



AGENDA

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

June 23, 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/84408588091?pwd=T2VIL2lVV3pxTncxVkk5czZPbnErQT09>

Meeting ID: 874 1527 7765

Password: 870511

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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
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 three (3) 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/Successor Agency wishes to remove an item for separate consideration.)

Open Consent Items for Public Comments

Motion: Approve Consent items 1 – 21: 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 – June 9, 2020, Regular Meeting	1
2.	Minutes – June 9, 2020, Special Meeting (Workshop).....	23
3.	Minutes – June 9, 2020, Special Meeting (Closed Session)	33
4.	Receive and File Police Statistics for May 2020	37
5.	Receive and File Fire Statistics for May 2020.....	39
6.	Receive and File List of Contracts Approved Under the City Manager's Signature Authority for the Month of May 2020.....	41
7.	Receive and File Public Works Capital Improvement Project Tracking List	43
8.	Receive and File the Butterfield Specific Plan ("Atwell") Annual Review.....	45
9.	Receive and File the General Plan Annual Progress Report for Calendar Year 2019.....	49
10.	Receive and File Proposition 1 Round 1 Integrated Regional Water Management (IRWM) Implementation Grant Update.....	53
11.	Resolution 2020-77, Authorizing the Application for and Receipt of Local Government Planning Support Grant Program Funds.....	57
12.	Ordinance 1564, an Ordinance of the City of Banning Amending Chapter 3.17 (Cannabis Commercial Cultivation, Manufacturing, and Laboratory Testing Tax) of Title 3 (Revenue and Finance) of the Banning Municipal Code to Decrease the Cannabis Cultivation Tax Rate, and Making a Determination Under CEQA Guidelines Section 15060(C)(3) (2nd Reading).....	59
13.	Resolutions 2020-84 and 2020-85 approving the following agreements, respectively: a) Agreement for Purchase and Sale and Escrow Instructions Between City of Banning and Frank J. Burgess and Lorna D. Burgess, Trustees of the Burgess Family Trust DOT December 15, 1989 in connection with Ramsey-Hathaway Street Improvement Project (Portions of APN 532-120-020) and b) Agreement for Purchase and Sale and Escrow Instructions Between City of Banning and Frank J. Burgess in Connection with Ramsey-Hathaway Street Improvement Project (Portions of APN 532-140-005).....	63
14.	Resolution 2020-78, Approving the Renewal for the Landscape Maintenance Contract for City Parks with Z&T Ventures, Inc. dba Service Scape of Alta Loma, California, for Fiscal Year 2020/2021 in the Amount of \$73,642.80.....	67

15.	Notice of Completion for Project 2019-046 “Dysart Park Fencing Project”	71
16.	Reject All Bids for the “Senior Center ADA Improvements” Project	73
17.	Resolution 2020-80, Approving the Replacement of Vehicles for Fiscal Year 2021 Pursuant to the Five (5) Year Master Equity Lease Agreement with Enterprise Fleet Management.....	75
18.	Resolution 2020-71, Calling for the Holding of a General Municipal Election to be Held on Tuesday, November 3, 2020 for the Election of Members of the City Council by Districts 1, 2 and 3, City Clerk and City Treasurer	79
19.	Resolution 2020-72, Adopting Regulations for Candidates for Elective Office Pertaining to the Electorate and the Costs Thereof for the General Municipal Election to be Held in the City on Tuesday, November 3, 2020	81
20.	Resolution 2020-89, Calling for the Placement of a Cannabis Distribution Facility Tax on the Ballot of the November 3, 2020 Municipal Election; Approving the Ballot Language for the Measure; Directing the City Attorney to Prepare an Impartial Analysis of the Measure; and Providing Direction Regarding the Submission of Ballot Arguments For or Against the Measure	83
21.	Resolution 2020-65, Declaring Racism a Public Health Issue	87

VII. **PUBLIC HEARING(S):**

1. Resolution 2020-86, Approving the Independent Evaluation of the Banning Electric Utility's Wildfire Mitigation Plan **89**
(*Staff Report: Tom Miller, Electric Utility Director*)

Recommendation: Adopt Resolution 2020-86.

2. Resolution 2020-79, Approving Conditional Use Permit 20-8001 to Allow the Retail Sale of Cannabis and Cannabis Related Products in an Existing Commercial Building Located at 1034 W. Ramsey Street, Unit A (APN 540-180-052) in the Highway Servicing Commercial Zoning District and Make a Determination of Exemption Under CEQA Guidelines Section 15301 **91**
(*Staff Report: Adam Rush, Community Development Director*)

Recommendation: Adopt Resolution 2020-79.

3. Ordinance 1565, (1) Amending Chapter 5.33 and 5.35 of Title 5 of Banning Municipal Code to Allow Cannabis Distributors to Operate in the City and to Amend the Process for Processing Cannabis Retailer Applications, (2) Amending Chapters 17.12, 17.53, and 17.54 of Title 17 of the Banning Municipal Code (Zoning Text Amendment (ZTA) 20-97501 to Allow Cannabis Retailers to Operate in the General Commercial Zone, to Eliminate the Separation in the Requirement Between Cannabis Retailers and Residentially Zoned Property, to Include Provisions Regarding the Expiration of Cannabis Retailer Conditional Use Permits (CUP), to Allow Indoor Commercial Cultivation Facilities in the Business Park Zone, to Allow Cannabis Distribution Facilities to Operate in the Industrial Zone, and Making Additional Amendments to the Regulations Pertaining to Commercial Cannabis Businesses, and (3) Making a Determination Pursuant to CEQA. The Proposed Amendments Will Affect All Properties Located in the General Commercial (GC), Highway Serving Commercial (HSC), Business Park (BP), and Industrial (I) Zoning District, in the City of Banning, California. **(The Planning Commission Recommended the Council Retain the Minimum 200-foot setback between Cannabis retailers and residentially zoned properties)**..... 97
(Staff Report: Adam Rush, Community Development Director)

Recommendation: 1) Make a determination, pursuant to Sections 15060(c)(3) and 15061(b)(1) of the California Environmental Quality Act (CEQA) Guidelines that the project is exempt from CEQA pursuant to Business and Professions Code section 26055(h). 2) waive full reading of, and introduce, Ordinance 1565.

Mayor asks the City Clerk to read the title of Ordinance 1565

“Ordinance 1565, (1) Amending Chapter 5.33 and 5.35 of Title 5 of Banning Municipal Code to Allow Cannabis Distributors to Operate in the City and to Amend the Process for Processing Cannabis Retailer Applications, (2) Amending Chapters 17.12, 17.53, and 17.54 of Title 17 of the Banning Municipal Code (Zoning Text Amendment (ZTA) 20-97501 to Allow Cannabis Retailers to Operate in the General Commercial Zone, to Eliminate the Separation in the Requirement Between Cannabis Retailers and Residentially Zoned Property, to Include Provisions Regarding the Expiration of Cannabis Retailer Conditional Use Permits (CUP), to Allow Indoor Commercial Cultivation Facilities in the Business Park Zone, to Allow Cannabis Distribution Facilities to Operate in the Industrial Zone, and Making Additional Amendments to the Regulations Pertaining to Commercial Cannabis Businesses, and (3) Making a Determination Pursuant to CEQA. The proposed amendments will affect all properties located in the General Commercial (GC), Highway Serving Commercial (HSC), Business Park (BP), and Industrial (I) Zoning District, in the City of Banning, California.”

Motion/Second: I move to waive further reading of Ordinance 1565
(Requires a majority vote of the Council)

Motion/Second: I move that Ordinance 1565 pass its first reading

4. Resolutions of Necessity for the Acquisition by Eminent Domain of Certain Real Property Interests Identified as Riverside County Tax Assessor Parcel Numbers 541-170-019 and 541-170-021, Owned Respectively by Raymond Ngoc Huynh and Lucy Nguyen Huynh, Trustees of the Raymond and Lucy Huynh Revocable Trust dated August 8, 2007, and Jen H. Huang, for Public Purposes in Connection with the Ramsey-Hathaway Street Improvement Project.... **107**
(Staff Report: Kevin Ennis, City Attorney)

Recommendation: 1) Adopt Resolution 2020-87: A Resolution of the City Council of the City of Banning, California, Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition Thereof in Connection with the Ramsey-Hathaway Street Improvement Project (Portions of 1483 E. Ramsey Street, Banning - APN 541-170-019) and Repealing and Superseding Resolution No. 2019-160. 2) Resolution 2020-88: A Resolution of the City Council of the City of Banning, California, Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition Thereof in Connection with the Ramsey-Hathaway Street Improvement Project (Portions of the Northwest Corner of E. Ramsey Street and N. Hathaway, Banning - APN 541-170-021) and Repealing and Superseding Resolution No. 2019-161

VIII. ANNOUNCEMENTS AND REPORTS:

CITY COUNCIL COMMITTEE REPORTS

REPORT BY CITY ATTORNEY

REPORT BY CITY MANAGER

REPORTS OF OFFICERS

None

IX. DISCUSSION ITEMS

None

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, July 14, 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 three-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 sdela Fuente@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

06/09/2020
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
Marie Calderon, City Clerk
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

I. CALL TO ORDER

A regular meeting of the Banning City Council was called to order by Mayor Andrade on June 9, 2020, at 5:01 p.m.

Pastor Ryan Houssein of Calvary Chapel Sweethills offered the invocation.

Councilmember Happe led the audience in the Pledge of Allegiance.

II. AGENDA APPROVAL

A motion was made by Councilmember Welch, seconded by Councilmember Pingree, to approve the agenda. Electronic vote was taken as follows:

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

III. PRESENTATION(S)

Mayor's Special Recognitions

The Mayor and City Council recognized Juanita Munoz, Senior Utility Billing Representative, City of Banning, for making Banning a better place to work, live, and play, and the Friends of Banning Library Board of Directors and 2020 Essay Contest Winners.

IV. REPORT ON CLOSED SESSION

City Attorney Ennis reported that City Council held a special meeting beginning at 3:00 p.m. today. The items discussed were as follows:

- 1. CONFERENCE WITH LABOR NEGOTIATORS** pursuant to Government Code Section 54957.6
City Designated Representative: Jennifer Christensen, Administrative Services Director and Doug Schulze, City Manager
Employee Organizations: International Brotherhood of Electrical Workers (IBEW)–General, International Brotherhood of Electrical Workers (IBEW)-Utilities, Teamsters Local Union No. 1932 (Teamsters), Banning Police Officers Association (BPOA), and Banning Police Management Association (BPMA)
Unrepresented Employees: All Department Directors
Direction was given to the City's Negotiators.
- 2. THREAT TO PUBLIC SERVICES OR FACILITIES**
Pursuant to subdivision (a) of Government Code Section 54957)
The item was not discussed or acted upon.

3. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Property and Owners/Negotiating Parties: Real Property located in the vicinity of Ramsey and Hathaway – 1483 E. Ramsey St, APN 541-170-019 – Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust
City Negotiators: Douglas Schulze, City Manager and Art Vela, Public Works Director
Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements
A status report was provided with no final or reportable action.
4. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Property and Owner/Negotiating Party: Real Property located in the vicinity of Ramsey and Hathaway – 1573 E. Ramsey St, APN 541-170-021 – Jen H. Huang
City Negotiators: Douglas Schulze, City Manager and Art Vela, Public Works Director
Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements
A status report was provided with no final or reportable action.
5. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Properties and Owners/Negotiating Party: Real Property located in the vicinity of Ramsey and Hathaway – Southeast corner of Ramsey Street and Hathaway Street, APN 532-140-005 – Frank J. Burgess; and Northeast corner of Ramsey Street and Hathaway Street, APN 532-120-020 – Frank J. Burgess and Lorna D. Burgess, Trustees
City Negotiators: Douglas Schulze, City Manager and Art Vela, Public Works Director
Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements
A status report was provided regarding negotiation of agreements.

6. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8
Properties and Owners/Negotiating Party: Real Property located in the vicinity of Ramsey and Hathaway – Southeast corner of Ramsey Street and Hathaway Street, APN 532-140-005 – Frank J. Burgess; and Northeast corner of Ramsey Street and Hathaway Street, APN 532-120-020 – Frank J. Burgess and Lorna D. Burgess, Trustees
City Negotiators: Douglas Schulze, City Manager and Art Vela, Public Works Director
Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements
A status report was provided regarding negotiation of agreements.

V. **PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS**

PUBLIC COMMENT(S)

Paul Perkins requested the City follow-up with Beaumont regarding the left-hand turn into Sun Lakes Shopping Center. Regarding the Ramsey Street Village, he would like spreadsheet regarding costs, etc. So public can see if it is something they can afford. He requested items 2, 3, 5, 6 & 7 on the Consent Calendar to be discussed.

Mary Hamlin shared an Article regarding 10 characteristics of a positive community (Attachment 1). She commended the City on progress made. She indicated that the Homeless Village is a good start with regard to the homelessness issue.

Bill Bell expressed how proud he is to be a resident of Banning. He thanked the Council for the difficult job they're doing. He thanked Doug Schulze and City staff as well for finding solutions for difficult issues like homelessness. He expressed appreciation for the various organizations helping put food on the tables of those in need. He also expressed that he is embarrassed about those berating City staff week after week with sanctimonious, ugly personal attacks and abusive behavior. (i.e. at the May 26th Council Meeting when someone suggested a Council Member get their face slapped). He advised that it is OK to disagree, but not threaten violence.

Bill Hobbs indicated he agrees with everything Mr. Bell said. He advised the potholes have been filled on I-10. He gave kudos to the Police Department, especially the Police Chief, as he attended the march and was so impressed by the Chief and City Manager. He advised he is very proud of Banning and offered support to each and every Council Member.

Seeing no further comments, the Mayor closed public comment.

CORRESPONDENCE

None

APPOINTMENT(S)

None

VI. CONSENT ITEMS

Consent Item 10 was pulled for separate consideration.

1. Minutes – May 26, 2020, Regular Meeting
2. Minutes – May 26, 2020, Special Meeting (Closed Session)
3. Notice of Completion for Project No. 2019-05, “Street Rehabilitation at Various Locations”
4. Resolution 2020-74, Approving the Fiscal Year 2020/2021 – 2022/2023 Short Range Transit Plan and Authorizing the Submittal of the Fiscal Year 2020/2021 Funding Claims
5. Comment Letter – White Paper on Economic Feasibility Analysis in Consideration of a Hexavalent Chromium Maximum Contaminant Level
6. Approval of a Street Sweeping Services Agreement with Cannon Pacific Services, Inc. dba Pacific Sweep of San Marcos, California in the Amount of \$91,177 and Rejecting all Other Bids
7. Award a Professional Services Agreement for the Design of the Wastewater Treatment Plant Equalization Basin to Albert A. Webb Associates in the Amount of \$217,536 and Approving a 10% Contingency for a Total Project Budget Not to Exceed \$239,289.60
8. Resolution 2020-73, Authorizing the Acceptance of an Allocation of Funds and Execution of CARES ACT Funding Grant Agreement with the Federal Aviation Administration (FAA) CARES Act Funding
9. Resolution 2020-61, Authorizing Use of the Public Utilities Exceptions for Informal Procurement of Specified Items of Equipment, Materials and Supplies for Fiscal Year 2021
11. Resolution 2020-75, Approving the Interagency Services Agreement between the City of Banning and the City of Beaumont for the Purpose of Providing Coordinated Transit Services
12. Resolution 2020-76, Awarding a Construction Agreement for IFB No. 20-017, Project No. 2020-01EL “Ivy and Stagecoach Substation Construction” to Electric Power Systems International, Inc. of Santa Ana, California, in an Amount Not to Exceed \$6,618,636.70

Public Comments

The Mayor opened public comment.

Paul Perkins indicated at the Planning Commission meeting an extension was given to a cannabis dispensary. Also, he would like more of an explanation regarding property purchases.

Seeing no further comments, the Mayor closed Public Comment.

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Welch to approve Consent Items 1-9 and 11-12. Electronic vote was taken as follows:

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

Action: Approved Consent Items 1-9 and 11-12.

10. Ordinance 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) **(2nd Reading)**

Councilmember Happe indicated that he disagrees with waiving the \$50,000 revenue portion of the Development Agreement and removing Council's power to renegotiate the agreement until 30 years from now.

Public Comments

None

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

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

Action: Approved Consent Item 10.

VII. PUBLIC HEARING(S)

None

VIII. ANNOUNCEMENTS AND REPORTS

CITY COUNCIL COMMITTEE REPORTS

Councilmember Pingree reported the protest was peaceful and that he appreciates that. Unfortunately, he could not attend.

Mayor Pro Tem Wallace reported that she attended protest. On June 5th she spoke at the Riverside Unity Rally to 1,000 people along with five other speakers. The League of California Cities is getting money from the CARES Act and hopes to distribute to the cities. On June 2nd she received a certificate for her classes attended regarding the Santa Ana Watershed. The Southern California Association of Governments (SCAG) celebrated their 55th year. They are trying to get funding to help communities. The goal is to have cities work together and communicate. This Thursday at Roosevelt Williams Park she will be facilitating a Town Hall Meeting at 6:00 p.m. She recommended wearing a mask and bringing a chair. The City Manager and Police Chief will be in attendance and 20 people will be able to ask questions.

Councilmember Welch reported that RTA had shut down for two days in downtown Riverside due to demonstrations, but they are now back up to full services, except for three express lines. One of them affects this area and that line will only make two trips per day instead of four. In regard to the demonstration in Banning, he expressed that he is very proud of the residents in Banning. The youth made up about 50% in attendance and he was very impressed with the Police Chief and City Manager.

Councilmember Happe reported that COVID-19 will be an issue moving forward. He spoke regarding racial issues and advised that change needs to happen. He advised this is not just racial injustice, financial too.

Mayor Andrade reported that she has been communicating with Prestige Film and she met with them along with the City Manager and the Chamber of Commerce. They are considering a film festival here in Banning. She reminded everyone that on June 17th the Chamber of Commerce will be having a Recognition Dinner at their Chamber Mixer to recognize the volunteers for the Food Drive. It will be held at the Haven Café at 6:00 p.m. On the same date at 7:00 a.m. the Sunrise Breakfast will be held at the Haven Café. She noted that the City's Budget was discussed today at 4:00 p.m. and costs for fire services is a lot for the City and will be looking at opportunities and possibly a legislative bill. She indicated the protest

was nice and expressed appreciation for the City Manager and Chief of Police being in attendance. A Revenue & Taxation meeting through the League of California Cities where the CARES Act funding was discussed.

The Mayor invited the Chief of Police up to comment.

Chief Hamner advised that the Police Department's utmost concern is to make sure every single person in the City feels safe and that they are here for the community to protect and serve everyone fairly and equally. He also encouraged any church or organization to invite him to share with them. Finally, he emphasized the importance of time and encouraged anyone to come see him to talk about anything, his door is always open.

