



AGENDA

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

February 22, 2022

5:00 p.m.

Via Video/Teleconference and In Chambers

Council Chambers
99 E. Ramsey Street
Banning, CA 92220

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

This meeting is being held via Video/Teleconference on Zoom so that members of the public may observe and participate in this meeting electronically. If you participate in this meeting via Zoom, you are agreeing to abide by the City's Zoom Community Standards for Public Meetings (provided in full on the last page of the agenda). Esta reunión se lleva a cabo en la Cámara y a través de Video/Teleconferencia en Zoom para que los miembros del público puedan observar y participar en esta reunión de manera electrónica. Si elige participar en esta reunión a través de Zoom, acepta cumplir con los Estándares comunitarios de Zoom para reuniones públicas de la ciudad (que se proporcionan en su totalidad en la última página de la agenda).

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<https://us02web.zoom.us/j/87415277765?pwd=dFVSOFBuMGpSeTBSREtPNytXYnhSQT09>

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

1. CALL TO ORDER

- 1.1. Invocation – Reverend Dunn of St. Stephen's Episcopal Church
- 1.2. Pledge of Allegiance
- 1.3. Roll Call

2. AGENDA APPROVAL

- 2.1. Approve Agenda

3. PRESENTATION(S)

None

4. REPORT ON CLOSED SESSION

4.1. City Attorney

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

5.1. PUBLIC COMMENTS – Non-Agenda Items Only

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 their time 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 Item 10). PLEASE STATE YOUR NAME FOR THE RECORD. ~ Se aplicará una limitación de tres (3) minutos a cada miembro del público que desee dirigirse al Alcalde y al Concejo sobre un asunto que no esté en la agenda. A ningún miembro del público se le permitirá compartir su tiempo con ningún otro miembro del público. Por lo general, cualquier artículo recibido bajo este encabezado se envía al personal para su estudio, investigación, finalización y / o acción futura del Consejo en el futuro (consulte el artículo 10). POR FAVOR INDIQUE SU NOMBRE PARA EL REGISTRO.

5.2. CORRESPONDENCE

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

5.3. APPOINTMENTS

5.4. CITY COUNCIL COMMITTEE REPORTS

5.5. CITY MANAGER REPORT

5.6. CITY ATTORNEY REPORT

6. 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 Board wishes to remove an item for separate consideration.)

Mayor to Open Consent Items for Public Comments

Motion: Approve consent items 6.1 to 6.10.

Resolutions require a recorded majority vote of the total membership of the City Council/Banning Utility Authority.

6.1. Approval of Minutes of the February 8, 2022 City Council Meetings..... 7

6.2.	Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of January 2022	8
6.3.	Receive and File Cash, Investments and Reserve Report for the Month of January 2022.....	10
6.4.	Receive and File Fire Department Statistics for the Month of December 2021 and 2021 Report	12
6.5.	Receive and File Fire Department Statistics for the Month of January 2022	13
6.6.	Receive and File Police Department Statistics for the Month of January 2022	14
6.7.	Public Works Capital Improvement Project Tracking List.....	15
6.8.	Bulky Item Collection Event Update.....	16
6.9.	Consideration of Resolution 2022-16 Accepting the 2022 Supplemental Law Enforcement Services Allocation (SLESA) in the amount of \$100,000.....	18
6.10.	Resolution 2022-15, Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2022/2023.....	20
6.11.	City Council Authorization to Purchase Tax Defaulted Properties from the County of Riverside Treasurer – Tax Collector, and adoption of Resolution 2022-18 to Confirm and Authorize the Purchase of those Properties.....	22

7. PUBLIC HEARING(S)

7.1.	Fourth Public Hearing to Receive Public Comments on City Council Redistricting Process and Proposed City Council's Preferred New Council District Boundary Map.....	24
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(Staff Report: Kevin Ennis, City Attorney)

Recommendation: (1) Open the public hearing and receive public comment and input regarding the draft map presented for consideration and close public hearing; and, (2) Direct staff to prepare an Ordinance to amend Title 2, Section 2.04.035, Election of members of the city council and mayor, and present at a Public Hearing on March 8, 2022.

8. REPORTS OF OFFICERS

8.1.	Resolution 2022-17, Establishing the Banning Beautification Award Program.....	29
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(Staff Report: Doug Schulze, City Manager)

Recommendation: A motion to adopt Resolution 2022-17, Establishing the Banning Beautification Award Program.

8.2.	Discuss Ordinance 1580 Approving Zone Text Amendment 21-97503, amending Chapters 5.33, 17.12, and 17.54 of the Banning Municipal Code, Eliminating the numeric cap on the number of cannabis retailers permitted in the City, allowing for the operation of cannabis retailers in the General Commercial Zone, allowing cannabis distribution and manufacturing in the Business Park Zone, making additional conforming amendments to	
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regulations pertaining to cannabis retailers, and making a determination that the Zone Text Amendment is exempt from review under CEQA pursuant to CEQA Guidelines Section 15061 (b)(3) **31**
(Staff Report: Adam Rush, Community Development Director)

Recommendation: Discuss and schedule the public hearing for the March 8, 2022 City Council Meeting.

