



*The following information comprises the minutes for a 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**

**09/14/2021  
REGULAR MEETING**

**COUNCIL MEMBERS PRESENT:** Mayor Colleen Wallace  
Mayor Pro Tem David Happe  
Council Member Mary Hamlin  
Council Member Kyle Pingree  
Council Member Alberto Sanchez

**COUNCIL MEMBERS ABSENT:** None

**OTHERS PRESENT:** Douglas Schulze, City Manager  
Kevin Ennis, City Attorney  
Marie Calderon, City Clerk  
Caroline Patton, Deputy City Clerk  
Alejandro Geronimo, City Treasurer\*  
Art Vela, Public Works Director\*  
Adam Rush, Community Development Director  
Matthew Hamner, Chief of Police  
Officer Sayeski, Banning Police Department  
Ralph Wright, Parks and Recreation Director  
Suzanne Cook, Finance Director  
Tom Miller, Electric Utility Director  
Cherie Johnson, Human Resources Manager\*  
James Wurtz, Economic Development Manager  
Laurie Sampson, Executive Assistant\*  
Mark de Manicor, Planner\*

\*Participated via Zoom.

**1. CALL TO ORDER**

Mayor Wallace called the regular meeting to order at 5:01 p.m. She asked the audience to stand and hold a moment of silence in honor of September 11<sup>th</sup>.

- 1.1. **Invocation**  
Elder Eric Biggers of Mission Church of God in Christ gave the invocation.
- 1.2. **Pledge of Allegiance**  
Council Member Sanchez led the Pledge of Allegiance.
- 1.3. **Roll Call**

COUNCIL MEMBER	PRESENT	ABSENT
Hamlin, Mary	X	
Happe, David	X	
Pingree, Kyle	X	
Sanchez, Alberto	X	
Wallace, Colleen	X	

## **2. AGENDA APPROVAL**

### 2.1. Approve Agenda

#### **Motion to approve the amended agenda.**

Motion by Council Member Pingree  
Seconded by Council Member Sanchez

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

Motion approved by a vote of 5-0.

## **3. PRESENTATION(S)**

- 3.1. City Clerk Calderon swore in newly appointed Parks and Recreation Commissioner Nicholas Parra.
- 3.2. Mayor Wallace read a Proclamation for National Hispanic Heritage Month from September 15 through October 15, 2021.
- 3.3. Mayor's Special Recognitions  
Mayor Wallace recognized City Purchasing Manager Shiloh Rogers as well as volunteers and staff of the Banning Library District.

## **4. REPORT ON CLOSED SESSION**

City Attorney Ennis gave a report on closed session, with no final or reportable action on either item.

## **5. PUBLIC COMMENTS, CORRESPONDENCE, APPOINTMENTS, CITY COUNCIL COMMITTEE REPORTS, CITY MANAGER REPORT, AND CITY ATTORNEY REPORT**

Council Member Hamlin made a statement that City Council does listen to its constituents.

**5.1. PUBLIC COMMENTS**

**Lynnea Hagen** said that she was displeased with the people in the audience making comments during public comment at the August 24<sup>th</sup> City Council meeting. She asked staff about the status of the Williams Street homeless encampment.

City Manager Schulze said that staff continue to try to communicate with the non-responsive property owner and clean-ups are happening at the site on a regular basis. He confirmed that a lien is placed on a property in cases of code enforcement violations.

**Stan Stosel**, IBEW 47 representative, said they have been negotiating in good faith for months and they have not been able to schedule meetings with the city's negotiating team. He suggested the city spend money on the workers rather than completing a salary survey or hiring headhunters.

**Frank Connolly** asked about a landscape maintenance district in Peacock Valley II. He said he has clients with trees that are overgrown and have branches that have fallen. He asked the city to take care of it.

**Harry Sullivan** requested the City Council direct the City Manager to conduct negotiations with Grandave in public meetings for the betterment of the city.

**John Hagen** said that he speaks to City Council often and feels like he is talking to a block wall. He said they come in with their mind made up and they do not listen to what the public says.

**Kent Downs** said he was for building things back better and spending quality time with children.

**5.2. CORRESPONDENCE**

None

**5.3. APPOINTMENTS**

None

**5.4. CITY COUNCIL COMMITTEE REPORTS**

Council Member Happe provided a report on a recent Western Riverside Council of Governments (WRCOG) meeting. He said WRCOG is ultimately the taxpayers. He added that vaccine mandates were decided on in 1904 by the Supreme Court. He suggested getting vaccinated helped the country, neighbors, and those we love to keep the country open.

Mayor Wallace reported on recent meetings of the Regional Conservation Authority (RCA) and Southern California Association of Governments (SCAG).

#### **5.5. CITY MANAGER REPORT**

City Manager Schulze confirmed there was no landscape maintenance district in Peacock Valley II, and that the trees were the responsibility of the homeowner. He said that it was in the best interest of the taxpayers of the city maintain confidentiality of negotiations with Grandave.

He shared that a recent ruling in the Ninth Circuit Court further limited cities' ability to clear homeless encampments. A citywide bulky item event is being held on October 9<sup>th</sup> for all residents. He thanked city staff for their work on Stagecoach Days.

#### **5.6. CITY ATTORNEY REPORT**

City Attorney Ennis said that staff would take the union representative's comments into consideration. In regard to Grandave negotiations, any potential agreements will come before Council for public hearings and meetings before any action is taken.

He added there will be a good deal of state legislation coming in the coming weeks now that the legislative session has adjourned, and many laws await signature by the Governor.