REPORT BY CITY ATTORNEY

City Attorney Kevin Ennis answered a question raised by Mr. Perkins regarding some real property items on recent closed session agendas. He indicted the properties on today's agenda and most of the properties on agendas over the last six months were related to the Ramsey Street and Hathaway Project and acquiring right of way and temporary construction easements for the project.

REPORT BY CITY MANAGER

City Manager Doug Schulze advised the City planned to reopen on June 8th, but certain supplies were delayed. The City will reopen as soon as possible, hopefully within the next week. He provided a monthly report on the Ramsey Street Village. He advised there were 40 tenants at the beginning of the month and 40 at the end of the month. There are now eight people on the waiting list. There were six evictions in April and none in May. One tenant transitioned to more permanent housing. Several job placements took place. Significant events that occurred in May were as follows: 1) Electric and water were connected. 2) Food service was provided (seven meals per week). 3) AA/NA meetings were held one time per week. 4) There were eight crimes reported within a one-mile radius (up one from last month). Crimes reported were malicious mischief/vandalism, one commercial burglary, one residential burglary, one vehicle theft and one trespass. He reminded the Council and public that these crimes are not necessarily related to the Ramsey Street Village, but the City is keeping track of the activity in the area. Multiple arrests have been made related to those that refuse shelter. Most of those arrests occurred in west Banning. One of the benefits of having the Ramsey Street Village is that the City is then better to enforce laws related to trespassing or vagrancy that would not be able to otherwise if the City didn't have beds to offer.

Councilmember Pingree asked the City Manager to ensure the Ramsey Street Village is still being kept clean. City Manager Schulze advised that Officer Sayeski visits on a regular basis. He reported that there was an issue last night where

residents are trying to self-police and hold some of the other tenants accountable. He received photographs and he will be addressing that with the tenants.

REPORTS OF OFFICERS

1. Resolution 2020-66, Calling for a Ballot Measure to Ask Voters Whether the Position of Banning City Clerk Should be Appointive

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

Public Comment

None

A letter was submitted by and received from Frank J. Connolly (Attachment 2) in opposition of the City Clerk being appointive.

Councilmember Welch recommended setting this aside for future consideration due to the current financial situation and to allow time to educate the community.

City Clerk Marie Calderon advised that she feels the City Clerk position should be appointed due to the level of knowledge and training required and recommended consideration.

A motion was made by Mayor Andrade to adopt Resolution 2020-66. The motion died for lack of a second.

A motion was made by Councilmember Welch and seconded by Councilmember Happe, to not put a measure on the 2020 ballot asking voters whether the position of City Clerk should be appointive. Electronic vote was taken as follows:

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

Action: Directed staff to not put a measure on the 2020 ballot asking voters whether the position of City Clerk should be appointive

City Manager Schulze explained that the level of work being done by the Deputy City Clerk is that of a City Clerk and that the Council should be aware of that.

Councilmember Happe recommended revisiting next year, as he believes the position should be an appointed position and it should be considered.

2. First Reading of an Ordinance to Reduce the Cannabis Cultivation Tax from \$15 to \$5 per Square Foot of Canopy Space for the First Year a Business is in Operation, and \$10 per Square Foot of Canopy Space for Every Year Thereafter

City Attorney Kevin Ennis presented the staff report for this item

Public Comment

The Mayor opened Public Comment.

Paul Perkins asked if there was a cap.

Seeing no further comments, the Mayor closed Public Comment.

In response to Mr. Perkins' question, City Attorney Ennis explained that it would not go higher than \$10 per square foot.

The Mayor asked the Deputy City Clerk to read the title of Ordinance 1564.

The Deputy City Clerk read as follows:

"Ordinance 1564, an Ordinance of the City of Banning, Amending Chapter 3.17 (Cannabis Commercial Cultivation, Manufacturing, and Laboratory Testing Tax) of Title 3 (Revenue and Finance) of the Banning Municipal Code to Decrease the Cannabis Cultivation Tax Rate, and Making a Determination Under CEQA Guidelines Section 15060(C)(3)"

A motion was made by Councilmember Welch, seconded by Councilmember Pingree, to waive further reading of Ordinance 1564. Electronic vote was taken as follows:

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

Action: Waived further reading of Ordinance 1564

A motion was made by Councilmember Welch, seconded by Councilmember Pingree, that Ordinance 1564 pass its first reading. Electronic vote was taken as follows:

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

Action: Ordinance 1564 passed its first reading

3. Three Potential Ballot Measures to be Placed on the November 2020 Ballot by the City Council: 1) a Proposed Ordinance Authorizing the Imposition of a 10% Gross Receipts Tax on Cannabis Distributors, 2) a Proposed Ordinance to Retain the Cap on Cannabis Retailers, Which is Set at One (1) for Every 10,000 Residents, and 3) a Proposed Ordinance to Increase the Cap on Cannabis Retailers to One (1) for Every 3,000, 4,000 or 5,000 Residents (or Some Other Ratio), Depending on Council Direction

City Attorney Kevin Ennis presented the staff report for this item. He provided an alternative cannabis retailer cap ballot question (Attachment 3).

Community Development Director Adam Rush provided a report on the Planning Commission's actions regarding various cannabis related items. He advised that notices have been sent to all 24 retailers and the City has received nine applications from the balance of 21 to renew their regulatory permit.

There was discussion held among Council and staff regarding the potential ballot measures.

Public Comment

The Mayor opened Public Comment.

Pastor Ryan Houssein spoke against placing the measures on the ballot, as he feels there are other ways to raise revenue and sees marijuana as a knock on the community. He believes people should be sober minded. He advised there is CBD without THC and he has heard good things. He expressed understanding that the City needs money and that he wants to see City prosper, but not this way.

Paul Perkins spoke against placing the measures on the ballot and indicated that he believes a promise was made to the citizens as it was stated that there would be one dispensary per 10,000 population/people. He advised that the Planning Commission required a 200-foot setback from homes and that it should stay. He is not sure marijuana is needed to make the City whole.

Bill Hobbs spoke against placing the measures on the ballot and expressed concern with safety in the community. He indicated that he doesn't want Banning to be the place to go for marijuana. He recommended providing the public with more information before moving forward.

Seeing no further comments, the Mayor closed Public Comment.

A motion was made by Councilmember Happe, seconded by Councilmember Pingree, to approve a proposed ordinance authorizing the imposition of a 10% Gross Receipts Tax on Cannabis Distributors. Electronic vote was taken as follows:

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

Action: Approved a proposed ordinance authorizing the imposition of a 10% Gross Receipts Tax on Cannabis Distributors.

There was extensive discussion among the Council and staff regarding the other proposed ballot measures.

A motion was made by Mayor Andrade to approve the resolution to ask the voters to adopt the alternative cannabis retailer cap ballot question, "shall an ordinance be adopted to eliminate the current cap of 1 retailer per 10,000 residents and instead allow the Council to issue permits up to 1 retailer per 7,000 residents . The motion died for lack of a second.

A motion was made by Councilmember Pingree, seconded by Councilmember Welch, to not put a measure on the 2020 ballot asking voters to eliminate the current cap on cannabis retailers. Electronic vote was taken as follows:

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

Action: Directed staff to not put a measure on the 2020 ballot asking voters to eliminate the current cap on cannabis retailers

IX. DISCUSSION ITEM

None

X. ITEMS FOR FUTURE AGENDAS

Mayor Andrade requested the cannabis items on the next agenda if at all possible, as well as language on the Planning Commission staggering terms.

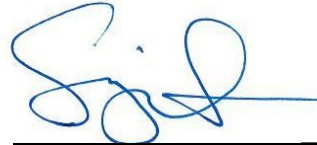
Mayor Pro Tem Wallace would like a report on future plans for the City's property previously occupied by the homeless.

XI. ADJOURNMENT

By consensus, the meeting was adjourned at 7:11 P.M.

Next Meeting: June 23, 2020, 5:00 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=CiX0lg4PcFkU>. Any related
documents maybe viewed here:
<https://banningca.gov/ArchiveCenter/ViewFile/Item/2311> 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

Rec'd 06/09/2020
(2)

The Importance of Positive Communities

Involvement in a positive and encouraging community has a tangible impact on individual self-awareness and fulfillment.

Positive experiences with communities allow individuals to feel more connected to their environment and the people in it. This form of connection also provides a support system for members when they are in need of encouragement or sympathy.

Strong feelings of connection to the group also work to combat any mental illness that can arise from alienation in the form of anxiety and depression.

Positive community experiences provide members with a sense of belonging and the feeling of being able to express themselves without feeling judged.

Communities that excel at promoting this feeling of belonging encourage members to speak up about their ideas and opinions, which, in turn, leads to members considering their positions from a deeper perspective. Involvement in positive and encouraging communities facilitates self-reflection and exploration of core values and beliefs.

10 Traits of Positive Communities

Positive communities may differ in what they encourage and how their values get implemented into policy, but, overall, these groups share ten characteristics:

1. Work Together Toward a Common Goal

The most effective communities share similar values and belief systems that cooperate to help accomplish one or several goals. These goals can vary radically depending on the community in question.

For example, one community may value environmental goals such as promoting recycling and making forest areas more friendly to wildlife while another community may put more value on improving the education system.

2. Allow for Freedom of Expression

Central to developing a positive community is comfort among citizens when it comes to speaking their minds and expressing what is important to them. Individuals who feel encouraged to give their input about an issue, who feel heard when they do speak their minds are more likely to feel connected to their community.

3. Promote Fairness

Diversity is abundant in all communities. However, among every group containing diversity, there are always individuals who fall in the minority.

Positive communities work to ensure that those who fall in minority populations are not treated differently. These communities give a voice to minority populations through frequent consultation with members of those societies about how the community can improve to meet their needs better.

4. Set Clear Policies and Obligations

Positive communities do not set rules. Instead, they work to encourage community members to fulfill their obligations. This may include things as simple as attending community meetings or paying taxes to support the public school system.

5. Maintain Sensitivity Towards Members

In addition to feeling heard, members of positive communities also feel as though their concerns are adequately addressed and that they are cared for by the community. Positive communities prioritize the well-being of every member of the community and address concerns in a timely and sensitive manner when they arise.

6. Celebrate Community Heritage

Every long-standing community has heritage and traditions that have risen during the community's development. Positive and efficient communities embrace their culture by reminding members of the long way the community has come.

This could be as simple as sending out an annual newsletter commemorating the accomplishments of the year or as elaborate as an annual festival held to celebrate the birthday of the community.

7. Promote Interaction Among Members

Positive communities work to foster a feeling of genuine connection among members by providing plenty of opportunities for interaction. Creating a feeling of connection works to make members more motivated to meet their obligations and work towards the established goals of the community.

8. Elect Leaders that Stand by Community Values

Individuals elected to leadership positions within positive communities should be fair and just in their political focus. Their shared values should inform the decisions they take for the community. Additionally, leaders should also take the thoughts and suggestions of the community members into account when making decisions that will affect their lifestyles.

9. Prioritize Effective Communication

Communication is essential for any effective community. All of the wheels need to be moving at the same pace for the project to continue successfully. **Positive leaders** ensure that all members are aware of the projects currently in process, as well as what they can do to help those projects run smoothly.

10. Make Smart Decisions

Decisions made by positive and encouraging communities focus primarily on the promotion of happiness among its members. Members will inevitably disagree on some issues or values, but an effective community leader incorporates concerns from both sides into the eventual decision made.

A Take-Home Message

Only the highest standard of a community can be classified as “positive” in this context, as the bar for these groups is set extraordinarily high. However, with dedicated effort and commitment to a better world, any community can become more positive and encouraging for its members.

After all, according to Henrik Ibsen:

“A community is like a ship; everyone ought to be prepared to take the helm.”

About the Author

Stephanie Caldwell, B.A., is a certified positive psychology practitioner and holds a postgrad in Human Resource Management from the Australian College of Applied Psychology.

<https://positivepsychology.com/10-traits-positive-community/>

ATTACHMENT 2

RECEIVED

By Sonja De La Fuente at 1:42 pm, Jun 08, 2020

From: "f462012c@aol.com" <f462012c@aol.com>

Date: June 6, 2020 at 12:11:10 PM PDT

To: Daniela Andrade <dandrade@banningca.gov>, Colleen Wallace <cwallace@banningca.gov>, Art Welch <awelch@banningca.gov>, David Happe <dhappe@banningca.gov>

Subject: City Clerk

Reply-To: <f462012c@aol.com>

Warning

This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender's email address and know the content is safe.
City of Banning Information Technology

April 6, 2020

Dear City Councilmembers,

Attached is a section of the ordinance regarding City Clerk Duties and Responsibilities. As highlighted on the attached document the reference "he" "his" in today's society would be considered "sexual discrimination". Furthermore, in the City of Banning the City Clerk has been elected and occupied by a female for the 50 years I have resided in Banning (Lucielle Elizondo and Marie Calderon) both of whom have done an outstanding job serving our city. I would request that the City of Banning please review this document and make proper changes in language to reflect today's view on proper identity (he/she) or (his/her). I'm not sure if this section is part of the "City Ordinance" or a portion of the "State Ordinance" governing "City Clerk". Either way this should be changed at all levels to reflect the correct definition.

I further would like to go on record as being opposed to the City Clerk position being an appointed position. It is my opinion that the elected position should continue to be "Non Political". Though the City Clerk historically in the City of Banning has served dual rolls and responsibilities as City Clerk and Secretary to the City Manager among other duties, I have always received professional service when dealing with the City Clerk on issues over the years without a hint of Political Rhetoric. It is my opinion that making this a appointed position would only expose more problems to our city which we don't need. I understand the dual roles and responsibilities served however it is best to keep them separated to avoid legal and political problems. This being the purpose of having a "Deputy City Clerk" position to avoid these problems.

Thank You!

Sincerely,

Frank J. Connolly

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

ATTACHMENT 3

ALTERNATIVE CANNABIS RETAILER CAP BALLOT QUESTION

“Shall an ordinance be adopted to eliminate the current cap on cannabis retailers (dispensaries) which allows 1 retailer for every 10,000 residents, and instead allow the City Council to increase the number of cannabis retailers that can lawfully operate in the City as long as the cap does not exceed 1 retailer for every 3,000, 4,000, 5000 residents, which based on the current population could increase the number of retailers from 3 to [redacted]?”



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

06/09/2020
SPECIAL MEETING - WORKSHOP

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
John McQuown, City Treasurer
Jennifer Christensen, Administrative Services Director
Suzanne Cook, Deputy Finance Director
Tom Miller, Electric Utility Director
Adam Rush, Community Development Director
Art Vela, Public Works Director
Ralph Wright, Parks & Recreation Director
Carla Young, Business Support Manager
Laurie Sampson, Executive Assistant

I. CALL TO ORDER

A special meeting of the Banning City Council was called to order by Mayor Andrade on June 9, 2020, at 4:02 P.M.

II. WORKSHOP

A. Budget Update

Administrative Services Director provided the report and PowerPoint presentation (Attachment 1) for this item.

There was some discussion held among Council and staff. The Mayor advised that she would like an update and recommendation from the Budget & Finance Committee when the Budget comes forward for approval.

III. PUBLIC COMMENTS

The Mayor opened the workshop item for public comment.

City Treasurer John McQuown indicated that the Budget and Finance Committee discussed some revenue generating sources. Also, he pointed out that 97.5% of the general fund budget goes to public safety and advised that the Budget and Finance Committee had also discussed the City looking into its own Fire Department.

Paul Perkins recommended two budgets, as he would like to see what is hoped for along with a conservative budget.

Seeing no further comments, the Mayor closed public comment.

II. ADJOURNMENT

By consensus, the meeting adjourned at 4:51 p.m.

Minutes Prepared by:



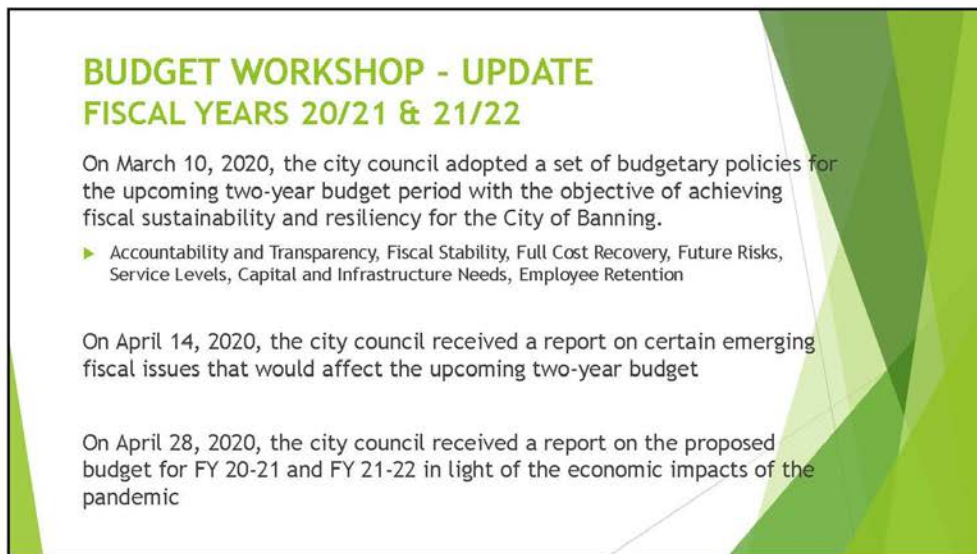
Sonja De La Fuente, Deputy City Clerk

The entire discussion of this meeting may be viewed here:
<https://banninglive.viebit.com/player.php?hash=n4n5nNuvjQ6O>. Any related
documents maybe viewed here:
<https://banningca.gov/ArchiveCenter/ViewFile/Item/2311> 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



1



2

1

BUDGET WORKSHOP - UPDATE FISCAL YEARS 20/21 & 21/22

Balancing the Budget

- ▶ Generally a balanced budget means that revenues meet or exceed expenditures
- ▶ City's discretionary revenues are insufficient to meet expenditure needs
 - ▶ FY 20-21 discretionary revenues are estimated to decrease by 4.5%
 - ▶ Revenue estimates include cannabis tax proceeds and revenue from pre-stabilization medical fee
 - ▶ FY 20-21 General Fund expenditures are estimated to increase by 31.3%
- ▶ Use of fund balance is required to meet expenditure needs
 - ▶ General Fund: fund balances of \$5,966,192 used for operating expenses
 - ▶ All Funds: fund balances of \$26,769,771 used for operating and capital expenses
- ▶ Insufficient Projected Revenue and Fund Balance to Close Gap for FY 21/22

3

BUDGET WORKSHOP - UPDATE FISCAL YEARS 20/21 & 21/22

General Fund

- ▶ General Fund Revenues: \$18,018,847
- ▶ General Fund Expenditures: 23,985,039
- ▶ Fund Balance Used: \$ 5,966,192

