



AGENDA

REGULAR MEETING OF THE BANNING CITY COUNCIL CITY OF BANNING, CALIFORNIA

May 26, 2020
5:00 P.M.

Council Chamber
99 E. Ramsey Street
and via Video/Teleconference

The following information comprises the agenda for the regular meeting of the Banning City Council, a joint meeting of the City Council and the Banning Utility Authority, and the Banning City Council sitting in its capacity of the Successor Agency Board.

Due to the COVID-19 pandemic emergency, and to protect the health and safety of all participants, *this meeting is being held in person and via video/teleconference*. Pursuant to Governor Newsom's Executive Orders, members of the Banning City Council, staff and public may observe and participate in this meeting electronically or telephonically as outlined below:

To observe and participate in the on-line video portion of the meeting through your personal computer or device enter the following or click on the link:

<https://us02web.zoom.us/j/84178379873?pwd=WGN1WFdZZ1NtV2lrTDIxUDJDckprd09>

Meeting ID: 841 7837 9873

Password: 061075

One tap mobile: +16699009128,,84178379873#

Dial in: +1 669 900 9128 US

Meeting ID: 841 7837 9873

Find your local number: <https://us02web.zoom.us/u/kdrYMkxbbB>

To observe the live meeting through your personal computer, but not participate with video or oral comments, you may use your computer or smart phone to enter the following or click on the link: <https://banninglive.viebit.com> or on the Banning Government Channel on Cable Television

You may also Email comments to: sdelafuente@banningca.gov

Per City Council Resolution 2016-44, matters taken up by the Council before 10:00 p.m. may be concluded, but no new matters shall be taken up after 10:00 p.m. except upon a unanimous vote of the council members present and voting, but such extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue.

I. CALL TO ORDER

1. Invocation – Pastor Ken Spicer, Hope Unlimited Church
2. Pledge of Allegiance
3. Roll Call: Councilmembers Happe, Pingree, Wallace, Welch, and Mayor Andrade

II. AGENDA APPROVAL

III. PRESENTATION

Mayor's Special Recognitions

IV. REPORT ON CLOSED SESSION

City Attorney

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

PUBLIC COMMENTS – On Items Not on the Agenda

A five (5) minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public. Usually, any items received under this heading are referred to staff for future study, research, completion and/or future Council Action (see last page). PLEASE STATE YOUR NAME FOR THE RECORD.

CORRESPONDENCE

Items received under this category may be received and filed or referred to staff for future research or a future agenda.

APPOINTMENTS

None

VI. CONSENT ITEMS

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

Mayor to Open Consent Items for Public Comments

Motion: Approve Consent items 1 – 15: Items __, __, __ to be pulled for discussion.

(Resolutions require a recorded majority vote of the total membership of the City Council/Banning Utility Authority/Successor Agency)

| | | |
|-----|--|----|
| 1. | Minutes – May 12, 2020, Regular Meeting | 1 |
| 2. | Minutes – May 12, 2020, Special Meeting (Closed Session)..... | 33 |
| 3. | Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of April 2020 | 35 |
| 4. | Receive and File Cash, Investments and Reserve Report for the Month of April 2020..... | 37 |
| 5. | Receive and File Public Works Capital Improvement Project Tracking List | 39 |
| 6. | Police Statistics for the Month of April 2020..... | 41 |
| 7. | Fire Statistics for the Month of April 2020 | 43 |
| 8. | Receive and File Contracts Approved Under the City Manager's Signature Authority for the Month of April 2020 | 45 |
| 9. | Resolution 2020-62, Accepting Funding from the State of California 911 Emergency Communications Branch in an Amount Not to Exceed \$287,000 | 47 |
| 10. | Resolution 2020-63, Approving the License Agreement with Girl Scouts of San Gorgonio Council for Use of the Girl Scout House in Repllier Park | 51 |
| 11. | Resolution 2020-64, Authorizing the Purchase of One Bucket Truck, One Dump Truck, and One Wire Puller Trailer for the Electric Utility..... | 53 |
| 12. | Amendment No. 1 to the Contract Agreement with Artistic Maintenance, Inc. of Lake Forest, California, in an Amount Not to Exceed \$79,975 and Extending the Term of the Agreement through June 30, 2021 for the Operation and Maintenance of Landscape Maintenance District No. 1..... | 55 |
| 13. | Award Landscape Maintenance Agreement for City Properties to Artistic Maintenance, Inc. of Lake Forest, California, in the Amount of \$59,760 for Fiscal Year 2020/21 with the Option to Review for Four Additional Single Year Periods | 59 |
| 14. | Award Contract to L.O. Lynch Quality Wells and Pumps, Inc. for the Well Redevelopment and Repairs Project in the Amount of \$519,568; Establish a 10% Contingency for a Total Project Budget of \$571,525; and Reject all Other Bids | 63 |
| 15. | Award Custodial Services Agreement to Dynamic Building Maintenance of Riverside, California for Custodial Maintenance of Municipal Facilities in the Amount of \$77,432 for Fiscal Year 2020/2021 with the Option to Review for Four Additional Years..... | 67 |

VII. PUBLIC HEARINGS:

1. Resolution 2020-39, Approving the Emergency Billing Fee 71
(*Staff Report: Jennifer Christensen, Administrative Services Director*)

Recommendation: 1) Conduct a hearing to adopt Resolution 2020-39 approving the emergency medical services billing program fee schedule and related write-off policy; 2) Adopt Resolution 2020-39 approving the emergency medical services billing program fee schedule and related write-off policy; and 3) Approve a contract with Wittman Enterprises LLC to administer the emergency medical services billing program in an amount not to exceed \$60,000.

2. Ordinance 1562, Amended and Restated Development Agreement No. 11 Between the City of Banning and AMG Sign Company, Inc. for the Operation of an Electronic Message Center; and Ordinance No. 1562, An Ordinance of the City of Banning, California, approving an Amended and Restated Development Agreement No. 11 Between the City of Banning and AMG Sign Company, Inc. for the Construction and Operation of an Electronic Message Center in the Downtown Commercial General Plan Designation and Zoning District on Real Property Located at 583 West Livingston Street (APN: 540-192-005) 73

(*Staff Report: Adam Rush, Community Development Director*)

Recommendation: Introduce Ordinance 1562, approving the Amended and Restated Development Agreement No. 11 between the City of Banning and AMG Sign Company, Inc.

Mayor asks the City Clerk to read the title of Ordinance 1559

"Ordinance 1562, Approving an Amended and Restated Development Agreement No. 11 between the City of Banning AMG Sign Company, Inc. for the Construction and Operation of an Electronic Message Center in the Downtown Commercial General Plan Designation and Zoning District on Real Property Located at 583 West Livingston Street (APN: 540-192-005)."

Motion: **I move to waive further reading of Ordinance 1562**
(Requires a majority vote of the Council)

Motion: **I move that Ordinance 1562 pass its first reading**

VIII. ANNOUNCEMENTS AND REPORTS:

CITY COUNCIL COMMITTEE REPORTS

REPORT BY CITY ATTORNEY

REPORT BY CITY MANAGER

REPORTS OF OFFICERS

| | | |
|----|--|-----------|
| 1. | Resolution 2020-67, Amending Manual of Procedural Guidelines | 81 |
| | (<i>Staff Report: Doug Schulze, City Manager</i>) | |
| | Recommendation: Adopt Resolution 2020-67, Amending Article VII – Public Comment and Presentations” of the Manual of Procedural Guidelines for the Conduct of City Council and Constituent Body/Commission Meetings for the City of Banning. | |
| 2. | Resolution 2020-68, Approving the Agreement for the Purchase and Sale and Escrow Instructions Between the City of Banning and Shi Pingdong, for Real Property located at 447 E. Ramsey Street (APN: 541-150-004) | 83 |
| | (<i>Staff Report: Tom Miller, Electric Utility Director</i>) | |
| | Recommendation: Adopt Resolution 2020-68, Approving an Agreement for the Purchase and Sale and Escrow Instructions Between the City of Banning and Shi Pingdong for Real Property Located at 447 E. Ramsey Street, Banning (APN 541-150-004) and Making a Finding of Exemption Under CEQA in Connection Therewith | |
| 3. | Resolution 2020-69, Urging County of Riverside and Governor’s Office to Immediately Allow All Retail Stores and Restaurants in the City of Banning to Re-Open | 87 |
| | (<i>Staff Report: Doug Schulze, City Manager</i>) | |

Recommendation: Adopt Resolution 2020-69-A (Attachment 1), A Resolution of the City Council of the City of Banning Urging the County of Riverside to Immediately Allow All Retail Stores and Restaurants in the City of Banning to Reopen with Appropriate Safety Precautions and for the county and the Governor to Approve an Expanded Stage 2 and Stage 3 of the State’s Reopening Plan so that All Other Businesses in Banning Can Promptly Reopen; **or as an Alternative:** Adopt Resolution 2020-69-B (Attachment 2), A Resolution of the City Council of the City of Banning Affirming the City’s Commitment to Fundamental Rights of Life, Liberty, and Property, and Declaring the City of Banning a Sanctuary City for all Businesses

IX. DISCUSSION ITEMS

| | | |
|----|--|-----------|
| 1. | Continued Service of Inge Schuler on Planning Commission | 89 |
| | (<i>Staff Report: Doug Schulze, City Manager</i>) | |
| | Recommendation: City Council discuss and provide direction. | |

2. Consideration of a Resolution Calling for a Ballot Measure to Ask
Voters Whether the Positions of Banning City Clerk and City
Treasurer Should be Elective or Appointive..... **91**
(Staff Report: Doug Schulze, City Manager)

Recommendation: Provide direction to the City Manager regarding the positions of City Clerk and City Treasurer by deciding whether to propose a ballot measure for City Clerk and City Treasurer to be appointive.

X. ITEMS FOR FUTURE AGENDAS

New Items:

Pending Items:

1. Fee Suspension Update
2. Website Redesign
3. CNG Facility Update
4. New Energy Workshop
5. Permanent Homeless Solution

XI. ADJOURNMENT

Next Meeting – Tuesday, June 9, 2020 at 5:00 P.M.

NOTICE: Any member of the public may address this meeting of the Mayor and City Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda but is of interest to the general public and is an item upon which the Mayor and Council may act. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and Council on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of Section 54954.2 of the Government Code.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (951)-922-3102. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II]

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available on the City's website at www.banningca.gov or via email or regular mail by calling (951) 922-3102 or emailing sdelafuente@banningca.gov in the Office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m. and requesting a copy.



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, a joint meeting of the Banning City Council and Banning Utility Authority and a joint meeting of the Banning City Council and the Banning City Council sitting in its capacity as the Successor Agency Board.

MINUTES
CITY COUNCIL

05/12/2020
REGULAR MEETING

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT Douglas Schulze, City Manager
Kevin G. Ennis, City Attorney
Sonja De La Fuente, Deputy City Clerk
Jennifer Christensen, Administrative Services Director
Matthew Hamner, Police Chief
Tom Miller, Electric Utility Director
Adam Rush, Community Development Director
Art Vela, Public Works Director/City Engineer
Ralph Wright, Parks & Recreation Director
Laurie Sampson, Executive Assistant
Carla Young, Business Support Manager
Amber Rockwell, Public Benefits Coordinator

I. CALL TO ORDER

A regular meeting of the Banning City Council was called to order by Mayor Andrade on May 12, 2020, at 5:02 p.m.

Councilmember Welch offered the invocation.

Councilmember Welch led the audience in the Pledge of Allegiance.

II. AGENDA APPROVAL

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Pingree, to approve the agenda. Rollcall vote was taken as follows:

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

III. PRESENTATION(S)

None

IV. REPORT ON CLOSED SESSION

City Attorney Ennis reported that City Council met today in closed session at 4:45 p.m. The item discussed was as follows:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Properties: Southeast Corner (APN 532-140-005) of Ramsey Street and Hathaway Street

City Negotiators: Douglas Schulze, City Manager and Art Vela, Public Works Director

Negotiating Parties: Property Owner, Frank Burgess

Under Negotiation: Price and terms for potential acquisition of property

Direction was given to the City's negotiator. No final or reportable action.

V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS

PUBLIC COMMENT(S)

Mayor Andrade opened public comment for items not on the Agenda.

Inge Schuler spoke regarding her dissatisfaction with the video/teleconference system the City is currently using. She requested the reading of correspondence submitted. She also indicated she only noticed the May 5, 2020, Special City Council meeting agenda on the City's website.

Val Westholder indicated that she appreciated the Council meeting being open to the public. She spoke against the homeless shelter/encampment.

Jerry Westholder indicated he had an issue with Councilmember Happe and spoke against the homeless shelter/encampment. He advised that he is not heartless.

John Hagen advised that he has experienced issues with the video/teleconference system the City is currently using. He read a letter regarding the suggested removal of Inge Schuler from the Planning Commission (Attachment 1). He also requested items 6, 9 and 10 be pulled from the Consent items for discussion.

Karen Amirson asked where on the Agenda it indicated that citizens could attend the Council meeting in person. She also spoke against revising Landscape Maintenance District No. 1.

Gabriel Westholder spoke against the homeless shelter/encampment.

Ellen Carr spoke regarding attending the Council meetings in person and requested sanitization of the microphone and lectern.

Diego Rose spoke against the COVID-19 measures taken by the government and advised that 28,000 deaths were taken off the charts by the CDC.

Seeing no further comments, the Mayor closed public comment.

CORRESPONDENCE

None

APPOINTMENT(S)

None

VI. CONSENT ITEMS

Items 6, 9 & 10 were pulled for separate consideration.

1. Minutes – April 28, 2020, Regular Meeting
2. Minutes – May 5, 2020, Special Meeting (Closed Session)
3. Proclamation – Kids to Parks Day
4. Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of March 2020
5. Receive and File Cash, Investments and Reserve Report for the Month of March 2020
7. Resolution 2020-60, Authorizing the City of Banning's Participation in the County of Riverside's Urban County Program for Fiscal Years 2021-22, 2022-23, and 2023-24

8. Purchase the Swiftly Platform for the City's Transit Operations for a Period of Five Years in the Amount of \$79,830

Public Comments

None

A motion was made by Councilmember Welch, seconded by Mayor Pro Tem Wallace to approve Consent Items 1-5 & 7-8. Electronic vote was taken as follows:

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

Action: Approved Consent Items 1-5 & 78.

6. Purchase & Sale Agreement - 447 E. Ramsey Street

Staff recommended this item be continued to the next regular City Council meeting.

Public Comments

The Mayor opened public comment.

John Hagen asked why the City wanted to purchase the property and what is planned. He expressed concern with utilization of a non-ratepayer utility fund.