### **6. CONSENT ITEMS**

- 6.1. Approval of Minutes from the August 24, 2021 City Council Meetings
- 6.2. Accept the Easement for 940 E. Williams St for the Maintenance of the City Owned Electric Distribution System
- 6.3. Accept the Easement for APN 538-182-027 for the Maintenance of the City Owned Electric Distribution System
- 6.4. Discuss and Consider Adopting Resolution 2021-80, "Approving the City of Banning Electric Utility Power Source Disclosure Annual Report and Power Content Label for Calendar Year 2020"
- 6.5. Accept the Easements from Tri Pointe Homes for Electric Utility Purposes on Assessor's Tract Map 37390-1 Meadowline Way for the Maintenance of the City Owned Electric Distribution System
- 6.6. Accept the Easements from Tri Pointe Homes for Electric Utility Purposes on Assessor's Tract Map 37390-1 for the Maintenance of the City Owned Electric Distribution System
- 6.7. Accept the Easements from Tri Pointe Homes for Electric Utility Purposes on Assessor's Tract Maps 35966 and 37390-2 for the Maintenance of the City Owned Electric Distribution System
- 6.8. Authorize Contract Award with Auto Renewals to the InfoSend Service Agreement to Provide Data-Processing, Printing, and Mailing Services for Utility Billing

6.9. Accept the Easements from Tri Pointe Homes for Electric Utility Purposes on Assessor's Tract Map 37390-F Meadowline Way for the Maintenance of the City Owned Electric Distribution Systemx

Public Comments

None

**Motion to approve consent agenda items 6.1 through 6.9.**

Motion by Council Member Hamlin  
Seconded by Council Member Happe

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

Motion approved by a vote of 5-0.

6.10. Adopt Resolution 2021-09 UA, Approving the Second Amendment to the Professional Services Agreement with Falen Law Offices, LLC for Legal Services related to the Transfer of the San Gorgonio Flume System

Council Member Happe pulled this item from the consent agenda and asked for an update from staff. Public Works Director Vela said they were currently getting environmental approvals for work to fix the upper flow line.

Public Comments

**Paul Perkins** said that the subject was over 10 years old and asked if the Banning Heights Mutual Water Company was paying a share of the costs. He said that he would like to see written reports.

Public Works Director Vela confirmed it was the 20<sup>th</sup> anniversary of this project, which is complicated because it involves the federal government and water rights agreements. He explained there were limitations on what staff could share due to the dispute resolution agreements between the parties. Mr. Vela said the city does receive a substantial amount of water from the flume at no cost to the city.

**Motion to approve consent agenda item 6.10.**

Motion by Council Member Happe  
Seconded by Council Member Pingree

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				

Happe, David	X
Pingree, Kyle	X
Sanchez, Alberto	X
Wallace, Colleen	X

Motion approved by a vote of 5-0.

6.11.Approving an Increase in the amount of \$2,029.27 to Fiscal Year 2020/2021 Blanket Purchase Orders with Galls/P&P for Police Department Uniforms and Equipment and Establishing a Vendor List and Blanket Purchase Orders for the Purchase of Uniforms “Not to Exceed” an Annual Aggregate of \$30,000 for Fiscal Years 2022, 2023, and 2024

Council Member Happe pulled this item from the consent agenda. He asked staff create a summary of the total fiscal impact of all consent agenda items. He said he was concerned about spending money.

City Manager Schulze explained this item was budgeted and allocated, but that the City Council is approving the contract per policy since it exceeds the City Manager’s signing authority of \$25,000.

Matthew Hamner, Chief of Police, explained that the department had changed the way they were hiring new recruits, which has reduced the amount of resources spent on uniforms for new employees that did not end up staying with the city.

Public Comments

None

**Motion to approve consent agenda item 6.11.**

Motion by Council Member Happe  
Seconded by Council Member Hamlin

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen		X			

Motion approved by a vote of 4-1.

6.12.Adopt Resolution 2021-82, Approving the FY 2021/2022 – FY 2023/2024 Short Range Transit Plan and Authorizing the Submittal of the FY 2021/2022 Funding Claims

Council Member Happe pulled this consent item. He said the fare schedule for the City's transit system needed to be revised.

Public Works Director Vela explained the Short Range Transit Plan (SRTP) is an annual report staff develops to receive funding. He said the rate schedule has been consistent and staff decided to keep it the same this year due to the pandemic and low ridership generally. He recommended Council consider updating the rate schedule in conjunction with the next SRTP.

Public Comments

None

**Motion to approve consent agenda item 6.12.**

Motion by Council Member Happe  
Seconded by Council Member Hamlin

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

Motion approved by a vote of 5-0.

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

7.2. First Reading of Ordinance 1576 Amending and Restating Existing Title 8, Chapter 8.28, Garbage Collection and Disposal, of the Banning Municipal Code, and Finding an Exemption from CEQA under Sections 15061(b)(3) and 15308 of the CEQA Guidelines

Art Vela, Public Works Director, presented the staff report.

Council Member Happe asked several questions about definitions of terms within the ordinance. He expressed concern over customers being required to replace damaged waste bins.

City Attorney Ennis clarified that Council would like answers about the franchise agreement with Waste Management and when each party is responsible for replacement of the bins under which circumstances, but that they cannot change the terms of the agreement without renegotiating with Waste Management. He further explained that the ordinance is being updated pursuant to SB 1383 to remain in compliance with state regulation.

Council Member Happe wanted to update the stated issues in the ordinance before moving forward. He said he wanted low rates and a clean city, with Waste Management doing their part by maintaining their equipment.

Public Comments

**Paul Perkins** asked if this would be part of code enforcement and if the city would hire more inspectors to begin inspecting garbage cans.

**John Hagen** said he agreed with Council Member Happe, saying that the waste bins are damaged by Waste Management and they should be responsible for replacing it.

**Frank Connolly** agreed with Council Member Happe that they should not move forward with the ordinance at this meeting. He concurred that Waste Management was damaging their own waste bins and expressed concern that they're waiting later in the day to collect trash so that they can charge additional fees.

**Lynnea Hagen** asked about the locks, saying it was Waste Management's responsibility to provide the locks and they keys.

Public Works Director Vela said the Solid Waste Coordinator would play an important role in inspecting in addition to code enforcement. He said Mr. Connolly's statements were not related to the ordinance. He clarified that only customers within the downtown area would be required to lock their bins under the current draft ordinance.

There was further Council discussion about what bins should be required to be locked and in what areas and businesses should the requirement apply to.