All Funds

Citywide/All Funds Operating

- ▶ All Funds Revenues: \$99,23,169
- ▶ All Funds Expenditures: 126,004,940
- ▶ Fund Balance Used: \$26,769,771

4

2

BUDGET WORKSHOP - UPDATE FISCAL YEARS 20/21 & 21/22

Use of Fund Balance

- ▶ Operating Budget
 - ▶ Timing of downturn creates higher than usual level of uncertainty and stress on revenues
 - ▶ In the near term, judicious use of budget reserves is warranted but should not be viewed as a permanent solution
 - ▶ It will be imperative that the structural imbalance is addressed with structural changes that decrease expenditures as well as increase the city's amount and types of revenues
 - ▶ Consideration should be given to revenue measures e.g. sales tax, utility users tax
- ▶ Capital Budget
 - ▶ Capital projects have been delayed in Streets, Water, Wastewater, City Facilities, and Information Technology

5

BUDGET WORKSHOP - UPDATE FISCAL YEARS 20/21 & 21/22

Service Level Impacts

- ▶ General Fund
 - ▶ Unfunded positions in Administrative Services, Code Enforcement, Community Development and Public Works (Total: 4 FTEs unfunded)
 - ▶ Reduced staffing hours and facilities/programs closures in Parks & Recreation
 - ▶ Deferred capital projects include City Hall, IT infrastructure and enterprise systems
 - ▶ Timing of downturn creates higher than usual level of uncertainty
- ▶ Special Revenue Funds
 - ▶ Savings of \$600,000 for FY 20/21 due to use of municipal utility rates for all city departments
 - ▶ Deferred street, water and wastewater capital projects; approval of use of SB1 money for street maintenance
 - ▶ Contracting out street sweeping maintenance reduced cost and increased level of service

6

3

BUDGET WORKSHOP - UPDATE FISCAL YEARS 20/21 & 21/22

Additional Headwinds and Long-Term Solutions

- ▶ Animal Control Contract: Increase for FY 2020-21 of 100%: city evaluating costs and re-opening shelter and staffing as an alternative to contract with Riverside County
- ▶ Fire Contract and County Administration Costs: City considering alternatives to contract through Riverside County
- ▶ Pension Obligations: Information available after 6/30/20 when fiscal year closes
- ▶ Revenue Measures: Consider sales tax, utility users tax
- ▶ Utility Rates: Water/Wastewater rates are insufficient to meet significant capital needs

7

BUDGET WORKSHOP: STRATEGIES REDUCE SPENDING FISCAL YEARS 20/21 & 21/22

- Reduce capital asset investments
- Defer some purchases
- Improve capital project management
- Reexamine maintenance and replacement standards
- Refinance debt

8

4

BUDGET WORKSHOP: STRATEGIES FIND NEW RESOURCES FISCAL YEARS 20/21 & 21/22

- Increase interfund charges where there is a case for it
- Reassess internal service fund and cost allocation formulas
- Redesignate general fund reserves
- Consider monetizing assets
- Implement new or revised fees where appropriate
- Consider short-term borrowing

9

BUDGET WORKSHOP: STRATEGIES REDUCE MATERIALS & CONTRACTOR COSTS FISCAL YEARS 20/21 & 21/22

- Close facilities where social distancing isn't possible
- Eliminate lower-value or no-use programs
- Review contractor costs and renegotiate if possible
- Rethink subsidies, as painful as this might be

10

5

BUDGET WORKSHOP - UPDATE FISCAL YEARS 20/21 & 20/22

RECOMMENDED ACTIONS

- ▶ That City Council receive and file the budget workshop update; and
- ▶ Provide direction to staff, as needed, for final budget hearing on June 23, 2020.

11



BUDGET WORKSHOP - UPDATE FY 2020-21 & FY 2021-22

QUESTIONS?

12

6

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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

06/09/2020
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
Jennifer Christensen, Administrative Services Director

I. CALL TO ORDER

A special meeting of the Banning City Council was called to order by Mayor Andrade on June 9, 2020, at 3:02 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 LABOR NEGOTIATORS pursuant to Government Code Section 54957.6

City Designated Representative: Jennifer Christensen, Administrative Services Director and Doug Schulze, City Manager

Employee Organizations: International Brotherhood of Electrical Workers (IBEW)–General, International Brotherhood of Electrical Workers (IBEW)-Utilities, Teamsters Local Union No. 1932 (Teamsters), Banning Police Officers Association (BPOA), and Banning Police Management Association (BPMA)

Unrepresented Employees: All Department Directors

2. THREAT TO PUBLIC SERVICES OR FACILITIES

Pursuant to subdivision (a) of Government Code Section 54957)

3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8

Property and Owners/Negotiating Parties: Real Property located in the vicinity of Ramsey and Hathaway – 1483 E. Ramsey St, APN 541- 170-019 – Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust

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

Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements

4. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8

Property and Owner/Negotiating Party: Real Property located in the vicinity of Ramsey and Hathaway – 1573 E. Ramsey St, APN 541-170-021 – Jen H. Huang

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

Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements

5. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8

Properties and Owners/Negotiating Party: Real Property located in the vicinity of Ramsey and Hathaway – Southeast corner of Ramsey Street and Hathaway Street, APN 532-140-005 – Frank J. Burgess; and Northeast corner of Ramsey Street and Hathaway Street, APN 532-120-020 – Frank J. Burgess and Lorna D. Burgess, Trustees

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

Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements

6. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8

Properties and Owners/Negotiating Party: Real Property located in the vicinity of Ramsey and Hathaway – Southeast corner of Ramsey Street and Hathaway Street, APN 532-140-005 – Frank J. Burgess; and Northeast corner of Ramsey Street and Hathaway Street, APN 532-120-020 – Frank J. Burgess and Lorna D. Burgess, Trustees

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

Under Negotiation: Price and terms for acquisition of street right of way and temporary construction easements

The City Council convened to closed session at 3:04 p.m. and reconvened to open session at 3:40 p.m.

II. ADJOURNMENT

By consensus, the meeting adjourned at 3:40 p.m.

Minutes Prepared by:

A handwritten signature in blue ink, appearing to read 'Sonja', written over a horizontal line.

Sonja De La Fuente, Deputy City Clerk

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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: June 23, 2020

SUBJECT: Receive and File Police Department Statistics for May 2020

RECOMMENDED ACTION:

Receive and File May 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. Police Statistics May 2020
<https://banningca.gov/DocumentCenter/View/7491/May-2020-stats>

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: Todd Hopkins, Division Chief
Laurie Sampson, Executive Assistant

MEETING DATE: June 23, 2020

SUBJECT: Receive and File Fire Department Statistics for May 2020

RECOMMENDED ACTION:

Receive and file Fire Department statistics for May 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 May 2020
<https://banningca.gov/DocumentCenter/View/7483/Banning-May-2020-Fire-Report>

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: Laurie Sampson, Executive Assistant

MEETING DATE: June 23

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

RECOMMENDATION:

Receive and file contracts approved under the City Manager's signature authority for the Month of May 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 May 2020
<https://banningca.gov/DocumentCenter/View/7511/CM-Approved-Agreements-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: Art Vela, Director of Public Works

MEETING DATE: June 23, 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
<https://banningca.gov/DocumentCenter/View/7492/Att-1-CIP-Update-June-2020>

Approved by:

A handwritten signature in blue ink, appearing to read 'DS' followed by a stylized flourish.

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

MEETING DATE: June 23, 2020

SUBJECT: Butterfield Specific Plan ("Atwell") Annual Review

RECOMMENDED ACTION:

Staff recommends that the City Council:

Receive and File the enclosed Annual Review for the Butterfield Specific Plan being developed by Pardee Homes as the *Atwell Master Planned Community* and that the developer is proceeding in Good Faith in accordance with Section 12.1 of the Development Agreement and Government Code Section 65865.1.

PLANNING COMMISSION ACTION:

The Annual Review, of the Pardee Development Agreement, is under the sole jurisdiction of the City Council and as such, Planning Commission review is not required.

PROJECT DESCRIPTION:

In accordance with Section 12, page 34, of the Development Agreement between the City of Banning ("City") and Pardee Homes ("Developer"), which was entered into on March 27, 2012, with a subsequent revised effective date of February 9, 2015, the City is conducting an annual review, following the commencement of construction, which is reviewing the performance of the agreement on or about each anniversary of the effective date of said agreement. The developer has delivered the necessary information, reasonably requested by the City, regarding the Developer's performance under the agreement. Staff has reviewed the information requested, performed a series of site inspections, conducted several meetings with the Developer, and determined that the Developer has, and continues to, demonstrate compliance with the Agreement; that the Developer is

implementing the Agreement in good faith and continues to comply with the provisions and regulations of the Adopted Specific Plan, the Certified Environmental Impact Report, and the existing land use regulations set forth by the City, through the Banning Municipal Code and the Butterfield Specific Plan.

ENVIRONMENTAL DETERMINATION:

City staff has reviewed the previously certified Environmental Impact Report prepared for the Butterfield Specific Plan project (SCH No. 2007091149) as modified by the Addendum approved by the City Council on February 14, 2017, including the impacts and mitigation measures identified therein, which documents are on file in the Community Development Department. Based on that review, the City of Banning Planning Division has determined that the proposed Project and the circumstances under which the proposed Project is undertaken do not involve substantial changes which will result in new significant environmental effects, and that the Project does not involve new information of substantial importance which shows that the Project will have significant effects not discussed in the prior EIR. All potential environmental impacts associated with the Butterfield Specific Plan project and the proposed Tentative Tract Maps are adequately addressed by the prior EIR, and the mitigation measures contained in the prior EIR will reduce those impacts to a level that is less than significant. Therefore, in accordance with CEQA Guidelines Section 15162 (“Subsequent EIRs and Negative Declarations”), a subsequent environmental document is not required.

FISCAL IMPACT:

The cost of preparing this report, the research, meeting coordination, and staff time associated with all aspects of the Pardee project are borne by the Developer through a reimbursement agreement with the City.

OPTIONS:

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

ATTACHMENTS:

1. Pardee Development Agreement
<https://banningca.gov/DocumentCenter/View/7501/Att-1--Butterfield-SP-Development-Agreement>
2. Butterfield Specific Plan Land Use Plan
<https://banningca.gov/DocumentCenter/View/7502/Att-2-Butterfield-Specific-Plan-Land-UsePlan-2017>
3. Annual Review Matrix
<https://banningca.gov/DocumentCenter/View/7503/Att-3-Annual-Review-Matrix---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: Adam B. Rush, Community Development Director
Sonia Pierce, Senior Planner

MEETING DATE: June 23, 2020

SUBJECT: City of Banning General Plan Annual Progress Report for
Calendar Year 2019

RECOMMENDED ACTION:

Staff recommends that the City Council Receive and File the General Plan Annual Progress Report (APR) for Calendar Year 2019 and direct staff to amend its filing with the State of California Office of Planning and Research (OPR) and State Department of Housing and Community Development (HCD).

BACKGROUND:

On January 31, 2006, the City Council adopted Resolution No. 2006-12 approving the Comprehensive General Plan Update. Over the years, when economically feasible the City has continued to take proactive steps in implementing the goals, policies and action programs of the General Plan. As in previous years, budgetary constraints have played a role in the lack of follow through in implementing some of the General Plan programs.

In keeping with the organizational format of the 2006 General Plan, the General Plan Annual Progress Report arranges the twenty-one elements among the four subject chapters. Each section contains the adopted goals and policies including a summary table that reflects the action program, responsible City department or agency, adopted schedule and implementation status. Similar to the previous year, the information contained within the General Plan Annual Progress report was obtained (through a series of inter-department meetings) from the following City departments: Community Development, Public Works, Electric Utility, Water/Wastewater Utility, Community Services, Fire Services and Police.

For easy reference, the action programs that have been completed and/or are active and ongoing are identified in **bold type**, while the programs that have not been completed/initiated are identified in *italics*.

In addition to the attached General Plan Annual Progress Report, additional housing information is required to be submitted to State Housing and Community Development Department (HCD) related to the construction of affordable housing, rehabilitated homes, and the Regional Housing Needs Assessment requirements. The 2014-2021 Regional Housing Needs Assessment (RHNA) obligations, as prepared by the Southern California Association of Governments (SCAG), sets forth the planning period goal of 3,792 units for the City.

In 2019, the HCD implemented a new Annual Progress Report form for the 2018 reporting period. The Annual Building Activity Report Summary form includes entitlements, permits issued and completed units. In 2019, it is noted that the City approved entitlements for 578-units and building permits for nine (9) units. Three (3) units were completed as three (3) permits were finalized. In 2019, approximately two (2) homebuilders met with the City to discuss finalization of tentative tract maps for the construction of single-family dwellings.

It should be stated that the purpose of this process is to review the General Plan Annual Progress Report from the standpoint of providing information to OPR and HCD as to how the City's adopted General Plan programs have been implemented, rather than to solicit direction as to which programs should be changed or eliminated.

JUSTIFICATION:

California State law requires the City to prepare a General Plan Annual Progress Report. The report must be approved by the City Council and filed with the Governor's Office of Planning and Research (OPR) and the State Housing and Community Development Department by April 1st of each year. The State uses the information submitted by the City to identify statewide trends in the land use decision making process and how local planning and development activities relate to statewide planning goals and policies. Planning staff prepared, and completed, a submittal to HCD in order to make the April 1st deadline while staff refined our data inputs.

California law requires each city to adopt a comprehensive, long-term General Plan to guide the physical development of both the incorporated city and the land outside city boundaries that bears a relationship to its planning activities. The General Plan serves as an outline for future growth and development. As such, the General Plan contains policies and programs designed to provide decision makers with a solid foundation for land use and development decisions. The City's General Plan contains twenty-one elements, which are listed below; and, are divided into four sections as follows:

Community Development

- Land Use Element
- Economic Development Element
- Circulation Element
- Parks and Recreation Element
- Housing Element

Environmental Resources

- Water Resources Element
- Open Space and Conservation Element
- Biological Resources Element
- Archaeological and Historic Resources Element
- Air Quality Element
- Energy and Mineral Resources Element

Environmental Hazards

- Geotechnical Element
- Flooding and Hydrology Element
- Noise element
- Wildland Fire Hazards Element
- Hazardous and Toxic Materials Element

Public Services and Facilities

- Water, Wastewater and Utilities Element
- Public Building and Facilities Element
- School and Libraries Element
- Police and Fire Protection element
- Emergency Preparedness Element

The purpose of the General Plan Annual Progress report is to provide a status report to ensure that the goals, policies, and plans of the General Plan are being implemented and to identify the necessary “course adjustments” or modifications to the General Plan and means to improve local implementation.

FISCAL IMPACT:

There is no direct fiscal impact to the City’s General Fund as a result of the recommended action.

OPTIONS:

1. Receive and file as recommended.
2. Pull for discussion and provide alternative direction.

ATTACHMENTS:

1. 2019 General Plan Annual Progress Report
<https://banningca.gov/DocumentCenter/View/7499/2019-General-Plan-Annual-Progress-Report>

Approved by:

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Douglas Schulze, City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Public Works Director/City Engineer
Jennifer Jackson, Management Analyst

MEETING DATE: June 23, 2020

SUBJECT: Proposition 1 Round 1 Integrated Regional Water Management (IRWM) Implementation Grant Update

RECOMMENDED ACTION:

Receive and file.

BACKGROUND:

The passage of the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1) authorized \$7.12 billion in general obligation bonds for state water supply infrastructure projects, including \$810 million for expenditures on, and competitive grants and loans to, integrated regional water management plan projects.

In April 2019, the Department of Water Resources (DWR) released the Proposition 1 - Round 1 IRWM Implementation Grant Proposal Solicitation Package and Guidelines. This solicitation made available approximately \$403 million to be awarded for IRWM Implementation projects, of which not less than \$51 million would be allocated to projects that directly benefit Disadvantaged Communities (DAC).

Subsequent to the DWR call for projects, the San Gorgonio IRWM Regional Water Management Group (City of Banning, San Gorgonio Pass Water Agency, Riverside County Flood Control and Water Conservation District, Cabazon Water District, Banning Heights Mutual Water Company, and High Valleys Water District) reviewed projects from the Region's approved IRWM Plan Project List. Four projects from the List were identified as being ready for implementation – three from the City of Banning and one from the Cabazon Water District:

1. Altitude Valves to Maximize Emergency Storage

Altitude valves are needed to be able to use the full volume of existing reservoirs, without accidentally overflowing them. Plans and specifications have been prepared for two locations, the Southwest Reservoir and San Gorgonio Reservoirs.

2. Location #2 Waterline Replacement

Plans have been completed to replace segments of old pipe that are prone to leaks, generally located west of 8th Street, along Nicolet St and surrounding areas. Some segments of pipe are currently in easements behind homes and will be relocated to public streets for easier access.

3. Smart Metering (AMR/AMI)

The City will replace all water meters with new radio-read compatible models and install data collectors throughout the City to be able to retrieve data remotely. Additionally, the project will include the installation of leak sensors and flowmeters at PRV stations to reduce water losses in the distribution system.

4. Attachment Isolation Valve Improvement Project

Additional valves are needed in the Cabazon distribution system to reduce the amount of water lost and the length of time it takes to isolate a main break.

By sponsoring three out of the four nominated projects in the grant application, the City of Banning accepted responsibility for managing the grant process. This role was accepted with the understanding that staff time used to administer the grant would be reimbursable.

In October 2019, the City Council adopted Resolutions 2019-134 and 2019-23 UA, providing authorization for the submittal of a grant application to the Prop 1 Round 1 IRWM Implementation Grant program, and to enter into an agreement with DWR to receive a grant should the City be successful in its effort to secure funding. Staff submitted the San Gorgonio IRWM Implementation Grant application via upload to the DWR's Grants Review and Tracking System (GRanTS) on November 4, 2019. The total funding request for all four projects & grant administration was \$6,360,309.

JUSTIFICATION:

On June 2, 2020, the DWR announced Final Awards for four Funding Areas (Colorado River, Lahontan, San Francisco, Santa Ana) for the Proposition 1 Round 1 IRWM Implementation Grant program.

In the Colorado River Basin Funding Area category, both the Coachella Valley and San Gorgonio IRWM Region applications were awarded funding, with the San Gorgonio Region receiving an award of \$3,537,882.

Staff is currently in the process of gathering the required deliverables to ensure timely grant agreement execution.

FISCAL IMPACT:

With the Grant Administration portion of funding (\$26,496) allocated to the City of Banning, the balance of funding (\$3,511,386) will be split 65% to the City of Banning and 35% to the Cabazon Water District.