8.3. Overview and Potential Uses of Funds of the Treasury's Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) Funded by the American Rescue Plan Act (ARPA)..... **37**
(Staff Report: Doug Schulze, City Manager)

Recommendation: Staff recommends: (1) Council reviews potential use of funds of the Treasury's Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) Funded by the American Rescue Plan Act (ARPA) presented by staff and provide direction, and (2) Project list for appropriation approval to be provided at a future Council meeting.

9. DISCUSSION ITEM(S)

None

10. ITEMS FOR FUTURE AGENDAS

10.1. New Items

10.2. Pending Items:

1. Permanent Homeless Solution
2. Shopping Cart Ordinance Update
3. Golf Cart/EV Ordinance (On hold)
4. Airport Advisory Commission
5. Business-Friendly Zoning (Wallace)

11. ADJOURNMENT

Next Regular Meeting – February 22, 2021 at 5:00 p.m.

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- Your microphone must remain on mute, and you may only unmute your microphone when/if you are recognized by the Mayor.
- Your camera must be turned off unless/until you are recognized by the Mayor.
- To indicate a desire to make Public Comment, you must use the Raise Hand function. The Mayor will not recognize those who have not used the Raise Hand function.
- Public Comment from Zoom attendees will immediately follow in person comment from members of the public in Council Chambers.
- If you fail to adhere to these community guidelines, **you may be removed** for disrupting the meeting occurring in Council Chambers. You may rejoin the meeting but may be removed for each violation of these community standards.
- The chat function will be disabled for all City Council meetings on Zoom.

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Al participar en esta reunión en Zoom, usted acepta cumplir con los Estándares Comunitarios para Reuniones Públicas de la ciudad de Banning. Los que atienden por Zoom que no cumplan con estos estándares pueden ser retirados de la sala de reuniones.

- Su micrófono debe permanecer en silencio, y solo puede reactivar su micrófono cuando / si es reconocido por el alcalde.
- Su cámara debe estar apagada a menos que sea reconocido por el alcalde.
- Para indicar el deseo de hacer un Comentario Público, debe utilizar la función Levantar la mano. El alcalde no reconocerá a quienes no hayan utilizado la función Levantar la mano.
- Los comentarios públicos de lo que atienden por Zoom seguirán inmediatamente los comentarios en persona de los miembros del público en las Cámaras del Consejo.
- Si no cumple con estas pautas de la comunidad, es posible que lo destituyan por interrumpir la reunión que tiene lugar en las Cámaras del Consejo. Puede volver a unirse a la reunión, pero es posible que lo eliminen por cada violación de estos estándares de la comunidad.
- La función de chat estará deshabilitada para todas las Reuniones del Ayuntamiento en Zoom.

AFFIDAVIT • DECLARACIÓN JURADA

IT IS HEREBY CERTIFIED under the laws of the State of California that the above agenda was posted on the City's website (www.banningca.gov) as well as the Bulletin Board at Banning City Hall, located at 99 E Ramsey Street, Banning, CA 92220 by 5:00 P.M. on the 17th day of February 2022.



Caroline Patton, Deputy City Clerk
Secretario adjunto de la ciudad

PUBLIC NOTICE • NOTICIA PÚBLICA

Meeting Agendas and Notices

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Public Comment

Agenda Items

Any member of the public may address this meeting of the City Council on any item appearing on the agenda. A five-minute limitation shall apply to each member of the public and no member of the public shall be permitted to share their time with any other person.

Non-Agenda Items

Any member of the public may address this meeting of the Council on any item which does not appear on the regular meeting agenda but is of interest to the general public and is an item upon which the Council may act. A three-minute limitation shall apply to each member of the public and no member shall be permitted to share their time with any other person. No action shall be taken, nor discussion held by the 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 §54954.2 of the Government Code.

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In compliance with the Americans with Disabilities Act, any member of the public may request that the agenda and agenda packet be mailed to them. If you need special assistance to participate in this meeting (such as translation services), please contact the Office of the City Clerk. Advanced notification of at least 48 hours prior to the meeting will allow the city to make arrangements to ensure your accessibility.

¿Necesita servicios de traducción para participar? Contacto Oficina del Secretario de la Ciudad.

CONTACT • CONTACTO

Office of the City Clerk • 951-922-3102 • CityClerks@banningca.gov
99 East Ramsey Street, Banning, California 92220



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Caroline Patton, Deputy City Clerk *CP*

MEETING DATE: February 22, 2022

SUBJECT: Minutes of the February 8, 2022 City Council Meetings

RECOMMENDATION:

Approve the minutes of the February 8, 2022 City Council Meetings.