**Motion to continue this item and the public hearing to the next Council meeting.**

Motion by Council Member Happe  
Seconded by Council Member Pingree

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	×				
Happe, David	×				
Pingree, Kyle	×				
Sanchez, Alberto	×				
Wallace, Colleen	×				

Motion approved by a vote of 5-0.

Mayor Wallace announced a recess at 7:20 p.m. Council Member Pingree left the meeting and was absent for the remainder of the agenda. The meeting reconvened at 7:29 p.m.

- 7.1. Ordinance 1577, an Ordinance of the City of Banning amending the Banning Municipal Code by (1) amending Chapters 3.15 and 3.17 of Title 3 pertaining to microbusinesses, (2) amending Chapters 5.33 and 5.35 of Title 5 establishing regulatory requirement for microbusinesses, (3) amending Chapters 17.04, 17.08, 17.12, 17.16, 17.20, 17.53, and 17.54 of Title 17 (Zoning Text Amendment (ZTA) 21-97501) establishing zoning standards for cannabis microbusinesses, (4) making additional conforming amendments to regulations pertaining to commercial cannabis businesses, and (5) making a determination that the Ordinance is exempt from CEQA review pursuant to CEQA Guidelines sections 15060 (c) (3) and 15061 (b) (1)

Adam Rush, Community Development Director, presented the staff report.

Council Member Sanchez requested that the Council continue this item until they could hold a special joint meeting with the Planning Commission to discuss the reasoning behind their recommendations. He said the Council should not overrule their recommendations without hearing why they voted the way they did.

Council Member Happe said he did not want to be picking winners and losers in business. There was considerable discussion about zoning of distribution, cultivation and retail.

#### Public Comments

**John Hagen** said the Council has chipped away the assurances given to get the cannabis measure passed. He said the Council was blinded by money, but that cannabis costs the city more money than it will get in return.

**Umberto Bagnara** told Council to talk to the Cities of Desert Hot Springs and Cathedral City about their experience with the cannabis business. He said that all of that revenue could have come to Banning. He suggested they remove as many barriers to entry as possible.

**Yacoub Kawaja** said he was encouraged by the transformation of understanding he's seen in the city regarding cannabis. He said it was a peaceful culture and the existing facilities in town have not experienced increased crime. The city is in dire need of revenue to help solve community problems, he continued, and cannabis can create that tax revenue to help benefit the city.

**Kenny Ali** asked for clarification on the 200-foot buffer and how it would apply to properties on Ramsey.

City Manager Schulze explained that the area in question was not zoned residential and therefore the 200-foot setback would not apply.

**Noah Hirsch** said he appreciated the direction the City Council was moving. He spoke to water conservation in the industry and said Colorado had profited from cannabis.

**Oleg Ivashuk** said that the recommendations from the Planning Commission were not feasible, and that retail is the heart of any business. He said retail is necessary to allow microbusinesses to succeed and said the facilities are very secure.

Mayor Wallace asked City Clerk Calderon to read the ordinance by title only.

**Motion to waive further reading of Ordinance 1577.**

Motion by Council Member Happe  
Seconded by Council Member Hamlin

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	✗				
Happe, David	✗				
Pingree, Kyle					✗
Sanchez, Alberto		✗			
Wallace, Colleen	✗				

Motion approved by a vote of 3-1, with 1 absence.

**Motion to introduce Ordinance 1577 for a first reading.**

Motion by Council Member Happe  
Seconded by Council Member Hamlin

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	✗				
Happe, David	✗				
Pingree, Kyle					✗
Sanchez, Alberto		✗			
Wallace, Colleen	✗				

Motion approved by a vote of 3-1, with 1 absence.

There was further Council discussion regarding zoning and the state regulation regarding the 200-foot setback from residential areas and 600-foot setback from schools.

Council Member Sanchez encouraged the Council to consider restricting microbusiness to delivery only and disallow retail. He said that microbusiness was a workaround to the caps on retail cannabis businesses in the city. He said he would prefer Council remove caps by amending the original cannabis ordinance and not by adding retail to microbusinesses.

## **8. REPORT OF OFFICERS**

8.1. Consider Rescinding Resolution No. 2017-44 that Declared it Shall be a Goal of the City of Banning to Close the Banning Municipal Airport as soon as Legally Permitted

Doug Schulze, City Manager, presented the staff report. Staff recommended no action at this time, keeping the resolution in place as a Plan B if the Grandave deal does not materialize.

### Public Comments

**Harry Sullivan** said the city would not be closing the airport, regardless of what the city manager said. He said the way the airport was run is pathetic and that people are leaving because they think it is closing.

City Manager Schulze explained that there was not a lot of staff time involved. He emphasized that the taxpayers in Banning were subsidizing the airport, that only serves those who own planes. He said the best way to keep the airport open would be to let Grandave take over.

8.2. Authorize City Manager to Enter into Contract with Strategic Government Resources

City Manager Schulze presented the staff report.

### Public Comments

**Frank Connolly** said the city should not be in this situation and had saved nothing.

### **Motion to authorize the City Manager to execute a contract with Strategic Government Resources.**

Motion by Council Member Sanchez  
Seconded by Council Member Hamlin

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle					X
Sanchez, Alberto	X				
Wallace, Colleen	X				

Motion approved by a vote of 4-0, with 1 absence.

8.3. Review and Discuss City of Banning Strategic Plan

City Manager Schulze presented the staff report and explained his recommendation as to continue the discussion to the September 28<sup>th</sup> Workshop so the Council may dig into this document deeper.

8.4. Consider Approval of Employment Agreement for Suzanne Cook, Finance Director

City Manager Schulze presented the staff report.

Mayor Wallace said she was not in support of a director working for the city from out of state. Council Member Hamlin said remote work was common.

Public Comments

**Frank Connolly** said it was asinine to have the Finance Director live out of state and run the city's finances. He asked who gave the person authority to give permission to someone to move out of state.

Council Member Sanchez asked if the approval to move out of state was approved by Council and staff clarified it was approved by a former director.