Prop 1 Round 1 IRWM Implementation Grant Award Allocation	
Amount Requested	\$ 6,360,309
Amount Awarded	\$ 3,537,882
Grant Administration (Banning)	\$ (26,496)
Remainder	\$ 3,511,386
Banning 65% share	\$ 2,282,400.90
Cabazon 35% share	\$ 1,228,985.10

Since the City applied for a Local Cost Share Waiver and was awarded funding in the Disadvantaged Community category, no local match is required.

ATTACHMENTS:

1. Grant Award Notification Letter for Round 1 Proposition 1 Integrated Regional Water Management (IRWM) Implementation Grant, Colorado River Funding Area
<https://banningca.gov/DocumentCenter/View/7497/Att-1---Prop-1-Round-1-Award-Notification-Letter-IRWM-Implementation-Grant-071420>

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: Adam B. Rush, Community Development Director

MEETING DATE: June 23, 2019

SUBJECT: Resolution 2020-77, Authorizing the Application for, and Receipt of , Local Planning Support Grant Program Funds

RECOMMENDED ACTION:

Staff recommends that the City Council:

Adopt Resolution 2020-77, Authorizing the application for, and receipt of, Local Government Planning Support Grant Program Funds.

PROJECT/APPLICANT INFORMATION:

Project Applicant: City of Banning
99 E. Ramsey Street
Banning, CA 92220

PROJECT BACKGROUND AND DESCRIPTION:

The City Council of the City of Banning desires to submit a LEAP grant application package ("Application"), on the forms provided by the Department, for approval of grant funding for projects that assist in the preparation and adoption of planning documents and process improvements that accelerate housing production and facilitate compliance to implement the sixth cycle of the regional housing need assessment.

PROPOSAL / ANALYSIS:

Banning qualifies for grant eligibility as the City has a certified Housing Element under the guidance and regulations set forth by HCD. In addition, the City Council's recent action to approve the annual General Plan and Housing Element Report (APR) solidifies the second qualification for grant funding. The APR was transmitted to the State prior to a deadline of April 1st.

The City intends to utilize all the \$150,000 grant funds for housing planning and facilitate the streamlining and acceleration of housing production.

It is important to note that while the state encourages the programming and planning of affordable housing units (as defined in the Government Code), acceptance of this grant funding in no way obligates the City to permit, authorized, or construct affordable housing (for rent or for sale) as legally defined in the state housing law.

ENVIRONMENTAL DETERMINATION:

Authorizing City staff to prepare and the submit the grant funding application is not considered a project under the California Environmental Quality Act (CEQA); therefore, is not subject to CEQA.

PUBLIC COMMUNICATION:

The City Council's adoption of this resolution does not require a public hearing, as it is an administrative action, on the part of the City Council, and as such does not require a public notice.

ATTACHMENTS:

1. Resolution No. 2020-077
<https://banningca.gov/DocumentCenter/View/7500/Resolution-2020-77-LEAP-Planning-Grant->

Approved by:

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Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Kevin G. Ennis, City Attorney
Maricela E. Marroquin, Assistant City Attorney

MEETING DATE: June 23, 2020

SUBJECT: Adoption of Ordinance No. 1564, An Ordinance to reduce the cannabis cultivation tax from \$15 to \$5 per square foot of canopy space for the first year a business is in operation, and \$10 per square foot of canopy space for every year thereafter

RECOMMENDED ACTION:

That the City Council adopt Ordinance No. 1564, An Ordinance to amend Chapter 3.17 of the Banning Municipal Code to reduce the cannabis cultivation tax from \$15 per square foot of canopy space to \$5 per square foot of canopy space the first year that the business is in operation, and increasing the tax to \$10 per square foot every year thereafter that the business is in operation.

The Ordinance was given first reading and introduced at the June 9, 2020 meeting by the a unanimous (5-0) vote of the City Council.

BACKGROUND:

At its May 12, 2020 meeting, the City Council considered making several revisions to the cannabis program to increase the number of cannabis businesses operating in the City. One point of discussion was whether the cannabis cultivation facilities tax was too high and was discouraging cannabis cultivators from locating and operating in the City. After considering how other cities tax cannabis cultivation facilities, the City Council decided to retain the methodology for taxing cannabis cultivation facilities on the square footage of the canopy space devoted to the growing of cannabis rather than a gross receipts tax. The City Council also directed staff to draft an ordinance decreasing the cannabis cultivation tax, which is currently set at \$15 per square foot of canopy space. The City Council proposed a tiered structure where a cannabis cultivation facility is taxed \$5 per square foot of canopy space for the first year that the business is in operation. Beginning the second

year, and every year thereafter, the business will be taxed at \$10 per square foot of canopy space.

At the June 9, 2020 City Council meeting, the City Council waived full reading and introduced Ordinance No. 1564, attached hereto as **Attachment 1**.

DISCUSSION:

Banning Municipal Code (“BMC”) Chapter 3.17 as adopted by Banning voters in 2018 as Measure N, sets the cannabis cultivation tax rate at \$15 per square foot of canopy space, but allows the City Council to increase or lower the tax rate as long as it does not exceed \$25 per square foot of canopy space. See BMC §§ 3.17.030(B) and 3.17.050(A). After reviewing the taxes that are imposed by other local jurisdictions in Riverside and San Bernardino County, the City Council, at its May 12, 2020 meeting, determined that Banning’s cannabis cultivation tax is too high in comparison to other jurisdictions. After considering various alternatives to addressing the cultivation tax issue, the City Council determined that it was appropriate to keep the tax methodology based on canopy space but reduce the tax rate from \$15 dollars per square feet of canopy space and instead adopt a tiered based tax structure. Under the tiered approach, a cannabis cultivation facility would pay \$5 dollars per square feet of canopy space for the first year the business is in operation, as permitted by Measure N. The second year of operation, and every year after that, a cannabis cultivation facility would pay \$10 per square foot of canopy space. The rationale for this tiered approach is that with a lower tax in the first year, the cultivator can preserve more of its start-up costs for operations. Accordingly, this is regarded as a form of tax incentive for cultivators to locate in Banning versus in a nearby location.

FISCAL IMPACT:

At this time, staff is unable to quantify the fiscal impact associated with the reduction in the cultivation tax. Since there are no cannabis cultivation facilities currently operating in the City, this will not reduce any taxes that the City is currently collecting. Staff anticipates that the reduction in the tax rates may provide some incentive for cannabis cultivation facilities to submit conditional use permit applications to operate in the City, and ultimately begin operating in the City. This could have the effect of increasing the amount of commercial cultivation activities occurring in the City which could end up increasing the overall amount of tax revenue generated to the City from this activity. It will take some time (likely a year or more) for tax revenue from cannabis cultivation activity to come into the City’s coffers since there is a lead time for cultivators to apply for approval, prepare building plans, complete construction and commence growing operations. However, if the reduction in tax rate has no impact on the willingness of cannabis cultivators to do business in the City,

then the amount of taxes that the City will ultimately and finally start collecting from these businesses would be lower than if the City had not adopted this ordinance.

ATTACHMENTS:

1. Ordinance No. 1564

<https://banningca.gov/DocumentCenter/View/7526/Ordinance-1564->

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: Douglas Schulze, City Manager
Laurie Sampson, Executive Assistant
Paula Gutierrez Baeza, City Attorney's Office**

MEETING DATE: June 23, 2020

SUBJECT: Resolution No. 2020-84 and Resolution No. 2020-85, approving, respectively, the (i) Agreement for Purchase and Sale and Escrow Instructions Between the City of Banning and in Frank J. Burgess and Lorna D. Burgess, Trustees of the Burgess Family Trust DOT December 15, 1989 in Connection with Ramsey-Hathaway Street Improvement Project (Portions of APN 532-120-020), and (ii) Agreement for Purchase and Sale and Escrow Instructions Between the City of Banning and Frank J. Burgess in Connection with Ramsey-Hathaway Street Improvement Project (Portions of APN 532-140-005).

RECOMMENDED ACTION:

That the City Council take the following actions:

1. Adopt Resolution No. 2020-84 and Resolution No. 2020-85, approving the following Agreements, respectively:
 - a. "Agreement for Purchase and Sale and Escrow Instructions Between City of Banning and Frank J. Burgess and Lorna D. Burgess, Trustees of the Burgess Family Trust DOT December 15, 1989 in connection with Ramsey-Hathaway Street Improvement Project (Portions of APN 532-120-020)".
 - b. "Agreement for Purchase and Sale and Escrow Instructions Between City of Banning and Frank J. Burgess in Connection with Ramsey-Hathaway Street Improvement Project (Portions of APN 532-140-005)".

2. Authorize the City Manager to execute the Agreements for Purchase and Sale and Escrow Instructions for the acquisition of certain property interests from APN 532-120-020 and APN 532-140-005, and approve and execute any necessary documents, including the Temporary Construction Easement Agreements, Certificates of Acceptance for portions of said parcels, and to take all necessary actions to complete the real property transactions contemplated in the subject Purchase and Sale Agreements, including, without limitation, all escrow instructions and escrow-related documents.
3. Authorize Administrative Services Director to make necessary budget adjustments and appropriations for FY 2020 for the acquisition of the subject property interests described in the Purchase and Sale Agreements.

BACKGROUND

The City wishes to proceed with construction of the Ramsey-Hathaway Street Improvement Project ("Project"). The Project, as planned and designed, will improve circulation in this area of the City and will widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. Widening will also occur along Hathaway Street from Ramsey Street approximately 1,400 feet north. Further, the Project will construct a new 12-inch ductile iron water line along Ramsey Street. The construction of the Project requires the acquisition of right of way.

City Staff held several meetings to discuss the Project with property owners in the area. In accordance with applicable law, the City obtained fair market value appraisals of the real property interests needed for the Project. The City set just compensation and extended written offers on November 8, 2018 to the record owners of the parcels that are the subject of the Purchase and Sale Agreements. The City and Frank Burgess, the owner of the subject parcels, negotiated the price and terms of the City's purchase of the necessary property interests and have reached an agreement, subject to ratification by the City Council.

RESOLUTION NO. 2020-84 – PORTIONS OF APN 532-120-020

Pursuant to the Purchase and Sale Agreement for portions of APN 532-120-020, which is located at the northeast corner of E. Ramsey Street and N. Hathaway Street, in the City of Banning, the parties agreed to the City's purchase in fee of an approximate 5,692 square foot area and the use of an approximate 2,575 square foot temporary construction easement for a term of nine months, which are described more particularly in the exhibits to the Purchase and Sale Agreement. The purchase price for these subject property interests from APN 532-120-020 is \$42,000 (Forty-Two Thousand Dollars). The City's use of the approximate 2,575 square foot temporary construction easement is subject to the terms set forth in the Temporary Construction Easement Agreement attached to the Purchase and Sale Agreement.

Staff is also requesting an amount not to exceed \$5,000 for associated escrow and title services for this transaction. Accordingly, the total for the subject property interests needed from APN 532-120-020 will not exceed \$47,000, which includes the \$42,000 purchase price and \$5,000 for escrow-related fees.

RESOLUTION NO. 2020-85 – PORTIONS OF APN 532-140-005

Pursuant to the Purchase and Sale Agreement for portions of APN 532-140-005, which is located at the southeast corner of Ramsey Street and Hathaway Street, in the City of Banning, the parties agreed to the City's purchase in fee of an approximate 9,219 square foot area and the use of an approximate 3,232 square foot temporary construction easement for a term of nine months, which are described more particularly in the exhibits to the Purchase and Sale Agreement. The purchase price for these subject property interests from APN 532-140-005 is \$54,000 (Fifty-Four Thousand Dollars). The City's use of the approximate 3,232 square foot temporary construction easement is subject to the terms set forth in the Temporary Construction Easement Agreement attached to the Purchase and Sale Agreement.

Staff is also requesting an amount not to exceed \$5,000 for associated escrow and title services for this transaction. Accordingly, the total for the subject property interests needed from APN 532-140-005 will not exceed \$59,000, which includes the \$54,000 purchase price and \$5,000 for escrow-related fees.

FISCAL IMPACT

The total required for the above subject property interests is \$106,000, consisting of (i) \$42,000 for the purchase price for the property interests needed from APN 532-120-020 plus escrow and title charges in an amount not to exceed \$5,000, and (ii) \$54,000 for the purchase price for the property interests needed from APN 532-140-005 plus escrow and title charges in an amount not to exceed \$5,000. Funds for these acquisitions will be sourced from Account 840-9500-490.93-30.

ATTACHMENTS

1. Resolution No. 2020-84; <https://banningca.gov/DocumentCenter/View/7516/Att-1-Resolution-2020-84>
2. Purchase and Sale and Escrow Instructions Agreement (Portions of APN 532-120-020) – Partially Executed; <https://banningca.gov/DocumentCenter/View/7517/Att-2-PSA-Burgess-532-120-020>
3. Resolution No. 2020-85; <https://banningca.gov/DocumentCenter/View/7518/Att-3-Resolution-2020-85>

4. Purchase and Sale and Escrow Instructions Agreement (Portions of APN 532-140-005) – Partially Executed;
<https://banningca.gov/DocumentCenter/View/7519/Att-4-PSA-Burgess-532-140-005>

Approved by:

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Douglas Schulze
City Manager



**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Ralph Wright, Parks and Recreation Director

MEETING DATE: June 23, 2020

SUBJECT: Adopt Resolution 2020-78, Approving the Renewal of the Landscape Maintenance Contract for City Parks with Z&T Ventures, Inc. dba Service Scape of Alta Loma, California for Fiscal Year 2020/2021 in the amount of \$73,642.80

RECOMMENDED ACTION:

Staff recommends that the City Council adopt Resolution 2020-78

1. Approving renewal of an Agreement with Z&T Ventures, Inc., dba Service Scape of Alta Loma, California in the amount "not to exceed" \$73,642.80 for Fiscal Year 2020/2021.
2. Authorizing the Administrative Services Director to make necessary budget adjustments, appropriations and transfers related to the Agreement.
3. Authorizing the City Manager to execute the Amendment No. 3 to the Agreement with Z & T Ventures, Inc. dba Service Scape of Alta Loma, California for the remainder of Fiscal Year 2020/2021.

BACKGROUND:

In 2017, the City transitioned the Parks Maintenance Division ("Parks") from the Public Works Department to the Community Services Department. Part of the transition process included a reorganization of the Streets Maintenance Division ("Streets") and Parks, which included the transferring of City staff from Parks to Streets. In order to continue maintaining the City's parks in a cost effective and efficient manner, staff determined that the City would benefit from hiring a landscape maintenance contractor to complete routine landscape maintenance tasks such as mowing, trimming and edging. Subsequently, on October 13, 2017 staff solicited proposals through Planet Bids from qualified companies to provide landscape maintenance services for City owned

parks. The Invitation to Bid (IFB) went to 250 external vendors and 10 City of Banning vendors.

The scope of work included lawn mowing, seeding, aeration, edging, fertilization, weed and pest control, maintenance of planter beds, trimming and tree care for all locations identified listed below:

- Lions Park
- Sylvan Park
- Repplier Park
- Dysart Park
- Roosevelt Williams Park

As a result, the Council approved the award of the contract for landscape maintenance services of City Park to Z&T Ventures, Inc., dba Service Scape for “not to exceed” the amount of \$39,270 for the remainder of Fiscal Year 2017/2018 (5 month period) with the option to renew for an additional three single years upon satisfactory annual review of provided services and subject to the consideration of a consumer price index increase. The “not to exceed” contract amount includes an allowance of \$10,000 for expenses related to miscellaneous irrigation repairs and/or plant replacement as needed.

On June 26, 2018, the City Council adopted Resolution No. 2018-62, authorizing renewal of the contract for the first one-year additional period. Amendment No. 1 to the Agreement was executed and dated July 1, 2018, to effectuate that extension for the period of July 1, 2018 through June 30, 2019.

On July 9, 2019, the City Council adopted Resolution No. 2019-91, authorizing renewal of the contract for the second one-year additional period. Amendment No. 2 to the Agreement was executed and dated July 9, 2019, to effectuate that extension for the period of July 1, 2019 through June 30, 2020.

The City Council is asked to authorize the third one-year renewal for FY 2020/2021 and to approve Amendment No. 3 to the Agreement.

JUSTIFICATION:

The award of an agreement to Z&T Ventures Inc., dba Service Scape will ensure that the City Parks included in the agreement will be maintained at an appropriate level, that necessary irrigation repairs and/or plant replacements will occur as needed. The one-year renewal includes a 1.75% increase based on CPI, which results in an increase of \$105.55 per month or \$1,266.60 for the contract period.

FISCAL IMPACT:

The needed funding for the landscape maintenance agreement is included in the 2020/2021 budget in the General Fund to Account No. 001-3600-461.23-29 (Landscape Maintenance) in the amount of \$81,000.


OPTIONS:

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

ATTACHMENTS:

1. Resolution 2020-78
<https://banningca.gov/DocumentCenter/View/7486/Att-1-Resolution-2020-78>
2. Original Contract Services Agreement
<https://banningca.gov/DocumentCenter/View/7487/Att-2-Service-Scape-Agreement>
3. Resolution 2018-12 (Original Agreement)
<https://banningca.gov/DocumentCenter/View/7488/Att-3-Resolution-2018-12>
4. Resolution 2018-62 (1st Renewal)
<https://banningca.gov/DocumentCenter/View/7489/Att-4-Resolution-2018-62>
5. Resolution 2019-91 (2nd Renewal)
<https://banningca.gov/DocumentCenter/View/7490/Att-5-Resolution-2019-91>

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: Ralph Wright, Parks and Recreation Director

MEETING DATE: June 23, 2020

SUBJECT: Authorize the City Manager to sign the Notice of Completion for Project 2019-046 "Dysart Park Fencing Project" as complete and direct the City Clerk to record the Notice of Completion

RECOMMENDED ACTION:

That the City Council accept Project No. 2019-046, "Dysart Park Fencing Project" as complete, authorize the City Manager or his designee to sign the Notice of Completion and direct the City Clerk to record the Notice of Completion.

BACKGROUND:

On November 12, 2019, City Council adopted Resolution 2019-142 awarding a Construction Agreement to AB Fence Company, Inc. for Project No. 2019-046, "Dysart Park Fencing Project". The project was approved in the amount of \$178,910 and a 10% contingency in the amount of \$17,890 for a total project budget of \$196,800.

The principal items of work included the removal of the existing park property border fencing along Victory and the installation of a new wrought iron fence. Additionally, the project included the installation of three drive-thru entrance gates. The work was performed along Victory road from 22nd street to Lovell on the northern border of Dysart Park.

There were no change orders for this project and the total contract price for the project was \$178,910.

JUSTIFICATION:

The lowest qualified bidder, AB Fence Company was awarded the contract and work was completed on May 20, 2020. The project was inspected throughout the process and staff has ensured that the contractor had met the required contract obligations.