ALTERNATIVES:

1. Approve as recommended.
2. Approve with modifications.

ATTACHMENTS:

1. Minutes of the February 8, 2022 Special City Council Meeting
https://banningca.gov/DocumentCenter/View/10108/2022-02-08_Minutes_Special-Meeting
2. Minutes of the February 8, 2022 Regular City Council Meeting
https://banningca.gov/DocumentCenter/View/10154/2022-02-08_Minutes-Regular-Meeting

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Suzanne Cook, Finance Director
A'ja Wallace, Budget and Financial Analyst

MEETING DATE: February 22, 2022

SUBJECT: Approval and Ratification of Accounts Payable and Payroll
Warrants Issued in the Month of January 2022

RECOMMENDATION:

That City Council review and ratify the warrants for period ending **January 31, 2022**, per California Government Code Section 37208.

WARRANT SUMMARY:

Description	Payment #	Amount	Total Amount
Checks:			
Checks Issued during Month	180938-181270	\$ 3,744,391.17	
Voided / Reissue Check		\$ 2,487.16	
Check Total			\$ 3,741,904.01
Wires Total	1072		\$ 1,114,365.83
ACH payments:	9007178-9007199		
Payroll Direct Deposit	1/14/2022	\$ 464,103.32	
Payroll Direct Deposit	1/28/2022	\$ 430,026.78	
Other Payments		\$ 1,047,511.13	
ACH Total			\$ 1,941,641.23
Payroll Checks:	12531-12550		
Payroll - Regular	1/13/2022	\$ 2,055.93	
Payroll - Regular	1/28/2022	\$ 2,250.87	
Payroll Check Total			\$ 4,306.80
Total Warrants Issued for January 2022		\$ 6,802,217.87	

ATTACHMENTS:

1. Fund List

<https://banningca.gov/DocumentCenter/View/10137/Attachment-1--Fund-List>

2. Warrant Report January 2022

<https://banningca.gov/DocumentCenter/View/10138/Attachment-2--Warrant-Report-January-2022>

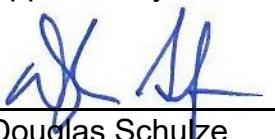
3. Warrant Report Detail January 2022

<https://banningca.gov/DocumentCenter/View/10139/Attachment-3--Warrant-Report-Detail-January-2022>

4. Voided Check Log, Payroll Log & Registers – January 2022

<https://banningca.gov/DocumentCenter/View/10136/Attachment-4--Void-Check-Log-Payroll-Log-Payroll-Registers>

Approved by:



Douglas Schulze

City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Suzanne Cook, Finance Director
A'ja Wallace, Budget and Financial Analyst

MEETING DATE: February 22, 2022

SUBJECT: Receive and File Cash, Investments and Reserve Report for the Month of January 2022

RECOMMENDATION:

That City Council receive and file Cash, Investment and Reserve Report for **January 31, 2022** in accordance with California Government Code 53646.

CASH AND INVESTMENT SUMMARY:

Description	Prior Month	Current Month
Funds Under Control of the City		
Cash		
Cash on Hand	\$ 4,055.00	\$ 4,055.00
Checking and Savings Accounts	\$ 7,630,553.28	\$ 7,311,483.05
Investments		
LAIF	\$ 39,769,374.14	\$ 39,792,269.15
Brokerage	\$ 27,542,750.52	\$ 27,542,875.29
Total Funds Under Control of the City	\$ 74,946,732.94	\$ 74,650,682.49
Funds Under Control of Fiscal Agents		
US Bank		
Restricted Bond Project Accounts	\$ 11,671,676.33	\$ 11,671,737.76
Restricted Bond Accounts	\$ 4,820,099.10	\$ 4,820,100.65
Union Bank & SCPPA		
Restricted Funds	\$ 4,184,162.63	\$ 4,377,865.14
Total Funds Under Control of Fiscal Agents	\$ 20,675,938.06	\$ 20,869,703.55
Total Funds	\$ 95,622,671.00	\$ 95,520,386.04

RESTRICTED, ASSIGNED, COMMITTED AND RESERVED SUMMARY:

Description	Prior Month	Current Month
Total Funds	\$ 95,622,671.00	\$ 95,520,386.04
Restricted Funds	\$ 43,194,833.58	\$ 43,433,487.02
Assigned Funds - Specific Purpose	\$ 8,879,643.68	\$ 8,879,643.68
Committed Funds - Specific Purpose	\$ 2,063,108.50	\$ 1,813,108.50
Fund Balance Reserves	\$ 13,828,391.68	\$ 13,828,391.68
Total Restricted, Assigned, Committed and Reserves	\$ 67,965,977.44	\$ 67,954,630.88
Operating Cash - Unrestricted Reserves	\$ 27,656,693.56	\$ 27,565,755.16
Less Accounts held in Investments	\$ 27,542,750.52	\$ 27,542,875.29
Liquid Cash	\$ 113,943.04	\$ 22,879.87

ATTACHMENTS:

1. Cash, Investment and Reserve Report January 2022
<https://banningca.gov/DocumentCenter/View/10142/Attachment-1--Cash-Investment-and-Reserve-Report-January-2022>
2. Investment Report
<https://banningca.gov/DocumentCenter/View/10143/Attachment-2--Investment-Report-January-2022>
3. LAIF / PMIA Performance Report
<https://banningca.gov/DocumentCenter/View/10140/Attachment-3--PMIA-LAIF-Perormance-Report-January-2022>
4. LAIF Market Valuation Report
<https://banningca.gov/DocumentCenter/View/10141/Attachment-4--LAIF-Market-Valuation-January-2022>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: February 22, 2022

SUBJECT: Receive and File Fire Department Statistics for the Month of December 2021 and 2021 Report

RECOMMENDATION:

Receive and file Fire Department statistics for the month of December 2021, as well as the 2021 Summary Report.