Inge Schuler expressed her concern with this item being a consent item and advised that it should be a report.

Jerry Westholder spoke against this item and advised that he did not believe there was such thing as a non-ratepayer utility fund.

Seeing no further comments, the Mayor closed public comment.

A motion was made by Councilmember Pingree, seconded by Councilmember Welch to continue Consent Item 6 to the next regular City Council meeting. Electronic vote was taken as follows:

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

Action: Continued Consent Item 6 to the next regular City Council meeting.

9. Resolution 2020-58, Approving Amendment No. 2 to the Professional Services Agreement with Engineering Resources of Southern California to Increase the Total Compensation by \$750,000 and Extend the Term of Agreement through June 30, 2021 for Plan Check, Inspections, and Related Administrative Services

Public Comments

The Mayor opened public comment.

John Hagen expressed concern with the amount of this item.

Inge Schuler expressed concern with the amount of this item and that it is a Consent item. She asked for an explanation.

Diego Rose expressed concern with the lack of an explanation on this item and recommended clarifying language for everyone.

Jerry Westholder echoed the concerns of those that spoke before him.

Seeing no further comments, the Mayor closed public comment.

Public Works Director Art Vela provided a report on this item, explaining that the services are covered by the developer.

A motion was made by Councilmember Happe, seconded by Councilmember Welch to approve Consent Item 9. Electronic vote was taken as follows:

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

Action: Approved Consent Item 9.

10. Resolution 2020-59, Authorizing CARES Act Emergency Solutions Grant Application

Public Comments

The Mayor opened public comment.

John Hagen asked if the City was applying for the homeless or COVID-19 and where in the queue the City was to get money.

Inge Schuler referenced page 53 of the agenda packet showing the breakdown of operational costs and advised she did not see an estimate.

Jerry Westholder echoed the concerns of those that spoke before him.

Diego Rose expressed concern with the CARES Act and spoke against taking money, as he believes everything comes with strings attached.

Karen Amirson expressed concerns with the pallet shelters. She asked if they were temporary, if the City is providing sewer and laundry room. She indicated the property is commercial, not residential. Finally, she advised that small businesses need help.

Cynthia Barrington expressed concern about a grant for a homeless village being related to COVID-19. She spoke against taxpayer money going toward air conditioning for homeless.

Seeing no further comments, the Mayor closed public comment.

City Manager Doug Schulze advised that the City is obligated to the State of California as a General Law City. He indicated that water and electricity already exist at the site of the homeless shelter. He reminded all that the temporary site was located near the Courthouse. The current site is a pilot project and if it is successful it will continue, if it is not successful it won't.

There was discussion held among the Council and staff regarding the matter.

A motion was made by Councilmember Happe, seconded by Councilmember Welch to approve Consent Item 10. Electronic vote was taken as follows:

| | |
|----------|--|
| AYES: | Andrade, Happe, Pingree, Wallace & Welch |
| NOES: | None |
| ABSTAIN: | None |
| ABSENT: | None |

Action: Approved Consent Item 10.

VII. PUBLIC HEARING(S)

1. Ordinance 1562, Amended and Restated Development Agreement No. 11 Between the City of Banning and AMG Sign Company, Inc. for the Operation of an Electronic Message Center; and Ordinance No. 1562, An Ordinance of the City of Banning, California, approving an Amended and Restated Development Agreement No. 11 Between the City of Banning and AMG Sign Company, Inc. for the Construction and Operation of an Electronic Message Center in the Downtown Commercial General Plan Designation and Zoning District on Real Property Located at 583 West Livingston Street (APN: 540-192-005)

Community Development Director Adam Rush provided a staff report and presentation (Attachment 2) on this item.

Public Comments

The Mayor opened public comment.

John Hagen asked if cannabis would be allowed to advertise.

Diego Rose advised that when he was a business owner in Banning, he wasn't allowed to place a billboard on his property and recommended business owners should be allowed to have large signs. He also expressed concern with the cost of \$36,000 per month to advertise.

Cynthia Barrington asked about a discount to local businesses and if they would be able to afford to advertise.

Robert Ybarra spoke in support of the item.

Seeing no further comments, the Mayor closed public comment.

The applicant, Paul Fisher with AMG explained that traffic safety is not an issue and that he has seen 30% increase to sales tax revenue.

There was discussion held among City Council, staff, and the applicant. The City will work with the applicant to revise the agreement to include language regarding five year renewals after 10 years and allowing all members of the Chamber and address the \$50,000 per year that the developer will pay the City.

A motion was made by Councilmember Happe seconded by Councilmember Wallace to re-open the Public Hearing and continue it to the May 26, 2020 City Council Meeting. Electronic vote was taken as follows:

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

Action: Re-Opened Public Hearing and continue to May 26, 2020 City Council Meeting.

The Mayor recessed the meeting at 7:58 P.M. and reconvened at 8:13 P.M.

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

Councilmember Pingree reported that he has participated in the food drive and that it is nice to meet in person and see everyone.

Mayor Pro Tem Wallace advised she has been helping with the homeless and on Mother's Day she and others served 40 plates and gave gifts to all the female residents. She also informed the public that one person that was living there was able to gain employment, the County came out and had each resident sign paperwork, they are not allowed to do drugs or consume alcohol on the premises, this is a transitional program, and she checks on them every other day. Finally, on May 29th at 5:00 p.m. citizens will meet at Nicolet Middle School to drive around and recognize local graduates.

Councilmember Welch advised the committees he participates in have been dormant or conducting their meetings online. On Friday he attended the Riverside County Board of Supervisors meeting with Mayor Andrade. It was determined that masks and socially distancing would be strongly recommended, but not required. He suggested the County create a simple one—page sheet with instructions for the residents.

Councilmember Happe had nothing to report regarding committees; however, he responded to some comments made during the public comment period on items not on the agenda. He advised that any suggestion that his request to discuss Commissioner Schuler's service on the Planning Commission was related to Diversified Pacific is false. He informed the public that he served as a firefighter for 25 years and understands the plights of the homeless. In regard to landscape maintenance district fees, he suggested people who are opposed to it rally their

neighbors to vote against it. Finally, he explained why people should wear masks during the pandemic.

Mayor Andrade reported that she has witnessed the homeless population morale lifted. She advised they don't like to be portrayed as less than human and that there are different levels of homelessness. She has attended meetings online and most recently attended the League of California City's Mayor's Meeting where the reopening process was discussed. She attended the County Board of Supervisors Meeting and is in favor of reopening due to the small businesses that are suffering. She also attended the Governor's Task Force where she received updates and was able to ask questions about moving forward. More testing sites will be opening, including one in Beaumont. The Little League Executive Board organized a safe pick-up of the uniforms and have organized fundraisers. She also participated in the food distribution program. There is a site to Adopt-A-Senior for the graduates and encouraged people to look for the site on Facebook.

REPORT BY CITY ATTORNEY

City Attorney Kevin Ennis had nothing to report.

REPORT BY CITY MANAGER

City Manager Doug Schulze reported on the following:

- The State of California issued guidance for Phase II of the gradual reopening process on May 7th with six indicators.
- The impact of the pandemic on the City's budget will be approximately \$5 million.
- Pardee and Diversified Pacific residential developments are moving forward slowly, but moving forward. Pardee pre-sold 15 units prior to the pandemic. Eight of those 15 were ultimately sold.
- Various developments ranging from small retail to one-million square foot distribution/fulfillment centers and commercial projects are in progress.
- Attended a Skype meeting with Senator Mike Morrell and a Skype meeting with Assemblyman Chad Mayes with other City Managers to discuss the impacts the pandemic has had on municipalities.
- A team of City employees has been created to plan and implement procedures to reopen City Hall.
- For the record, the City Manager and Chief of Police for Banning have communicated to both County and State officials that the City does not have the resources to enforce County and State orders. As a result, the City will not be engaging in those efforts.

- Update on the Ramsey Street Village:
 - 40 residents (now full) with three on a wait list
 - Privacy fence installed
 - Sunday church services provided by local groups
 - Lunch provided seven days per week by local groups
 - Mobile showers are brought in one day per week
 - AA and NA meetings are being held on site
 - County services are being provided. Including a representative from the Housing Authority who did an intake interview with each resident.
 - Crime statistics within a one-mile radius (not necessarily related to the Village):
 - 3 vandalism/malicious mischief
 - 1 Residential burglary
 - 2 Commercial burglary
 - 1 vehicle theft
 - 1 trespassing
 - Taxpayer money/public funds are used to provide social services to the public/citizen
 - 90% of the residents are longtime Banning residents
 - Three people have moved to more permanent housing
- The new Economic Development Manager, James Wurtz, started with the City on Monday. Before coming to the City of Banning, he served as Economic Development Manager for the City of Murrieta.

REPORTS OF OFFICERS

1. Resolution 2020-57, Multilateral Clean Fuel Reward Program

Business Support Manager Carla Young and Public Benefits Coordinator Amber Rockwell provided the staff report and PowerPoint presentation for this item.

Public Comment

None.

A motion was made by Councilmember Welch, seconded by Councilmember Happe, to adopt Resolution 2020-57. Electronic vote was taken as follows:

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

Action: Adopted Resolution 2020-57

2. Resolution 2020-56, Establishing Fiscal Year 2020/2021 Service Charges for the Collection, Transportation and Disposal of Solid Waste

Public Works Director Art Vela provided the staff report for this item.

Public Comment

Cynthia Barrington expressed concern with the smaller bins replacing the large bins at the same cost to the resident.

Waste Management advised that they can exchange the smaller bins for the large bins.

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Happe, to adopt Resolution 2020-56. Electronic vote was taken as follows:

AYES: Andrade, Happe, Pingree, Wallace & Welch

NOES: None

ABSTAIN: None

ABSENT: None

Action: Adopted Resolution 2020-56

IX. DISCUSSION ITEM

1. Reduction of Public Comment Time to Three (3) Minutes

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

Public Comment

John Hagen spoke against reducing public comment to three minutes.

Jerry Westholder expressed his understanding, however indicated he is against reducing public comment time.

Cynthia Barrington advised she is against reducing the public comment time and that she feels it sends the wrong message.

Councilmember Happe advised he supports reducing the public comment time to three minutes only for items not on the agenda and leaving the five-minute limit for items that are on the agenda.

There was some discussion held among the Council.

A motion was made by Mayor Andrade, seconded by Councilmember Happe, to direct staff to bring back a Resolution for consideration reducing the public comment time limit on items not on the agenda to three minutes. Electronic vote was taken as follows:

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

Action: **Directed staff to bring back a resolution for consideration reducing public comment to three minutes for items not on the agenda.**

2. Cannabis Retailers, Distributors and Cultivators

Community Development Director Adam Rush provided the staff report and PowerPoint presentation for this item.

Public Comment

John Hagen read a letter (Attachment 3) regarding the item.

Val Westholder spoke against amending the City's ordinance related to cannabis.

Jerry Westholder spoke against amending the City's ordinance related to cannabis.

Matt Herald spoke in favor of amending the City's ordinance related to cannabis.

Christopher Henry spoke against amending the City's ordinance related to cannabis.

Rimon Law submitted a letter (Attachment 4) on behalf of their client, Macy Newell in opposition to changing the cannabis ordinance.

Cierra Rounds asked if the ordinance was changed, would it be open to all who initially applied and if the Council had considered adopting an approved business model.

City Attorney Ennis advised that not adopting an approved business model protects the City from litigation.

Police Chief Matt Hamner advised that NCIC background cannot be obtained, as cannabis is illegal at the federal level.

There was an extensive discussion among the Council regarding the item.

There was a consensus (5-0) of the Council to add a Distribution tax to the ballot.

There was a consensus (5-0) of the Council to adjust the canopy tax to \$5 per square foot of canopy space the first year, \$10 per square foot of canopy space the second year, then \$15 per square foot of canopy space each additional year.

Councilmember Happe requested a future discussion item related to microbusinesses.

The Mayor recessed the meeting at 10:51 P.M. and reconvened at 10:56 P.M.

There was additional discussion held among the City Council.

A motion was made by Councilmember Pingree, seconded by Mayor Pro Tem Wallace, to keep the limit at three dispensaries and/or bring back a measure for consideration to ask the voters if the number of cannabis retailers should remain at three. Electronic vote was taken as follows:

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

Action: Keep the limit at three dispensaries and/or bring back a measure for consideration to ask the voters if the number of cannabis retailers should remain at three.

CITY COUNCIL – Next Meeting, May 26, 2020, 5:00 p.m.

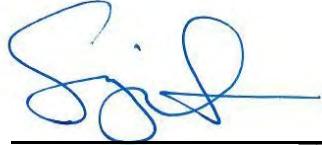
X. ITEMS FOR FUTURE AGENDAS

None

XI. ADJOURNMENT

By consensus, the meeting was adjourned at 11:23 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=L8U1mgt1hrRb>,

<https://banninglive.viebit.com/player.php?hash=yRxPatZ2AWZB> and

<https://banninglive.viebit.com/player.php?hash=DP6iXTPuMQKn> Any related documents maybe viewed here:

<https://banningca.gov/ArchiveCenter/ViewFile/Item/2292> or by purchasing a CD or DVD in the amount of \$7.00 at Banning City Hall located at 99 E. Ramsey Street.

ATTACHMENT 1

RECEIVED*By Sonja De La Fuente at 2:07 pm, May 11, 2020*

Public comment not on agenda,

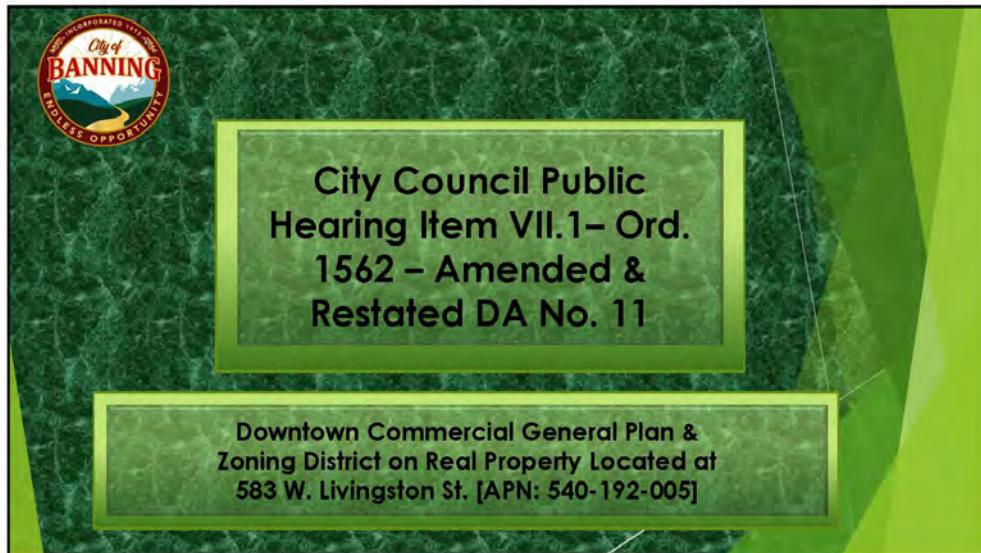
May 10, 2020

I would like to address the issue of replacing Inge Schuler on the planning commission that Councilman Happe is suggesting. Inge is in her 4th year of a 4 year term. She has done an outstanding job since her appointment. Why all of the sudden does Happe want her removed? She has been there longer than Happe has been in office and there was no problem in the past. Happe does not state a reason for her removal. Although she is the most vocal member, she is usually spot on when it comes to speaking out about things that are not up to standard.

