramirez Family Trust.**
7. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Property Description: Real Property located in the vicinity of S. 22nd Street and W. Lincoln Street (APN 538-230-011)
City Negotiator: Ted Shove, Economic Development Manager
Negotiating Parties: Debra Hanna/Jade Real Estate
Under Negotiation: Price and Terms. **Direction was given to the City's negotiator, Ted Shove with respect to an offer to purchase the property.**
8. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Property Description: Real Property located in the vicinity of W. Nicolet Street and N. 2nd Street (APN 540-083-002 and 540-083-003)
City Negotiator: Tom Miller, Electric Utility Director and Jason Smith, Electric Operations Manager
Negotiating Parties: Our Blessed Saint Kateri Takawitha
Under Negotiation: Price and Terms. **Direction was given to the City's negotiator.**

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

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

PUBLIC COMMENT(S)

Inge Schuler advised that at the end of the last Planning Commission Meeting, Community Development Director Adam Rush commented that the City is in negotiation with a cannabis manufacturing plant projected for the southwest corner of 8th and Lincoln. She advised that she does not believe that is a suitable location for such an enterprise and would like it on record. Also, she expressed her disappointment in the new links in the staff reports attached to the agenda, as they are not working for her on a regular basis.

Bill Hobbs advised Highway 243 is open to Idyllwild and it is fantastic.

Seeing no further comments, the Mayor closed Public Comments.

City Attorney Ennis advised that a cannabis manufacturing facility would require a Conditional Use Permit and cautioned City Council and Commissioners to not make up their mind on potential applications prior to the Public Hearing.

CORRESPONDENCE

One Item of correspondence was received (Attachment 1).

APPOINTMENT(S)

None

III. PRESENTATION(S)

Swearing In Ceremony for New Police Officers

Police Chief Doug Hamner introduced and provided background information on the following new police officers:

Everardo Villa
Brian Walker
Jack Loera
Jessica Segovia

City Clerk Marie Calderon offered the Oath of Office for each.

VI. CONSENT ITEMS

Mayor Welch asked if the Council wished to pull the item for discussion. Items 13 and 15 were pulled for discussion.

1. Minutes – October 22, 2019, Special Meeting (Workshop)
2. Minutes – October 22, 2019, Regular City Council Meeting
3. Contracts Approved by City Manager – October 2019
4. Police Stats – September 2019
5. Fire Stats – August and September 2019
6. Electric Utility Capital Improvement Project Update
7. Resolution 2019-141, Accepting Donation from Sun Lakes Charitable Trust
8. Notice of Completion for Project No. ATPL-5214, "ATP Cycle 2 – Bicycle and Safe Route to School Improvements"
9. Resolution 2019-138, Approving Community Development Block Grant Supplemental Agreement
10. Resolution 2019-136, Awarding a Professional Services Agreement to Transtech Engineers, Inc. for Plan Check, Inspection, and Related Administrative Services
11. Resolution 2019-142, Awarding a Construction Agreement for Project 2019-046 "Dysart Park Fencing Project" to AB Fence Company, Inc.
12. Resolution 2019-131, Accepting Supplemental Law Enforcement Services Allocation (SLESA) in the Amount of \$100,000
14. Resolution 2019-143, Authorizing Purchase of Three (3) Ford Police Interceptor Utility Patrol Vehicles through Fritts Ford Under Riverside County PURAC #1634

Public Comment - None

A motion was made by Councilmember Wallace, seconded by Councilmember Happe, to approve the rest of the consent calendar items 1 through 12 and 14, as presented. Electronic vote was taken as follows:

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

Action: Approved Consent Items 1 through 12 and 14.

13. Resolution 2019-140, Awarding a Construction Agreement for Project No. 2019-05, "Street Rehabilitation at Various Locations" to Hardy and Harper, Inc. of Lake Forest, California

Councilmember Wallace asked for clarification regarding the start date. Art Vela, Public Works Director/City Engineer corrected the projected start date is January 2020. She also asked what projects Hardy & Harper has done for the City. Public Works Director Vela provided information and background as requested.

Councilmember Happe asked how the priority list is established. Director Vela provided information and background as requested.

Public Comment - None

A motion was made by Councilmember Wallace, seconded by Mayor Welch, to approve the rest of the consent calendar item 13, as presented. Electronic vote was taken as follows:

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

Action: Approved Consent Item 13.

15. Request for Addition of Temporary Police Captain Position

Councilmember Peterson asked for clarification regarding whether the selected employee is an internal or external candidate. Jennifer Christensen, Administrative Services Director advised the selected candidate is external, however this would need to be done either way to allow for cross training.

Councilmember Happe asked how the difference in salary would be paid. Director Christensen explained and provided the requested information.