BACKGROUND:

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

FISCAL IMPACT:

None

ATTACHMENTS:

1. Fire Statistics for December 2021
<https://banningca.gov/DocumentCenter/View/10115/Banning-December-2021-Fire-Report>
2. Fire Statistics for 2021 (Summary Report)
<https://banningca.gov/DocumentCenter/View/10116/Banning-Year-2021-Fire-Report>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: February 22, 2022

SUBJECT: Receive and File Fire Department Statistics for the Month of January 2022

RECOMMENDATION:

Receive and file Fire Department statistics for the month of January 2022

BACKGROUND:

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

FISCAL IMPACT:

None

ATTACHMENTS:

1. Fire Statistics for January 2022
<https://banningca.gov/DocumentCenter/View/10117/Banning-January-2022-Fire-Report>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Matthew Hamner, Police Chief
Angie Lam, Police Assistant II

MEETING DATE: February 22, 2022

SUBJECT: Receive and File Police Department Statistics for the Month of January 2022

RECOMMENDATION:

Receive and File Police Statistics for the month of January 2022.

BACKGROUND:

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

ATTACHMENT:

1. Police Statistics for January 2022
<https://banningca.gov/DocumentCenter/View/10118/Jan-2022-Stats>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL
FROM: Douglas Schulze, City Manager
PREPARED BY: Art Vela, Director of Public Works
MEETING DATE: February 22, 2022
SUBJECT: Public Works Capital Improvement Project Tracking List

RECOMMENDATION:

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

ATTACHMENT:

1. CIP Project List

<https://banningca.gov/DocumentCenter/View/10122/Attach-1-CIP-Update-February-2022>

Approved by:

A handwritten signature in blue ink, appearing to read "ASL" and "Schulze".

Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Director of Public Works
Holly Stuart, Public Works Program Manager

MEETING DATE: February 22, 2022

SUBJECT: Bulky Item Collection Event Update

RECOMMENDATION:

This is informational only; receive and file report.

BACKGROUND:

The City of Banning has partnered with Waste Management as part of the solid waste franchise agreement to provide three free bulky item collection events for residential accounts per calendar year. The first bulky item collection event for this year was held on January 8, 2022 at Dysart Park offering residents the opportunity to dispose of unwanted items including, but not limited to, appliances, mattresses, green waste, e-waste and so forth. This event also offers residents paper shredding and the collection of household batteries.

The latest event, held on Saturday, January 8, 2022, welcomed 343 vehicles. An accumulation of 32.05 tons of municipal solid waste, 4.84 tons of green waste, 16.76 tons of white goods/metal, 2.47 tons of e-waste, 1.33 tons of mattresses and 4.8 tons of paper were collected over the duration of 5 hours. Waste Management collected a grand total of 62.25 tons of waste of which 30.20 tons were successfully diverted from the landfill. In addition, two full barrels of household batteries or approximately 60 gallons were collected during the event.

The City's Bulky Item collection events continue to be a success and provide a great service to our community. The events also aid in keeping the community clean through reducing the amount of waste that may otherwise be illegally dumped throughout our City and its rights-of-ways. The next events are scheduled for May 14, 2022 and October 8, 2022.

FISCAL IMPACT:

The event was staffed by the Public Works Department, Street Divisions, and Community Development. Staff time and material costs were funded by the Refuse fund.

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

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

MEETING DATE: February 22, 2022

SUBJECT: Consideration of Resolution 2022-16 Accepting the 2022 Supplemental Law Enforcement Services Allocation (SLESA) in the amount of \$100,000

RECOMMENDATION:

The City Council adopt Resolution 2022-16, a Resolution of the City of Banning, California, authorizing the acceptance of the 2022 SLESA in the amount of \$100,000 and authorize the Banning Police Department to apply the funds toward the purchase of frontline law enforcement related equipment, services, training and supplies.

BACKGROUND:

On February 3, 2022, the Banning Police Department was notified by the Riverside County Sheriff's Department that its 2022 SLESA funding was \$100,000. The funding must be used to support frontline law enforcement services and cannot be used to supplant already allocated expenditures in the police department's budget.

Legislation requires the City Council to officially accept the Supplemental Law Enforcement Services Funds and approve the police department's anticipated use of the funds.

JUSTIFICATION:

Potential purchases with SLESA funds may include, but are not limited to, vehicle related equipment, technology related equipment and software, evidence collection materials, training, communication related parts, as well as tactical and safety equipment.

All purchases with these funds must follow the purchasing practices for the City of Banning.