FISCAL IMPACT:

The original contract was awarded in the amount of \$178,910 and the final contract amount of \$178,910 was under the allocated project budget approved under Resolution 2019-142. The project was funded by 2018 and 2019 Community Development Block Grants.

ALTERNATIVE:

City Council may elect to not accept the project as complete which would keep the project open and prevent the release of retention funds to the contractor.

ATTACHMENTS:

1. Notice of Completion
<https://banningca.gov/DocumentCenter/View/7484/Att-1--NOC-Project-No-2019-046>
2. Project Pictures
<https://banningca.gov/DocumentCenter/View/7485/Att-2-NOC--Project-Pictures--Project-2019-046-Dysart-Park-Fencing-Project>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Public Works Director
Patrick Safari, Associate Engineer

MEETING DATE: June 23, 2020

SUBJECT: Rejecting All Bids for the “Senior Center ADA Improvements” Project.

RECOMMENDED ACTION:

Staff recommends that the Banning Utility Authority rejects all bids for the “Senior Center ADA Improvements” project.

BACKGROUND:

The City of Banning owns and operates its Community Center and Senior Center located at 789 N. San Geronio Avenue. The original Senior Center building was built in the 1950's and later acquired by the City in 1973. Initially, the Senior Center was a 1,529 square foot house and 400 square foot detached garage that later received a 2,500 square foot addition in 1987 and another 1,000 square feet in 1992.

On June 26, 2019 the City issued Purchase Order No.029551 to BOA Architecture for design and construction support services in the amount of \$24,640 for the preparation of a construction bid package for ADA improvements, security features and storefront improvements.

On April 14, 2020, staff released an invitation for bids on ProcureNow website for construction services. The bids were opened on May 12, 2020. The City received eight (8) bids ranging in price from \$129,102 to \$226,000.

JUSTIFICATION:

While the bid process for this project was underway, staff learned that due to COVID-19 shutdown and related financial shortfall, the City was not able to finance this project

through the General Fund account. As a result, staff resolved to adding this project to the Community Development Block Grant (CDBG) program for Fiscal Year 20-21 to secure the necessary funds to complete the project.

Since the CDBG program is funded through the federal government, the bid documents must have federal provisions clearly stated in the Notice Inviting Bids. These provisions were not part of the original bid documents released on April 14, 2020. Therefore, staff deemed it necessary to reject all bids and to re-advertise the project once federal funds have been secured.

FISCAL IMPACT:

The City will incur cost related to staff time and publications.

ALTERNATIVE:

Do not approve and provide alternative direction.

ATTACHMENTS:

1. Submitted bid schedules

<https://banningca.gov/DocumentCenter/View/7498/Att-1---Bid-Schedules>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: June 23, 2020

SUBJECT: Adopt Resolution 2020-80, Approving the Replacement of Vehicles for Fiscal Year 2021 pursuant to the Five (5) Year Master Equity Lease Agreement with Enterprise Fleet Management

RECOMMENDED ACTION:

Staff Recommends that City Council adopt Resolution 2020-80:

1. Approving the replacement of vehicles for Fiscal Year 2020/2021 pursuant to the Five (5) Year Master Equity Lease Agreement with Enterprise Fleet Management and authorizing the City Manager or designee to execute all required documents related to the Fiscal Year 2020/2021 replacement vehicles.
2. Authorizing the City Manager or designee to declare and remove various City-owned vehicles from the City's fleet and dispose of the surplus vehicle assets per City policy.
3. Authorizing the proceeds from the sale of the surplus vehicles to be applied towards the cost of the annual leasing program.
4. Authorizing the City Manager or designee to make necessary budget adjustments, appropriations and transfers related to the Vehicle Lease and Replacement Program.

BACKGROUND:

On September 25, 2018, City Council approved a Five (5) Year Master Equity Lease Agreement with Enterprise Fleet Management for a Vehicle Lease and Replacement Program beginning Fiscal Year 2019 and ending Fiscal Year 2023. Through the implementation of the Five (5) Year Replacement Plan, it is staff's intention to replace a total of 57 existing light and medium weight passenger vehicles. Staff committed to

presenting a list of vehicles to City Council that have been identified to be replaced as part of the replacement program on an annual basis.

During the initial program year, fiscal year 2018/2019, twelve (12) vehicles were replaced as identified on the master fleet replacement schedule. City Council later approved the replacement of twelve (12) vehicles in fiscal year 2019/2020. Five (5) of the twelve (12) vehicles approved for replacement in the fiscal year 2019/2020 were not received by the City for the reason that the orders were not submitted to the manufactures on time and did not meet the cutoff deadline. These five (5) vehicles are included in the fiscal year 2020/2021 replacement list.

The continued implementation of the leasing program will reduce fleet operating costs (maintenance, fuel & repairs). Additionally, through the continued implementation of the vehicle replacement program, the City will be able to capitalize on the resale value of new vehicles obtained through the program once the effective vehicle lifecycle (5 years) is exhausted.

JUSTIFICATION:

The City entered into a Maser Equity Lease Agreement with Enterprise Fleet Management effective for a five (5) year period beginning Fiscal Year 2018/2019. Upon the annual evaluation of the replacement schedule, staff recommends the replacement of fourteen (14) vehicles, which includes five (5) from the previous year.

FISCAL IMPACT:

The total annual cost of the program during the 60-month term is \$115,581.84 which includes the lease payment, maintenance services, and down payment for aftermarket parts (e.g. arrow boards, light bars, gate lift, etc.). The total end year cost for the first year may be lower than the amount budgeted and will depend on the date the vehicles are delivered to the City.

The cost for the program has been included in the proposed budget for FY 2020/2021 and will be included in future budget years as follows:

100-4900-431.32-06 (Streets):	\$16,580.16
660-6300-471.32-06 (Water):	\$48,748.56
680-8000-454.32-06 (Wastewater):	\$ 9,964.08
670-7000-473.32-06 (Electric):	\$ 8,649.24
702-3800-480.32-06 (Fleet):	\$ 4,837.32
001-2400-422.32-06 (Fire):	\$ 6,131.64
001-2740-442.32-06 (Code Enforce):	\$14,539.20
761-3110-480.32-06 (Meter Readers):	<u>\$ 6,131.64</u>
	\$115,581.84

At the end of the individual vehicle lease term (i.e. 5 years) the City will have the option to either purchase the vehicle at market value or sell the vehicle and apply the proceeds (i.e. resale value minus balance of vehicle) as a down payment on the replacement vehicles, which would in turn will lower the monthly lease payment.

ALTERNATIVE:

Reject Resolution 2020-80 and provide direction to staff.

ATTACHMENTS:

1. Resolution 2020-80
<https://banningca.gov/DocumentCenter/View/7493/Att-1--Resolution-2020-80>
2. Staff Report and Resolution 2018-118 (excluding attachments)
<https://banningca.gov/DocumentCenter/View/7494/Att-2-Enterprise-Lease-Program>
3. Agreement with Enterprise for a Vehicle Leasing Replacement Program
<https://banningca.gov/DocumentCenter/View/7495/Att-3-Enterprise-Lease-Agreement>
4. Fiscal Year 2020/2021 Vehicle Replacement List
<https://banningca.gov/DocumentCenter/View/7496/Att-4-2020-Estimated-Replacements>

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: Sonja De La Fuente, Deputy City Clerk

MEETING DATE: June 23, 2020

SUBJECT: Resolution 2020-71, Calling for the Holding of a General Municipal Election to be held on Tuesday, November 3, 2020 for the Election of Members of the City Council by Districts 1, 2 and 3, City Clerk, and City Treasurer as Required by the Provisions of the Laws of State of California Relating to General Law Cities and the Banning Municipal Code

RECOMMENDED ACTION:

Adopt Resolution 2020-71, Calling for the holding of a General Municipal Election to be held Tuesday, November 3, 2020 for the Election of Members of the City Council by Districts 1, 2, and 3, City Clerk, and City Treasurer as required by the provisions of the laws of the State of California relating to General Law Cities and the Banning Municipal Code.

JUSTIFICATION:

Per the California Elections Code, a resolution needs to be adopted calling for a General Municipal Election to be held on Tuesday, November 3, 2020. The Riverside County Registrar of Voters request that a resolution be submitted to their office by June 26, 2020. Adoption of a resolution must meet the requirements of the California Elections Code and meet the calendar deadline of the Registrar of Voters.

FISCAL IMPACT:

There is no fiscal impact, as the estimated costs have been included in the Fiscal Year 2020-21 budget.

OPTIONS:

1. Approve as recommended
2. No action would result in not holding an election

ATTACHMENTS:

1. Resolution 2020-71
<https://banningca.gov/DocumentCenter/View/7528/Resolution-2020-71>

Approved by:

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Douglas Schulze
City Manager



**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Sonja De La Fuente, Deputy City Clerk

MEETING DATE: June 23, 2020

SUBJECT: Resolution 2020-72, Adopting Regulations for Candidates for Elective Office Pertaining to the Electorate and the Costs Thereof for the General Municipal Election to be Held in the City on Tuesday, November 3, 2020.

RECOMMENDED ACTION:

Adopt Resolution 2020-72, Adopting Regulations for Candidates for Elective Office, pertaining to the Electorate and the costs thereof for the General Municipal Election to be held in the City on Tuesday, November 3, 2020.

JUSTIFICATION:

Per Section 13307 of the California Elections Code the governing body of any local agency may adopt regulations pertaining to materials prepared by any candidate for a municipal election, including the costs thereof. Adoption of this resolution is needed so that if a candidate elects to have a candidate's statement they will have regulations to follow and pay his or her pro rate share of the costs of a statement to be included in the voter's pamphlet. The Riverside County Registrar of Voters request that a resolution be submitted to their office by June 26, 2020 and adoption of this resolution would meet that deadline.

FISCAL IMPACT:

There is no fiscal impact

OPTIONS:

1. Adopt Resolution 2020-72
2. No action would result in not allowing for candidates to prepare a candidate's statement.

ATTACHMENTS:

1. Resolution 2020-72
<https://banningca.gov/DocumentCenter/View/7482/Resolution-2020-72>

Approved by:

A handwritten signature in blue ink, appearing to read 'DS', is written over a horizontal line.

Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Kevin G. Ennis, City Attorney
Maricela E. Marroquin, Assistant City Attorney

MEETING DATE: June 23, 2020

SUBJECT: Placement of a ballot measure on the November 2020 ballot to authorize the imposition of a 10% gross receipts tax on cannabis distribution facilities

RECOMMENDED ACTION:

Staff recommends that the City Council approve placing a tax measure on the November 3, 2020 General Election ballot to adopt an ordinance to impose a municipal tax on cannabis distribution facilities.

BACKGROUND:

At its May 12, 2020 City Council meeting regarding the City's cannabis program, the City Council directed staff to proceed with drafting an ordinance to tax cannabis distribution facilities. The draft ballot measure was presented to the City Council at its June 9, 2020 meeting, and the Council requested that staff return with a final version of the ballot measure that included a potential range of annual tax revenue that could be generated by the measure. The placement of the tax measure on the ballot requires a 4/5th vote of the City Council.

DISCUSSION:

On June 3, 2020, the Planning Commission held a public hearing to consider a draft ordinance that would, amongst other changes, amend Chapter 17.53 of the Banning Municipal Code ("BMC") to allow cannabis distribution facilities to operate in the Industrial zone. A cannabis distribution facility is defined to mean a business that transports cannabis and cannabis products between State licensed cannabis retailers, manufacturers, cultivators and testing laboratories. This draft ordinance will be presented to the City Council for consideration at its June 23, 2020 meeting. The draft ordinance

presently contains a provision stating the ordinance will only go into effect if the voters impose a tax on cannabis distribution facilities. This is subject to change based on City Council direction.

Measure N, which was approved by the voters in November 2018, imposed a 10% gross receipts tax on cannabis manufacturing facilities and testing laboratories. See Banning Municipal Code (“BMC”) Section 3.17.030. The proposed ballot measure amends BMC Section 3.17.030 to similarly impose a 10% gross receipts tax on cannabis distribution facilities. The ballot measure will grant the City Council authority to both reduce and increase the tax on cannabis distribution facilities as long as the tax does not exceed 10% of gross receipts. So, if the voters adopt the measure, the Council could determine soon thereafter to fix the tax rate at zero (0%) or in any amount that is less than 10% and then allow the tax rate to be adjusted by future City Councils as conditions warrant. This type of authority for the Council to adjust the tax rate in the future is the same authority the voters approved as part of Measure N in 2018. Staff prepared a resolution, included as **Attachment 1**, regarding the placement of this measure on the ballot. The ballot measure is included as **Attachment 2**.

Potential positive fiscal impact could be derived from taxing cannabis distribution facilities. California Elections Code Section 13119 requires that the ballot question include the amount of money generated annually by the proposed tax. Staff researched this issue and was not able to find much publically available data pertaining to the amount of taxes that cannabis distribution facilities generate. Most cities that allow cannabis distribution do not segregate the taxes based on cannabis distribution only, but rather lump the taxes with other cannabis businesses such as retailers, manufacturers and cultivators. In surveying the limited publically accessible data regarding the taxes received by other cities for cannabis distribution activities, it revealed a wide range. For example, staff reviewed a City of Oakland report dated October 14, 2019 that analyzed the taxes generated by various cannabis businesses. In reviewing the report, staff determined that there were eight cannabis distribution facilities operating in Oakland. Based on this determination, staff was able to deduce that one distribution facility that is taxed at a rate of 1% of gross receipts could generate \$38,950 per year. Using the same data, staff determined that two distribution facilities that are taxed at a rate of 10% of gross receipts could generate \$779,000 per year in taxes. These facilities are likely larger than most distribution facilities that would operate in Banning.

In contrast, in Long Beach, a staff report dated December 19, 2019 revealed that there were 29 distribution facilities operating in that city. Based on the available data, staff determined that one distribution facility that is taxed at a rate of 1% of gross receipts could generate \$1,629 per year. Using the same data, staff determined that two distribution

facilities that are taxed at a rate of 10% of gross receipts could generate \$32,580 per year in taxes.

Given that these two cities generated such a wide range of tax revenues for cannabis distribution facilities, staff determined that it was appropriate to average the numbers set forth above. As such, staff has determined that the City could generate anywhere between \$20,289 and \$405,790 annually assuming one to two cannabis distribution facilities operate in the City, and depending on whether the tax rate is set at 1% or 10% of gross receipts for these businesses.

FISCAL IMPACT:

If the voters adopted a ballot measure to tax cannabis distribution facilities, this could potentially, and over a period of time, eventually generate additional revenue for the City's general fund. The amount that is generated would depend largely on the number of distribution facilities that eventually operate in the City, the period of time between approval of those uses and commencement of those business operations, as well as the profitability of those businesses. In addition, the tax rate that is actually imposed by the Council, whether 0%, 1% or 10%, or some rate in between, would significantly impact how much tax revenue these businesses generate.

ATTACHMENTS:

1. Resolution calling for an election on cannabis distribution facilities tax
<https://banningca.gov/DocumentCenter/View/7529/Resolution-2020-89-Calling-Election-on-Cannabis-Distribution-Facilities>
2. Cannabis distribution tax measure
<https://banningca.gov/DocumentCenter/View/7530/Cannabis-Distribution-Tax-Measure-Ordinance>

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: June 23, 2020

SUBJECT: Resolution 2020-65, Declaring Racism a Public Health Issue

RECOMMENDED ACTION:

City Council adopt Resolution 2020-65, Declaring Racism a Public Health Issue.

BACKGROUND:

Mayor Pro Tem Wallace is a member of the Alliance of Black Elected Officials. The Alliance has recently discussed anti-racism initiatives and has asked its members to bring forward anti-racism resolutions to reduce and eliminate racism within local government agencies. The attached resolution is an edited version of a sample provided by the Center Against Racism & Trauma. The mission of the Center is to eliminate racism in all of its forms and provide healing for all suffering from its trauma.

JUSTIFICATION:

Discrimination based on race and ethnicity takes many forms. The United States has made progress in eliminating some of the institutional, legalized racial discrimination of years past such as slavery, Jim Crow laws, “separate but equal” schools, and prohibitions on voting or owning land. These hard-fought victories deserve to be remembered and celebrated. Still, these advances are incomplete. Data on social and economic welfare show disparities between many persons of color and their white counterparts.

FISCAL IMPACT:

Resolution No. 2020-65 creates new initiatives, which will involve staff resources. Specifically, development of departmental plans to root out systemic racism and development of a matrix for the measurement of racism as a public health issue and to produce city council policies that will address the issue.

OPTIONS:

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

ATTACHMENTS:

1. Resolution 2020-65
<https://banningca.gov/DocumentCenter/View/7539/Resolution-2020-65>

Approved by:

A handwritten signature in blue ink, appearing to read 'DS', is written over a horizontal line.

Douglas Schulze
City Manager



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Tom Miller, Electric Utility Director
Brandon Robinson, Electrical Engineering Supervisor

MEETING DATE: June 23, 2020

SUBJECT: Resolution 2020-86, Approving the Independent Evaluation of the Banning Electric Utility Wildfire Mitigation Plan

RECOMMENDED ACTION:

The City Council adopt Resolution 2020-86, approving the Independent Evaluation of the Banning Electric Utility's ("Utility") Wildfire Mitigation Plan performed by Dudek.

BACKGROUND:

The Wildfire Mitigation Plan for Banning Electric Utility was presented and approved by City Council on December 10, 2019. In addition, the Utility is required to contract with a qualified independent evaluator with experience in assessing the safe operation of electrical infrastructure to review and assess the comprehensiveness of its wildfire mitigation plan. The independent evaluator shall compile their findings in a report that is to be presented to the Utility's governing board, which is in conformance with the requirements of Senate Bill 901 (SB 901) and Assembly Bill 1054 (AB 1054) which were signed into law in September 2018 and July 2019 respectively.

Governor Brown signed SB 901 in September 2018, which addressed a wide range of issues relating to wildfire prevention, response, and recovery. SB 901 substantially revised the Public Utilities Code Section 8387, making it mandatory for all Publicly Owned Utilities (POUs), regardless of size or wildfire risk, to develop a Wildfire Mitigation Plan. Pursuant to the amended Section 8387, all POUs must present a Wildfire Mitigation Plan to its governing board prior to January 1, 2020, and annually thereafter.

SB 901 requires that POUs must present their Wildfire Mitigation Plan at an appropriately noticed public meeting and receive public comment. The POU must also verify that the Wildfire Mitigation Plan complies with all applicable rules, regulations, and standards. POUs must also have their plan reviewed by a qualified independent evaluator to assess the comprehensiveness of the plan. The independent evaluator must then issue a report that the POU must make available on the POU's website, and the POU must present the

report at a public meeting of the POU's governing board. Dudek, an environmental consulting firm, served as independent evaluator for the Utility's Wildfire Mitigation Plan.