Public Comment - None

A motion was made by Councilmember Peterson, seconded by Councilmember Happe, to approve the rest of the consent calendar item 15, as presented. Electronic vote was taken as follows:

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

Action: **Approved Consent Item 15.**

VII. PUBLIC HEARING(S)

None

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

Mayor Pro Tem Andrade announced that the landscaping in front of the Chamber of Commerce has been done and it looks very nice. She also advised that the Boys & Girls Club will be holding their Chances & Cheese event on November 21st.

Councilmember Wallace advised that Community Action Partnership is considering providing additional computers to the City's Senior Center.

Councilmember Peterson announced that the Electric Cost of Service Ad Hoc Committee Meeting would be held Wednesday, November 13th at 2:00 p.m. at City Hall Council Chamber.

Councilmember Happe had nothing to report.

Mayor Welch had nothing to report.

REPORT BY CITY ATTORNEY

None

REPORT BY CITY MANAGER

City Manager Douglas Schulze advised Coffee with the City will be held on November 21, 2019, at 6:00 p.m. for Districts 1 and 4. However, anyone may attend.

REPORTS OF OFFICERS

1. Resolution 2019-137, Approving Fiscal Year 2020-21 Community Development Block Grant Applications

Ted Shove, Economic Development Manager, presented the staff report for this item. He introduced Amy Herr, Director of the Boys & Girls Club. Ms. Herr expressed her desire for the Council to consider approving their application for funding and introduced two of their teen members, Dejon and Abraham who shared their stories.

Councilmember Peterson expressed his desire to only award the funding to City projects and/or events.

Councilmember Happe explained that four applications were received, which included three from the City. He also explained that the funding comes from outside of the City and that it is up to the City to award the funding to the applicants and that he and Councilmember Wallace were excited to do this for the community and the children and explained their rationale.

Public Comment - None

A motion was made by Councilmember Wallace, seconded by Councilmember Andrade, to adopt Resolution 2019-137, adopting Resolution 2019-137, approving Fiscal Year 2019-2020 Community Development Block Grant Program Project and authorize staff to submit application to the Riverside County Economic Development Agency. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2019-137 and authorized staff to submit application to the Riverside County Economic Development Agency.

2. Resolution 2019-135, Authorizing Waiver of Fees for Healing Waters Mobile Shower for Water and Wastewater Use

City Manager Doug Schulze presented the staff report for this item.

There was some discussion held regarding how the program works and where.

Public Comment - None

A motion was made by Councilmember Happe, seconded by Mayor Welch, to adopt Resolution 2019-135, authorizing waiver of fees for Healing Waters Mobile Shower water and wastewater use. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2019-135.

3. Resolution 2019-139, Establishing Financial Targets and Revenue Requirements for the 2020 Electric Cost of Service Study Use

Tom Miller, Electric Utility Director, presented the staff report for this item.

Councilmember Happe asked some questions and a brief discussion was held related to energy generation.

There was a brief discussion held regarding electric rates and bonding.

Electric Utility Director Miller reminded Council this is their policy directive to staff.

Public Comment - None

A motion was made by Councilmember Happe, seconded by Mayor Welch, to adopt Resolution 2019-139, establishing financial targets for the electric utility, which affect the revenue requirements needed to be recovered by electric rates. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2019-139.

4. Update and Discussion on the Draft Financial Analysis, Redevelopment and Proposition 218 of Landscape Maintenance District (LMD) No. 1 Report and applicable Utility Rates

Art Vela, Public Works Director/City Engineer, presented the staff report for this item along with a PowerPoint presentation (Attachment 2).

There was some discussion held regarding the annexation of Peacock Valley 2 into the Landscape Maintenance District and that process.

Public Comment - None

A motion was made by Councilmember Peterson, seconded by Councilmember Andrade, directing staff to apply retail utility rates to LMD No. 1 and to move forward with the Proposition 218 process, as well as the annexation process. Electronic vote was taken as follows:

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

ABSTAIN: None
ABSENT: None

Action: **Directed staff to apply retail utility rates and move forward with the Proposition 218 process, as well as the annexation process.**

5. Ordinance 1555, Amending Chapters 15.08 and 8.16 of the Banning Municipal Code by Adopting by Reference the Entirety of the 2019 Editions of the California Building Code, Residential Code, Green Building Standards Code, Plumbing Code, Mechanical Code, Electrical Code, and Fire Code, the 2018 edition of the International Property Maintenance Code, and the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings, Together with Certain Amendments, Deletions and Additions Supported by the Necessary Findings and Justification

Adam Rush, Community Development Director, presented the staff report for this item.