This move by Happe to remove her smells fishy to me. Inge's property adjoins the 880 acre parcel to be developed by the very company (Diversified Pacific) that paid for Happe's election. Happe has already given them one extension on building in this city and something tells me that another extension is in the works, or a plan change, so they want Inge out of the way. I would like to hear Happe's reasoning for her removal. It seems that if someone on the commission speaks up and they are not in line with the way the council wants to go, they simply have them removed. This is a trend that needs to be stopped. The same thing happened to David Ellis when he was on the commission. The Planning Commission should serve as a filter, or checks and balance to help guide the City Council in their decisions. It doesn't work well if they are removed if they do not agree with council. I recommend that she be allowed to serve out her term.

John Hagen
Banning resident

ATTACHMENT 2



1



2

1



Aerial Photo

3



General
Plan & Zoning

4

2

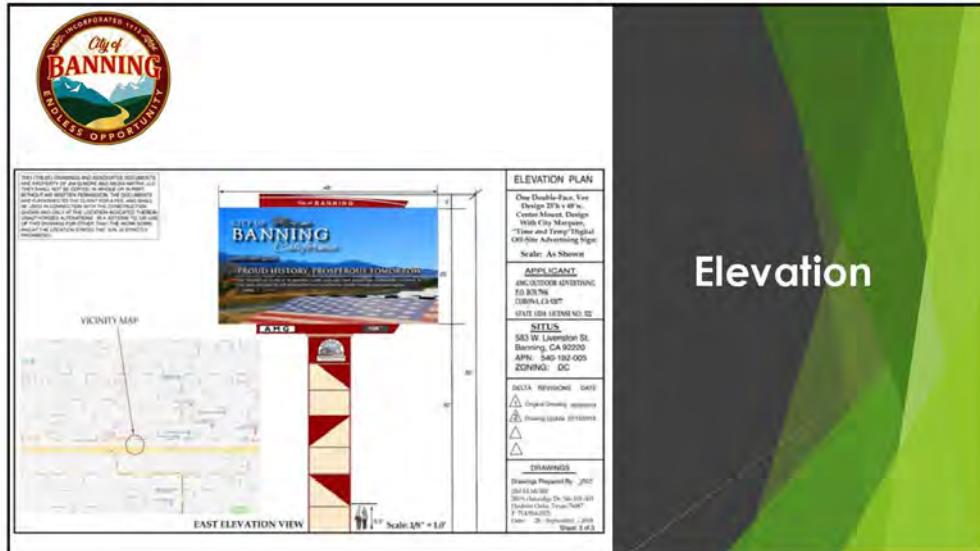


5



6

3



7



8



- ▶ AMG requested a Development Agreement for the construction and operation of an electronic message center at 583 W. Livingston St., near the Interstate 10 freeway.
- ▶ An electronic message center ("digital billboard"), 80-feet in height and 1,200 s.f. of display (25' x 48').
- ▶ Original Development Agreement (DA) would provide a \$50,000 per annum payment to City.

Background

9



- ▶ **AMG now seeks to amend the Agreement:**
- ▶ Eliminate the requirement that AMG pay the City a \$50,000 annual fee, in lieu of incorporating the following public benefits, which are modifications of existing public benefits under the Agreement:
 - ▶ Allowing for a discount available to one local business, in good standing with the Chamber of Commerce, per month on advertising rates; and
 - ▶ Allowing the City an additional public service message.
- ▶ Revise the advertising content control provisions so that certain advertising that was restricted under the original agreement would be allowed.
- ▶ Remove the provision allowing the City to require the sign to be removed at the expiration of the Agreement if an extension to the Agreement is not made.

Background

10

5



These new public benefit provisions are summarized as follows:

- ▶ Any business located in the City, and which is a member in good standing of the Banning Chamber of Commerce will be entitled to post up to one, eight (8) second, advertisement per minute per month at fifty percent (50%) discount off of the normal (full rack) Electronic Message Center display rate(s). AMG shall provide such discount advertising to only one qualifying business each month, as selected by the Chamber of Commerce. AMG estimates the value of such discount to be Eighteen Thousand Dollars (\$18,000) per month.
- ▶ In addition to the City's existing right to place one eight (8) second Public Service Message per minute on one face of the Electronic Message Center per paragraph 4.4 of the Agreement, the City will also be entitled to post up to one additional eight (8) second advertisement per minute per month on one side of the Electronic Message Center.
- ▶ AMG asserts that the value of this benefit to one City business per month is equal to approximately \$18,000.00.

Justification

11



Changes to Advertising Content Control:

- ▶ Under the previously approved wording of this Section, AMG would not be able to display "any advertising for adult entertainment, mud wrestling, alcohol (except beer and wine), tobacco products of any type, or other content that could be reasonably considered sexually explicit or pornographic by community standards".
- ▶ Under the proposed language, AMG would agree that the advertising would not "display any advertisement that is obscene or depicts or makes reference to any (a) strip club, or gentlemen's club featuring nude or partially-clothed dancers or wait staff, (b) pornographic materials, (c) sexually oriented novelty products, (d) adult books, magazines, website, videos or other similar forms of adult entertainment, and (e) stores, websites or establishments selling or featuring any of the foregoing materials..
- ▶ The proposed revisions also remove the City's ability to object to advertising the City considers detrimental to the City's image.

Justification

12

6



Changes to Sign Removal Provisions:

- ▶ In the Amendment, AMG proposes to remove these Sections entirely and replace them with the following:
 - ▶ *Electronic Message Center is being constructed at a site pursuant to a lease between OWNER and the owner of such real property. Upon the expiration of the Agreement, OWNER's obligations as to any removal of the Electronic Message Center and restoration of the real property where it is constructed shall be left to the terms of any lease or other contract between OWNER and the owner of record of the real property.*
 - ▶ The result of this change is to remove the authority under the Agreement, that provides the City a right to remove the electronic message center upon termination of the Development Agreement.
 - ▶ This will mean that once the ten (10) year term of the Agreement expires, the Owner will get to retain and continue to use the sign, but the public benefits of the sign will no longer be required by the Development Agreement.

Justification

13



RECOMMENDED ACTION:



That the City Council take the following actions:

That the City Council waive full reading of, and introduce Ordinance No. 1562, approving the Amended and Restated Development Agreement No. 11 between the City of Banning and AMG Sign Company, Inc. ("AMG").

City Council Recommended Action

14

7

ATTACHMENT 3

RECEIVED

By Sonja De La Fuente at 2:08 pm, May 11, 2020

John Hagen
Banning Resident

Banning City Council

May 12, 2020

Dear Council Members, and to Whom this may concern,

Once again your attempt to instill confidence in your decision making skills has failed. Your community trust has been shaken again. Your business practices are highly in question. Why? Because you continually do whatever you want to do, ignoring the will of the public that put you in office. How do you expect your constituents to trust you when you promise one thing and as soon as you get what you want you do the opposite.

When Measure O was placed on the ballot last November the City made certain concessions to the public assuring them that strict guidelines would be followed, even drawing up an ordinance in advance to assured that there would be only 1 store per 10,000 population, there would be a 200 ft setback enforced so they would not in-croach on residential areas, and they would only be allowed in the Highway Commercial Zone. Now that you got the Measure to pass you want to throw out all those guarantees that were promised. I feel this move is highly unethical if not illegal. I can not believe that the 3 lottery winners that were awarded CUPs are not screaming. You are undercutting their business before they have a chance to open. They jump through all your hurdles and then when its over you change the rules. What kind of business practices are those. Who in their right mind would want to conduct business in this setting.

You claim that your not getting the revenue that you expected. Well, you were warned prior to getting involved in the industry that most cities only generate a small portion of what was expected. There is so much under the table stuff occurring with a cash only business it is almost impossible to get an accurate accounting. It will be hard enough to track and police 3 business let alone 24. this will be a disaster with no end. Your tax revenue will be basically the same with 3 store as 24 because customers will go to where it is sold. By adding 24 more locations doesn't mean you sell 24 times more dope, you just spread it out over a larger area causing more problems for policing and auditing. Every location that you allow a store to go in will cause additional vagrants and panhandling making the general public feel unsafe. Every city that has allowed a shop to open in a general commercial zone the general businesses suffer a loss in sales, eventually drying up that shopping area. If you remove the cap on the number of stores you will be forced to allow them in the general shopping areas. This will force the general public to go to Beaumont to shop.

The reason you put these ordinances and measures on the books was so you did not get pushed into a corner when forced to allow these type of businesses in our community. Now you propose to undo all the safeguards that were put in place. You do not have any shops open yet so what are you basing your lack of generating revenue on. You can't seem to get any shops open when dealing with 3 location how are you going to handle 24. If the cap is removed that list of 24 could grow to 54 how is that going to work? The increase in numbers also increases area impact, calls for service, more auditing personnel, more problems and headaches.

By not approving this change you will uphold your end of the agreement that you made to the public. Honor the commitment to the 3 lottery winners who took the time and effort to jump through all your hoops. Eliminate the monstrous policing headache for the already overworked and understaffed Police Dept. and make it easier to track and monitor only 3 businesses. You could also possibly eliminate a couple of lawsuits by the lottery winners and the public you supposedly represent. It would turn this losing situation into a win-win for you. This is a no brain er, hopefully I'm not talking to the same.

I was impressed by the planning commission's decision to table this vote, but surprised when it was taken up by the council anyway. Someone up there is really pushing this and it makes me wonder why. There is no legitimate reason for this to be heard at this time when a total review of the General City Plan is up for review later this year. We do not have any shops open to judge what effect it is making on our community at this time. There could be a couple of reasons. 1. The City is taking advantage of the lack of accessible public input because of the virus lock down, or 2. Somebody up there is benefiting in some way or another. I guess time will tell.

John Hagen

Banning Resident

ATTACHMENT 4

RECEIVED

By Sonja De La Fuente at 12:45 pm, May 12, 2020

May 12, 2020

VIA EMAIL

Doug Schulze (dschulze@banningca.gov)
Adam Rush (arush@banningca.gov)

Re: City's Consideration of Increasing the Number of Commercial Cannabis Retailers

Gentlemen:

As you likely recall, our firm represents Macy Newell, the owner of Nourish Earth, winner of the 2019 City lottery for a commercial cannabis retail license. On April 22, 2020, my firm sent you a letter explaining why client feels that commercial cannabis retail expansion is not in the best interest of the City or my client's business. On April 24, 2020, my office received an email response from the City Manager Schulze, explaining the City's rationale on why it desires to move forward with permitting additional cannabis retailers to obtain licenses in the City, in addition to the three lottery winners. My client has requested that we prepare the following responsive letter, responding to the City Manager's email.

1. Timing and Speed of Current Licensees

City Manager Schulze emphasized the lack of urgency on part of the licensees. I cannot speak for the other two licensees, but my client has prioritized and met all City requests, deadlines, and responses presented by City Departments – she is currently obtaining permits for demolition so she can begin her tenant improvements. The City must consider its own role in the timeline of this process. Let me be clear, my client is not pointing fingers at the City or saying the City's response or timeline has been anything but appropriate. But, naturally, on projects like these, it takes time. My client has consistently responded expeditiously on all fronts to complete plan review, while the City's departments have needed appropriate time to review and respond.

Moreover, as a lawyer to the regulated cannabis industry for many years, I feel compelled to add that my client's timeline has not been delayed; instead, compared to most projects that I have been involved with, it has been expedited. For this reason, I disagree that adding additional licenses equates to a speedier, more urgent response, from the subsequent round of licensees or the current licensees. My client asks, in the interest of building successful businesses in which owners can make sound, sustainable decisions that ensure the likelihood of profitability, that the City consider the equation, ***more licenses ≠ doors open sooner.***

2. Limited Available Property

In his email, City Manager Schulze noted that "it has been difficult to find facilities to lease or purchase." This point cannot be emphasized enough. Cannabis business owners face enormous challenges in finding viable real estate that is reasonably priced, and strategically advantageous. No other business that I am aware of has to deal with regulatory setbacks and buffers, restricted zoning, landlords unwilling to lease to them because of the business type, little to no banking and financing available, and

JUSTIN M. KELLER | 12130 MILLENNIUM DRIVE, SUITE 300, LOS ANGELES, CA 90094
P: (213) 674.8907 | email: justin.keller@rimonlaw.com

community opposition. These issues often leave owners with a Sophie's Choice between: (1) an undesirable building (needing substantial tenant improvements to be remotely viable); (2) a poorly positioned building (with poor public access, lack of parking, undesirable neighborhood); or (3) an overpriced building (with a substantial mark up because of cannabis). Cannabis Business owners would be lucky to find a building that is well positioned for retail, in decent shape, where the owner has not gouged the price by double or more.

These hurdles will continue to exist for the next set of licensees in the City; in fact, the additional licensees will likely have a worse chance in securing a suitable property, since the three existing licensees have secured their respective locations. While there may seem to be several available properties on the market up and down Ramsey Street, my client, a licensed real-estate agent, and my office's cannabis business experience, believe that most of these properties can be eliminated for one or more of the issues listed above. Again, we return to our formula, *more licenses ≠ doors open sooner*.

3. Oversaturation: City of Beaumont

Recapping the points raised in my last letter: Banning's cannabis ordinance provides: "Only one cannabis retailer for every 10,000 residents may lawfully operate in the City . . ." See Ordinance 1531 Section 17.54.80A. This population-to-retailer ratio is on par with other neighboring cities in Riverside County, such as Moreno Valley. Based on the population of residents in Banning (estimated to be between 30,000-32,000 residents), three retail stores will be more than sufficient to supply those residents seeking medical or adult-use cannabis products, as well as tourists, travelers, and visitors from outside of the City. My client fears that allowing additional retail stores will saturate the local market, which already exists within a limited zoning radius. Allowing too many licensed retailers in close proximity to one another will make it harder for each business to guarantee continued profitability, longevity in the community, and ultimately contribute to the City's tax revenue. To prevent such oversaturation, the City should maintain the 10,000:1 ratio set forth in Ordinance 1531 and not permit another retailer until the population reaches at least 40,000 residents.