In 2019, two new bills (SB 1054 and SB 111) made additional major reforms relating to wildfires. As part of these reforms, SB 111 created a new state agency called the California Wildfire Safety Advisory Board ("Board"). The members of the board must be selected from industry experts, academics, and people with labor and workforce safety experience. At least three members must be experienced in the safe operation, design, and engineering of electrical infrastructure. SB 1054 requires that all POUs must submit their Wildfire Mitigation Plans to the Board by July 1 of each year, starting in 2020. The Board will then review the POU plans and will provide comments and advisory opinions on the content and sufficiency of the plans.

JUSTIFICATION:

Pursuant to Public Utilities Code, Section 8387, the Utility has prepared the required Wildfire Mitigation Plan. Dudek has evaluated the plan and concluded that the plan meets all the required criteria as provided in Section 8387. The independent evaluation will be posted to the City of Banning website for public view.

Furthermore, the Utility will submit its adopted Wildfire Mitigation Plan to the Board prior to July 1, 2020, and then review and evaluate the plan annually.

FISCAL IMPACT:

There is no fiscal impact with the approval of Banning Electric Utility's Wildfire Mitigation Plan.

ATTACHMENTS:

1. Resolution 2020-86 <https://banningca.gov/DocumentCenter/View/7531/Att-1-Resolution-2020-86---WMP-Evaluation>
2. Banning Electric Utility Wildfire Mitigation Plan Version 1.1
<https://banningca.gov/DocumentCenter/View/7532/Att-2-BEU-Wildfire-Mitigation-Plan-Draft-Version-11>

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

MEETING DATE: June 23, 2020

SUBJECT: Resolution 2020-79, Approving Conditional Use Permit 20-8001, to allow the retail sale of cannabis and cannabis-related products in an existing commercial building located at 1034 West Ramsey Street, Unit A (APN: 540-180-052) in the Highway Serving Commercial (HSC) Zoning District, and make a determination of exemption under CEQA Guidelines Section 15301

RECOMMENDED ACTION:

Staff recommends the City Council adopt Resolution 2020-79, recommending that the City Council make a determination that the Project is exempt from CEQA under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) and approve Conditional Use Permit 20-8001 to allow a Cannabis Retailer in an existing commercial building located at 1034 West Ramsey Street, Unit A (APN: 540-180-052) in the Highway Serving Commercial (HSC) zoning district.

PROJECT / APPLICANT INFORMATION:

Project Location	1034 West Ramsey Street, Unit A, Banning, CA 92220
APN Information:	540-180-052
Project Applicant:	Harvest Corner, LLC Attn: Delwyn Prendergast 8542 Whitesails Circle Huntington Beach, CA 92646
Property Owner:	Muhammad S. Akhtar 1436 Aster Place Beaumont, CA 92223

REQUEST:

The applicant, Harvest Corner, LLC, is requesting approval of a Conditional Use Permit (CUP) to allow for the retail sales of cannabis and cannabis-related products in an existing commercial building located at 1034 West Ramsey Street, Unit A, Banning, CA 92220.

BACKGROUND:

On, June 3, 2020, City staff held a duly noticed public hearing where the Planning Commission approved Resolution 2020-10; which recommended that the City Council approve CUP 20-8001, to allow for the retail sales of cannabis products and accessories at 1034 West Ramsey Street, Unit A with conditions. The Conditions of Approval can be found as Exhibit A to City Council Resolution 2020-79.

DESCRIPTION:

The applicant is requesting approval to allow for the retail sales of cannabis and cannabis related products. The applicant also intends to sell other retail products such as t-shirts, pipes, papers, and other cannabis related merchandise.

The applicant, Delwyn Prendergast, for Harvest Corner, LLC, applied on February 20, 2019, for a Cannabis Regulatory Permit and was deemed eligible to participate in the Cannabis Lottery. Harvest Corner was selected as the third applicant in the cannabis lottery, which was held on May 23, 2019, by the Community Development Department. A Conditional Use Permit (CUP) application was submitted on April 22, 2020, to proceed with the proposed cannabis retailer use.

The applicant proposes to retrofit and improve an existing commercial building located at 1034 West Ramsey Street, Unit A. This commercial building is approximately 3,847 square feet and is proposed for a remodel to accommodate a lobby/reception area, retail sales area, office, storage room, security room, and break room.

In accordance with Banning Municipal Code, the applicant proposes a security plan with cameras, guards, and surveillance equipment. There will be adequate security lighting and protocols to minimize potential security threats. Additionally, a two-stage air filtration system will be installed to prevent odors from leaving the premises.

The proposed operating hours are from 9:00 a.m. to 9:00 p.m.; although, staff may be working as early as 7:00 a.m. to prepare for the days' business.

Surrounding Land Use

The site is in an existing commercial building with existing commercial businesses. There is a Department of Motor Vehicles office directly adjacent, and to the west, I-10 Freeway to the south, commercial offices, and retail to the north and an apartment complex to the

east. The nature of the surrounding uses, zoning classifications, and General Plan land use designations are delineated for Planning Commission consideration in the following table.

Land Use Summary Table

	Existing Land Use	Zoning Classification	General Plan Designation
Subject Site	Commercial Center	(HSC)	(HSC)
North	Retail and Offices	(HSC)	(HSC)
South	I-10 Freeway	(PF-Railroad/Interstate)	(PF-Railroad/Interstate)
East	Apartment Complex	(HSC)	(HSC)
West	DMV	(HSC)	(HSC)

PROJECT ANALYSIS:

Zoning

Table 17.12.020 (“*Permitted, Conditional and Prohibited Commercial and Industrial Uses*”) of Section 17.12.020 of Chapter 17.12 of Title 17 of the Banning Municipal Code provides that Cannabis Retailers are permitted in the HSC zoning district, subject to approval of a CUP by the Planning Commission and City Council pursuant to Chapter 17.52 and 17.54 of the Zoning Code.

Additional requirements identified in the Code state the cannabis retailer must be at least 200-feet from any residential district and 600-feet from any day care center, youth center, public or private school providing instruction in kindergarten or any of grades 1-12, or park. The proposed location of the Retail Cannabis Dispensary is compliant with the above-mentioned requirements.

Conditional Use Permit

In accordance with Section 17.52.010, the purpose of a Conditional Use Permit is:

- A. Conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of the use being proposed for a location. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing the use to established development standards and design guidelines.

- B. This review shall determine whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use, against any negative or undesirable impacts which it may cause. Limits which the Planning Commission might want to impose, could include restrictions on the hours of business operation; restrictions on the number of clients or patients which the business may service at any one time; increased visual and sound barriers; improved technologies or equipment which lessen any noise, light or odor emitted by the business or other use; as well as any other conditions which could help make the use more compatible with the neighborhood in which it is proposed to be located.

Section 17.52.050 – Findings states:

After a public hearing, the Commission shall record the decision in writing the findings upon which such decision is based (see exception in Section 17.54.060 A. 1. Below). The Commission may approve and/or modify a Conditional Use Permit application in whole or in part, with or without conditions, only if all the following findings are made:

- A. The proposed use is consistent with the General Plan.
- B. The proposed use is conditionally permitted within the subject land use district and complies with all the applicable provisions of Title 17 of the Banning Municipal Code.
- C. The proposed use would not impair the integrity and character of the land use district in which it is to be located.
- D. The subject site is physically suitable for the type and intensity of land use being proposed.
- E. There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.
- F. There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics.
- G. The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

Findings have been made and can be found in Planning Commission Resolution 2020-10 (attachment 1).

Section 17.54.060, Procedures, and findings for approval of cannabis retailer conditional use permit states:

- A. A cannabis retailer conditional use permit shall be processed in accordance with the procedures set forth in Chapter 17.52, Conditional Use Permits, with the following exceptions:
 - 1. Any provision that requires the approval by the Planning Commission with appeal to the City Council shall be replaced with the requirement that the Planning Commission make a recommendation on the cannabis retailer conditional use permit and that the approval of such permit shall be made by the City Council.
 - 2. Sections 17.52.020 (Application Procedures) and 17.52.080 (Modifications) shall not apply.
 - 3. Any procedures pertaining to noticing and the setting of a public hearing before the Planning Commission shall also apply to the City Council.
- B. An applicant for a cannabis retailer conditional use permit shall comply with the California Environmental Quality Act ("CEQA"). No cannabis retailer conditional use permit shall be granted until the requisite CEQA review has been conducted.

Staff believes that approval of the CUP will serve the community by providing a convenient location for the purchase of cannabis products, providing for jobs and tax revenue, and assisting highway consumers traveling and staying in the surrounding area.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

Planning Division staff has determined that this Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15301 (Existing Facilities - Class 1 Categorical Exemption) because the project consists of the operation, repair, maintenance, permitting, leasing, licensing, and minor alteration of an existing private structure involving negligible or no expansion of an existing use, including interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances.

Multiple Species Habitat Conservation Plan (MSHCP).

The project is not subject to MSHCP as the project is an existing facility and no new exterior improvements are identified.

PUBLIC COMMUNICATION:

Proposed Conditional Use Permit 20-8001 was advertised in the Record Gazette newspaper on May 29, 2020 (Attachment 5). As of the date of this report, staff has not received any written comments on the project.

ATTACHMENTS:

1. City Council Resolution 2020-79
Exhibit A – Project Plans
Exhibit B – Conditions of Approval
<https://banningca.gov/DocumentCenter/View/7504/Att-1-Resolution-2020-79>
2. Planning Commission Resolution 2020-10
https://banningca.gov/DocumentCenter/View/7505/Att-2-Resolution-2020-10_adopted-20200603
3. Applicant's Regulatory Permit Application Approval Letter
<https://banningca.gov/DocumentCenter/View/7506/Att-3-B1-Harvest-Corner--Cannabis-eligibility-letter-19-9509>
4. Applicant's Lottery Notification Letter
<https://banningca.gov/DocumentCenter/View/7507/Att-4-Harvest-Corner-Approval-to-pursue-CUP>
5. Public Hearing Notice
<https://banningca.gov/DocumentCenter/View/7508/Att-5-Public-Hearing-Notice>
6. Notice of Exemption
https://banningca.gov/DocumentCenter/View/7509/Att-6-Notice-of-Exemption_ABR

Approved by:



Douglas Schulze
City Manager



**CITY OF BANNING
CITY COUNCIL REPORT**

TO: CITY COUNCIL

FROM: Doug Schulze, City Manager

BY: Adam Rush, Community Development Director

MEETING DATE: June 23, 2020

SUBJECT: Ordinance 1565, (1) Amending Chapter 5.33 and 5.35 of Title 5 of Banning Municipal Code to allow cannabis distributors to operate in the City and to amend the process for processing cannabis retailer applications, (2) Amending Chapters 17.12, 17.53, and 17.54 of Title 17 of the Banning Municipal Code (Zoning Text Amendment (ZTA) 20-97501 to allow cannabis retailers to operate in the General Commercial zone, to eliminate the separation in the requirement between cannabis retailers and residentially zoned property, to include provisions regarding the expiration of cannabis retailer Conditional Use Permits (CUP), to allow indoor commercial cultivation facilities in the Business Park zone, to allow cannabis distribution facilities to operate in the industrial zone, and making additional amendments to the regulations pertaining to commercial cannabis businesses, and (3) making a determination pursuant to CEQA. The proposed amendments will affect all properties located in the General Commercial (GC), Highway Serving Commercial (HSC), Business Park (BP), and Industrial (I) Zoning District, in the City of Banning, California.

RECOMMENDED ACTION:

That the Planning Commission take the following actions:

1. Recommend that the City Council make a determination, pursuant to Sections 15060(c)(3) and 15061(b)(1) of the California Environmental Quality Act (CEQA) Guidelines that the project is exempt from CEQA pursuant to Business and Professions Code section 26055(h).

2. That the City Council waive full reading of, and introduce Ordinance 1565, approving Zoning Text Amendment No. 20-97501, (1) Amending Chapter 5.33 and 5.35 of Title 5 of Banning Municipal Code to allow cannabis distributors to operate in the City and to amend the process for processing cannabis retailer applications, (2) Amending Chapters 17.12, 17.53, and 17.54 of Title 17 of the Banning Municipal Code (Zoning Text Amendment (ZTA) 20-97501 to allow cannabis retailers to operate in the General Commercial zone, to eliminate the separation in the requirement between cannabis retailers and residentially zoned property, to include provisions regarding the expiration of cannabis retailer Conditional Use Permits (CUP), to allow indoor commercial cultivation facilities in the Business Park zone, to allow cannabis distribution facilities to operate in the industrial zone, and making additional amendments to the regulations pertaining to commercial cannabis businesses, and (3) making a determination pursuant to CEQA. The proposed amendments will affect all properties located in the General Commercial (GC), Highway Serving Commercial (HSC), Business Park (BP), and Industrial (I) Zoning District, in the City of Banning, California. **The Planning Commission recommended the Council retain the minimum 200-foot setback between Cannabis retailers and residentially zoned properties.**

APPLICANT INFORMATION:

Applicant: City of Banning
99 E. Ramsey Street
Banning, CA 92220

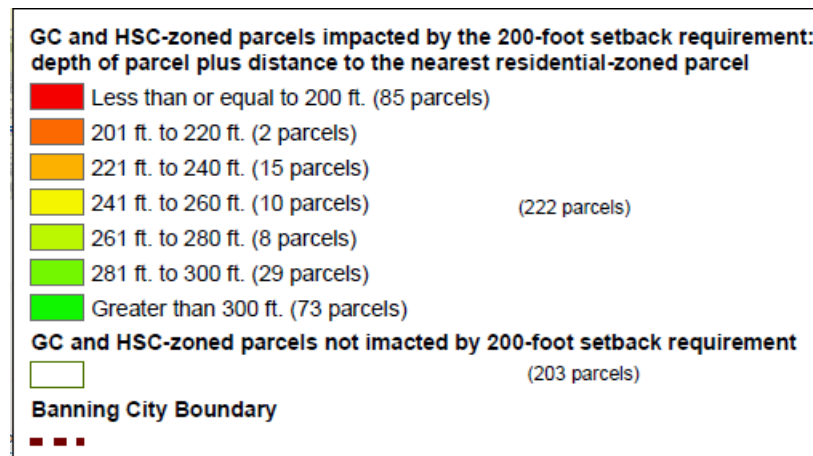
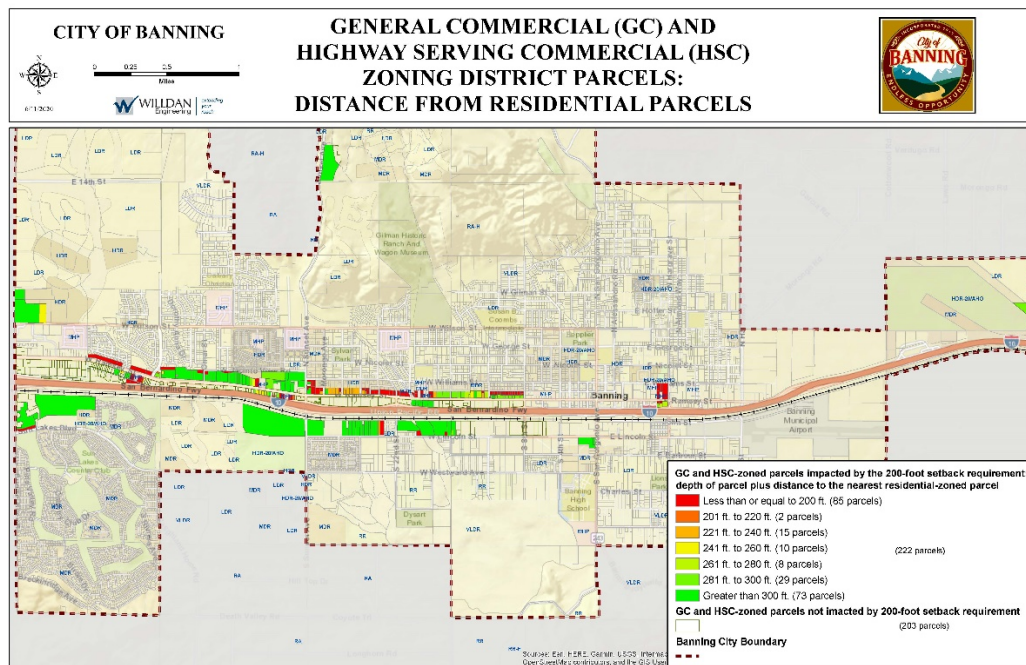
Property: All parcels located in the General Commercial (GC), Business Park (BP), and Industrial (I) Zoning Districts

FURTHER PLANNING CONSIDERATIONS:

June 3rd Planning Commission Discussion:

The Planning Commission solicited public testimony, where a number of individuals expressed concern with placing new retail dispensaries adjacent to residential homes. In addition, the Commission debated the likelihood of new cannabis retail dispensaries being limited by a small geography and reduced zoning capacity. Ultimately, the Commission recommended approval of all major elements, of the Cannabis zoning program, except the elimination of the 200-foot setback between cannabis retailers and a residential zones.

During the Planning Commission discussion, Commissioners inquired as to the anticipated impact, upon future cannabis retailers, leaving the 200-foot setback would create. At the time, Planning Division staff did not have a technical analysis prepared, for the Commission, that yielded this information; however, in preparation for the City Council meeting, one has been prepared. Please see the exhibit below:



According to staff's analysis, **85-parcels, of the 222-parcels**, currently zoned General Commercial (GC), would not be able to develop with a cannabis retail dispensary if the 200-foot setback remained in place. It is important to note that not all of these 85-parcels are eligible for any type of development as some are already developed, include other constraints such as inadequate access, substandard size or configuration, or infrastructure challenges. Furthermore, a

majority of the parcels impacted are located north of the Interstate 10 freeway; which is generally viewed as the City's primary commercial corridor.

May 12th City Council Discussion:

The City Council hosted a discussion item to solicit public testimony and provide direction to City staff regarding several provisions of the proposed amendment to the Cannabis Ordinance. No decision was made; however, staff did receive direction to proceed on several paths to update the City's Cannabis Program. Upon conclusion of this discussion item, the City Council directed City staff to process an ordinance amendment that incorporates the following changes:

- (1) Allow cannabis distribution facilities within the Industrial Zone subject to a conditional use permit.
- (2) Allow cannabis retailers in the General Commercial Zone subject to a conditional use permit.
- (3) Modify the timeframes in which retail cannabis lottery winners, also known as Cannabis Regulatory Permittees, must process a complete Conditional Use Permit (CUP) application.
- (4) Modify the timeframes in Cannabis Regulatory Permittees must complete the building permit plan check approval process, pull a permit, and commence substantial construction on their retail cannabis dispensary.
- (5) Remove the 200-foot setback from cannabis retailers to residentially zoned properties.
- (6) Draft a Ballot Measure, to be placed on the next Riverside County consolidated election cycle (occurring on November 3, 2020), proposing to levy a tax on Cannabis Distribution Facilities.
- (7) Draft a Ballot Measure, to be placed on the next Riverside County consolidated election cycle (occurring on November 3, 2020), proposing to eliminate the "cap" on cannabis retailers. The existing ratio of dispensaries to the Banning population is 1 to 10,000 residents.