FISCAL IMPACT:

The budget adjustment in the amount of \$100,000 is necessary to increase estimated revenues and appropriate funds into the 2022 SLESA account. There is no city match required for this grant. The appropriation is requested in the resolution.

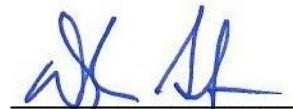
ALTERNATIVES:

1. Adopt Resolution 2022-16.
2. Adopt Resolution 2022-16 with modifications.
3. Reject Resolution 2022-16 and provide alternate direction to staff.

ATTACHMENTS:

1. Resolution 2022-16
<https://banningca.gov/DocumentCenter/View/10121/Att-1-Resolution-2022-16-SLESA-Acceptance>
2. Approved Form 11-Allocations
<https://banningca.gov/DocumentCenter/View/10119/Att-2-Approved-Form-11-Allocations>
3. Board of Supervisors Approval Letter
<https://banningca.gov/DocumentCenter/View/10120/Att-3-Board-Of-Supervisors-Approval-Letter>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Art Vela, Director of Public Works

MEETING DATE: February 22, 2022

SUBJECT: Resolution 2022-15, Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2022/2023

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 2022-15, Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2022/2023 in order to prepare the assessments of the area.

BACKGROUND:

In accordance with the "Landscaping and Lighting Act of 1972" ("1972 Act") of the Streets and Highways Code, the City Council adopted a resolution on August 14, 1990 ordering the formation of Landscape Maintenance District (LMD) No. 1, ("the District") the boundaries of which are shown in Attachment "2". An additional five tracts and three tentative tracts were annexed (Annexation No. 1) into LMD No. 1 when the City Council approved Resolution No. 2005-36 on May 10, 2005. The District, by special benefit assessments, provides funding for the servicing and maintenance of certain landscape areas within the City of Banning, all of which are located in the public right-of-way. The 1972 Act requires that assessments are to be levied according to benefit rather than according to assessed value. Resolution No. 2022-15 will initiate the proceedings to update the District for Fiscal Year 2022/2023. A tentative schedule for updating the District, as required by the "Landscaping and Lighting Act of 1972," is attached hereto as Attachment "3" for your information.

JUSTIFICATION:

The City Council approved the formation of Landscape Maintenance District No. 1 by adopting Resolution No. 1990-59 on August 14, 1990. The adoption of Resolution No. 2022-15 will enable the City Engineer to prepare the assessments for Fiscal Year 2022/2023.

FISCAL IMPACT:

None. A detailed estimate will be prepared and forwarded with the Engineer's Report.

ALTERNATIVES:

1. Approve Resolution 2022-15.
2. Reject Resolution 2022-15 and provide further direction to staff.

ATTACHMENTS:

1. Resolution No. 2022-15
<https://banningca.gov/DocumentCenter/View/10127/Att-1-Reso-2022-15-LMD-Initiate-proceedings-for-FY-22-23>
2. LMD No. 1 Map for FY 2022/23
<https://banningca.gov/DocumentCenter/View/10125/Att-2-LMD-No1-Map>
3. Tentative Schedule for Updating LMD No. 1
<https://banningca.gov/DocumentCenter/View/10126/Att-3-Tentative-Schedule-for-Updating-Landscape-Maintenance-District-No-1>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: James Wurtz, Economic Development Manager

MEETING DATE: February 22, 2022

SUBJECT: City Council Authorization to Purchase Tax Defaulted Properties from the County of Riverside Treasurer – Tax Collector, and adoption of Resolution 2022-18 to Confirm and Authorize the Purchase of those Properties

RECOMMENDATION:

Staff recommends the City Council approve Resolution No. 2022-18, approving the purchase of certain properties listed in this Report that are located within the City of Banning and that are being offered for sale by the Riverside County Treasurer – Tax Collector.

BACKGROUND:

In October of 2021, the City of Banning received a bi-annual letter from the Riverside County Treasurer- Tax Collector with a list of properties it intended to initiate the “Power of Sale for being tax-defaulted properties.

Upon receipt of that letter, the City identified five (5) parcels of interest to the City for potential purchase. They are: APN's 538-220-002, 540-180-042 thru-045. All five (5) parcels are held under the ownership of DJL Prop.

The City Clerk's Office submitted via Certified Mail an “Application to Purchase Tax-Defaulted Property from County” on October 29, 2021. The County of Riverside Treasurer – Tax Collector’s office responded on February 2, 2022, with a letter approving 5 parcels for sale and the bid price of each parcel as follows:

APN	Acres	Redemption Amount
538-220-002	1.82	\$39,271.99
540-180-042	1.74	\$38,472.51
540-180-043	1.50	\$34,546.58
540-180-044	.32	\$10,115.42
540-180-045	.32	\$10,627.06
Total	5.70 Acres	\$133,033.56

JUSTIFICATION:

The five subject properties are zoned Business Park and would coincide with the city's stated Economic Development plan to foster new business development and provide economic stability to the City's General Fund. The properties could be for future city use or sold as is and represents approximately. 5.7 acres in size.