Councilmember Happe requested clarification regarding the cost recovery section of the fire code. Ken King with Riverside County Fire Department provided clarification and answered questions.

Councilmember Happe requested clarification regarding the pool fencing portion update to the Building Code. Patrick Johnson, Building Official provided clarification regarding pool fencing.

Public Comment - None

A motion was made by Mayor Welch, seconded by Councilmember Happe, to waive full reading and introduce, as read by title only, Ordinance 1555. Electronic vote was taken as follows:

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

Action: **Ordinance 1555 Pass First Reading.**

A motion was made by Mayor Welch, seconded by Councilmember Happe, to schedule a public hearing and second reading of Ordinance 1555 for December 10, 2019. Electronic vote was taken as follows:

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

ABSTAIN: None
ABSENT: None

Action: **Scheduled Public Hearing and Second Reading of Ordinance 1555.**

IX. DISCUSSION ITEM

None

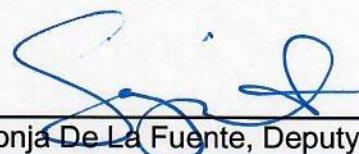
CITY COUNCIL – Next Meeting, December 10, 2019, 5:00 p.m.

X. ITEMS FOR FUTURE AGENDAS

XI. ADJOURNMENT

By consensus, the meeting was adjourned at 7:22 p.m.

Minutes Prepared by:



Sonja De La Fuente, Deputy City Clerk

The entire discussion of this meeting may be viewed here:
<https://banninglive.viebit.com/player.php?hash=Q7LnXNGwoqh5> and related documents can be viewed here:
<http://www.banningca.gov/ArchiveCenter/ViewFile/Item/2194> or by requesting a CD or DVD at Banning City Hall located at 99 E. Ramsey Street.

ATTACHMENT 1

November 7th 2019

To The Banning City Council,



I moved to this semi rural setting so that I would have a little room and a larger piece of property to work with. I own this property and although I do see the need and appreciate some of the guide lines set down to control the aesthetics of a growing community' However I feel that this storage container ordinance is an overreach of you authority.

Your building codes and setbacks for permanent structures on the properties limit what a person can do concerning storage structures. The storage containers afford the property owner to safely and neatly store their belongings and protect them from deteriorating due to weather exposure. I don't believe that a property owner would pay for the cost of a storage container if they did not have items that they value. So weather you allow them to have a storage container or not they will not get rid of those treasured belongings. Now you have created a situation where the belongings that would have been placed in a container and out of sight are now piled up in the yard deteriorating away as yard art. These yard art issues will not be controlled by code enforcement as is evident in a large percentage of the properties around here now.

With this ordinance you are not only telling the property owners what they can have on their own property, but now how many and where they have to place it. I don't object to the paint requirement but I feel that if I have the room to adequately place containers on my property for private use and storage I should be able to do that without the expense of permit fees and government over reach.

These containers are not permanent structures; they are not used for habitation, and should be exempt from setback requirements as they are movable and cause no burden on future development. The setbacks suggested 50 ft from front 25 from side and 50 to the rear are a detriment to the rest of the ordinance. Think about this, if you allow the container to be placed near the property line it can be easily camouflaged with shrubbery or fence line. The way it is worded you have

required the container to be placed out where there is no hiding it, and it interferes with the land owners landscape plans. Also if you allow only one container an owner has to deal with a monster container 53 ft. long where as if you allowed smaller containers equaling the same sq footage i.e. (2- 25 ft containers) it would give the landowner a little more versatility in placing them.