We note City Manager Schulze's comment: "it is important to note that the 1:10,000 population ratio only works if one does not consider the 50,000 people in Beaumont, where the City has determined they are not going to allow retail cannabis dispensaries." We understand that, at the moment, the City of Beaumont has not permitted licensed cannabis dispensaries, which may likely lead to an overflow of consumers into Banning. However, the City of Banning cannot guarantee what the City of Beaumont may or may not do in the future, and City of Beaumont would be well within its own rights to permit commercial cannabis at a later time. The City of Banning would be doing a great disservice to its own citizens and businesses if it regulated its commercial activity according to that of its neighbors. For arguments sake, what would the City response be to its citizens and business owners if in 6 months the City of Beaumont amended its cannabis ordinance to permit 5 retail dispensaries (1:10,000 population)? Will Banning require the subsequently added retail dispensaries to close? For these reasons we do not believe that adding licenses based on the City's neighbors' inaction is a prudent move and we urge the City to not to follow this course.

4. Conclusion

Our findings and recommendation are the same as in our original letter. During the City's initial licensing process, the three lottery winners of the retail licenses spent significant time, funds, and resources under the belief that they would be well-positioned to compete in an unsaturated market. My client believes that the City should give the lottery winners a buffer, respecting to all legally bound requirements and administrative processes, to allow time for them to become operational, iron out any business obstacles through working with the City, and develop a rapport with the community. After the three lottery winners are operational, the City will be in a better position to gauge the needs of the community and determine if additional retail stores are necessary and desirable to serve the City's needs. These three lottery winners, including my client, hope to be long-standing community pillars, but if Banning is inundated with retailers competing for the same core business, they likely will never have the chance.

In conclusion, my client respectfully requests and recommends that the City continue to follow Ordinance 1531 and maintain the 10,000:1 ratio set forth in the ordinance. If the City believes it is a prudent decision to change the existing ratio, my client hopes that the City will first give the current ratio a chance, and wait a minimum of two years to determine if the existing three retailers are able to effectively serve the community's needs. During this time, the City could properly observe product availability and success of the current three retail operations. Alternatively, if the City feels a change is required, the City could allow this to be a democratic decision and allow the voters to decide if they want or need additional retailers in the City.

Thank you for time and consideration. Should you have any questions or desire additional clarification, please do not hesitate to contact the firm at your convenience.

Very truly yours,



Justin M. Keller, Partner,
RIMÔN LAW

cc: Client

31 (P&C)

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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.

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

05/12/2020
SPECIAL MEETING - CLOSED SESSION

COUNCIL MEMBERS PRESENT:

Mayor Andrade
Councilmember Happe
Councilmember Pingree
Mayor Pro Tem Wallace
Councilmember Welch

COUNCIL MEMBERS ABSENT:

None

OTHERS PRESENT:

Douglas Schulze, City Manager
Kevin G. Ennis, City Attorney
Sonja De La Fuente, Deputy City Clerk

I. CALL TO ORDER

A special meeting of the Banning City Council was called to order by Mayor Andrade on May 12, 2020, at 4:45 P.M.

II. CLOSED SESSION

The Mayor opened the closed session items for public comments.

Seeing none, the Mayor closed public comments.

The City Attorney listed the items on the closed session Agenda as follows:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Properties: Southeast Corner (APN 532-140-005) of Ramsey Street and Hathaway Street

City Negotiators: Douglas Schulze, City Manager and Art Vela, Public Works Director

Negotiating Parties: Property Owner, Frank Burgess

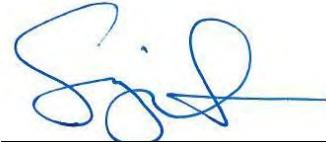
Under Negotiation: Price and terms for potential acquisition of property

City Council convened to Closed Session at 4:47 p.m. and reconvened to Open Session at 5:54 p.m.

II. ADJOURNMENT

By consensus, the meeting adjourned at 5:55 p.m.

Minutes Prepared by:

A handwritten signature in blue ink, appearing to read "S. De La Fuente".

Sonja De La Fuente, Deputy City Clerk



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Suzanne Cook, Deputy Finance Director

MEETING DATE: May 26, 2020

SUBJECT: Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of April 2020

RECOMMENDATION:

That City Council review and ratify the warrants for period ending **April 30, 2020**, per California Government Code Section 37208.

WARRANT SUMMARY:

| Description | Payment # | Amount | Total Amount |
|---|-------------------|-----------------|-----------------|
| Checks: | | | |
| Checks Issued during Month | 173535 - 173966 | \$ 2,173,245.78 | |
| Voided / Reissue Check | | \$ 9,184.40 | |
| Check Total | | | \$ 2,164,061.38 |
| | | | |
| Wires Total | 1027 - 1029 | | \$ 1,461,385.10 |
| | | | |
| ACH payments: | 9006712 - 9006737 | | |
| Payroll Direct Deposit | 4/10/2020 | \$ 370,384.15 | |
| Payroll Direct Deposit | 4/24/2020 | \$ 349,056.98 | |
| Other Payments | | \$ 565,514.63 | |
| ACH Total | | | \$ 1,284,955.76 |
| | | | |
| Payroll Checks: | 12045 - 12062 | | |
| Payroll - Regular | 4/10/2020 | \$ 2,012.95 | |
| Payroll - Regular | 4/24/2020 | \$ 1,871.53 | |
| Manual Check | 4/20/2020 | \$ 17,545.75 | |
| Payroll Check Total | | | \$ 21,430.23 |
| | | | |
| Total Warrants Issued for April 2020 | | | \$ 4,931,832.47 |

ATTACHMENTS:

1. Fund List
<https://banningca.gov/DocumentCenter/View/7366/Attachment-1---Fund-List>
2. Warrant Report April 2020
<https://banningca.gov/DocumentCenter/View/7367/Attachment-2---Warrant-Report-April-2020>
3. Warrant Report Detail April 2020
<https://banningca.gov/DocumentCenter/View/7368/Attachment-3---Warrant-Report-Detail-April-2020>
4. Voided Check Log, Payroll Log & Registers – April 2020
<https://banningca.gov/DocumentCenter/View/7369/Attachment-4---Voided-Check-Log-Payroll-Log-and-Registers-April-2020>

If you have any questions, please contact the Finance Department so that additional detailed information can be provided to you.

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Suzanne Cook, Deputy Finance Director
MEETING DATE: May 26, 2020
SUBJECT: Receive and File Cash, Investments and Reserve Report for the Month of April 2020

RECOMMENDATION:

That City Council receive and file Cash, Investment and Reserve Report for **April 30, 2020** in accordance with California Government Code 53646.

CASH AND INVESTMENT SUMMARY:

| Description | Prior Month | Current Month |
|---|--------------------------|--------------------------|
| Funds Under Control of the City | | |
| Cash | | |
| Cash on Hand | \$ 4,155.00 | \$ 4,155.00 |
| Checking and Savings Accounts | \$ 11,835,869.78 | \$ 11,958,072.05 |
| Investments | | |
| LAIF | \$ 42,152,611.15 | \$ 42,364,757.93 |
| Brokerage | \$ 27,327,387.60 | \$ 27,404,170.36 |
| Total Funds Under Control of the City | \$ 81,320,023.53 | \$ 81,731,155.34 |
| Funds Under Control of Fiscal Agents | | |
| US Bank | | |
| Restricted Bond Project Accounts | \$ 14,797,847.81 | \$ 14,800,815.19 |
| Restricted Bond Accounts | \$ 4,820,389.84 | \$ 4,820,403.60 |
| Union Bank & SCPPA | | |
| Restricted Funds | \$ 4,443,428.04 | \$ 4,385,658.54 |
| Total Funds Under Control of Fiscal Agents | \$ 24,061,665.69 | \$ 24,006,877.33 |
| Total Funds | \$ 105,381,689.22 | \$ 105,738,032.67 |

RESTRICTED, ASSIGNED, COMMITTED AND RESERVED SUMMARY:

| Description | Prior Month | Current Month |
|---|--------------------------|--------------------------|
| Total Funds | \$ 105,381,689.22 | \$ 105,738,032.67 |
| Restricted Funds | 42,244,691.41 | \$ 42,208,567.78 |
| Assigned Funds - Specific Purpose | 8,969,200.65 | \$ 8,969,200.65 |
| Committed Funds - Specific Purpose | 3,242,731.75 | \$ 3,242,731.75 |
| Fund Balance Reserves | 15,455,882.97 | \$ 15,455,882.97 |
| Total Restricted, Assigned, Committed and Reserves | \$ 69,912,506.78 | \$ 69,876,383.15 |
| Operating Cash - Unrestricted Reserves | \$ 35,469,182.44 | \$ 35,861,649.52 |
| Less Accounts held in Investments | \$ 27,327,387.60 | \$ 27,404,170.36 |
| Liquid Cash | \$ 8,141,794.84 | \$ 8,457,479.16 |

ATTACHMENTS:

1. Cash, Investment and Reserve Report April 2020
<https://banningca.gov/DocumentCenter/View/7361/Attachment-1---Cash-Investment-Reserve-Report-April-2020>
2. Investment Report April 2020
<https://banningca.gov/DocumentCenter/View/7362/Attachment-2---Investment-Report-April-2020>
3. City of Banning Broker Investment Report – April 2020
<https://banningca.gov/DocumentCenter/View/7363/Attachment-3---City-of-Banning-Broker-Investment-Report-April-2020>
4. LAIF / PMIA Performance Report
<https://banningca.gov/DocumentCenter/View/7364/Attachment-4---LAIF-PMIA-Performance-Report-April-2020>
5. LAIF Market Valuation Report April 2020
<https://banningca.gov/DocumentCenter/View/7365/Attachment-5---LAIF-Market-Valuation-Report-April-2020>

If you have any questions, please contact the Finance Department so that additional detailed information can be provided to you.

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Art Vela, Director of Public Works
MEETING DATE: May 26, 2020
SUBJECT: Public Works Capital Improvement Project Tracking List

RECOMMENDED ACTION:

This is informational only; receive and file report.

BACKGROUND:

There are several planning, environmental, design and construction contracts that have been approved by City Council and/or the City Manager's office that are being managed by the Public Works Department. In an effort to keep the City Council and the public informed of the progress made and current status of each project, staff has prepared and will continue to update the attached Public Works CIP Tracking List. The list will be presented to City Council on a monthly basis.

FISCAL IMPACT:

None

ATTACHMENTS:

1. CIP Status List May 2020
<https://banningca.gov/DocumentCenter/View/7393/Att-1-CIP-Update-May-2020>

Approved by:

Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Matthew Hamner, Police Chief
Sol Ivett Avila, Executive Assistant

MEETING DATE: May 26, 2020

SUBJECT: Police Department Statistics for April 2020

RECOMMENDED ACTION:

Receive and File April 2020 Police Statistics.

BACKGROUND:

The Police Department provides statistics to the public and City Council upon request.

FISCAL IMPACT:

None

OPTIONS:

1. Receive and File

ATTACHMENT:

1. April 2020 Statistics

<https://banningca.gov/DocumentCenter/View/7381/Att-1-Police-Department-Statistics-April-2020>

Approved by:

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Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Todd Hopkins, Division Chief
Laurie Sampson, Executive Assistant

MEETING DATE: May 26, 2020

SUBJECT: Receive and File Fire Department Statistics for April 2020

RECOMMENDED ACTION:

Receive and file Fire Department statistics for April 2020.

BACKGROUND:

The Fire Department provides statistics to the public and City Council upon request.

JUSTIFICATION:

N/A

FISCAL IMPACT:

None

ATTACHMENTS:

1. Fire Statistics for April 2020

<https://banningca.gov/DocumentCenter/View/7376/Banning-April-2020-Fire-Report>

Approved by:

A handwritten signature in blue ink, appearing to read "AS SF".

Douglas Schulze
City Manager

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**CITY OF BANNING
CITY COUNCIL REPORT**

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Laurie Sampson, Executive Assistant**

MEETING DATE: **May 26, 2020**

SUBJECT: **Receive and File Contracts Approved Under the City Manager's Signature Authority for the Month April 2020**

RECOMMENDATION:

Receive and file contracts approved under the City Manager's signature authority for the Month of April 2020.

BACKGROUND:

City Council requested regular reports of contracts signed under the City Manager's signature authority of \$25,000 or less.

ATTACHMENT:

1. List of Contracts April 2020
<https://banningca.gov/DocumentCenter/View/7412/Att-1-April-2020-Agreements>

Approved by:

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Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Matthew Hamner, Chief of Police
Jeff Horn, Captain

MEETING DATE: May 26, 2020

SUBJECT: Resolution 2020-62, Acceptance of Funding from State of California 911 Emergency Communications Branch not to exceed \$287,000.

RECOMMENDED ACTION:

City Council adopt Resolution 2020-62 approving the following:

1. Accept the funding from the State of California 911 Emergency Communications Branch for the purchase of new and upgraded equipment and software necessary for the Banning Police Department's 911 System and Center. The amount of the purchases not to exceed \$287,000.

BACKGROUND:

The State of California provides Public Service Answering Points (PSAP), in this case the Banning Police Department, with allotment funds based on the amount of 9-1-1 calls taken over an 18-month period. These funds are available to the PSAP every 5 years. In 2020, the Banning Police Department was approved to receive and spend up to \$287,000 for improvements and upgrades to the department's 9-1-1 system in the communication center. The approved allotment is held by the State on the City's behalf and paid directly to vendors except for State approved purchases for equipment made outside of the CALEMA's Systems and Services Master Purchase Agreements. When purchases for necessary equipment are made outside of the noted agreement, PSAP's are responsible for paying the initial cost of the equipment and then submitting to the State for a full reimbursement of costs. While there is a provision for making purchases outside of the system, the Police Department does not foresee making any from outside vendors.

During this 5-year allocation, the Banning Police Department Communication Center has been approved for an upgraded “Power 9-1-1 Viper” system in the amount of \$217,247 through AT&T. The remaining funding (\$69,743.00) will go toward the replacement of dispatcher chairs, headsets, and consoles.