Items 1 through 5 were discussed at the Planning Commission's jurisdiction does not extend to the citywide electoral process. In addition, because the cap on cannabis retailers is contained in the Zoning Code and because the Council will need to determine an appropriate cap to submit to the voters for their determination, the Planning Commission is also being asked to provide input on Item 7:

- (1) At the May 6, 2020 Planning Commission meeting, the Planning Commission continued its consideration of this zoning text amendment to the June 3rd Planning Commission meeting. After receiving several letters from the public, combined with their own deliberation, the Commission desired to wait for the City Council's May 12th meeting to more clearly understand the direction and opinion of the Council. Part of the Council's direction to staff is to retain the number of cannabis retailers to the current

ratio of 1 per every 10,000 residents. The Council is considering to submit to the voters the questions of whether to retain the existing cap, or increase the number of retailers that can operate in the City. In contrast, the City Council did request that staff incorporate allowances for cannabis distribution facilities within the Industrial Zone; and staff is asking the Planning Commission and City Council to authorize indoor commercial cultivation facilities in the Business Park Zone. Also, the City Council asked the Planning Commission to allow Cannabis retailers into the General Commercial Zone. Given that the ratio of cannabis retailers will remain ***status quo*** the expansion of zoning capacity is intended to accommodate the future development of retail cannabis dispensaries, pending a future ballot measure.

- (2) The City Council directed a ballot measure be drafted to eliminate the cap on cannabis retailers. If approved, by the Banning electorate, then, with the Council's approval of allowing cannabis retailers in the General Commercial zone, nearly 800-acres will be available for the potential development of cannabis retailers. These new retail stores will still be required to undergo a CUP process, as well as obtain a Cannabis Retail Regulatory Permit; which is renewed on an annual basis. If the ballot measure intended to eliminate the cap on Retail Cannabis Dispensaries fails to pass, then the additional zoning capacity is already established to accommodate future growth in Banning's population, or if one of the existing retailers were to decide to relocate its business to another location.
- (3) Notwithstanding the ballot measure, removing the "cap" on cannabis retailers, the City Council directed staff to revise the current procedures for processing individual Conditional Use Permits (CUPs), based upon the lottery results. The Banning Municipal Code (BMC) currently allows "up to one year" for a CUP to be processed. If no CUP is completed, for a particular retail lottery winner, then city staff informs the next business on the lottery waiting list that the business may apply for a CUP. Given this methodology, it could take up to 21 years to move through the remaining lottery positions (pending the "cap" is lifted or the City population increases proportionally to the lottery positions). As such, the ordinance amendment will include reduced timeframes and new procedures for processing Retail Cannabis CUPs, as the needs arise. For example, upon notification to a new lottery position holder, the permittee has only 14-days to respond to staff with their intentions. If proceeding, the permittee has a maximum of 90-days to submit a complete permit application to the City.
- (4) The amended timeframes will be substantially reduced and will also include time limits regulating the building permit plan check and construction timeframes. The Ordinance will establish a maximum period of time in which building plans must be submitted, subsequent from CUP approval, as well as a maximum timeframe in which substantial construction must

commence. As of this writing, staff's recommendation is 45-days and 60-days, respectfully.

- (5) The City Council's direction is intended to align the Banning Cannabis Program with state law and regulations to the greatest extent possible. The Council has discussed, on several occasions, the additional compliance measures required for retail and commercial cannabis that are not incorporated within state law. Removing these restrictions sets cannabis retailers and commercial cannabis facilities "on par" with similar operations outside of the City boundaries. As such, the City Council directed staff to remove the setback, from residentially zoned properties, which is currently not provided for in state law. The setbacks between cannabis retailers and sensitive uses, such as schools, places of worships, playgrounds/parks, and pre-schools (including Montessori schools), will still remain pursuant to state law.

BACKGROUND:

On July 10, 2018 the City Council adopted Ordinance 1523 which established provisions for a conditional use permit process for cannabis cultivation, manufacturing level 1, and testing laboratory facilities within the Industrial zoning district. In addition to this ordinance, the City Council also adopted Ordinance 1527, setting Measure N on the November 2018 General Election Ballot. This Measure established the cannabis cultivation tax at \$15 per square foot of canopy space, but contained provisions allowing the City Council, without the vote of the people, to adjust this tax by either reducing the rate, or increasing the rate up to \$25 per square foot of canopy space.

The City of Banning held a General Election on November 6, 2018, that included Measures O and N, which established a general purpose tax on cannabis retailers, cultivation facilities, manufactures, and laboratory testing facilities. In addition, Measure N established the cannabis cultivation tax at \$15 per square foot of canopy space with a maximum rate of \$25 per square foot. Shortly thereafter, the City Council adopted two ordinance amendments that authorized cannabis retailers to develop within the City subject to conditional use permit (CUP) approvals and regulatory permit process.

In January of 2019, the City accepted 24 applications for a retail cannabis regulatory permit. In accordance with the ordinance provisions, City staff hosted a lottery on May 23, 2019, to determine the top three regulatory permit-eligible applicants. These three applicants would be eligible to immediately move forward with the conditional use permit process. In fact, two of the three initial applicants have completed the CUP process. The City's first cannabis retailer is currently under construction at 1474 W. Ramsey St. and the second is undergoing the building permit plan check review process for its location at 2372 W. Ramsey St. In contrast, the last of the three lottery winners filed a Conditional Use Permit on

April 22, 2020 and **has been deemed complete**. Under the existing ordinance provisions, this CUP application has until June 23, 2020 to achieve an entitled application; which requires a public hearing before the Planning Commission and City Council.

Lastly, City staff currently has two indoor commercial cannabis cultivation facility applications under entitlement review. The first application was filed on October 25, 2019 and is proposed to be located at the southeast corner of S. 8th Street and W. Lincoln Street. The second indoor commercial cannabis facility application was filed in December 2019. This facility is proposed to be located at 679 W. Lincoln Street. Both applications are moving through the development review process and staff anticipates presenting both projects to Planning Commission by the late spring to early summer of 2020.

ANALYSIS:

Slightly over one year has passed since the City's Commercial and Retail Cannabis program came into effect. During this period, two retail cannabis dispensaries have been approved and two indoor commercial cannabis cultivation facilities are under review. Our Cannabis Program is not yielding the results anticipated when established back in late 2018. It is staff's opinion that such results are not derived from either a diminished interest or the lack of effort on the City's part to market, approach, and attract a commercial cannabis industry to Banning. Rather, the physical constraints of property locations and the availability of both land and vacant industrial buildings, all combined with a precipitous rise in lease rates (both for industrial and retail properties), have created a narrow window in which a potential cannabis business can be established.

In addition, potential cannabis operations are challenged by the typical constraints provided by the "normal" development process. This is a process that is pervasive across all cities and counties in California and impacts every CEQA-level project. For novice applicants, the requirements for a substantial number of technical reports and special studies can be a serious impediment upon entitlement projects. A typical CEQA-level project can easily require 10-12 technical reports (e.g., Drainage, Hydrology, Geology, Water Quality, Cultural, Biological, Air/GHG, Noise, Lighting are all typical reports required of a "ground-up" project). All of these constraints, both real estate and entitlement related, combine to limit the number of viable applications that can actually come to fruition. If the Council chooses to widen the scope of permits to additional zones, or in additional numbers, or both, the City can create a "market window" that will facilitate more viable applications for cannabis businesses in the City of Banning.

ENVIRONMENTAL DETERMINATION:

A. California Environmental Quality Act (CEQA)

Planning Divisions staff find and determine that the proposed Zoning Text Amendment No. 20-97501 is not subject to the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15060(c)(3), because the amendment is not a project as defined by CEQA Guidelines Section 15378. Adoption of Zoning Text Amendment No. 20-97501 does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to Zoning Text Amendment No. 20-97501 will require a discretionary permit and CEQA review and will be analyzed at the appropriate time in accordance with CEQA.

Planning Division staff further find and determine that Zoning Text Amendment No. 20-97501 is exempt from review under the CEQA and the State CEQA Guidelines Section 15061(b)(1) which exempts a project from CEQA if the project is exempt by statute. Business and Professions Code Section 26055(h) provides that Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. Pursuant to that exemption, Chapters 17.53 and 17.54 of the Banning Municipal Code provide that conditional use permit applications for cannabis retailers, cannabis distribution facilities, and commercial cultivation facilities will be required to include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. Additionally, conditional use permits for cannabis retailers and distribution facilities are subject to discretionary review by both the Planning Commission and the City Council.

B. Multiple Species Habitat Conservation Plan (MSHCP)

The proposed Zoning Text Amendment does not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to Zoning Text Amendment No. 20-97501 will trigger individual project analysis and documentation related to the requirements of the MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

ATTACHMENTS:

1. Ordinance 1565
https://banningca.gov/DocumentCenter/View/7534/ATTACHMENT-1---Banning---Revised-cannabis-ordinance-6_15-edits_abr-v-15
2. Zoning District Map
<https://banningca.gov/DocumentCenter/View/7535/ATTACHMENT-2---ZONING-DISTRICT-MAP>
3. Zoning District Datasheet
<https://banningca.gov/DocumentCenter/View/7536/ATTACHMENT-3---ZONING-DISTRICT-DATASET>
4. General Commercial Zoning Map
<https://banningca.gov/DocumentCenter/View/7537/ATTACHMENT-4--General-Commercial-Zoning-Map>
5. General Commercial Datasheet
<https://banningca.gov/DocumentCenter/View/7538/ATTACHMENT-5-General-Commercial-Datasheet>
6. Public Hearing Notice
<https://banningca.gov/DocumentCenter/View/7533/ATTACHMENT-6---PHN-Cannabis-Ordinance-1565>

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: Doug Schulze, City Manager
Art Vela, Public Works Director
Regina Danner, City Attorney's Office

MEETING DATE: June 23, 2020

SUBJECT: Resolutions of Necessity for the Acquisition by Eminent Domain of Certain Real Property Interests Identified as Riverside County Tax Assessor Parcel Numbers 541-170-019 and 541-170-021, Owned Respectively by Raymond Ngoc Huynh and Lucy Nguyen Huynh, Trustees of the Raymond and Lucy Huynh Revocable Trust dated August 8, 2007, and Jen H. Huang, for Public Purposes in Connection with the Ramsey-Hathaway Street Improvement Project

BACKGROUND:

This matter was originally considered by the City Council at the January 28, 2020 City Council meeting. At that meeting, the City Council adopted Resolution 2019-160 and Resolution 2019-161, which are Resolutions of Necessity authorizing the acquisition of certain real property interests for public purposes in connection with the Ramsey-Hathaway Street Improvement Project. These Resolutions relate to the properties located at 1483 E. Ramsey Street and the property located at the Northwest corner of E. Ramsey Street and N. Hathaway, owned by Raymond Ngoc Huynh and Lucy Nguyen Huynh, Trustees of the Raymond and Lucy Huynh Revocable Trust dated August 8, 2007 and Jen H. Huang, respectively.

It was brought to our attention that the construction plans reflected the acquisition of more property than required for the Project on two parcels. As a result, the City has revised both the partial take and the Temporary Construction Easement areas on those two parcels. In accordance with the applicable law, the City has obtained an appraisal for the fair market cash value of the two Subject Fee Properties and use of the Temporary Construction Easement's for a period of nine months prepared by James Dingman of Capital Realty Analysts, Inc. Revised Offer to Purchase letters were sent to the two impacted property owners on May 27, 2020.

RECOMMENDED ACTION:

That the City Council:

1. Open and conduct a hearing on the adoption of the proposed Resolutions of Necessity, receive from City Staff the evidence stated and referred to in this Agenda Report ("Report"), take testimony from any person wishing to be heard, and consider all evidence to determine whether to adopt each proposed Resolution of Necessity, each of which requires the City Council's separate consideration and determination.
2. Separately consider each of the following two Resolutions, which are Resolutions of Necessity of the City of Banning:
 - A. Resolution 2020-87: A Resolution of the City Council of the City of Banning, California, Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition Thereof in Connection with the Ramsey-Hathaway Street Improvement Project (Portions of 1483 E. Ramsey Street, Banning - APN 541-170-019) and Repealing and Superseding Resolution No. 2019-160
 - B. Resolution 2020-88: A Resolution of the City Council of the City of Banning, California, Declaring Certain Real Property Interests Necessary for Public Purposes and Authorizing the Acquisition Thereof in Connection with the Ramsey-Hathaway Street Improvement Project (Portions of the Northwest Corner of E. Ramsey Street and N. Hathaway, Banning - APN 541-170-021) and Repealing and Superseding Resolution No. 2019-161
3. The adoption of each Resolution requires a 4/5ths vote of the entire City Council,

DISCUSSION:

Background and Description of Project

The City Council has before it two proposed Resolutions of Necessity for the acquisition by eminent domain of certain real property interests in fee and Temporary Construction Easements in connection with the City's proposed Ramsey-Hathaway Street Improvement Project ("Project"). The City seeks to construct the Project to widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. The Project would also widen Hathaway Street from Ramsey Street approximately 1,400 feet north, and construct a new 12-inch ductile iron water line along Ramsey Street. The Street Improvement Plans for the Project are on file with the Public Works Department and are incorporated herein by this reference.

The Project requires the acquisition in fee of portions of ten larger parcels for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto. The

City also needs to acquire Temporary Construction Easements for a period of approximately nine months to facilitate the City's construction of the Project. The City previously acquired by negotiated purchase the acquisition of certain real property interests in fee and Temporary Construction Easements from six larger parcels. The City Council, at the January 28, 2020 meeting, adopted Resolutions of Necessity for four parcels, including the two parcels before the City Council. The City recently entered into a Purchase and Sale Agreement with the owners of one of the other two parcels. This leaves a total of three remaining parcels, including the two parcels before the City Council.

It was brought to our attention that the construction plans reflected the acquisition of more property than required for the Project on two parcels. As a result, the City has revised both the partial take and the Temporary Construction Easement areas on those two parcels. In accordance with the applicable law, the City has obtained an appraisal for the fair market cash value of the two Subject Fee Properties and use of the Temporary Construction Easement's for a period of nine months prepared by James Dingman of Capital Realty Analysts, Inc. Revised Offer to Purchase letters were sent to the two impacted property owners on May 27, 2020.

The City has attempted to negotiate in good faith with the owners of the two larger parcels to acquire the above-described Subject Property Interests, but the owners have either not responded to the City's communications or the parties have not reached a negotiated acquisition for the Subject Property Interests from the subject two larger parcels. Based on the timing of the Project, it is necessary that the City consider the proposed Resolutions of Necessity at this time.

The City seeks to acquire the Subject Property Interests for public use, namely for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto in connection with the Project. The City seeks to construct the Project to improve capacity, circulation, and enhance safety for its residents and businesses in this area of the City. The Project is consistent with the Circulation Element of the General Plan. The Circulation Element of the General Plan designates Ramsey Street between Ramsey Street to Morongo Road as a Major Highway. The widening of Ramsey Street, as proposed by the Project, will help the City to meet the goals of widening Ramsey Street consistent with the requirements for Major Roadways. The Project will also help to improve the flow of traffic in this area of the City. The improvements to the intersection of Ramsey and Hathaway will help ensure a smooth flow of traffic and help meet the capacity and level of service requirements for this intersection in accordance with the goals of the General Plan. Without the additional lanes along Ramsey Street, the intersection along Ramsey Street will operate at below the Level of Service D identified for General Plan buildout. The improvements proposed by the Project will help to meet Policy 6 set forth in the Circulation Element of the General Plan, which seeks to "maintain peak hour Level of Service C or better on all local intersections, except those on Ramsey Street and at I-10 Interchanges where Level of Service D or better shall be maintained." The Project is an essential part of the overall capital improvements planned for the area and will help meet the goals of a safe and efficient transportation system. It will also meet

the goal of Program 2.B, which is to improve the aesthetic and safety of potential street improvements.

The Project was planned and located to minimize the impact on the adjacent properties. The Project requires the acquisition of a portion of ten larger parcels owned by private property owners. The construction of the Project will not result in the displacement of any persons from their residences or businesses. The City will coordinate the construction with the owners of the Subject Property Interests to minimize the impact of construction on the parcels. As discussed above, the City has acquired the necessary property interests required from six of the ten larger parcels. The City Council considered and adopted Resolutions of Necessity for the four parcels. The City recently entered into a Purchase and Sale Agreement with the owners of one of the four parcels. This leaves a total of three remaining parcels, including the two parcels before the City Council.

It was brought to our attention that the construction plans reflected the acquisition of more property than required for the Project on two parcels. As a result, the City has revised both the partial take and the Temporary Construction Easement areas on those two parcels. In accordance with the applicable law, the City has obtained an appraisal for the fair market cash value of the two Subject Fee Properties and use of the Temporary Construction Easement's for a period of nine months prepared by James Dingman of Capital Realty Analysts, Inc. Revised Offer to Purchase letters were sent to the two impacted property owners on May 27, 2020.

Based on the timing of the Project, it is necessary that the City consider the acquisition by eminent domain of the revised Subject Property Interests needed from two larger parcels.

The City seeks to acquire the Subject Property Interests for public use, namely for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto in connection with the Project pursuant to the authority conferred on the City of Banning to acquire real property by eminent domain by Section 19 of Article 1 of the California Constitution, Government Code Sections 37350, 37350.5, 37351, 40401 and 40404, California Code of Civil Procedure Section 1230.010 *et seq.* (Eminent Domain Law), including but not limited to Sections 1240.010, 1240.020, 1240.110, 1240.120, 1240.510, 1240.610, 1240.650 and by other provisions of law.

For the reasons set forth above, the construction of the Project is in the public interest and necessity and is needed to improve traffic circulation and facilitate traffic flow in this area of the City.

Required Findings for Adoption of Resolutions of Necessity Authorizing the Acquisition of the Subject Property Interests by Eminent Domain

In order to adopt the proposed Resolutions of Necessity for the acquisition by eminent domain of the Subject Property Interests, the City Council must find and determine, with respect to each Resolution of Necessity, that:

- A. The public interest and necessity require the Project;
- B. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
- C. The Subject Property Interests described in each Resolution of Necessity are necessary for the Project; and
- D. The City has made an offer as required by Government Code Section 7267.2 to the owner of record of the real property interest it seeks to acquire.

The amount of just compensation is not an issue before the City Council at this hearing. The hearing relates to issues A, B, C, and D above. The amount of just compensation would be determined in the eminent domain proceedings that would be filed if the City Council, in its sole discretion, adopts each proposed Resolution of Necessity.