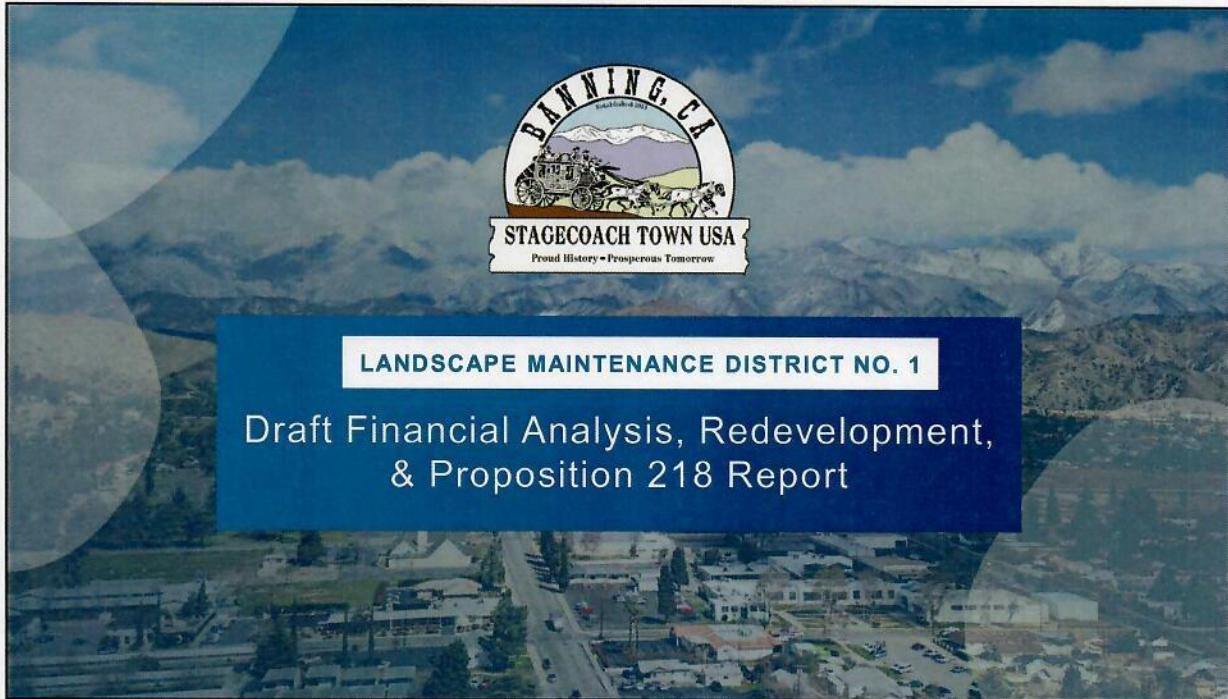
Just because some of you have a distain against storage containers you should not use your position of power to inflict your will upon the community. I agree that you probably need a backyard requirement and paint but that is where this should stop. A half acre parcel can easily handle 2 or 3 containers of various sizes without impeding on the surrounding environment. And if properly placed can be hidden from street view and not be a neighborhood eyesore.

I request that you reconsider this matter. The city uses storage containers on several of their sites and you cannot require the resident to comply and exempt the city. I do not see a particular problem or over abundance of containers on any properties throughout this city and feel that this is an attempt to generate revenue at the property owner's expense. This needs to be rewritten and some of these outrageous conditions removed. A storage container in the yard is much more slightly than all of its contents strewn all over the yard. Think about that before you in act an unenforceable burden on the already overworked code enforcement division.

Since there has been no existing complaint on the existing containers if you do in act this there should be a grandfather clause for the existing containers, as the current owners have a considerable investment in the purchase and placement of the existing containers. Frankly I do not know why you are wasting your time and energy on this when there are several other eye sores that need to be addressed first like the Banning Business Center and the connection between Westward and Sun Lakes, or all the junk in people's yards that a container would solve. Why target something that is going to piss people off instead of these other major issues.

Thank You,
John Hagen, Banning resident

ATTACHMENT 2



Overview

Landscape Maintenance District No. 1 (LMD No. 1)

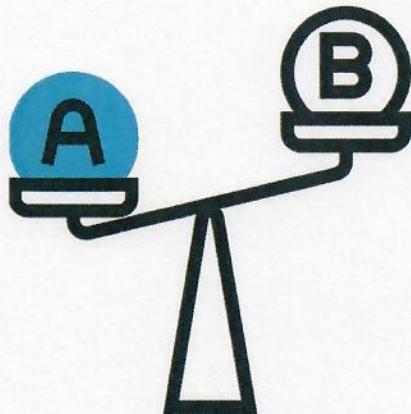
- Provides Funding for Landscaping Services, Utilities & Maintenance
Established in 1990
- Comprised of 4 Zones
Original Zones Established without an Annual Escalator
- Annexed 8 Additional Tracts (1 Zone) that Escalate
Annually by Consumer Price Index (CPI)

Financial Analysis, Redevelopment and Prop 219 Report

- ✓ To make sure that the LMD zones comply with Prop 218 guidelines
- ✓ To develop appropriate assessments sufficient to cover current and increasing costs to administer and maintain the LMD.
- ✓ To look at the impacts to future assessments to cover large capital improvement projects.