JUSTIFICATION:

The US Department of Technology (USDOT) believes a fundamental reexamination of the technological approach to 9-1-1 is essential as our public safety emergency service networks struggle to accommodate the challenges of wireless communications and digital devices. Cellular service and most other commercial and public safety communications systems are transitioning to IP-based networks. These technologies should enable major advances in the ability of all users and public safety responders to send or receive critical information to, from and beyond the emergency services internetwork, such as emergency calls in American Sign Language via video or medically relevant data transmitted from a vehicle crash. The objective for upgrading the current equipment and software is to be ready for selected requirements in providing the City of Banning with the following Next Generation Emergency 9-1-1 services when they become available:

- The ability for PSAP's to receive voice, video, text (IM, SMS) and data.
- Improving 9-1-1 access for deaf/hearing-impaired (e.g., Video Relay Services, text messaging)
- Caller's location identification for landline, wireless and Voice over Internet Protocol (VoIP) 9-1-1 calls
- Transmission of telematics data directly to the PSAP (Advanced Automatic Crash Notification) like crash location, speed, vehicular rollover, crash velocity
- 9-1-1 Call routing and call transfer based on caller's location
- Internet Protocol (IP) networking and security

FISCAL IMPACT:

There were no costs associated with the acquisition of the “Power 9-1-1 Viper” system and dispatch furniture, as the State of California pays for these upgrades directly. Any additional equipment and software will require the City of Banning to pay upfront and then submit a reimbursement request to the State of California 9-1-1 Emergency Communications Branch for the full amount (if these items are purchased from Vendors not on the list provided by the State). The Banning Police Department does not plan on purchasing any items outside the approved list. In all, the noted upgrades for the Banning Police Department Communication 9-1-1 Center will not cost anything for the City of Banning. The Banning Police Department will adhere to the City's purchasing policy regarding the acquisition of the noted equipment and software.

OPTIONS:

1. Approve as recommended.
2. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Resolution 2020-62
<https://banningca.gov/DocumentCenter/View/7387/Att-1-Resolution-2020-62>
2. Agreement with ATT to complete upgrade to VIPER 911 System.
https://banningca.gov/DocumentCenter/View/7388/Att-2-23271--Banning-PD_TD288_VIPER--Approved
3. Email regarding remaining balance of funding.
<https://banningca.gov/DocumentCenter/View/7389/Att-3-Balance-of-Funding-Available-Email>

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Ralph Wright, Parks and Recreation Director
MEETING DATE: May 26, 2020
SUBJECT: License agreement with Girl Scouts of San Gorgonio Council

RECOMMENDED ACTION:

City Council adopt Resolution 2020-63 approving the license agreement with Girl Scouts of San Gorgonio Council for use of the Girl Scout House in Repplier Park

BACKGROUND:

The City owns a building located in Repplier Park adjacent to the Repplier Aquatic Center, named the Girl Scout House. This property was donated to the City in 1937 with the stipulation that its priority use was for Girl Scout operations in Banning. The building has only been used for this purpose for many years.

Recently, it has come to Staff's attention that although the Girl Scouts continue to use the building for its dedicated primary purpose, there is not an active license agreement in place. For this reason, Staff has worked with Girl Scouts of San Gorgonio Council and develop a license agreement to ensure that both parties are legally protected for the use of the building and allows improvements to be made when necessary.

The agreement has been reviewed by Girl Scouts of San Gorgonio Council and the terms of the agreement are acceptable to both parties. The license agreement is for a five-year initial term, with the ability to extend the agreement if mutually agreed upon and the agreement requires Girl Scouts of San Gorgonio indemnify the City of Banning and continue to maintain in full force the required insurance for use of the premises and their operations.

JUSTIFICATION:

The building has been used for the girl scout's operation and the property was donated with this use as the designated priority.

FISCAL IMPACT:

There is no negative fiscal impact to the City by entering into this agreement.

OPTIONS:

1. Approve as recommended.
2. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Resolution 2020-63
<https://banningca.gov/DocumentCenter/View/7377/Att-1-Resolution-2020-63>
2. License Agreement between the City of Banning and Girl Scouts of San Gorgonio Council
<https://banningca.gov/DocumentCenter/View/7378/Att-2--License-Agreement---Girl-Scouts-of-San-Gorgonio-Councilrev519>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Jason Smith, Electric Operations Manager
Tom Miller, Electric Utility Director

MEETING DATE: May 26, 2020

SUBJECT: Resolution 2020-64 authorizing the purchase of one bucket truck, one dump truck and one wire puller trailer for the Electric Utility.

RECOMMENDED ACTION:

City Council adopt Resolution 2020-64 approving the following:

1. The purchase of one (1) Articulating Telescopic Aerial Device with Material Handling (Insulated) Bucket Truck at \$275,298 plus tax, title and license.
2. The purchase of one (1) New/Unused (2020 Ford Super Duty F-550 DRW (F5H) XL 4WD Reg Cab 169" WB 84" CA, CTEC 11' Dump Body (Dump Truck) at \$87,794 plus tax, title and license.
3. The purchase of one (1) SPU-35 3,000 LB Puller/Pilot Line Winder w/Universal Spider Style Controller Capability w/Reel Storage and Standard Hydraulic Front and Rear Jacks. (Wire Puller Trailer) at \$88,888 plus tax, title and license.
4. City staff to make all necessary budget adjustments and complete all necessary documentation to complete purchases including tax, title and license.

BACKGROUND:

Banning Electric Utility is a retail electrical energy distribution provider and load serving entity serving 13,000 end-use customers with 15 miles of overhead and underground sub-transmission, six (6) distribution substations, and 129 miles of overhead and underground distribution lines and a host of special equipment and appurtenances requiring a full complement of aerial, digging, and material handling devices.

JUSTIFICATION:

In reference to Resolution 2019-16, the utility has acknowledged the need for a more efficient asset management program that maximizes the optimal use of all equipment and materials. The Electric Utility Heavy Duty Trucks and Equipment Replacement Program meets this need and will allow us to achieve these goals while facilitating long term cost savings procedures and practices. The purchase of these vehicles are within the parameters of the established program.

FISCAL IMPACT:

\$465,837 is available in account 673-7000-473.90-52 for the purpose of replacing and upgrading various electric utility vehicles and equipment.

The Electric Utility recognizes appropriate FERC depreciation practices, including the funding of an equipment replacement program for the purpose of timely replacement of the departments' aerial, digging, and material handling trucks and equipment.

OPTIONS:

1. Approve as recommended.
2. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Resolution 2020-64
<https://banningca.gov/DocumentCenter/View/7383/Att-1-Resolution-2020-64>
2. Quote for Bucket Truck
<https://banningca.gov/DocumentCenter/View/7384/Att-2-Bucket-Truck-Quote>
3. Quote for Dump Truck
<https://banningca.gov/DocumentCenter/View/7385/Att-3-Dump-Truck-Quote>
4. Quote for Wire Puller Trailer
<https://banningca.gov/DocumentCenter/View/7386/Att-4-Wire-Puller-Quote>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CONSENT ITEM

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Public Works Director/City Engineer

MEETING DATE: May 26, 2020

SUBJECT: Approving the Renewal of the Landscape Maintenance Contract for Landscape Maintenance District No. 1 with Artistic Maintenance, Inc. of Lake Forest, California for Fiscal Year 2020/2021 in the Amount of \$79,975.

RECOMMENDED ACTION:

City Council approve the following:

1. Amendment No. 1 to the Contract Agreement with Artistic Maintenance, Inc. of Lake Forest, California for an amount "not to exceed" \$79,975 and to extend the term of the agreement through June 30, 2021 for the Operation and Maintenance of Landscape Maintenance District (LMD) No. 1.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Contract Agreement Amendment No. 1 with Artistic Maintenance, Inc.
3. Authorizing the City Manager to execute Amendment No. 1 to the Contract Agreement with Artistic Maintenance, Inc.

BACKGROUND:

LMD No. 1 in the City of Banning was established through the adoption of Resolution No. 1990-59 on August 14, 1990 (9 tracts), with another, Tract No. 22913 being annexed into the District in 1992. There are currently ten (10) Zones and 1,015 assessment units. An additional five tracts and three tentative tracts were annexed (Annexation No. 1) into LMD No. 1 when the City Council approved Resolution No. 2005-36 on May 10, 2005. A map displaying the District is attached as Attachment 3.

LMD No. 1 currently consists of sixteen (16) accepted tracts: Tract Nos. 21882, 22810, 22811, 22913, 23446 (including the median on Highland Home Road), 23598, 28252, 29721, 30186, 30222 (including Richard Sanchez Park), 30793, 31833, 31834, 31835, 32109, and 30906.

The purpose of LMD No. 1 is for the maintenance and servicing of landscape medians and parkways, perimeter strips and backup walls, landscaped hillsides with high visibility, side slopes adjacent to sidewalks, retention basins, and the irrigation of the above facilities. LMD No. 1, by special benefit assessments, provides funding for the servicing and maintenance of designated landscape areas within the City of Banning. A map displaying LMD No. 1 and boundaries of each tract is attached herewith as Attachment 3.

A Request for Proposals (RFP No. 19-031) was prepared and advertised in April of 2019. On June 11, 2019, the City Council approved Resolution No. 2019-69, awarding the contract for the operation and maintenance of LMD No. 1 to Artistic Maintenance, Inc. The scope of work includes providing all the labor, tools, materials, and equipment necessary to provide landscape maintenance services of LMD No.1. This includes performing weekly maintenance and inspection, checking the operation of all irrigation systems and identifying required repairs and, if necessary, the labor for replacing trees, flowers or shrubs within landscaped areas that are maintained under the contract.

As originally approved, the Contract Agreement is for a term of twelve (12) months (\$5,262.50/month; \$63,150.00/year) with the possibility of an option to renew for up to four (4) single additional years (for a total of five (5) single years) upon a satisfactory yearly review of the previously provided services. If approved, extensions to the Contract Agreement will terminate no later than June 30, 2024. This upcoming Fiscal Year, a Consumer Price Index (CPI) increase of 2.89% as permitted per the original RFP has been applied to the original contract amount of \$63,150.00/year.

JUSTIFICATION:

The Public Works Department does not have the required field staff needed to maintain the LMD No. 1 landscape areas, therefore it is necessary to retain a landscape maintenance contractor to provide these services.

Artistic Maintenance, Inc., of Lake Forest, California, has provided satisfactory landscape operation and maintenance services during Fiscal Year 2019/2020 and throughout their previous five year contract for their work within LMD No.1. Staff therefore recommends the renewal of the landscape maintenance contract.

If this contract renewal is approved, it will be the first renewal for Artistic Maintenance, Inc. to maintain the LMD No. 1.

FISCAL IMPACT:

Fund No. 111 (Landscape Maintenance Assessment District No.1) will be utilized to fund this contract for Fiscal Year 2020/2021 in the amount of "not to exceed" \$79,975. Account No. 111-4900-432-23.29 (Landscape Maintenance) in the amount of \$64,975 will fund the monthly operation and maintenance portion of the agreement and Account No. 111-4900-432-30.01 (Repair/Maintenance-Grounds/Fields) in the amount of \$15,000 will be used to fund miscellaneous expenses related to irrigation repairs and landscaping replacement.

ALTERNATIVE:

Do not approve staff recommendation and provide additional direction. The Public Works Department currently does not have sufficient staff to maintain the LMD No. 1 landscape areas in house.

ATTACHMENTS:

1. Proposed Draft Amendment No.1
<https://banningca.gov/DocumentCenter/View/7394/Att-1-C00498-Artistic-Maintenance-Amendment-No-1>
2. LMD No. 1 Map for FY 2020/21
<https://banningca.gov/DocumentCenter/View/7395/Att-2--LMD-No1-Map>

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING REPORT OF OFFICERS

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Public Works Director
Holly Stuart, Management Analyst

MEETING DATE: May 26, 2020

SUBJECT: Awarding the Landscape Maintenance Services Agreement for City Properties to Artistic Maintenance, Inc. of Lake Forest, California in the amount of \$59,760 and Rejecting all Other Bids

RECOMMENDED ACTION:

City Council approve the following:

1. An award of a Landscape Maintenance Agreement to Artistic Maintenance, Inc. of Lake Forest, California for City Properties in the amount of \$59,760 for Fiscal Year 2020/2021 with the option to review for four (4) additional single year periods.
2. Authorizing the City Manager or designee to make necessary budget adjustments, appropriations and transfers related to the agreement for Landscape Maintenance of City Properties.
3. Authorizing the City Manager or designee to execute the Landscape Maintenance Agreement for City Properties with Artistic Maintenance, Inc. for Fiscal Year 2020/2021 with the option to renew for four (4) additional single year periods.

BACKGROUND:

Since November of 2015, the current landscape maintenance services of City properties have been provided by Artistic Maintenance, Inc. In following the City's Purchasing Policy and in order to determine if the City is receiving the most economical and best available

Staff Report: Award Landscape Maintenance of City Properties

May 26, 2020

Page 2 of 4

services, the Public Works Department prepared a Request for Proposals (RFP) for Landscape Maintenance of City Properties.

The scope of work for these services includes turf management; shrub bed maintenance; tree care and pruning; fertilization; environmental weed and pest control program; irrigation equipment and operations for all locations identified in the attached Request for Proposals ("RFP") for City properties listed below:

- Ramsey Street Medians from Highland Springs Avenue to Highland Home Road.
- Banning City Hall (99 East Ramsey Street) landscaping around building and parking lot.
- Banning Police Station (125 East Ramsey Street).
- Banning Police Station Northeast Parking Lot (125 E. Ramsey Street)
- Fire Station Building (5261 W. Wilson Street)
- Community Center & Senior Center (769 & 789 N. San Gorgonio Avenue)
- Aquatic Center (749 N. San Gorgonio Avenue)
- Former Army National Guard Property (2041 W. Nicolet Street)
- Brinton Reservoir (1700 N. Mountain Avenue)
- Sunset Reservoir (1202 N. Sunset Avenue)

On March 20, 2020 an RFP for Landscape Maintenance of City Properties was released through the ProcureNow purchasing system used by the City. In response, five (5) proposals were received and ranked per the following:

| <u>Companies</u> | <u>Score</u> |
|------------------------------------|--------------|
| 1) Artistic Maintenance Inc. | 96.67% |
| 2) CM Landscape | 78.83% |
| 3) Urban Habitat | 74.17% |
| 4) Greentech Landscape, Inc. | 63.17% |
| 5) Five Star Landscape Maintenance | 32.17% |

A committee consisting of three (3) members was assembled to evaluate the proposals based on qualifications, pricing, experience, professional references, approach and methodology resulting in Artistic Maintenance, Inc. being ranked the highest. Additionally, it should be noted that Artistic Maintenance, Inc. currently is successful in providing landscape maintenance services of City properties, in addition to, landscape maintenance services for Landscape Maintenance District (LMD) No. 1.