CEQA:

The proposed acquisition of these properties is being undertaken without plans for any use and development at this time and therefore the mere change in title ownership does not have the possibility of causing any potentially significant impact on the environment, and on that basis, is categorically and statutorily exempt from environmental review under the California Environmental Quality Act.

FISCAL IMPACT:

City staff is asking that an amount of \$133,033.56 be appropriated from 670-7000-473.90-01 of the BEU Enterprise Fund to purchase five parcels zoned Business Park from the County of Riverside Treasurer-Tax Collector:

APN	Acres	Redemption Amount
538-220-002	1.82	\$39,271.99
540-180-042	1.74	\$38,472.51
540-180-043	1.50	\$34,546.58
540-180-044	.32	\$10,115.42
540-180-045	.32	\$10,627.06
Total	5.70 Acres	\$133,033.56

ALTERNATIVES:

1. Approve expenditure of \$133,033.56 for the purchase of said parcels.
2. Do not approve as recommended and provide alternative direction to staff.

ATTACHMENTS:

1. Resolution No. 2022-18
<https://banningca.gov/DocumentCenter/View/10156/Resolution-2022-18-Purchase-Tax-Delinquent-Property>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Laurie Sampson, Executive Assistant
Kevin G. Ennis, City Attorney

MEETING DATE: February 22, 2022

SUBJECT: Fourth Public Hearing to Receive Public Comments on City Council Redistricting Process and Proposed City Council's Preferred New Council District Boundary Map

RECOMMENDATION:

1. Open the public hearing and receive public comment and input regarding the draft map presented for consideration and close public hearing; and
2. Direct staff to prepare an Ordinance to amend Title 2, Section 2.04.035, Election of members of the city council and mayor, and present at a Public Hearing on March 8, 2022

SUMMARY:

The Public Hearing scheduled for February 22, 2022, represents the fourth in a series of four public hearings required under the California Elections Code Section 21600 *et seq.* as part of the redistricting process undertaken following each decennial federal Census. Public Hearings were held on November 9, 2021, December 14, 2021, and January 25, 2022, where presentations were provided by City Attorney Kevin G. Ennis and City Staff on the redistricting process and criteria; 2020 Census data was reviewed and discussed; paper and online mapping tools available for public participation were demonstrated; and the City Council direction was provided on district boundary mapping alternatives to be explored. Additionally, these hearings provided opportunities for public participation, input, comment, and testimony on the redistricting process, communities of interest, and potential boundary adjustments for consideration.

During the January 25th hearing, the City Council reviewed and discussed the draft district map prepared by staff.

BACKGROUND:

Transition to District-Based Elections

The City of Banning completed the process set forth in the California Voting Rights Act (CVRA) in 2016 and transitioned from a system of “at-large” elections to a system of “district-based” elections for electing Council members. The threat of litigation claimed the City’s at-large election system was racially polarized, resulting in minority vote dilution in violation of the CVRA. The intent of having district-based elections was to create majority minority districts and allow individuals from protected classes an opportunity to be elected to remain in compliance with the CVRA. Other background information regarding the CVRA and the procedures which led to convert to a district-based election process for electing City Council members is available on the City’s website at <https://banningca.gov/470/2016-City-Council-Elections-by-Districts>, including the staff reports, videos and other relevant information for the prior meetings and public hearings from June 6, 2016, to June 7, 2016.

On June 28, 2016, the City Council adopted Ordinance No. 1497 transitioning the City’s manner of election from an “at-large” system where all voters regardless of residence location within the city may vote for all Council members to a “district” based system where only voters residing within a geographical district may vote for one Council member representing that district. Ordinance No. 1497 established City Council district boundaries pursuant to a map entitled “Smith Map 1”, which was incorporated into Ordinance No. 1497 as the Exhibit A Council District Map.

Ordinance No. 1497 also established district-based election sequencing with Districts 1, 2 and 3 elected in 2016 and every four years thereafter, and Districts 4 and 5 elected in 2018 and every four years thereafter. The first district-based election was held on November 8, 2016. The process of transitioning to district elections was facilitated by National Demographics Corporation, Inc. (NDC) who provided demographic information, public outreach, and assistance with drafting maps for the formation of proposed districts. The population of the City of Banning in 2010 was 29,603. For the purpose of districting, the population in each district is approximately 5,920.

Requirement for Redistricting, Redistricting Deadline, and Fair Maps Act Criteria

Every 10 years, jurisdictions that have district-based elections are required to review district boundaries based on the results of the decennial Census to ensure equal representation based on population growth and to adjust district boundaries, if necessary, to reflect changes in population.

Historically, Census results have been released by the end of March in the year following the Census; however, 2020 results were not provided to states until August 12, 2021, due to Census delays caused by the COVID-19 pandemic. On September 27, 2021, California's Statewide Database released official population data for local governments, which is based on federal 2020 Census data with adjustments for incarcerated populations. The official 2020 population for the City of Banning is 29,505. For the

purposes of districting, each of the four council districts must have approximately 5,901 people.