ONES

Current Zone Configuration vs. Special Benefit

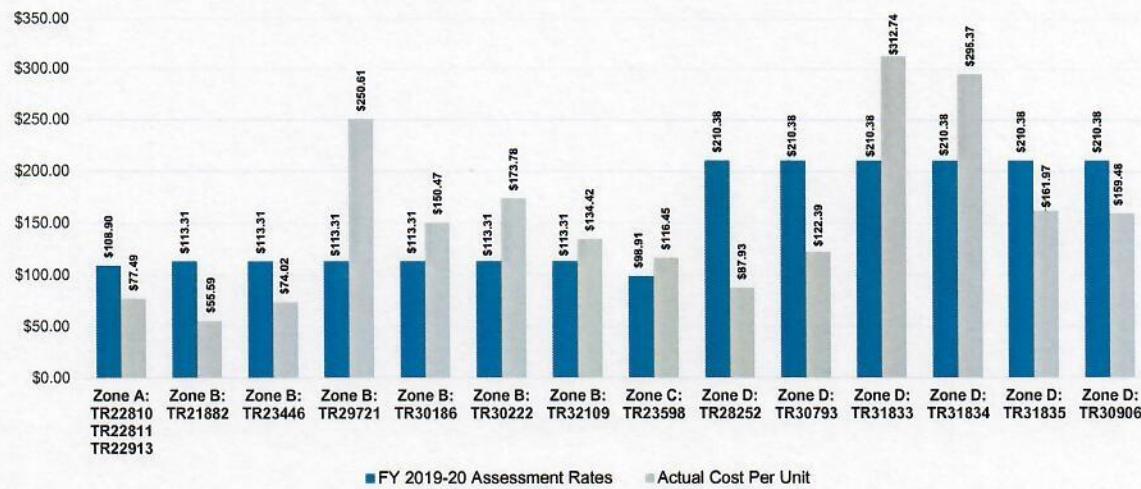


4 Current Zones:

- Tracts within Zones are Not Contiguous
- Tracts are Paying for Benefit Not Received
 - Tracts (within same Zone) paying **higher rates** than their actual costs
 - Tracts (within same Zone) paying **lower rates** than their actual costs

Assessment Rate vs Actual Cost

FY 2019-20 Assessment Rate Per Unit vs. Actual Cost Per Unit



New Zone Recommendations

Proposed Zone	Tract No(s).	# of Assessment Units
1	TR22810, TR22811, TR22913, TR30186, TR30222	319
2	TR21882 & TR23446	272
3	TR29721	21
4	TR32109	38
5	TR23598	97
6	TR28252	70
7	TR30793	43
8	TR31833 & TR31834	35
9	TR31835	33
10	TR30906	87