Environmental Analysis

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 15301 of Article 19 (Categorical Exemptions) of the State CEQA Guidelines, City Staff found that the Project is exempt from CEQA because it involves minor alterations of existing public streets, sidewalks, gutters, and related facilities with negligible expansion.

The environmental effects of the acquisition of the Subject Property Interests were studied as an integral part of the environmental review for the Project. The City Council concurred with City Staff's determination that the Project qualifies as exempt from CEQA pursuant to Section 15103 of the State CEQA Guidelines because the Project involves minor alterations to existing public streets. The City Council directed City Staff to file a Notice of Exemption in connection with this Project in accordance with CEQA. On February 20, 2019, the City duly filed the Notice of Exemption with the State of California Clearing House in accordance with CEQA. Said Notice of Exemption was filed with the County of Riverside on about April 8, 2019 in accordance with CEQA.

In connection with the proposed Resolutions of Necessity, on December 10, 2019, City Staff reviewed the environmental documentation prepared in connection with the Project. Pursuant to the criteria of Section 15162 of the CEQA Guidelines and Section 21166 of the Public Resources Code, City Staff concluded that no substantial changes have occurred in the Project, no substantial changes have occurred in the circumstances under which the Project is undertaken, and that the City has obtained no new information of substantial importance that would require further environmental analysis. These environmental findings are the appropriate findings with respect to the proposed acquisition of the Subject Property Interests.

City's Actions Pursuant to Government Code Section 7260 et seq.

Pursuant to Government Code Section 7260 *et seq.*, the City of Banning obtained fair market value appraisals of the Subject Property Interests and the larger parcels of which the Subject Interests are a part, set just compensation in accordance with the appraised fair market values, and extended written offers to the owners of record. The City negotiated in good faith with the record owners. As of the date of this Staff Report, however, the parties have not reached a negotiated agreement. Based on the timing of the Project, it is necessary that the City consider the adoption of the Resolutions of Necessity at this time.

Following is a summary of the actions taken by the City pursuant to Government Code Section 7260 *et seq.*

1483 E. Ramsey Street, APN 541-170-019 (Huynh Trustees Parcel)

Pursuant to Government Code Section 7260 *et seq.*, the City of Banning obtained a fair market value appraisal of the Huynh Trustees Parcel, the approximate 2,316 square foot area that the City seeks to acquire in fee for public use, namely for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto and of the approximate 1,828 square foot Temporary Construction Easement with a term of nine months to help facilitate the construction of the Project. The City set just compensation in accordance with the revised appraised fair market value, and extended a revised written offer on May 27, 2020 to Raymond Ngoc Huynh and Lucy Nguyen Huynh, Trustees of the Raymond and Lucy Huynh Revocable Trust, dated August 8, 2007, the owners of record. The fair market value appraisal used a date of value of December 14, 2019.

The City's written offer included an informational pamphlet describing the eminent domain process and the record owner's rights under the Eminent Domain Law. In accordance with Government Code Section 7267.2, the City's written offer contained a written statement of, and summary of the basis for, the amount it established as just compensation. The offer set forth the date of value utilized by the appraiser and explained the appraiser's opinion of the highest and best use of the larger parcel. It explained the applicable zoning and General Plan designation of the larger parcel. The City's offer also summarized the principal transactions relied on by the appraiser to arrive at the appraiser's opinion of value. In addition, the written offer explained the appraiser's valuation analysis, including severance damages. It included the City's comparable market data relied on by the appraiser. Further, the City offered, pursuant to Code of Civil Procedure Section 1263.025, to pay the record owner the reasonable costs, up to \$5,000.00, for an independent appraisal of the approximate 2,316 square foot fee area and the approximate 1,828 square foot Temporary Construction Easement.

The City made several attempts to follow up with the owner regarding the City's offer. The owners' family member initially responded indicating that the owners might obtain an independent appraisal. The owners, however, did not respond to further communications from the City, including the City's most recent revised offer letter dated May 27, 2020.

Based on the timing of the Project, it is necessary for the City Council to consider the adoption of the proposed Resolution of Necessity authorizing the acquisition by eminent domain of the Subject Property Interests needed from the Huynh Trustees Parcel.

***APN 541-170-021; northwest corner of E. Ramsey and N. Hathaway
(Huang Parcel)***

Pursuant to Government Code Section 7260 *et seq.*, the City of Banning obtained a fair market value appraisal of the Huang Parcel, the approximate 11,388 square foot area that the City seeks to acquire in fee for public use, namely for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto and of the approximate 4,207 square foot Temporary Construction Easement with a term of nine months to help facilitate the construction of the Project. The City set just compensation in accordance with the appraised fair market value, and extended a written offer on May 27, 2020 to Jen H. Huang, the owner of record. The fair market value appraisal used a date of value of December 14, 2019.

The City's written offer included an informational pamphlet describing the eminent domain process and the record owner's rights under the Eminent Domain Law. In accordance with Government Code Section 7267.2, the City's written offer contained a written statement of, and summary of the basis for, the amount it established as just compensation. The offer set forth the date of value utilized by the appraiser and explained the appraiser's opinion of the highest and best use of the larger parcel. It explained the applicable zoning and General Plan designation of the larger parcel. The City's offer also summarized the principal transactions relied on by the appraiser to arrive at the appraiser's opinion of value. In addition, the written offer explained the appraiser's valuation analysis, including severance damages. It included the City's comparable market data relied on by the appraiser. Further, the City offered, pursuant to Code of Civil Procedure Section 1263.025, to pay the record owner the reasonable costs, up to \$5,000.00, for an independent appraisal of the approximate 11,388 square foot fee area and the approximate 4,207 square foot Temporary Construction Easement.

The City made several attempts to follow up with the owner regarding the City's offer. Neither the owner, nor their attorney, has not responded to the City's communications, including the City's most recent revised offer letter dated May 27, 2020. Based on the timing of the Project, it is necessary for the City Council to consider the adoption of the proposed Resolution of Necessity authorizing the acquisition by eminent domain of the Subject Property Interests needed from the Huang Parcel.

City's Actions Pursuant to Code of Civil Procedure Section 1245.235

Pursuant to Code of Civil Procedure Section 1245.235, the City sent a letter and a notice by first-class mail dated May 27, 2020 to the record owners of the Subject Property Interests the City seeks to acquire from the Huynh Trustees Parcel and the Huang Parcel, informing them of the City's intent to consider at its June 23, 2020 meeting, the adoption of a Resolution of Necessity for the acquisition by eminent domain of the Subject Property

Interests from each respective parcel. The notices advised the record owners of their right to appear and be heard regarding the City's proposed adoption of the respective Resolution of Necessity by filing, within fifteen days of the date the notice was mailed, a written request with the City to appear at the hearing. The notices specifically informed the record owners of the Subject Property Interests that they have an opportunity to appear before the City Council and raise questions about whether the public interest and necessity require the Project; whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and whether the Subject Property Interests the City seeks to acquire from the owners of record are necessary for the Project.

In connection with the notices the City mailed regarding the June 23, 2020 hearing, the City has received no written comments.

As discussed above, based on the proposed timing of the Project, it is necessary for the City Council to consider the adoption of the proposed Resolutions of Necessity at this time. This hearing relates to issues A, B, C, and D below.

REQUIRED FINDINGS FOR ADOPTION OF RESOLUTIONS OF NECESSITY

A. The Public Interest and Necessity Require the Project

The Project, as planned and designed, is in the public interest and necessity and is needed to improve traffic circulation and efficiency in this area of the City. The City seeks to construct the Project to widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. The Project would also widen Hathaway Street from Ramsey Street approximately 1,400 feet north, and construct a new 12-inch ductile iron water line along Ramsey Street.

As discussed above, the City seeks to construct the Project to improve capacity, circulation and enhance safety for its residents and businesses in this area of the City. The widening of Ramsey Street and resulting improvements to traffic circulation and efficiency in this area during peak hour traffic may also consequently have a beneficial effect on the access and response times of emergency vehicles vital to the public health and safety. Accordingly, the Project will benefit the residents and businesses of the City and the community as a whole.

The Project, as planned and designed, is consistent with the Circulation Element of the General Plan. The Circulation Element of the General Plan designates Ramsey Street between Highland Springs Avenue to Fields Road as a Major Highway. The widening of Ramsey Street, as proposed by the Project, will help the City to meet the goals of widening Ramsey Street consistent with the requirements for Major Roadways. The Project will also help to improve the flow of traffic in this area of the City. The improvements to the intersection of Ramsey and Hathaway will help ensure a smooth flow of traffic and help meet the capacity and level of service requirements for this intersection in accordance with the goals of the General Plan. Without the additional

lanes along Ramsey Street, the intersection along Ramsey Street will operate at below the Level of Service D identified for General Plan buildout. The improvements proposed by the Project will help to meet Policy 6 set forth in the Circulation Element of the General Plan, which seeks to “maintain peak hour Level of Service C or better on all local intersections, except those on Ramsey Street and at I-10 Interchanges where Level of Service D or better shall be maintained.” The Project is an essential part of the overall capital improvements planned for the area and will help meet the goals of a safe and efficient transportation system. It will also meet the goal of Program 2.B, which is to improve the aesthetic and safety of potential street improvements.

The Project, as planned and designed, seeks to minimize the impact on the adjacent properties. The Project requires the acquisition of a portion of ten larger parcels owned by private property owners. The construction of the Project will not result in the displacement of any persons from their residences or businesses. As discussed above, the City has acquired the necessary property interests required from six of the ten larger parcels. At the City Council meeting of January 28, 2020, the City Council adopted Resolutions of Necessity for the real property interests required from the remaining four parcels. The City Council is scheduled to consider a Purchase and Sale Agreement for the acquisition of the necessary property interests needed from a seventh parcel at the meeting of June 23, 2020. Based on the timing of the Project, it is necessary that the City consider the acquisition by eminent domain of the Subject Property Interests needed from the remaining four larger parcels.

The public use for which the City seeks to acquire the Subject Property Interests, namely for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, will not unreasonably interfere with or impair the continuance of the public use to which any easement holders may have appropriated the area (Code of Civil Procedure Section 1240.510). Further, the Project may require the relocation of several utilities to the proposed new right-of-way area. The public use for which the City seeks to acquire the Subject Property Interests, namely for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, is a more necessary public use within the meaning of Code of Civil Procedure Section 1240.650 than the uses to which public utility easement holders have appropriated any utility easements located in the Subject Property Interests that are affected by the Project. Accordingly, the City is authorized to acquire the Subject Property Interests pursuant to Code of Civil Procedure Sections 1240.510, 1240.610 and 1240.650.

B. The Project is Planned and Located in the Manner that will be Most Compatible with the Greatest Public Good and the Least Private Injury

The Project is planned and located in the manner that is most compatible with the greatest public good and the least private injury. The Project is planned and designed to improve traffic circulation and efficiency in this area of the City. The Project will widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. The Project

will also widen Hathaway Street from Ramsey Street approximately 1,400 feet north, and construct a new 12-inch ductile iron water line along Ramsey Street.

The City seeks to construct the Project to improve capacity, circulation, and enhance safety for its residents and businesses in this area of the City. The widening of Ramsey Street and resulting improvements to traffic circulation and efficiency in this area during peak hour traffic may also consequently have a beneficial effect on the access and response times of emergency vehicles vital to the public health and safety. Accordingly, the Project will benefit the residents and businesses of the City and the community as a whole.

The Project, as planned and designed, is consistent with the Circulation Element of the General Plan. The Circulation Element of the General Plan designates Ramsey Street between Ramsey Street to Morongo Road as a Major Highway. The widening of Ramsey Street, as proposed by the Project, will help the City to meet the goals of widening Ramsey Street consistent with the requirements for Major Roadways. The Project will also help to improve the flow of traffic in this area of the City. The improvements to the intersection of Ramsey and Hathaway will help ensure a smooth flow of traffic and help meet the capacity and level of service requirements for this intersection in accordance with the goals of the General Plan. Without the additional lanes along Ramsey Street, intersection along Ramsey Street will operate at below the Level of Service D identified for General Plan buildout. The improvements proposed by the Project will help to meet Policy 6 set forth in the Circulation Element of the General Plan, which seeks to “maintain peak hour Level of Service C or better on all local intersections, except those on Ramsey Street and at I-10 Interchanges where Level of Service D or better shall be maintained.” The Project is an essential part of the overall capital improvements planned for the area and will help meet the goals of a safe and efficient transportation system. It will also meet the goal of Program 2.B, which is to improve the aesthetic and safety of potential street improvements.

The Project is planned and located to minimize the impact on the adjacent properties. The Project requires the acquisition of a portion of ten larger parcels owned by private property owners. The construction of the Project will not result in the displacement of any persons from their residences or businesses. The City will coordinate the construction with the owners of the Subject Property Interests to minimize the impact of construction on the parcels. As discussed above, the City has acquired the necessary property interests required from six of the ten larger parcels. The City Council is scheduled to consider a Purchase and Sale Agreement for the acquisition of the necessary property interests needed from a seventh parcel at the meeting of June 23, 2020. Based on the timing of the Project, it is necessary that the City consider the acquisition by eminent domain of the Subject Property Interests needed from the remaining two larger parcels.

Further, the public use for which the City seeks to acquire the Subject Property Interests, namely for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, will not unreasonably interfere with or impair the continuance of the

public use to which any easement holders may have appropriated the area (Code of Civil Procedure Section 1240.510). Further, the Project may require the relocation of several utilities to the proposed new right-of-way area. The public use for which the City seeks to acquire the Subject Property Interests, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, is a more necessary public use within the meaning of Code of Civil Procedure Section 1240.650 than the uses to which public utility easement holders have appropriated any utility easements located in the Subject Property Interests that are affected by the Project. Accordingly, the City is authorized to acquire the Subject Property Interests pursuant to Code of Civil Procedure Sections 1240.510, 1240.610 and 1240.650.

C. The Subject Property Interests Described in Each Resolution of Necessity are Necessary for the Project

The City seeks to construct the Project, as planned and designed, to improve traffic circulation and efficiency in this area of the City. The Project will widen Ramsey Street approximately 500 feet west and 1,500 feet east of Hathaway Street. The Project will also widen Hathaway Street from Ramsey Street approximately 1,400 feet north, and construct a new 12-inch ductile iron water line along Ramsey Street.

The City cannot construct the Project without the acquisition of the following Subject Property Interests, which are described more particularly in each Resolution of Necessity:

1483 E. Ramsey Street, APN 541-170-019 (Huynh Trustees Parcel)

- An approximate 2,316 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at 1483 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor's Parcel Number 541-170-019, which is owned by Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust dated August 8, 2007.
- An approximate 1,828 square foot Temporary Construction Easement with a term of nine months on the Huynh Trustees Parcel to help facilitate the construction of the Project.

APN 541-170-021; northwest corner of E. Ramsey and N. Hathaway (Huang Parcel)

- An approximate 11,388 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto on the vacant real property located at the northwest corner of E. Ramsey Street and N. Hathaway Street, and identified as Riverside County Tax Assessor's Parcel Number 541-170-021, which is owned by Jen H. Huang.

- An approximate 4,207 square foot Temporary Construction Easement on the Huang Parcel with a term of nine months to help facilitate the construction of the Project.

As stated above, the public use for which the City seeks to acquire the Subject Property Interests, namely for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, will not unreasonably interfere with or impair the continuance of the public use to which any easement holders may have appropriated the area (Code of Civil Procedure Section 1240.510). Further, the Project may require the relocation of several utilities to the proposed new right-of-way area. The public use for which the City seeks to acquire the Subject Property Interests, namely public street purposes, drainage, public utilities, and all uses necessary or convenient thereto, is a more necessary public use within the meaning of Code of Civil Procedure Section 1240.650 than the uses to which public utility easement holders have appropriated any utility easements located in the Subject Property Interests that are affected by the Project. Accordingly, the City is authorized to acquire the Subject Property Interests pursuant to Code of Civil Procedure Sections 1240.510, 1240.610 and 1240.650.

D. The City has made a revised offer as required by Government Code Section 7267.2 to the owners of record of the Subject Property Interests it seeks to acquire from each of the two subject parcels

The City, pursuant to Government Code Section 7260 *et seq.*, obtained updated fair market value appraisals of the Subject Property Interests, set just compensation in accordance with the fair market values and extended written offers to the owners of record of the Subject Property Interests. As detailed above, the City extended to the owners of record of the Subject Property Interests a written offer pursuant to Government Code Section 7267.2 to acquire the Subject Property Interests for public use, namely for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto. Specifically, the City extended written offers to the following record owners of the Subject Property Interests:

- The City extended a written offer to Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust dated August 8, 2007 to purchase an approximate 2,316 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto from the real property located at 1483 E. Ramsey Street, Banning, and identified as Riverside County Tax Assessor's Parcel Number 541-170-019. The City also offered to purchase an approximate 1,828 square foot Temporary Construction Easement with a term of nine months on the Huynh Trustees Parcel to help facilitate the construction of the Project.
- The City extended a written offer to Jen H. Huang to purchase an approximate 11,388 square foot portion in fee for public street purposes, drainage, public utilities, and all uses necessary or convenient thereto on the real property located

at the northwest corner of E. Ramsey Street and N. Hathaway Street, and identified as Riverside County Tax Assessor's Parcel Number 541-170-021. The City also offered to purchase an approximate 4,207 square foot Temporary Construction Easement on the Huang Parcel with a term of nine months to help facilitate the construction of the Project.

Incorporation of Above-Referenced Documents:

The following documents on file with the City Clerk's Office and/or the Public Works Department, which are referenced in this report, are incorporated herein by this reference:

- Resolutions of Necessity (attached hereto)
- City of Banning General Plan
- Revised Offer letters to the record owners of the Subject Property Interests
- Notices pursuant to Code of Civil Procedure Section 1245.235 to record owners of the Subject Property Interests
- Street Improvement Plans for Project
- Environmental Documents relating to Project

FINANCIAL IMPACT:

The City would plan to deposit the probable amount of just compensation for the Subject Property Interests in the Condemnation Fund of the State Treasurer's Office to obtain orders for prejudgment possession. The revised estimated compensation for the Subject Property Interests based on the updated offers sent by the City in May 2020 is \$58,900. The City will also incur additional costs in connection with any filed eminent domain proceedings, including costs for litigation guarantees, updated appraisals, expert witness costs, and attorney's fees.

ATTACHMENTS:

1. Resolution 2020-87
<https://banningca.gov/DocumentCenter/View/7480/Att-1-Resolution-2020-87>
2. Resolution 2020-88
<https://banningca.gov/DocumentCenter/View/7481/Att-2-Resolution-2020-88>

Approved by:



Douglas Schulze
City Manager