California Elections Code Section 21602 *et seq.* establishes timeframes for completion of redistricting following the release of Census results. The City's next regularly scheduled election will be held on November 8, 2022. Section 21602(a)(3) of the Elections Code applies to cities conducting its next regular election on or after July 1, 2022 and reads: "For redistricting occurring before 2031 and where a city does not have a regular election occurring after January 1, 2022, and before July 1, 2022, the boundaries of the council districts shall be adopted by the council not later than 205 days before the city's next regular election occurring on or after July 1, 2022." Based on the provisions of the Elections Code, the City must adopt Council Districts on or before April 17, 2022, which is 205 days prior to the next City Council election on November 8, 2022.

DISCUSSION

This evening's public hearing represents the fourth in a series of public hearings required under the Fair Maps Act to complete the redistricting process for the City. The goals of this public hearing include: 1) review any maps submitted by the members of the public subsequent to the January 25, 2022 public hearing; 2) conduct the fourth public hearing to receive comment and testimony from residents regarding additional maps submitted and on the Draft Map submitted by Staff; and 3) if so desired, request an ordinance be drafted for first reading proposing adoption of the Draft Map and supporting demographic data, to be placed on the March 8, 2022, regular City Council meeting agenda. Set March 22, 2022, as the date for second reading and adoption of this Ordinance.

The deadline for submittal of maps from members of the public was February 8, 2022. The City utilized its social media platforms (Facebook and Twitter) as well as the City website with a posting to encourage participation and notify residents of the map submittal deadline. No map submission from members of the public were received.

Redistricting Public Hearing Recap

The first redistricting public hearing was held on November 9, 2021, and provided an overview of the redistricting requirements and process and included an overview of the federal Voting Rights Act and the California Voting Rights Act (CVRA) criteria; presentation of a demographic summary of the current Council districts based on the 2020 Census population data; discussion of the various mapping tools available for the public and interested parties to use; and provided the opportunity for the public testimony and input on the redistricting process for the redrawing of Council District boundaries.

The second public hearing held on December 14, 2021, included the above as well as Staff provided Draft Map #1 with all supporting data.

The third public hearing recapped the information provided in the previous two public hearing. At the third public hearing, the City Council set the deadline for public submission of alternative maps as February 8, 2022.

Draft Map Submitted by Staff

Draft Map #1 prepared by staff applied an ideal population of 5,901 residents per district (total population 29,505 divided by five (5) district) and applied the criteria set forth in the Fair Maps Act by maintaining geographic integrity and utilizing easily recognizable streets in making boundary adjustments to achieve a district map with substantially similar population in each district.

It should be noted that the criteria of the Fair Maps Act were carefully considered as part of exploring mapping alternatives. The adjustments made respect the Fair Maps Criteria, incorporate changes made to census blocks as part of the conduct of the 2020 Census, and consider future population growth that will result based on currently contemplated development within the City of Banning.

The Draft Map #1 is included as Exhibit A and supporting demographic statistics as Exhibit B to the attached draft ordinance. The resulting by-district population and deviation for the map are as follows:

Council District	1	2	3	4	5	Total
2020 Census	6,114	5,986	5,937	5,705	5,763	29,505
Deviation from Ideal	213	85	36	-196	-138	0
% Deviation	Formula 6,114-5731=411/5901 (Ideal)					7.00%

The percentage deviation of the Draft Map #1 is 7% which is within the 10% that has been found to be legally acceptable by the courts. Staff requests that the City Council receive public testimony on this map and consider introduction of an ordinance to adopt the Draft Map #1.

PUBLIC NOTICE

Elections Code Section 21608 (c) requires publication of the date, time, and location of any public hearing or workshop at least five days before the hearing or workshop. Pursuant to this requirement, English and Spanish hearing notices were posted on the City's Website on February 15, 2022. Additionally, English, and Spanish public hearing notices were published in the Record Gazette on Friday, February 11, 2022. English and Spanish public hearing notices were also posted in the City's public notice case located at the front door of City Hall at 99 East Ramsey Street, Banning, California 92220.

Additionally, Elections Code Section 21608(d)(1) requires a draft map shall be published for at least seven days before being adopted by the City Council as a final map. The Draft Map #1 was posted on the City's webpage at <https://banningca.gov/717/2020-Draft-District-Maps> on January 6, 2022.

CEQA COMPLIANCE

Adjusting the district boundaries from which voters elect their City Council Members is exempt from review under the California Environmental quality Act (CEQA) pursuant to

Section 15061 (b)(3) of the State CEQA Guidelines because it can be seen with certainty that the change will not have any potentially significant adverse impact on the environment.

FISCAL IMPACT:

The costs to conduct the redistricting process, including costs for advertising for a series of four public hearings, bilingual translation costs for hearing notices and outreach communications, bilingual translator meeting attendance, and City Attorney costs will be paid from account 001-1500-412.33-11. To date, these services have totaled \$3,453.36.