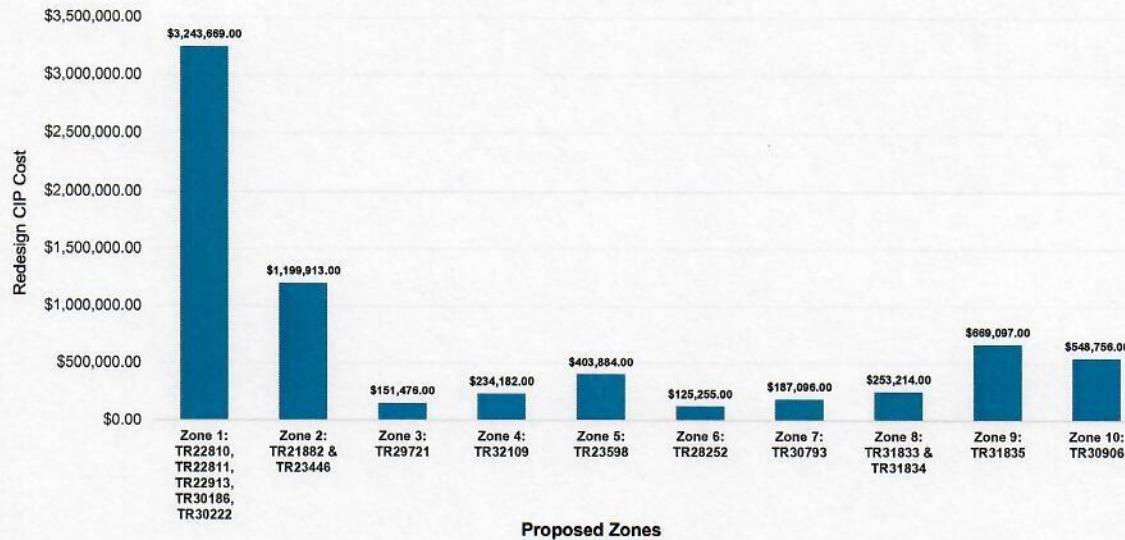


CAPITAL IMPROVEMENTS



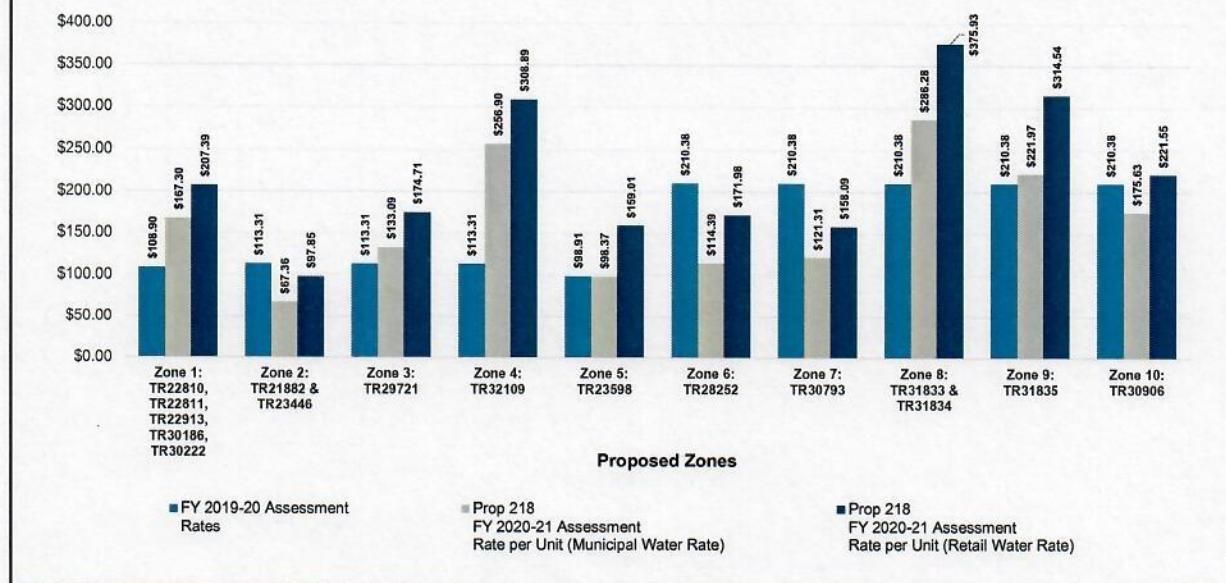
Redesign CIP Cost

Average \$13.00/SQ.FT.

