



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 a special meeting of the City Council of the City of Banning.

MINUTES
CITY COUNCIL

08/05/2020
SPECIAL 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 (via teleconference)
Marie Calderon, City Clerk
Sonja De La Fuente, Deputy City Clerk
Jennifer Christensen, Admin. Services Director (via teleconference)
Tom Miller, Electric Utility Director
Art Vela, Public Works Director/City Engineer (via teleconference)
Laurie Sampson, Executive Assistant (via teleconference)

I. CALL TO ORDER

A special meeting of the Banning City Council was called to order by Mayor Andrade on August 5, 2020, at 5:00 P.M.

Pastor Jerry Westholder offered the invocation.

Junior Mayor for the Day Joshua Braun led the Pledge of Allegiance.

II. AGENDA APPROVAL

A motion was made by Mayor Pro Tem Wallace, 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

1. Special Recognitions

The Mayor introduced Joshua Braun as Junior Mayor for the Day, granting his birthday wish. The Mayor and City Council recognized community members Bea Smith, Juanita Sibole, and David Heiss for making Banning a better place to live work and play.

IV. REPORTS OF OFFICERS

1. Resolution 2020-100, New Energy North America Agreement

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

The Council asked several questions regarding the project and potential risks. Electric Utility Director Tom Miller provided additional detail and advised he will get information on a similar project to the Council.

Public Comment

Jerry Westholder advised that he has a lot of concerns and feel many were addressed. He indicated he doesn't like being the first to try something like this. He cautioned that in theory it sounds good, but there may be too much to work out.

Inge Schuler indicated that a lot of her questions have been answered, but still has concerns with the project. She would like the substation protected. She questioned where the numbers come from and expressed concern with the justification provided.

Karen Amirson expressed that a lot of her questions were answered. She shared her concern that the City is jumping into something that hasn't been fully researched.

Electric Utility Director Tom Miller addressed the public's comments. He advised that the City of Banning is not the first to do this type of project. He indicated Los Angeles has done a project like this and believes it is the biggest in the United States.

City Manager Schulze advised this is a milestone in the process and is to obtain to direction on whether to keep moving forward.

A motion was made by Councilmember Happe, seconded by Councilmember Welch to adopt Resolution 2020-100 as amended (Attachment 1) Electronic vote was taken as follows:

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

Action: Adopted Resolution 2020-100, as amended.

The Mayor recessed the meeting at 6:34 p.m. and reconvened at 6:44 p.m.

2. Council's Review, Discussion and Approval of Argument in favor of Banning Ballot Measure L - Cannabis Distribution Tax

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

Public Comment

John Hagen recommended the Council make it clear that the tax does not impact residents, only cannabis distributors.

Jerry Westholder indicated the residents were told there would only be three cannabis retailers in the City, not three cultivators. He provided some information on the industry and why he believes it doesn't work in California.

City Manager Doug Schulze explained that this does not add anything to the City, rather it allows the City to assess a tax on the distribution portion of the process.

City Attorney Kevin Ennis provided further clarification.

A motion was made by Councilmember Welch, seconded by Mayor Pro Tem Wallace to approve the draft ballot argument in favor of Banning Ballot Measure L for approval of a proposed tax on Cannabis Distribution Facilities (Attachment 2). Electronic vote was taken as follows:

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

3. Resolution 2020-101, Ratifying an Emergency Proclamation

City Manager Doug Schulze presented the staff report for this item. He recommended adding language to the proclamation and resolution ordering the Director of Emergency Services to request California Disaster Assistance Act (CDA) Funding.

Public Comment

None

A motion was made by Councilmember Happe, seconded by Councilmember Welch to adopt Resolution 2020-101 with the recommended amendments to the resolution and proclamation (Attachment 3). Electronic vote was taken as follows:

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

4. 33 S. San Gorgonio Avenue Lease Agreement

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

Councilmember Happe recused himself due to a potential conflict of interest.

Councilmember Pingree asked about the price per square foot.

Public Comment

John Hagen expressed concern with the price and setting precedent. He suggested a timeline to increase the price.

Suzanne, part owner of the building, advised that they do not want the rebuild to take longer than one year, as the insurance won't cover the cost.

Robert Ybarra urged the Council to show compassion due to the current economy and COVID-19, like his landlord has done for him.

Ron Duncan advised that the architect has certified that the mural wall to stay and he is working with City staff on design ideas.