**Motion to authorize the City manager to execute the Employment Agreement with Suzanne Cook for Finance Director.**

Motion by Council Member Hamlin  
Seconded by Council Member Sanchez

COUNCIL MEMBER	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle					X
Sanchez, Alberto	X				
Wallace, Colleen		X			

Motion approved by a vote of 3-1, with 1 absence.

**9. DISCUSSION ITEM(S)**

None

**10. ITEMS FOR FUTURE AGENDAS**

**10.2. New Items:**

**10.3. Pending Items:**

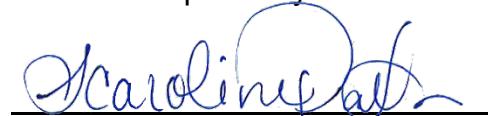
1. Permanent Homeless Solution

2. Shopping Cart Ordinance Update
3. Golf Cart/EV Ordinance
4. Census/Redistricting
5. Retail Marijuana (Happe)
6. Credit card fees (Happe)
7. Dog Tethering ordinance (Pingree)

## **11. ADJOURNMENT**

Mayor Wallace adjourned the meeting at 10:00 p.m.

Minutes Prepared by:



Caroline Patton, Deputy City Clerk

**This entire meeting may be viewed here:**

<https://banninglive.viebit.com/index.php?folder=City+Council+Meetings>

**All documents related to this meeting are available here:**

<http://banning.ca.us/ArchiveCenter/ViewFile/Item/2522>

## EXHIBIT A

# Ordinance 1576

Amending and Restating  
Existing Title 8, Chapter  
8.28, Garbage Collection  
and Disposal of the  
Banning Municipal Code



City Council Meeting: September 14, 2021

1

### THE “ACT”

Requires the City to reduce, reuse, and recycle, solid waste generated in the City to the maximum extent feasible before landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.

- 1989 • AB 939: Integrated Waste Management Act
- 2006 • AB 32: Global Warming Solutions Act
- 2012 • AB 341: Mandatory Commercial Recycling
- 2016 • AB 1826: Mandatory Commercial Organics Recycling
- 2022 • SB 1383: Short-lived Climate Pollutants

2

# EXHIBIT A

## Senate Bill 1383

Requires the reduction and diversion of organics. Regulations, become effective January 1, 2022 (the “SB 1383 Regulations”), and require multiple entities including the City, residential households, commercial businesses, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of statewide organic waste disposal reduction targets.

Builds on existing legislation and requires:

- Organics Recycling Programs for all accounts
- Capacity and Facility Planning
- Ordinance and Enforcement Mechanism for Monitoring Programs
- Revised Purchasing Policy
- Edible Recovery Programs

3

## Ordinance Goals

- Obtain compliance with State mandate (the “Act”)
- Support the newly adopted franchise agreement



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## EXHIBIT A

### Key Elements

- Solid Waste Collection Services
- Commercial Edible Food Generators and Food Recovery Organizations
- Inspection and Investigations
- Enforcement
- Tax Roll, Delinquencies
- Locking Containers



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### Solid Waste Collection Services

All businesses, multi-family complexes and residents shall subscribe to the City's three-container collection services unless a business waiver is approved by the City.



6

## EXHIBIT A

### Commercial Edible Food Generators and Food Recovery Organizations

- Recover the maximum amount of edible food that would otherwise be disposed
- Maintain and provide access to records



7

### Inspection and Investigations

City representatives are authorized to conduct inspections and monitor programs to confirm compliance.

Regulated entities shall provide access and cooperate with staff during the process.

 **Pass**

 **Fail**



8

# EXHIBIT A

## Enforcement

Violation of any provision of this chapter shall constitute grounds for issuance of a penalty.



Penalty amounts for various types of violations will be phased in and begin January 1, 2024 as required by SB 1383 and outlined by Ordinance 1576:

- For a first violation, the amount of the base penalty shall be **\$50 to \$100** per violation.
- For a second violation, the amount of the base penalty shall be **\$100 to \$200** per violation.
- For a third or subsequent violation, the amount of the base penalty shall be **\$250 to \$500** per violation.

9

## Delinquencies, Tax Roll

Legal action may be pursued in charging late fees and adding delinquencies to the County tax roll.



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## EXHIBIT A

### Locking Containers

Commercial Edible Food Generators shall use locking bins to prevent access to unauthorized persons, animals, wind, rain, insects and rodents.

Commercial or residential premises in the downtown area shall keep containers secured to prevent access to unauthorized persons, animals, wind, rain, insects and rodents. Accessible containers in the downtown area shall be locked.