As a result of these evaluations, staff recommends an award to Artistic Maintenance, Inc. in the amount of \$59,760 to cover monthly service costs and to allow for additional plant replacement and irrigation repair services as needed in the amount of \$7,500. With the

Staff Report: Award Landscape Maintenance of City Properties

May 26, 2020

Page 3 of 4

approval of the agreement, there will be an option to renew and extend the term of the agreement for four (4) additional single year periods.

If awarded, staff anticipates that services will commence beginning July 1, 2020 for a one-year period with the option to renew upon satisfactory review of provided services.

JUSTIFICATION:

The Public Works Department does not have the required field staff needed to maintain the identified landscape areas, therefore; it is necessary to retain a landscape maintenance contractor to provide these services. Artistic Maintenance, Inc. is the highest ranked and most qualified company to provide complete landscape maintenance services for City properties.

FISCAL IMPACT:

The total agreement amount for Landscape Maintenance of City Properties with Artistic Maintenance, Inc. is for a total amount of \$59,760. This agreement will be funded by the operational budgets of Building and Maintenance (\$10,380), Police Department (\$7,440), Community Services Department (\$10,620), Street Division (\$18,600) and Water Division (\$5,220) with an additional \$7,500 being allocated by the departments at the time additional plant replacement or irrigation repair services are deemed necessary.

The agreement will be funded by the following operational budgets:

| ITEM | ACCOUNT NO. | DESCRIPTION | AMOUNT |
|------|--------------------|--|-----------------|
| 1. | 001-2200-421.23-29 | Contractual Services/Landscape Maintenance; Police | \$7,440 |
| 2. | 001-3200-412.23-29 | Contractual Services/Landscape Maintenance; Building Maintenance | \$10,380 |
| 3. | 001-4000-461.23-29 | Contractual Services/Landscape Maintenance; Recreation | \$3,600 |
| 4. | 001-4010-461.23-29 | Contractual Services/Landscape Maintenance; Aquatics | \$3,420 |
| 5. | 001-4050-462.23-29 | Contractual Services/Landscape Maintenance; Senior Center | \$3,600 |
| 6. | 100-4900-431.23-29 | Contractual Services/Landscape Maintenance; Street | \$18,600 |
| 7. | 660-6300-471-45-07 | Reservoir Expenses; Water | \$5,220 |
| 8. | TBD | Additional Services as Needed | \$7,500 |
| | | TOTAL | \$59,760 |

OPTIONS:

The City Council may choose to reject this action which would result in an interruption of services in landscape maintenance of City properties. The City does not have staff resources to perform the landscape maintenance tasks.

ATTACHMENTS:

1. Request for Proposals
<https://banningca.gov/DocumentCenter/View/7396/Att-1-Landscape-Maintenance-City-Properties-RFP>
2. Artistic Maintenance Proposal
https://banningca.gov/DocumentCenter/View/7397/Att-2--Artistic-Proposal-Landscape_5-8-2020
3. Draft Agreement
<https://banningca.gov/DocumentCenter/View/7398/Att-3-Landscape-Services-Agreement>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING BANNING UTILITY AUTHORITY REPORT

TO: BANNING UTILITY AUTHORITY

FROM: Douglas Schulze, City Manager

PREPARED BY: Arturo Vela, Director of Public Works/City Engineer
Luis Cardenas, Senior Civil Engineer

MEETING DATE: May 26, 2020

SUBJECT: Approve a Contract with L.O. Lynch Quality Wells and Pumps, Inc. for the Well Redevelopment and Repairs Project in the amount of \$519,568; Establish a Total Project Budget of \$571,525; and Reject all Other Bids

RECOMMENDED ACTION:

The Banning Utility Authority approve the following:

1. Approve a Contract with L.O. Lynch Quality Wells and Pumps, Inc. for the Well Redevelopment and Repairs project in the amount of \$519,568, and establish a 10% contingency for a total project budget of \$571,525.
2. Authorize the City Manager or his designee to make necessary budget adjustments, appropriations, and transfers related to the contract with L.O. Lynch Quality Wells and Pumps, Inc. for the Well Redevelopment and Repairs project, and to approve change orders within the 10% contingency.

BACKGROUND:

The City owns and operates 21 groundwater production wells. Over time, various factors can lead to mechanical or electrical failures that require repairs beyond the normal maintenance that can be handled in-house. Staff has identified four wells that are in need of repairs in order to be brought back into service: Well C-3, Well C-6, Well M-10, Well M-12. Pumps and motors will be inspected and repaired if possible or replaced when it is more cost effective to do so.

Staff Report: Well Redevelopment and Repairs

May 26, 2020

Page 2 of 3

Well redevelopment is an effort to restore some of the lost production capacity, which typically declines over time due to plugging of the well screens and sand/silt build up in the aquifer formation just behind the well casing. Since the pumps will be removed for the purpose of inspection and repairs for the four well listed above, this is an opportunity for cleaning (brushing and bailing) and redeveloping the well (high velocity, focused-intake pumping). The cleaning and redevelopment activities should result in an increase in production capacity.

A fifth well, C-4, has a motor that is experiencing severe vibration and staff is recommending replacement before it fails.

JUSTIFICATION:

The City of Banning depends 100% on groundwater wells to meet its water demands. Having four wells out of service puts at risk the reliability of the system if any additional wells were to fail during summer. Staff put together bid specifications and advertised the project through the City's electronic bidding system, ProcureNow, on April 16, 2020. Potential bidders were required to attend one of two pre-bid meetings where they were offered the opportunity to visit the work sites. Six (6) bids were received by the May 13 deadline, with the results summarized as follows:

| Contractor | Bid Price |
|--|------------------|
| L.O. Lynch Quality Wells & Pumps, Inc. | \$519,568.00 |
| South West Pump & Drilling, Inc. | \$672,942.06 |
| Best Drilling and Pump, Inc. | \$681,355.00 |
| Layne Christensen Company | \$721,661.00 |
| Weber Water Resources | \$759,955.49 |
| General Pump Company, Inc. | \$815,900.00 |

The lowest responsive bid was from L.O. Lynch Quality Wells & Pumps, Inc. from San Jacinto, CA. Purchasing staff previously sent questionnaires to the references provided as part of a similar project completed for the City within the last 2 years, and all had positive feedback regarding similar work performed by L.O. Lynch Quality Wells & Pumps, Inc.

FISCAL IMPACT:

The Contract with L.O. Lynch Quality Wells & Pumps, Inc. is in the amount of \$519,568. Staff is requesting a 10% contingency in the amount \$51,957 to cover unexpected costs due to the nature of the work being performed. The condition of the well below ground and the true water levels are unknown for several of the wells. If water levels have declined more than anticipated, it may be necessary to lower the pump to address challenges such as entrained air, and modify the pump design. The total project budget requested is \$571,525. Funds for this project will come from Water Operations Fund, account number

Staff Report: Well Redevelopment and Repairs

May 26, 2020

Page 3 of 3

660-6300-471.95-08 (Wells/Pumping Equipment), split between Fiscal Year 2020 and Fiscal Year 2021 as follows:

| Fiscal Year | Amount |
|-------------|-----------------------------|
| 2020 | \$265,422.62 |
| 2021 | \$254,145.38 |
| 2021 | \$51,957.00 10% Contingency |

ALTERNATIVE:

Do not approve and provide alternative direction. Not approving the contract could have serious consequences, including the inability to meet water demands of the community.

ATTACHMENTS:

1. IFB 20-016, Well Redevelopment and Repair
<https://banningca.gov/DocumentCenter/View/7409/Att-1-IFB-20-016-Well-Redevelopment-and-Repairs>
2. L.O. Lynch Bid
<https://banningca.gov/DocumentCenter/View/7410/Att-2-LO-Lynch-Bid>
3. Contract No. C00651 with L.O. Lynch Quality Wells and Pumps, Inc.
<https://banningca.gov/DocumentCenter/View/7411/Att-3-DRAFT-Contract>

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING REPORT OF OFFICERS

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Public Works Director
Holly Stuart, Management Analyst

MEETING DATE: May 26, 2020

SUBJECT: Awarding the Custodial Services Agreement to Dynamic Building Maintenance of Riverside, California for Municipal Facility Maintenance in the amount of \$77,432 and Rejecting all Other Bids

RECOMMENDED ACTION:

City Council adopt the following:

1. Approving an award of a Custodial Services Agreement to Dynamic Building Maintenance of Riverside, California for Custodial Maintenance of Municipal Facilities in the amount of \$77,432 for Fiscal Year 2020/2021 with the option to review for four (4) additional single year periods.
2. Authorizing the City Manager or designee to make necessary budget adjustments, appropriations and transfers related to the agreement for Custodial Services.
3. Authorizing the City Manager or designee to execute the Custodial Services Agreement with Dynamic Building Maintenance for Fiscal Year 2020/2021 with the option to renew for four (4) additional single year periods.

BACKGROUND:

The current custodial services contractor has provided janitorial maintenance of municipal facilities since March of 2016. In following the City's Purchasing Policy and in order to determine if the City is receiving the most economical and best available services, the Public Works Department prepared a Request for Proposals (RFP) for custodial services.

The scope of work includes five (5) days per week facility maintenance of the Civic Center, City Yard and Banning Police Department. The Banning Water Shop will require three (3) days of service per week and the Community/Senior Centers shall be limited to quarterly floor and window cleanings as shown in the detailed specifications attached hereto.

On March 13, 2020, an RFP for custodial services was released through the ProcureNow purchasing system used by the City. In response, three (3) proposals were received and ranked per the following:

| <u>Companies</u> | <u>Score</u> |
|--|---------------------|
| 1) Dynamic Building Maintenance | 78.67% |
| 2) Merchants Building Maintenance, LLC | 76.00% |
| 3) Ultimate Maintenance Services | 70.33% |

A committee consisting of three (3) members was assembled to evaluate the proposals based on qualifications, pricing, experience, professional references, approach and methodology resulting in Dynamic Building Maintenance being ranked the highest. As a result of these evaluations, staff recommends an award to Dynamic Building Maintenance in the amount of \$77,432 to cover monthly service costs and to allow for additional as needed services in the amount of \$2,000. With the approval of the agreement, there will be an option to renew and extend the term of the agreement for four (4) additional single year periods.

If awarded, staff anticipates that services will commence beginning July 1, 2020 for a one-year period with the option to renew upon satisfactory review of provided services.

JUSTIFICATION:

Custodial services are needed to provide regular scheduled custodial services to effectively, efficiently and safely maintain a high level of cleanliness for City facilities. Dynamic Building Maintenance is the highest ranked and most qualified company to provide complete custodial services for municipal facilities.

FISCAL IMPACT:

The total agreement amount of \$77,432 will be funded by the operational budgets of Building and Maintenance (\$37,272), Police Department (\$36,960) and the Community Services Department (\$1,200) with an additional \$2,000 being allocated by the departments at the time additional services are deemed necessary.

The agreement will be funded by the following operational budgets:

| ITEM | ACCOUNT NO. | DESCRIPTION | AMOUNT |
|------|--------------------|--|-----------------|
| 1. | 001-3200-412.33-18 | Contractual / Custodian Services; Building Maintenance | \$37,272 |
| 2. | 001-2200-421.33-18 | Contractual / Custodian Services; Police | \$36,960 |
| 3. | 001-4000-461.33-18 | Contractual / Custodial Services Maintenance; Community Center | \$600 |
| 4. | 001-4050-461.33-18 | Contractual / Custodial Services; Senior Center | \$600 |
| 5. | TBD | Additional Services as Needed | \$2,000 |
| | | TOTAL | \$77,432 |

OPTIONS:

The City Council may choose to take no action on this matter which would result in an interruption in janitorial services. The City does not have staff resources to perform these tasks.

ATTACHMENTS:

1. Request for Proposals
<https://banningca.gov/DocumentCenter/View/7399/Att-1-Custodial-Services-RFP>
2. Dynamic Building Maintenance Proposal
https://banningca.gov/DocumentCenter/View/7400/Att-2--Dynamic-Building-Maintenance-Proposal_5-8-2020
3. Draft Agreement
<https://banningca.gov/DocumentCenter/View/7401/Att-3-Custodial-Services-Draft-Agreement>

Staff Report: Custodial Services Agreement for Maintenance of Municipal Facilities

May 26, 2020

Page 4 of 4

Approved by:

A handwritten signature in blue ink, appearing to read "DS".

Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Jennifer Christensen

MEETING DATE: May 26, 2020

SUBJECT: Resolution 2020-39, Approving the Emergency Medical Services Billing Program Fee

RECOMMENDATION:

That City Council:

- A. Conduct a hearing to adopt Resolution 2020-39 approving the emergency medical services billing program fee schedule and related write-off policy;
- B. Adopt Resolution 2020-39 approving the emergency medical services billing program fee schedule and related write-off policy; and
- C. Approve a contract with Wittman Enterprises LLC to administer the emergency medical services billing program in an amount not to exceed \$60,000.

BACKGROUND:

On March 24, 2020, the City Council directed staff to return with a resolution to implement an Emergency Medical Services Billing Program Fee and Related Write Off Policy modeled after the Cities of Indian Wells, Rancho Mirage and Palm Desert. The emergency medical services billing program fee is paid by insurance. Insurance will be billed directly whenever possible. If insurance information isn't available, the statement will clearly indicate that the bill should be submitted to insurance for payment. No collection activities are proposed in the event a bill is not paid.

FISCAL IMPACT:

Based on the number of medical response calls for the City of Banning annually over the past five (5) years, the fee is anticipated to generate approximately \$400,000-\$500,000 annually after taking into consideration the costs of program administration.

Wittman Enterprises LLC charges a \$15.00/incident fee to the city to administer this program. With an average of 4,000 incidents per year, the contract expenditure amount is estimated to be \$60,000. The revenue generated by this program will more than cover this

cost. Note that the anticipated revenue to the city net of contractual costs for program administration is \$400,000-\$500,000 annually.

OPTIONS:

1. Approve the recommended action and adopt a resolution approving the emergency medical services billing program fee schedule and related write-off policy.
2. Approve a contract with Wittman Enterprises LLC to administer the emergency medical billing program.
3. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Resolution 2020-39
<https://banningca.gov/DocumentCenter/View/7390/Att-1-Resolution-2020-39>
2. Published Notice of a Public Hearing
<https://banningca.gov/DocumentCenter/View/7391/Att-2-Notice-of-Publication>
3. Contract with Wittman Enterprises LLC
<https://banningca.gov/DocumentCenter/View/7392/Att-3-C00657-Wittman-Enterprises-LLCv2>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Adam B. Rush, Community Development Director
Kevin G. Ennis, City Attorney

MEETING DATE: May 26, 2020

SUBJECT: Amended and Restated Development Agreement No. 11 Between the City of Banning and AMG Sign Company, Inc. for the Operation of an Electronic Message Center; and Ordinance No. 1562, An Ordinance of the City of Banning, California, approving an Amended and Restated Development Agreement No. 11 Between the City of Banning and AMG Sign Company, Inc. for the Construction and Operation of an Electronic Message Center in the Downtown Commercial General Plan Designation and Zoning District on Real Property Located at 583 West Livingston Street (APN: 540-192-005)]

RECOMMENDED ACTION:

That the City Council waive full reading of, and introduce Ordinance No. 1562, approving the Amended and Restated Development Agreement No. 11 between the City of Banning and AMG Sign Company, Inc. ("AMG").