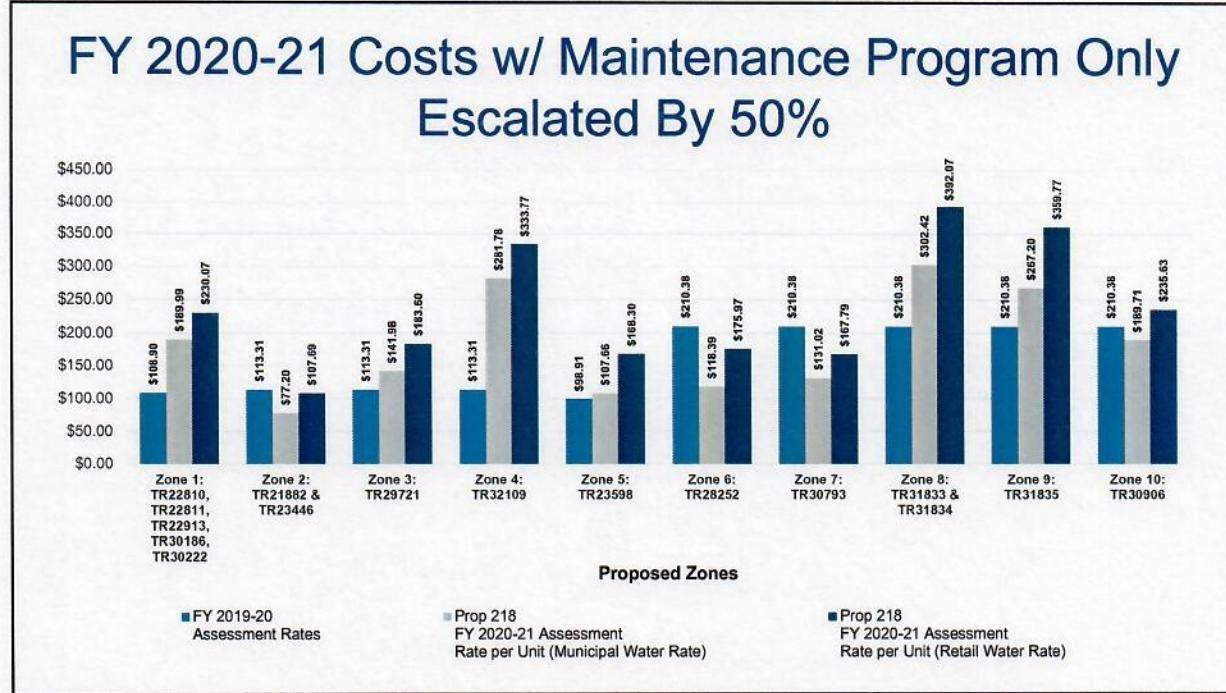


Costs and Proposed
Assessment Rates Using Retail
and Municipal Water Rates

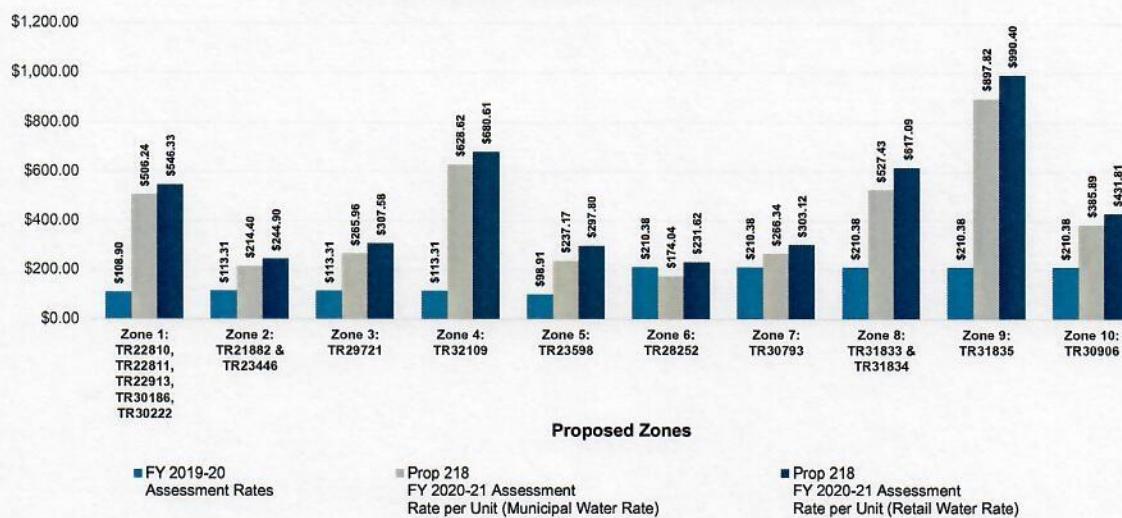
FY 2020-21 Costs w/ Maintenance Program (\$.29sf)