**Secure**

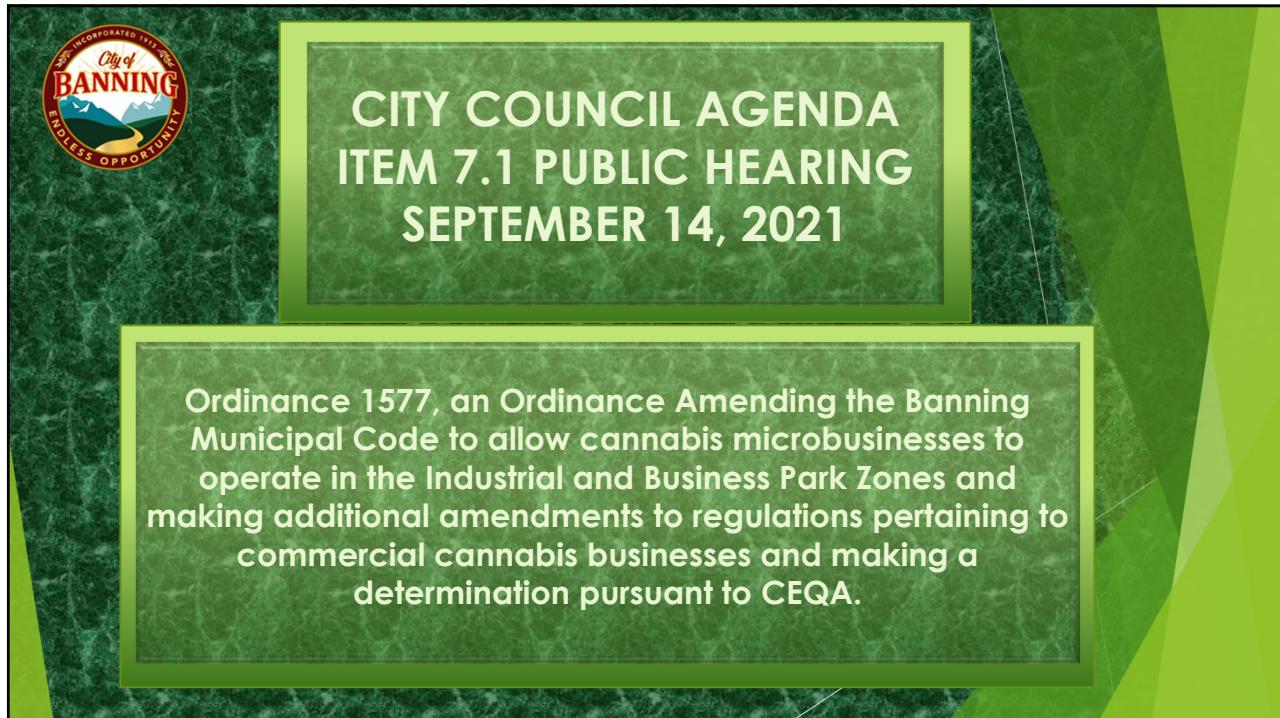
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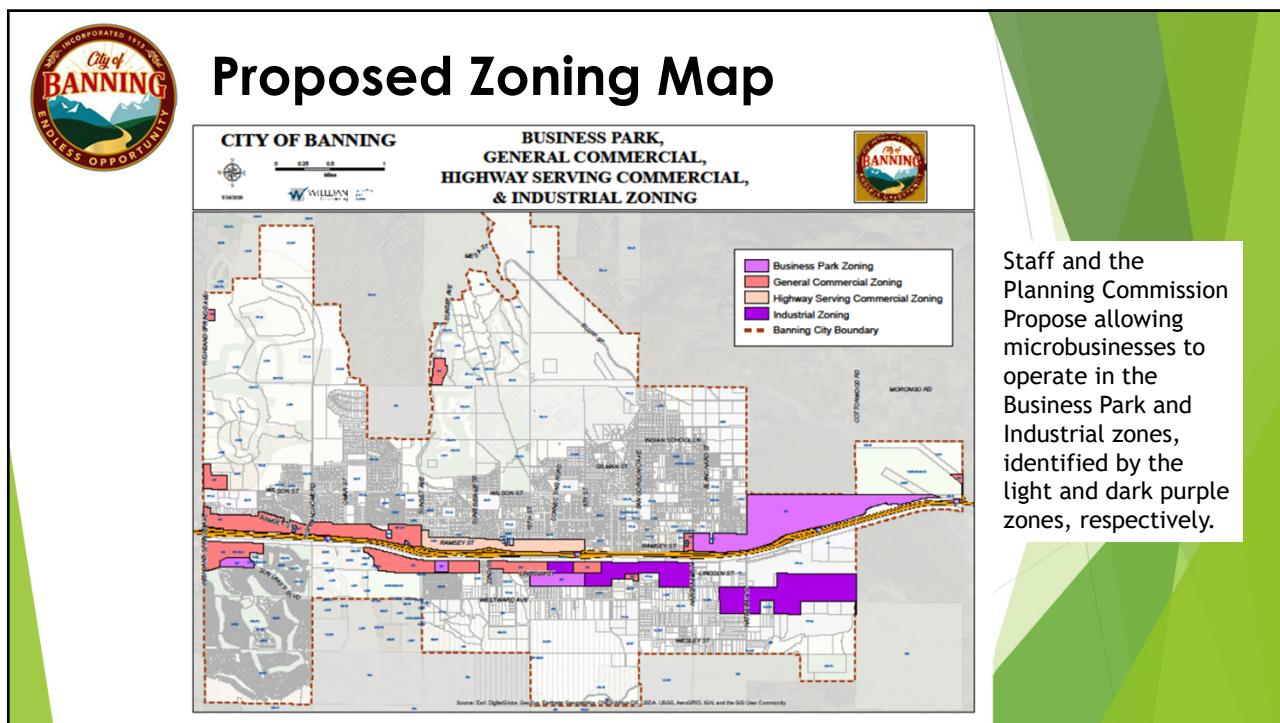
**QUESTIONS?  
COMMENTS?  
CONCERNs?**