FURTHER CONSIDERATIONS:

The City Council considered a request from AMG to amend the Development Agreement at the May 12, 2020 City Council meeting. The public hearing was continued to May 26th in order to allow City staff to prepare additional research on comparable cities that also have digital billboards. The Council requested and provide additional information regarding similar billboard agreement within surrounding cities. During the continuance, City staff researched the various billboard agreements, held within surrounding cities having similar size and demographics to Banning.

In addition, the Council requested that AMG develop an enhanced offer that meets the Council's direction, in lieu of the original annual payment to the City, in the amount of \$50,000.00.

During this Hearing, the City Council also debated and discussed several provisions of the Amended and Restated Development Agreement. Ultimately, the City Council continued the hearing for a two-week period and provided direction to both City staff and AMG; which is summarized below:

- Council is generally uncomfortable with the proposed changes to the Development Agreement provided by AMG from the Original Development Agreement approved in February 2020.
- The proposed benefits to Banning businesses and the City are uncertain with respect to dollar value of the changes proposed. *Development Agreements are statutorily required to include a public benefit*, the definition of which is determined by the City Council.
- AMG shall broaden access to all local Banning businesses with available discounts.
- AMG shall provide an enhanced justification for the removal of advertising restrictions and controls. The Council questioned why the allowance of "mud wrestling; liquor sales; and tobacco products were included back into the agreement.
- Council needs an outline and justification for the removal of the **annual \$50,000 per year payment** with increased discounts for local business advertising.
- What is the average advertising rate schedule for local business?
 - With the 50% discount; and,
 - Without the 50% discount.
- The Council requested several items to be prepared – both by staff and AMG – in preparation for the May 26th City Council Meeting
 - Advertising discounts be provided to the entire local business community.
 - The overall advertising rate schedule that is commercially available to clients.
 - What is the frequency of the advertising schedule?
 - 8-second slots? How frequent?
 - A comparative analysis, from other Cities that have digital billboards in operation, and the resulting economic benefits derived.
 - Staff has already identified several cities, with digital billboards in operation for at least 18-months, and will be contacting them, as well as reviewing their Annual Budgets for "pre-and-post billboard operations".

Regarding a comparative (city-by-city) analysis, staff prepared a comparative research analysis across a broad cross-section of Inland Empire Cities and developed the following summary:

| DIGITAL BILLBOARD RESEARCH – COUNCIL REQUEST | | | | | | |
|--|-------------|-----------------------------------|-----------------------------------|----------------------------|--|---|
| City | # Billboard | Annual Payment to City | Additional Incentives | Term of Agreement | Advertising Restrictions | Owner |
| Rialto | 3 | \$90,000/yr. + 25% GAR | 3 City Ads/Year | 20yr (w/ 10yr. opt.) | No Drug or Sexually Oriented content | Lamar |
| Corona | 3 | \$90,000/yr. | 1 City Ad per min. | 30 years | No drug, sexually oriented content, alcohol, or tobacco | Lamar/General Outdoor Advertising (GOA) |
| Rancho Cucamonga | 1 | \$40,000/yr. OR 12% GAR | One (1) – 6 sec. City Ad per min. | In perpetuity | No drug, sexually oriented content, alcohol, or tobacco ¹ | GOA ² |
| Eastvale | 1 | \$50,000/yr. | 1 City Ad per min. | 20 years | No drug, sexually oriented content, alcohol, or tobacco | GOA |
| Colton | 1 | \$70,000/yr. + 30% GAR | Renegotiation Clause | 20 years (w/ 2-5yr. opts.) | No drug, sexually oriented content, alcohol, or tobacco | |

¹ Restrictions on alcohol and tobacco only pertain to relocated billboards.

² Lamar has a relocation agreement, with the City of Rancho Cucamonga; however, the City holds no financial or advertising interests.

The City Council also requested a “city-by-city” analysis, summarizing the positive economic impacts, resulting from increased advertising and visibility created by the digital billboard, within each City. Economic data of this type is less tangible than the negotiated agreement executed by each City with individual billboard developer (this is the data detailed in the table above). Staff’s methodology to measure economic output, resulting from a new digital billboard, is derived from **comparing sales and transit occupancy taxes** in the years prior to and subsequent from the development of the digital billboard.

As of this writing, staff has not concluded this research, but additional information is planned for staff’s public hearing presentation.

BACKGROUND:

May 12th City Council Public Hearing:

AMG sought to amend the Agreement. City staff reviewed AMG’s requested amendments and prepared the *Amended and Restated Development Agreement No. 11* that incorporates the changes sought by AMG with some revisions for clarity. The proposed language makes four changes that were presented at the May 12, 2020 City Council Public Hearing that were summarized below:

1. Change references of “AMG Outdoor Advertising, Inc.” to “AMG Sign Company, Inc.”
2. Eliminate the requirement that AMG pay the City a \$50,000 annual fee, in lieu of incorporating the following public benefits, which are modifications of existing public benefits under the Agreement:
 - (i) allowing for a discount available to one local business, in good standing with the Chamber of Commerce, per month on advertising rates; and
 - (ii) allowing the City an additional public service message.
3. Revise the advertising content control provisions so that certain advertising that was restricted under the original agreement would be allowed.
4. Remove the provision allowing the City to require the sign to be removed at the expiration of the Agreement if an extension to the Agreement is not made.

City staff, in parallel with the City Attorney’s Office, reviewed and evaluated the most recent changes and amendments, proposed by AMG, and prepared the *Amended and Restated Development Agreement* to include the changes sought by AMG and by incorporating minor corrections and clarifications to AMG’s proposed changes. These changes were presented to the Council at the May 12, 2020 City Council meeting.

February 25th City Council Public Hearing:

AMG requested that the City enter into a Development Agreement for the construction and operation of an electronic message center at 583 West Livingston Street, near the Interstate 10 freeway. More specifically, AMG seeks to develop a double-face marquee electronic message center of maximum height of eighty (80') feet and maximum display face of 1,200 square feet (25' X 48').

On February 25, 2020 the City Council adopted Ordinance 1558, approving the Development Agreement, labelled as "Development Agreement Number 11," between the City and AMG for the construction and operation of an electronic message center. Development Agreement No. 11 was executed on March 5, 2020 by the City and by AMG.

January 15th Planning Commission Public Hearing:

On January 15, 2020, the Planning Commission held a noticed public hearing on the Development Agreement (DA) No. 11 and Conditional Use Permit (CUP) 19-8009, which authorized the electronic message center, subject to certain conditions. The Commission adopted Resolution 2020-02, approving Conditional Use Permit 19-8009 and recommending that the City Council approve the agreement.

The material presented to the Planning Commission indicated that the electronic message center would "assist in providing income for the City through the generation of a franchise fee based upon a percentage of advertising revenue." Therefore, the draft agreement that was presented to the City Council required AMG to pay an annual fee of at least \$50,000. The draft agreement also included provisions requiring the removal of the electronic message center after the expiration of the term of the agreement.

JUSTIFICATION:

Changes to Fee and Public Benefits

In consideration for allowing AMG to develop and operate the electronic message center as provided under the Agreement, the original Development Agreement, provided that the City receive certain public benefits, including an annual fee of \$50,000 to the City. Development Agreements are statutorily required to include a public benefit to the City.

Also, the original Development Agreement required AMG to provide other public benefits, including:

- (i) providing a discount of 50% off the normal (full rack) display rates to local businesses with an annual gross income not in excess of one million dollars [Section 4.3]; and,
- (ii) requiring the electronic message center to display the City name and logo as well as provide the City with certain public message opportunities [Section 4.4].

In the proposed Amended and Restated Development Agreement, AMG seeks to provide two alternative public benefits, acting in lieu of the items referenced above, for the City's consideration. These new public benefit provisions are summarized as follows:

- a) **Local Business Advertising Discount:** It is anticipated that each side of the Electronic Message Center will display approximately eight (8) messages per minute. Each message is referred to herein as a "Rotation." Owner will provide up to one Rotation, on one side, of the Electronic Message Center at its sole discretion to any Qualifying Business at a fifty percent (50%) discount off of the normal (full rack) Electronic Message Center display rate(s). Qualifying Businesses are those which meet all the following requirements: 1. they are located within the CITY; 2. they have an annual gross income of no more than one million dollars (\$1,000,000); and 3. they are members in good standing of the Banning Chamber of Commerce. The Rotation provided to Qualifying Businesses pursuant to this paragraph may be purchased in its entirety by one such business or divided among several on a first come, first served basis. The smallest increment in which the discounted Rotation will be available for purchase by any Qualifying Business will be 60th.

City staff believes that this change implements the Council's direction, with the exception of limiting the discount to Chamber Only Members.

- b) **City Advertising Rights:** CITY shall be entitled to use up to one full Rotation for a Public Service Message on one side of the Electronic Message Center on a continuous basis. Notwithstanding the foregoing should CITY not utilize its allotment of advertising space, OWNER shall be entitled to lease that time for other advertising purposes. For all Public Service Messages, CITY shall be responsible for providing OWNER with the advertising copy and artwork

City staff cannot agree with the modified language as it does not provide specificity as to the City's advertising rights. The modified section removes the interval of time in which the City's add will incorporated into the advertising rotation schedule.

Changes to Advertising Content Control

Section 4.4.1, the original Development Agreement, limited the content of advertising that may be displayed on the electronic message center. Under the previously approved wording of this Section, AMG would not be able to display "any advertising for adult entertainment, mud wrestling, alcohol (except beer and wine), tobacco products of any type, or other content that could be reasonably considered sexually explicit or pornographic by community standards." Further, the Agreement reserved the City's right to object to any other advertising that may be considered "detrimental to the image" of the City.

In the proposed Amendment language, AMG covenants and agrees for itself, its successors and assigns that in no event shall the Electronic Message Center display any advertisement that is obscene or depicts or refers to any of the following: (a) strip club, or gentlemen's club featuring nude or partially-clothed dancers or wait staff, (b) mud wrestling (c) pornographic materials, (d) sexually oriented novelty products, (e) adult books, magazines, website, videos or other similar forms of adult entertainment, and (f) stores, websites or establishments selling or featuring any of the foregoing materials.

The proposed revisions have the effect of allowing for alcohol and tobacco products within the advertising content. In addition, potential Retail Cannabis Dispensaries are allowed to advertise under the current and proposed agreement. The proposed revisions do strengthen the City's ability to object advertising content but does not provide "veto authority" over any advertising content the City finds objectionable.

Changes to Sign Removal Provisions

The original Agreement, provided in Section 5, that the electronic message center may be removed at the end of the Agreement if the Agreement is not extended and provides that the site should be restored to its original condition. While these regulations on sign removal provisions have not changed; however, AMG and the City have agreed upon an extended term of the agreement (Section 2.4) that automatically renews the Agreement for an additional ten (10) years at the end of the initial ten (10) year term. Notwithstanding this revision, the agreement can be amended at any time, by either party based upon their mutual understanding.

FISCAL IMPACT:

All activities, permits, and plan checks, conducted by the City of Banning and its contractors (as applicable) – including the payment of Development Impact Fees (DIF) – will be reimbursed and/or paid directly by the developer. The City will no longer receive a \$50,000 annual fee from the developer. In its place, Banning Chamber businesses (in good standing) will receive up to a 50% discount. Furthermore, the City will be allowed to have one (1) eight second advertisement for month community service advertisements; however, how long this advertisement will last is still unknown (5-19-20).

OPTIONS:

1. Approve as recommended.
2. Do not approve and provide alternative direction.

ATTACHMENTS:

- A. Ordinance No. 1562, Approving Amended and Restated Development Agreement No. 11
<https://banningca.gov/DocumentCenter/View/7407/ATTACHMENT-A---Banning---5-26-20---Ord-Adopt-Amended-and-Restated-DA-11-AMG--v-5>
- B. Amended and Restated Development Agreement No. 11 (with changes shown)
https://banningca.gov/DocumentCenter/View/7408/ATTACHMENT-B---AMG-Amended-and-Restated-DA_05-26-2020abrv8
- C. Example Agreements:
 - i. City of Colton
<https://banningca.gov/DocumentCenter/View/7404/ATTACHMENT-Ci---Colton-Attachment-1888>
 - ii. City of Rancho Cucamonga
<https://banningca.gov/DocumentCenter/View/7405/ATTACHMENT-Cii---General-Outdoor-Agreement---Final>
 - iii. City of Rialto
<https://banningca.gov/DocumentCenter/View/7406/ATTACHMENT-Ciii---Rialto---Billboard-Relocation-Agreement-June-11-2019>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
MEETING DATE: May 26, 2020
SUBJECT: Resolution 2020-67, Amending Manual of Procedural Guidelines

RECOMMENDED ACTION:

City Council adopt Resolution 2020-67, Amending “Article VII – Public Comment and Presentations” of the Manual of Procedural Guidelines for the conduct of City Council and constituent body/commission meetings for the City of Banning.

BACKGROUND:

During the May 12, 2020 Regular meeting of the Banning City Council, direction was given to draft a resolution to amend the Manual of Procedural Guidelines to limit public comment on non-agendized items to three (3) minutes. The City Council also provided direction to keep the public comment on all agendized items at the current five (5) minute maximum time limit.

As staff reviewed the Manual of Procedural Guidelines while preparing the resolution and staff report, it was determined that the Manual does not establish a time limit for non-agendized and agendized items other than public hearings. The five-minute limitation applies to Presentations and to Public Hearings.

Resolution No. 2020-67 amends the Manual of Procedural Guidelines, as follows:

- 1) limits public comment on non-agendized topics to three (3) minutes per speaker;
- 2) clarifies that public comment for agendized items is limited to five (5) minutes per speaker.

JUSTIFICATION:

City Council business meeting efficiency.

FISCAL IMPACT:

Not applicable.