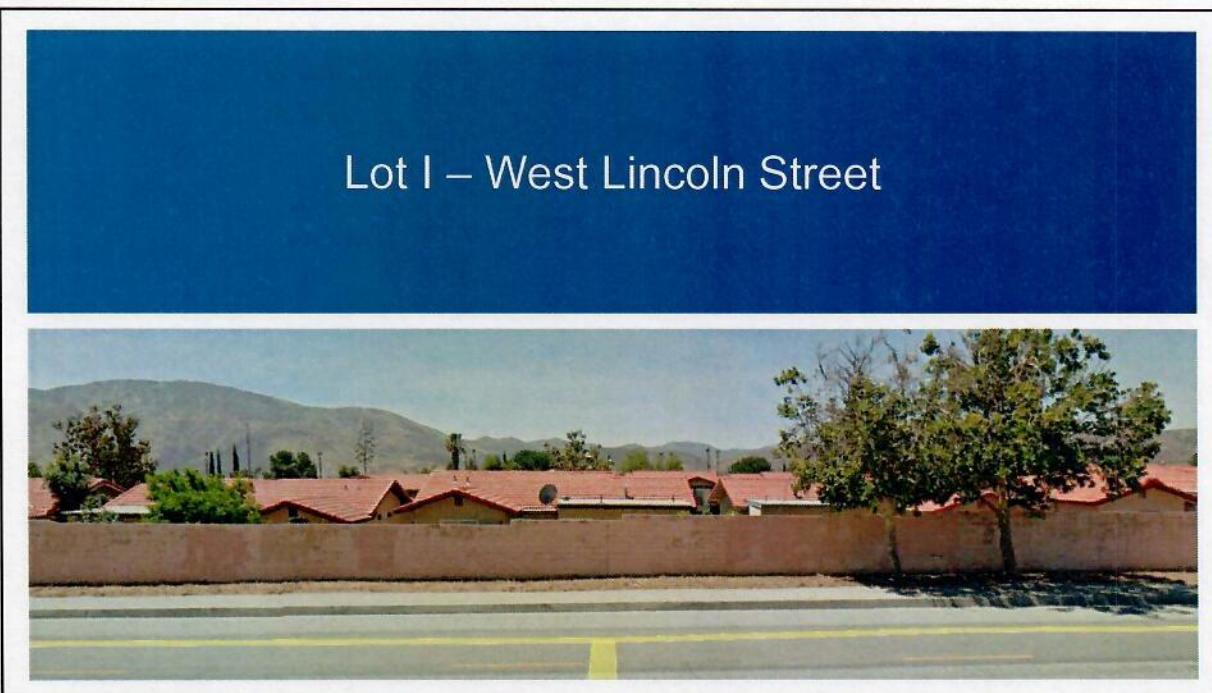
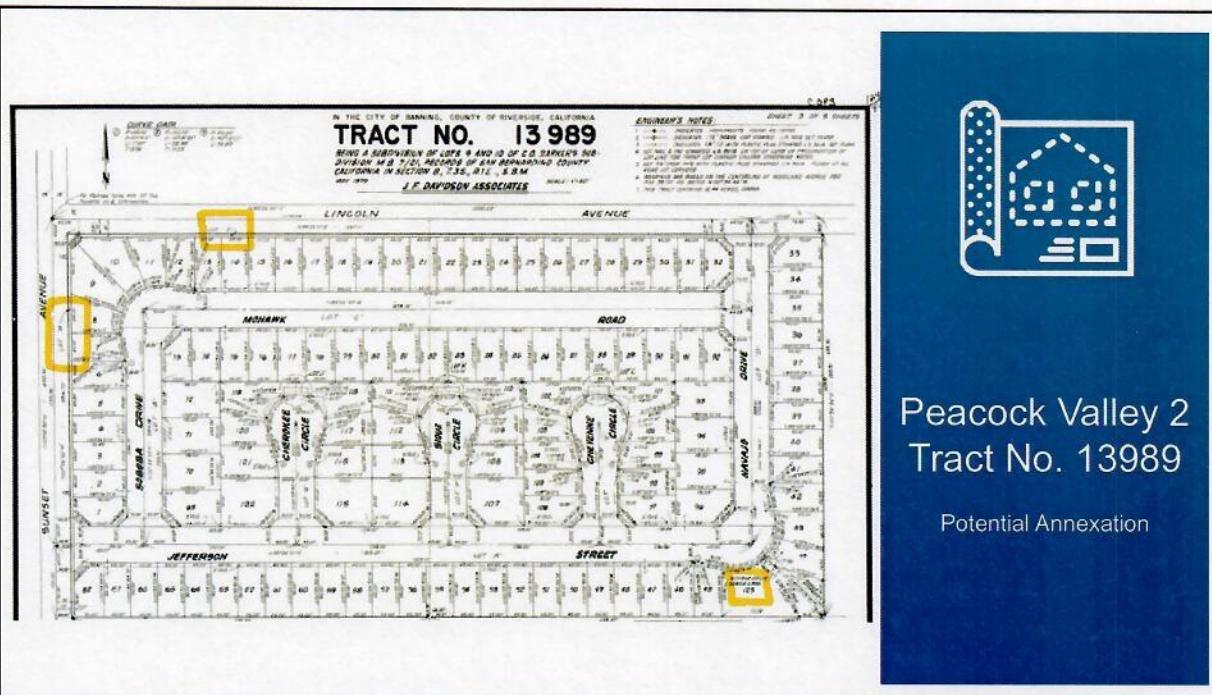
FY 2020-21 Costs w/ Maintenance Program Only Escalated By 50%



FY 2020-21 Costs w/ Maintenance & Redesign CIP Collected over 30 Years



Potential Annexation
Peacock Valley 2
Tract No 13989



Lot H – Sunset Avenue

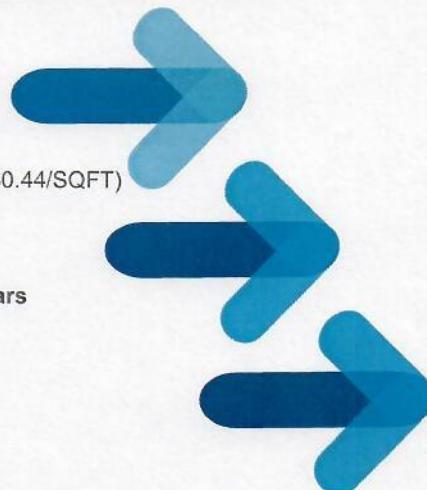


Requested Action

Proposition 218 Proceeding to Increase the Assessment Rates

Property Owner Options (Choice of 3):

- Budget & Rates with Maintenance Program Only (\$0.29/SQFT)
 - Using Retail Water Rates
 - Using Municipal Water Rates
- Budget and Rates with Maintenance Program escalated by 50% (\$0.44/SQFT)
 - Using Retail Water Rates
 - Using Municipal Water Rates
- Budget & Rates with Maintenance Program & CIP program, 30 Years
 - Using Retail Water Rates
 - Using Municipal Water Rates
- Annexation of Peacock Valley 2



THANK YOU.
QUESTIONS?



Draft Financial Analysis, Redevelopment, & Proposition 218 Report
Landscape Maintenance District No. 1