12

## **EXHIBIT B**

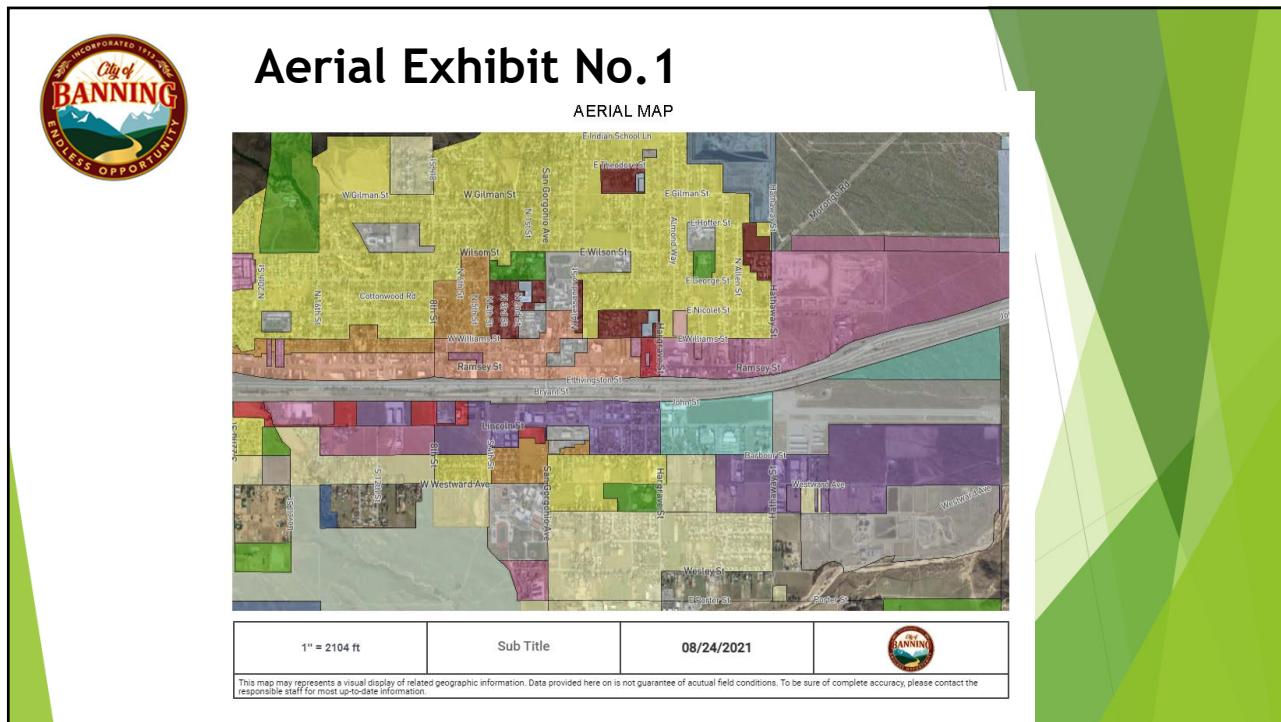


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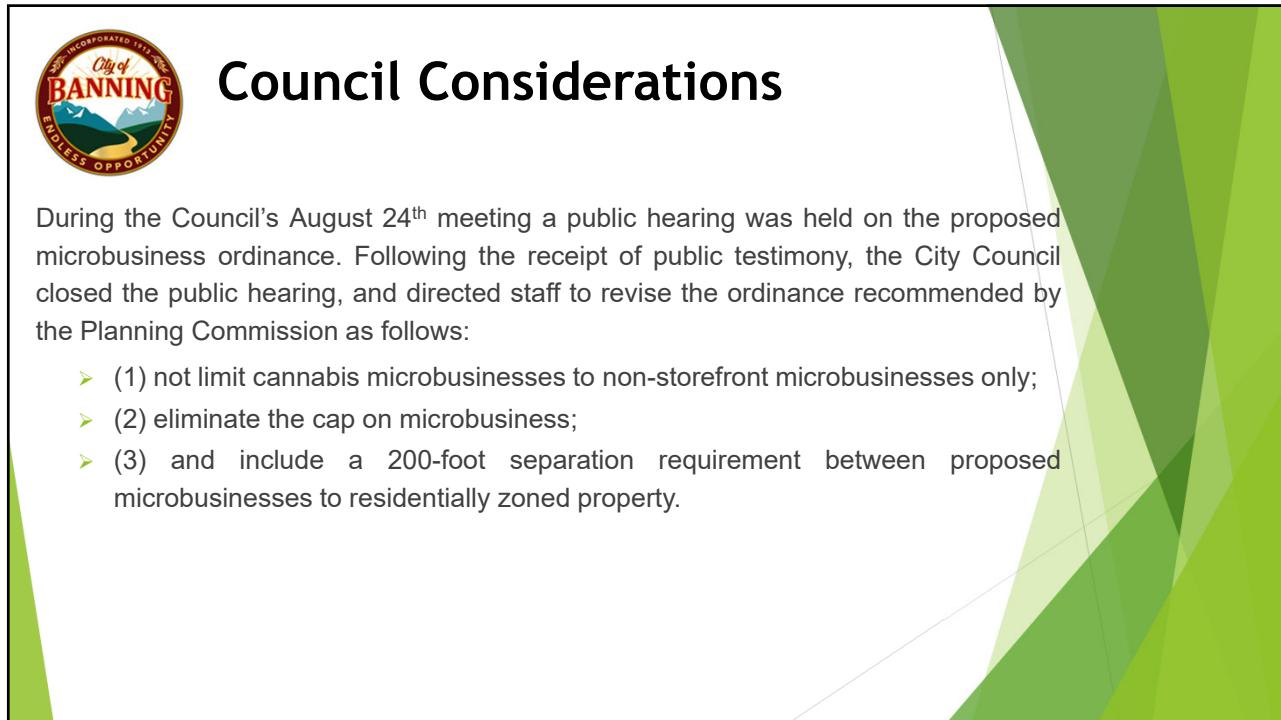


2

# EXHIBIT B



3



4

## EXHIBIT B



### Future Cannabis Program Amendments?

As a separate item, the City Council directed staff to prepare a subsequent amendment to the City's Cannabis Program that will propose the following changes:

- Adopt a resolution to "retire" the current Cannabis Lottery List,
- increase the authorized number of possible Retail Cannabis Dispensaries;
- and expand the zoning capacity for both Retail Dispensaries and Microbusiness facilities to possibly the General Commercial Zoning District.

City staff is currently working to prepare a separate Ordinance Amendment and forward to the Commission within the next 60-days. If this Amendment is acted upon by the Commission, staff can schedule for a City Council Hearing before year-end.

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### Environmental Determination

#### California Environmental Quality Act (CEQA)

- Planning Division staff and the Planning Commission have determined that the adoption of this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines Section 15060(c)(3),) because it is not a project as defined by the CEQA Guidelines Section 15378. Adoption of this Ordinance 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 this Ordinance will require a discretionary permit and CEQA review and will be analyzed at the appropriate time in accordance with CEQA.
- Moreover, even if the adoption of this Ordinance is a project, it 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, Title 17 of the Banning Municipal Code provide that conditional use permit applications for non-storefront cannabis microbusinesses 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 non-storefront cannabis microbusinesses are subject to discretionary review by both the Planning Commission and the City Council.