A motion was made by Councilmember Welch, seconded by Mayor Andrade to approve the Lease Agreement with D&M Job, Incorporated for 33 S. San Gorgonio Avenue. Electronic vote was taken as follows:

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

Councilmember Pingree thanked everyone who has contributed to the Animal Shelter either by volunteering their time or donating goods and services.

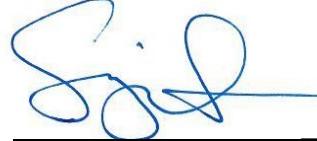
The Mayor thanked the first responders to the Apple Fire emergency.

XI. ADJOURNMENT

The meeting was adjourned at 7:48 P.M.

Next Meeting: Regular Meeting, Tuesday, August 25, 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=LuAitGdVz4Fx> and
<https://banninglive.viebit.com/player.php?hash=iKjcySHnjQdZ>. Any related
documents maybe viewed here:

<https://banningca.gov/ArchiveCenter/ViewFile/Item/2347> 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

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BANNING AUTHORIZING THE EVALUATION,
NEGOTIATION AND PREPARATION OF A BATTERY
STORAGE DEVELOPMENT AND LEASE AGREEMENT
BETWEEN THE CITY OF BANNING AND NEW ENERGY
NORTH AMERICA, LLC

WHEREAS, the City of Banning owns and operates Banning Electric Utility, a municipal electric utility, as a department of the City; and

WHEREAS, Banning Electric Utility has an energy portfolio that exceeds requirements established by the State of California for "Green Energy," which includes solar sources; and

WHEREAS, solar energy is abundantly available during daylight hours, but without battery storage capability surplus solar energy is lost; and

WHEREAS, New Energy North America, LLC has proposed a collaboration with the City of Banning to develop a 50 MW/200 MWh energy storage project (the "Project") on property that is immediately adjacent to the Sunset Substation (the "Site"); and

WHEREAS, the Sunset Substation is owned by the City of Banning and operated by the Banning Electric Utility, as a department of the City; and;

WHEREAS, New Energy North America, LLC has proposed to lease the Site under an arrangement that is intended to generate revenue for the City of Banning and provide an option to Banning Electric Utility to purchase products and services from the Project; and

WHEREAS, the proposed arrangement would also provide the City of Banning with options to participate in future energy storage projects and solar installations sponsored by New Energy North America, LLC; and

WHEREAS, New Energy North America, LLC will be responsible for all construction costs and financing for the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

1. The City Council directs the City Manager and City staff to continue to evaluate the proposed Battery Storage Project at the Banning Electric Utility Sunset Substation Site and to continue to develop appropriate terms and conditions for potential development of the Project that would enable the City Council to find that the Project is

consistent with the City's interests to pursue, such terms and conditions as have been identified to date being ~~is hereby approved in concept as~~ described in Exhibit A, which consists of a draft Term Sheet for Energy Storage Development and Lease Agreement Between the City of Banning and New Energy North America, LLC (the "Term Sheet"); and City staff is further directed to prepare necessary documents, including but not limited to any necessary document or determination as required by the California Environmental Quality Act, for processing and consideration of the Project as required by law; and

2. The City Council directs the City Manager and City staff to continue to evaluate and to negotiate with New Energy North America, LLC regarding the terms of a potential Development and Lease Agreement and to prepare a Development and Lease Agreement consistent with the Term Sheet if the City Manager and City staff determine to recommend that the City enter into such a Development and Lease Agreement for the Project based on their evaluation of the proposed Project; and to submit the Agreement to the City Council for review and approval when completed.

PASSED, APPROVED AND ADOPTED this 5th day of August 2020.

Daniela Andrade, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

**APPROVED AS TO FORM AND
LEGAL CONTENT:**

Resolution 2020-XX

Kevin G. Ennis, Esq., City Attorney
Richards, Watson & Gershon

ATTACHMENT 2



In 2018, voters in Banning approved Measures N & O, allowing cannabis cultivation, manufacturing testing and retail dispensaries within the City of Banning and imposes taxes upon these activities. Distribution is an integral part of the cannabis industry, because it involves the movement of product between the cultivators, manufacturers, testers, and retailers. Distribution activity and taxation of distribution was inadvertently left out of Measures N & O in 2018. This measure allows for cannabis distribution activity in the City of Banning, keeping this vital element of the supply chain in our city and allowing taxation of that activity.

The City of Banning depends on tax revenue to fund basic services like park maintenance, recreation programming, street maintenance, law enforcement, fire protection and general services. Depending on the level of business activity, the City of Banning can potentially generate an additional \$400,000 in tax revenue. We strongly urge a YES vote on Measure L.