OPTIONS:

1. Approve as recommended.
2. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Resolution 2020-67
<https://banningca.gov/DocumentCenter/View/7413/Resolution-2020-67>
2. Manual of Procedural Guidelines
<https://banningca.gov/DocumentCenter/View/7414/Manual-of-Procedural-Guidlines>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

PREPARED BY: **Thomas Miller, Electric Utility Director**
James Wurtz, Economic Development Manager

MEETING DATE: **May 26, 2020**

SUBJECT: **Resolution 2020-68, Approving the Agreement for the Purchase and Sale and Escrow Instructions Between the City of Banning and Shi Pingdong, for Real Property located at 447 E. Ramsey Street (APN: 541-150-004)**

RECOMMENDATION:

Authorize the City of Banning to purchase real property at 447 E. Ramsey Banning CA, 92220 (APN No. 541-150-004) using Banning's Electric Enterprise Funds for the purpose of supporting economic development initiatives and further diversification of Banning Electric Utility's (BEU) ratepayer structure and in direct support of the City of Banning's Strategic Plan.

BACKGROUND:

The City of Banning Economic Development Program (ED Program) Policy was adopted in 2011 as a result of initial work with participants of a "Draft General Plan Workshop." The vision outlined in the original document also took into consideration the Riverside County Economic Development Agency's (EDA) five-year strategic plan. When the 2011 policy was adopted, there were several key elements in the Mission statement the most relevant in this case being:

1. Generating new business opportunities and support existing businesses that generate high-paying jobs and revenue;
2. Create a downtown where you can live, work, shop and play;
3. Supporting growth and maintenance of utilities and infrastructure to allow for responsible city growth and sustainability; and
4. Maintaining well planned and safe neighborhoods for a strong community.

The contributions the Banning Electric Utility makes to the local government whether in the form of payment in lieu of taxes, transfers to the general fund, or other in-kind contributions to the local government, also help the community economically. Direct

financial contributions provide real, tangible benefits to the community, helping pay for police and fire services, parks, road repair and other city services.

The financial contributions made by the Banning Electric Utility give the community a choice: to collect less in local tax revenue to support its services; or to increase the number (or improve the quality) of services it provides. The community and local economy benefit either way: from more money staying in citizen's pockets or from enhanced municipal services.

JUSTIFICATION:

Acquisition of property is consistent with economic development strategies of the city and the goal of providing high-skilled, high-wage jobs in the City. The Banning Electric Utility continues to be a logical partner in economic development. A locally controlled utility is part of a public service community team that cooperates on public works projects, downtown renovations, extension policies, business development, industrial parks and energy efficiency programs. The Banning Electric Utility has an inherent interest in promoting the community's well-being and prosperity.

CEQA:

The environmental effects of the Project were studied and analyzed pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 *et seq.*, and the CEQA Guidelines, 14 Cal. Code Regs. Section 15000 *et seq.* ("CEQA Guidelines"). Pursuant to Section 15332 (Infill Development Projects) of Article 19 (Categorical Exemptions) of the State CEQA Guidelines, City Staff found that the Project is exempt from CEQA because the further use and development of this site will be consistent with the General Plan and Zoning, the site is less than five acres, it is located within the City's boundaries, the site has no value as habitat for endangered, rare or threatened species, the property is currently unutilized, and its acquisition by the City will not result in any significant effects related to traffic, noise, air quality or water quality.

FISCAL IMPACT:

The purchase price is \$340,000 plus escrow and title charges not to exceed \$5,000 for a total expenditure of up to \$345,000. Funds to be sourced from Account 673-7000-473.90-01 of the Electric Enterprise Fund.

OPTIONS:

1. Approve as recommended.
2. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Resolution 2020-68
<https://banningca.gov/DocumentCenter/View/7417/Att-1-Resolution-2020-68>
2. Partially Executed Purchase and Sale Agreement
<https://banningca.gov/DocumentCenter/View/7418/Att-2-447-Ramsey-Purchase-Contract-Owner-Signed>

Approved by:



Douglas Schulze
City Manager

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CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

MEETING DATE: May 26, 2020

SUBJECT: Resolution No. 2020-69, Urging County of Riverside and Governor's Office to Immediately Allow All Retail Stores and Restaurants in the City of Banning to Re-Open

RECOMMENDED ACTION:

City Council adopt Resolution 2020-69, urging the County of Riverside and the Governor's Office to Immediately allow all retail stores and restaurants in the city of Banning to reopen with appropriate safety precautions and for the County and Governor to approve an expanded stage 2 and stage 3 of the State's reopening plan so that all other businesses in Banning can promptly reopen.

BACKGROUND:

The Banning community has experienced a very small number of confirmed COVID-19 cases as of May 20, 2020, which is two months after the emergency declaration and Stay-at-Home order issued by Governor Newsom. In fact, less than 0.3% of Banning residents have tested positive for COVID-19. Two residents of Banning have died as a result of COVID-19, which represents less than 0.006% of the population.

At the same time, our businesses and families have been severely impacted by the strict restrictions of the statewide implementation of Governor Newsom's Executive Orders. These restrictions have also created substantial budget impacts for the City of Banning that will impact service delivery in the near future.

The purpose of Resolution No. 2020-69 is to express the City of Banning's desire to allow local businesses to reopen immediately. Clearly, a statewide or even countywide approach to reopening does not account for the unique geographic and demographic differences across California and Riverside County.

JUSTIFICATION:

Business retention, expansion and attraction.

FISCAL IMPACT:

Reopening local businesses will generate local sales tax and transient oriented tax.

OPTIONS:

1. Approve as recommended.
2. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Resolution 2020-69A
[https://banningca.gov/DocumentCenter/View/7419/Att-1-Resolution-2020-69-
Sanctuary-City-of-Businesses](https://banningca.gov/DocumentCenter/View/7419/Att-1-Resolution-2020-69- Sanctuary-City-of-Businesses)
2. Resolution 2020-69B
[https://banningca.gov/DocumentCenter/View/7422/Att-2-Resolution-2020-69B-
Sanctuary-City-of-Businesses](https://banningca.gov/DocumentCenter/View/7422/Att-2-Resolution-2020-69B- Sanctuary-City-of-Businesses)

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
MEETING DATE: May 26, 2020
SUBJECT: Continued Service of Inge Schuler on Planning Commission

RECOMMENDED ACTION:

City Council discussion and direction.

BACKGROUND:

At the request of City Council, discussion of continued service of Inge Schuler has been placed on the meeting agenda. The Planning Commission has 5 members appointed to serve 4-year staggered terms.

The Planning Commission plays a critical role in city government. Planning Commissioners make decisions and recommendations on a wide range of planning and land use matters related to subdivisions, specific plans, zone changes, public hearings and so forth. The Commission is also charged with preparation of the General Plan of the City and advising the City Council on all matters concerning City planning. The decisions help to shape the growth and maintain the quality of life in the city they serve. Members of the Planning Commission serve at the pleasure of the City Council and may be removed at any time by majority vote of the City Council.

Ms. Schuler's term on the Planning Commission began in May 2017 and runs through April 2021. Typically, terms for advisory bodies and the elected City Council are staggered, but end at the same month for each term. At some point in the past, Planning Commission member terms were established so two positions expire in May and three positions expire in February. Future appointments should align all terms to run from June – May.

JUSTIFICATION:

City Council discussion item.

May 26, 2020

Page 2 of 2

FISCAL IMPACT:

Not Applicable.

OPTIONS:

Discussion item.

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

MEETING DATE: May 26, 2020

SUBJECT: Consideration of a Resolution Calling for a Ballot Measure to Ask Voters Whether the Positions of Banning City Clerk and City Treasurer Should be Elective or Appointive

RECOMMENDED ACTION:

City Council adopt a motion providing direction to the City Manager regarding the positions of City Clerk and City Treasurer. As a policy matter, the City Council must decide whether to propose the subject ballot measure. If the Council decides to do so, staff recommends adoption of the attached Resolution.

BACKGROUND:

State law requires every general law city to have a City Clerk and a City Treasurer, who may be either elected by the voters or appointed by the City Council or the City Manager. The City Council has asked for a discussion to consider whether to ask the Banning electorate if the positions of City Clerk and City Treasurer in Banning should be changed from elected to appointed and has directed staff to present information about this process. A draft Resolution for consideration is included as an attachment to this staff report, should the Council decide to move forward with a ballot measure on the question.

The City Council has directed staff to research the process, timing and cost to place a measure on the regular November 2020 ballot, to ask voters whether the position of Banning City Clerk and Banning City Treasurer should be changed from elective to appointive, and to prepare such a resolution(s) for consideration.

Ballot Measure

The California Government Code addresses the election process for this ballot question for a general law city. "Section 36508. At any municipal election, or a special election held for that purpose, the city council may submit to the electors the question whether the elective officers, or any of them except council members, shall be appointed by the city council;

provided, however, that the city council shall not submit such question to the electors more often than once in an 11-month period. "36509. The question shall be printed on the ballots used at the election substantially in the following form: 'Shall the office of city clerk be appointive?' The words 'yes' and 'no' shall be so printed on the ballots that the voters may express their choice. "36510. A second ballot measure for the city treasurer position would also be required, if the City Council desires to put both positions before the voters. If a majority of the votes cast on the proposition is for it, the city council shall appoint such officer at the expiration of the terms of the officer then in office, and on a vacancy in any such office. Such officer shall hold office during the pleasure of the city council and, notwithstanding Section 36502 to the contrary, is not required to be a resident or elector in the city. The city council may by ordinance vest in the city manager its authority to appoint such officer." Placing a ballot measure before the electorate is accomplished by City Council adoption of a resolution that:

- Submits proposed ballot measure wording to the Riverside County Elections Department,
- Authorizes City Council members and/or other individuals (up to five) to file a written argument regarding the measure, including providing for the filing of rebuttal arguments to the measure in accordance with filing deadlines, and
- Directs the City Attorney to prepare an impartial analysis of the measure.

City Clerk Duties and Responsibilities

The basic duties of the City Clerk are set forth in the Government Code. "40801. The city clerk shall keep an accurate record of the proceeding of the legislative body ... in books bearing appropriate titles and devoted exclusively to such purposes, respectively. The books shall have a comprehensive general index. "40806. The city clerk shall keep a book marked "ordinances" and record in it all city ordinances with his certificate annexed to each, stating: (a) It is a true and correct copy of a city ordinance. (b) The ordinance number. (c) It has been published or posted pursuant to law. "40811. The city clerk is the custodian of the city seal. "40812. [The city clerk] shall perform such additional duties as are prescribed by ordinance. "40813. The city clerk may appoint deputies, for whose acts he and his bondsmen are responsible. The deputies shall hold office at the pleasure of the city clerk and receive such compensation as is provided by the legislative body. "40814. The city clerk and his deputies may administer oaths or affirmations and take and certify affidavits and depositions pertaining to city affairs and business which may be used in any court or proceedings in the state. The acknowledgment of an instrument may be made before a city clerk and his deputies within the city in which they were elected or appointed."

Additional City Clerk Responsibilities In addition to these basic, historic duties, the legislature has assigned ever greater and more complex responsibilities to the City Clerk over the years. Per Election Code Section 320, the City Clerk is the Election Official for the City. In this capacity, the City Clerk interacts with the County Elections Department during all local elections to assure compliance with all election laws and regulations. Under Section 54950 et seq. of the Government Code, the City Clerk is responsible for ensuring compliance with the Brown Act ("Open Meeting Laws"), regarding conduct of city business and responses to public inquiries. The Political Reform Act, Government Code Section 83111, designates the

City Clerk as the official responsible for coordinating, recording and retaining the Statements of Economic Interests of all elected and appointed officials and staff, and for collecting and maintaining all candidate Campaign Finance Forms.

Elective Versus Appointive City Clerk

Of the 482 cities in California, 328 (68%) have appointed City Clerks and 154 (32%) have elected City Clerks. Nationally, over 80% of City Clerks are appointed. In Contra Costa County, fifteen of the nineteen cities have appointed City Clerks. Only four cities (Antioch, Martinez, Pittsburg and Pleasant Hill) now have elected City Clerks. Most recently, voters in Concord approved changing the City Clerk position from elective to appointive in 2008, while Walnut Creek did so in 2004 and Pinole did so in 2002. A July 6, 2004 memorandum to the Walnut Creek City Council, attached, and an April 1, 2008 memorandum to the Concord City Council, attached, present the respective staff analyses to those City Councils. The percentage of elected City Clerks in California has continued to decline. As the legal responsibilities and professional expertise required to fulfill the duties of the position have increased, elected City Clerks are being replaced by appointed professional staff with appropriate training and experience who typically perform both City Clerk and other City staff duties.

Integration of City Clerk Function with City Staff Operations

In Banning, many of the increased obligations imposed on the position of City Clerk over time are performed by City staff. Specifically, the position of Deputy City Clerk carries out the day-to-day responsibilities. The City Clerk performs oaths of office and signs official documents that cannot be signed by the Deputy City Clerk. The office of the City Attorney is responsible for Brown Act compliance and response to Public Records Act requests; the office of the City Manager is responsible for Elections and Campaign Finance Law compliance, as well as Agenda preparation, public information and overall records management. If the position of City Clerk becomes appointive, it would be expected that the employee assigned those duties would work under the direction of the City Manager, with those duties comprising only part of a larger scope of responsibilities. A City Clerk function in which all of the work is performed by in-house staff, as opposed to the current arrangement in which some work is performed by staff and other work by an elected official, would be more straightforward to effectively manage.

Ballot Measure Timing

The resolution calling for the municipal election must be adopted at least 88 days prior to the election, which for the November 3, 2020 election would be by August 7, 2020. The last scheduled City Council meeting before the 88-day deadline is July 14, 2020. Should the measure pass, it will become effective at the end of the existing term, in November of 2024.

JUSTIFICATION:

For discussion purposes and direction to City staff.

FISCAL IMPACT:

The cost to the City to place this question on the November 2020 ballot will vary, depending on the number of words in the measure and the amount of information put into the voter information pamphlet. However, the County elections staff advises that the total cost would be expected to be approximately \$1 per registered voter. With some 14,500 registered voters in Banning, the cost to the City for the election would be approximately \$14,500. As to ongoing costs, in the event the position of City Clerk becomes appointive, the cost of having appointed staff perform the duties currently performed by the Clerk would be roughly offset by the stipend savings of the elected Clerk.

OPTIONS:

1. Approve as recommended.
2. Do not approve and provide alternative direction.

ATTACHMENTS:

1. Draft Resolution
<https://banningca.gov/DocumentCenter/View/7416/Resolution-2020-XX-Ballot-Measure>
2. City Attorney Memorandum
<https://banningca.gov/DocumentCenter/View/7415/Banning---Initialed-Memo-on-Changing-Elected-City-Clerk-and-City-Treasurer-Offices-to-Appointed-Posi>

Approved by:



Douglas Schulze
City Manager