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## EXHIBIT B



### Recommended Action

That the City Council take the following actions:

- 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).
- Introduce for first reading City Council Ordinance 1577, accepting Planning Commission recommendation to approve Zoning Text Amendment 21-97501, Amending Title 17, amending Chapters 3.15, 3.17, 5.33, 5.35, 17.04, 17.08, 17.12, 17.16, 17.20, 17.53, and 17.54 making additional amendments to regulations pertaining to commercial cannabis businesses of the Banning Municipal Code (BMC).

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**THE END**  
**THANK YOU**

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## EXHIBIT B



### 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 Ordinances 1527 and 1528, placing Measures N and O on the November 2018 General Election Ballot. Measure N established a 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. Measure N also established a tax on commercial cannabis cultivation, manufacturing and testing laboratories at 10% of the gross receipts of the business. Measure O established a tax on cannabis retailers at 10% of gross receipts of the business. Both measures were approved by the voters.
- ▶ The City Council also adopted two ordinances that authorized cannabis retailers to develop within the City subject to conditional use permit (CUP) approvals and regulatory permit process.
- ▶ On June 23, 2020, the City Council approved Ordinance 1564 to reduce the tax on cannabis cultivation facilities.
- ▶ July 14, 2020, the City Council approved Ordinance 1565 allowing cannabis distribution facilities in the Industrial Zoning District contingent on approval of Measure L, a measure to impose a 10% tax on cannabis distribution facilities.
- ▶ November 3, 2020, Measure L passed approving the 10% tax on cannabis distribution facilities and Ordinance 1565 became effective allowing cannabis distribution facilities in the Industrial Zoning District.
- ▶ November 10, 2020, the City Manager requested direction from the City Council regarding increasing the number of cannabis retailers allowed in the City and the possibility of allowing cannabis microbusinesses to operate in the City. The Council directed Staff to bring back information regarding cannabis microbusinesses.
- ▶ On March 23, 2021, the City Council held a Workshop Regarding Cannabis Microbusinesses. At that Special Meeting of the City Council, Placeworks, Inc., a community planning and design organization presented a power point presentation regarding cannabis microbusinesses. The City Council hosted this 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 a path 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 cannabis microbusinesses into the cannabis program.