Mayor Dominic Andrade

Council Member David Happe

ATTACHMENT 3

RESOLUTION 2020-101

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA,
DECLARING A LOCAL EMERGENCY CAUSED BY THE APPLE FIRE**

WHEREAS, Chapter 6A, Section 6 of the Municipal Code of the City of Banning empowers the Director of Emergency Services to proclaim the existence or threatened existence of a disaster or an emergency, and the termination thereof; and

WHEREAS, the City Council of the City of Banning has been requested by the Director of Emergency Services of said City to confirm the existence of a local emergency therein; and

WHEREAS, on August 3, 2020, the Director of Emergency Services of the City of Banning, Douglas Schulze, signed a Proclamation of Existence of a Local Emergency, declaring a local emergency due to the Apple Fire that broke out on July 31, 2020; and

WHEREAS, the City Council does hereby find that:

1. The conditions of extreme peril to the safety of persons and property have arisen with said City, caused by the Apple Fire; and
2. The conditions of extreme peril warrant and necessitate the proclamation of the existence of a local emergency;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

1. A local emergency now exists throughout said City; and
2. It is ordered that during the existence of said local emergency the powers, functions, and duties of the Director of Emergency Services and the emergency organization of this city shall be those prescribed by state law, by ordinances, and resolutions of this city approved by the City Council; and
3. It is ordered that the Director of Emergency Services request California Disaster Assistance Act (CDAA) Funding; and
4. It is further proclaimed and ordered that said local emergency shall be deemed to continue to exist until its termination is proclaimed by the City Council of the City of Banning.

PASSED, APPROVED AND ADOPTED this 5th day of August 2020.

Daniela Andrade
Daniela Andrade, Mayor
City of Banning

ATTEST:



Sonja De La Fuente, Deputy City Clerk
City of Banning

**APPROVED AS TO FORM AND
LEGAL CONTENT:**



Kevin G. Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2020-101, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 5th day of August, 2020, by the following vote, to wit:

AYES: Councilmembers Happe, Pingree, Wallace, Welch, and Mayor Andrade

NOES: None

ABSTAIN: None

ABSENT: None



Sonja De La Fuente, Deputy City Clerk
City of Banning, California

EXHIBIT A
CITY OF BANNING
STATE OF CALIFORNIA

PROCLAMATION OF A LOCAL EMERGENCY
BY THE DIRECTOR OF EMERGENCY SERVICES

WHEREAS, Ordinance 1378 of the City of Banning empowers the Director of Emergency Services to proclaim the existence of a "Local Emergency" when the City Council is not in session; and

WHEREAS, the Director of emergency services finds:

WHEREAS, that at the time of this proclamation the City Council is not in session; and

WHEREAS, conditions of extreme peril to the safety of person and property have arisen within the City of Banning caused by the Apple Fire; and;

WHEREAS, there exists an imminent threat to life, property and critical infrastructure; and

WHEREAS, limited resources within the City are available due to the number of ongoing incidents throughout Riverside County; and

WHEREAS, State Resources have been called upon to assist in controlling the spread of the fire; and

WHEREAS, evacuation of critical facilities and citizens are eminent; and

WHEREAS, communities in the unincorporated areas are isolated; and

WHEREAS, the aforementioned conditions of extreme peril warrant and necessitate the proclamation of a "Local Emergency".

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that a "Local Emergency" exists throughout the City of Banning; and

IT IS FURTHER PROCLAIMED AND ORDERED that during existence of said "Local Emergency" the powers, functions and duties of the Director of Emergency Services and the Emergency Management Organization of this County shall be those prescribed by State law and the charter, ordinances, resolutions and approved plans of the City of Banning in order to mitigate the effects of said "Local Emergency"; and

IT IS FURTHER PROCLAIMED AND ORDERED that said "Local Emergency" shall be deemed to continue to exist for the next fourteen days; and, thereafter by ratification of the City of Banning, until its termination is proclaimed by the City Council of the City of Banning; and

IT IS FURTHER PROCLAIMED AND ORDERED that the Director of Emergency Services request California Disaster Assistance Act (CDAA) Funding; and

IT IS FURTHER PROCLAIMED AND ORDERED that a copy of this proclamation be forwarded to the Governor of California with the request that he proclaim the existence of a State of Emergency throughout Riverside County and that the Governor request a Presidential Declaration.

Dated: August 3, 2020



Director of Emergency Services
City of Banning