9

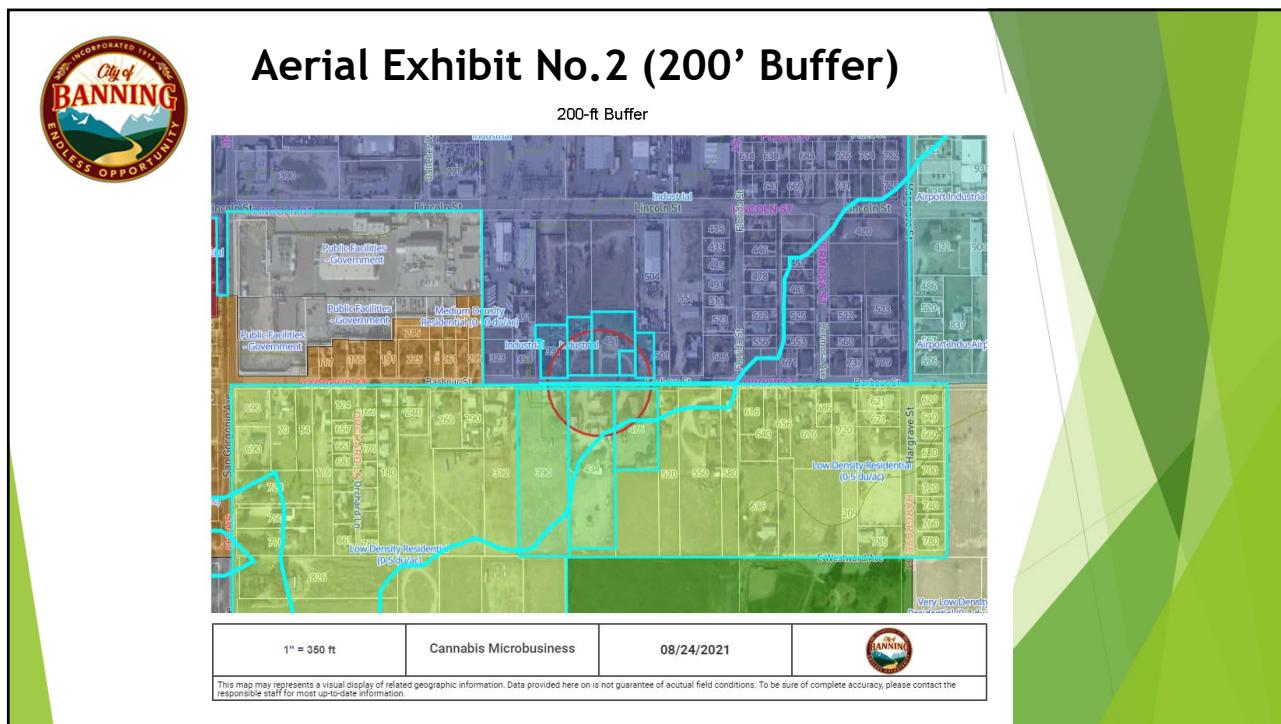


### Planning Commission Consideration and Recommendation

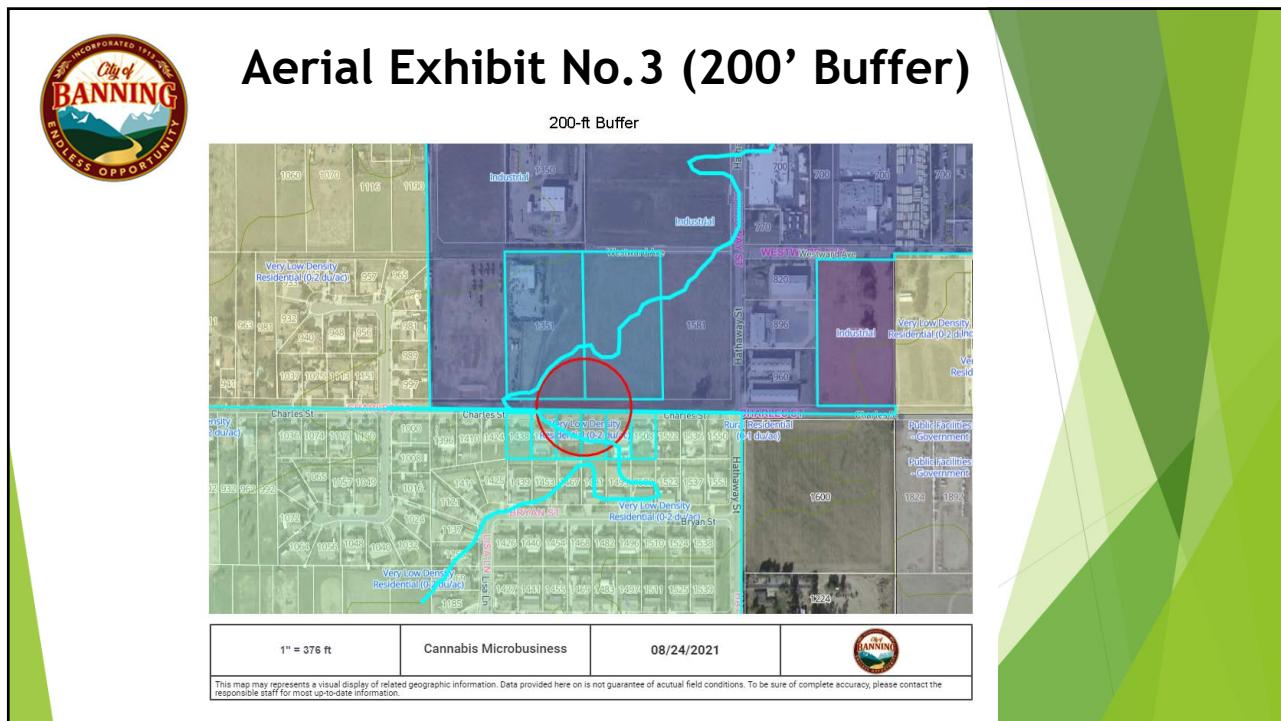
- ▶ The Planning Commission held two meetings to consider microbusinesses. The first meeting was held, June 2, 2021, where the Planning Commission considered the project and continued the public hearing requesting Staff provide additional information. The second meeting was held July 14, 2021, where the Planning Commission considered the project with the additional information provided and recommended City Council approval by approving Planning Commission Resolution 2021-09 with the following recommendations.
  1. That the retail component be a non-store front delivery service only.
  2. That there be NO 200-foot separation from residential uses or zones.
  3. That there be a cap of one microbusiness for every 8,000 residents.
    - a. If a cap is imposed, the City Council will need to determine the method of selecting microbusiness applicants.

10

## EXHIBIT B



11



12

# EXHIBIT C

## STRATEGIC PLAN DISCUSSION

September 14, 2021



1

## SAFE CITY

- Create a secure and healthy environment within the City in which our citizens feel safe and which promotes the City as a location of choice for living, working, and playing by:
  - Being well-prepared and adequately staffed to offer protection, enforce the law, & proactively prevent crime.
  - Promoting safe & secure neighborhoods & businesses by encouraging community-based programs & facilitating vigorous law enforcement.
  - Providing cost-effective public safety services to safeguard the community.
  - Ensures regulatory compliance in order to provide clean & well-maintained neighborhoods, to protect property, the environment & the lives of its residents & visitors.
  - Promote & support programs that improve the quality of life & well-being for the City's residents.
  - Effectively manage the City's water resources to ensure system reliability & regulatory compliance.



2

1

# EXHIBIT C



## RELIABLE INFRASTRUCTURE & CONNECTED MOBILITY

- Provides safe, integrated, convenient and connected travel options for pedestrians, cyclists & motorists to easily get around by:
  - Keeping citizens connected & informed, providing reliable communications network & leveraging opportunities to provide information to citizens through community activities.
  - Improving traffic flow on Highland Springs Boulevard.
  - Resolving water rights issues related to the Flume conveyance system.
  - Supporting an appropriate bypass to I-10 that protects local interests.

3

## DIVERSE ECONOMY

- Enhance the economic vitality of the community through measures targeted towards redevelopment and business retention, expansion and attraction resulting in increased revenue generation and job creation.
- Make appropriate use of City-owned assets to maximize return on investment.
- Actively recruits, retains and supports a diverse mix of quality businesses that meet the seasonal and day-to-day needs of the community.
- Collaborates with local organizations & business groups to market & cultivate its amenities, attractiveness, location, livability & tourism opportunities.
- Develop promotional programs that will build a positive image of the City targeted at potential & existing residents & businesses.
- Leverage City and surrounding area attractions to stimulate economic development.
- Develop methodologies & policies that will facilitate the City's economic development programs consistent with the City's ordinances.



4

# EXHIBIT C

## GOOD GOVERNANCE

- Ensures that communication is effectively and regularly used to inform and educate residents, businesses, employees and regional partners about City programs and initiatives and do so in a manner that will enhance the City's image.
- Create a working environment that attracts and retains quality employees.
- Ensure taxpayer dollars are used in a manner which is fiscally responsible and transparent to the residents.
- Communicate regularly with public agencies and other regional partners and collaborate on mutually beneficial activities and programs.
- Ensure administrative policies are current and consistent with state, federal regulations and City ordinances.
- Maintain regular and ongoing direct communication with employees, citizens and businesses.



5

## QUALITY OF LIFE

- Develop, preserve and revitalize residential neighborhoods that are safe, attractive, accessible to public transportation and provide diverse, affordable housing options.
- Create and preserve access to open space, parks and recreational opportunities, including collaboration with other organizations and community partners.
- Achieve beautification of the City through major arterial improvements, aggressive code enforcement and promotion of programs that leverage the City's "small town" feel combined with a focus on sustainability and growth.
- Design, develop, and enhance parks, trails, open spaces and recreation facilities, ensuring they are convenient, safe, accessible, attractive and well-maintained.
- Ensure City facilities, including open spaces, reflect positively on the City's image by making them more attractive.



6

## EXHIBIT C



QUESTIONS