ATTACHMENTS:

1. Draft Map #1 and Detailed District Boundaries
<https://banningca.gov/DocumentCenter/View/10131/Att-1-Draft-Map-1-and-District-Boundaries>
2. Draft Map #1 Census Data and Census Block Data
<https://banningca.gov/DocumentCenter/View/10132/Att-2-Draft-Map-1-Census-Data-and-Census-Block-Data>
3. Public Hearing #4 Proof of Publication English
<https://banningca.gov/DocumentCenter/View/10133/Att-3-Public-Hearing-Notice-4-English>
4. Public Hearing #4 Proof of Publication Spanish
<https://banningca.gov/DocumentCenter/View/10134/Att-4-Public-Hearing-Notice-4-Spanish>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

MEETING DATE: February 22, 2022

SUBJECT: Resolution 2022-17, Establishing the Banning Beautification Award Program

RECOMMENDATION:

A motion to adopt Resolution 2022-17, Establishing the Banning Beautification Award Program.

BACKGROUND:

The City Council has established a goal for the City Manager to clean up the appearance of the Ramsey Street corridor. Code Enforcement has been directed to begin a targeted code compliance initiative, which will include a voluntary compliance period after notices are delivered to property owners who are not in compliance. Site visits will follow to make sure the notices have been received and any questions can be answered.

The Banning Beautification Award Program is intended to work in conjunction with the code compliance efforts by providing recognition and incentives for commercial property owners within the Ramsey Street corridor who have demonstrated pride in Banning by keeping their property well-maintained. Each month, a commercial property owner/business will be selected to receive the recognition. Recipients will be recognized at City Council meetings, Chamber of Commerce Breakfast meetings, and receive a certificate to display at their place of business. At future State of the City events, the monthly recipients will be recognized, and an Annual Banning Beautification Award winner will be announced.

JUSTIFICATION:

The Banning Beautification Award Program is consistent with and supports the City Council established goal of cleaning up the Ramsey Street corridor. Recognition programs are an effective method of achieving desired results and can be more positive than traditional code enforcement options.

FISCAL IMPACT:

Fiscal impacts include cost of certificates, plaques and window cling to be presented to award recipients.

<u>Year</u>	<u>Estimated Amount</u>
2021/2022	\$500
2022/2023	\$1,500
2023/2024	\$1,500
2024/2025	\$1,500
2025/2026	\$1,500

ALTERNATIVES:

1. Adopt Resolution No. 2022-17, as presented.
2. Do not adopt Resolution No. 2022-17.
3. Provide alternative direction.

ATTACHMENTS:

1. Resolution No. 2022-17, Establishing Banning Beautification Award Program
<https://banningca.gov/DocumentCenter/View/10112/Att-1-Resolution-2022-17-Beautification-Award-Program>
2. Sample Certificate
<https://banningca.gov/DocumentCenter/View/10113/Att-2-Sample-Certificate>
3. Window Cling Sample
<https://banningca.gov/DocumentCenter/View/10114/Att-3-Sample-Window-Cling>

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Adam Rush, Community Development Director

MEETING DATE: February 22, 2022

SUBJECT: Discuss Ordinance 1580 Approving Zone Text Amendment 21-97503, amending Chapters 5.33, 17.12, and 17.54 of the Banning Municipal Code, Eliminating the numeric cap on the number of cannabis retailers permitted in the City, allowing for the operation of cannabis retailers in the General Commercial Zone, allowing cannabis distribution and manufacturing in the Business Park Zone, making additional conforming amendments to regulations pertaining to cannabis retailers, and making a determination that the Zone Text Amendment is exempt from review under CEQA pursuant to CEQA Guidelines Section 15061 (b)(3)

RECOMMENDATION:

Discuss and schedule the public hearing for the March 8, 2022 City Council Meeting.

ANALYSIS:

During the December 14, 2021 City Council Meeting, staff was requested to explore alternatives to the lottery-based approach to select future Retail Cannabis permittees. As such, staff reviewed several Riverside County jurisdictions and their merit-based approaches to selecting retail cannabis applicants:

Review procedures:

City of Corona – The City of Corona adopted a merit-based approach to select the 17 retail cannabis permittees. The selection process is divided into five (5) main categories:

- (1) Qualification of Owners/Operators
- (2) Business Plan/Financial Investment
- (3) Operations Plan
- (4) Security Plan
- (5) Community Benefit

How this review process differs from the City of Banning's current regulatory application process is in the operators' qualifications, their financial investments (which includes proof of adequate capital) and in the community benefit review, which includes a direct and tangible impact to the local programs and/or hiring practices within the City. The City of Corona's merit-based application process is included as an attachment to this report.

City of Lake Elsinore – A maximum of five (5) retail dispensary applications were initially permitted in the City; however, this initial "cap" may be increased based on request for a finding of public convenience that an additional permit should be issued in excess of the maximum number, provided certain criteria are met:

- (1) A statement, by the applicant, demonstrating how the public convenience will be served through the issuance of an additional retail cannabis permit.
- (2) Identification of the special and unusual circumstances present to justify a new cannabis business, when similar businesses exist nearby, or how the business will provide an unmet need within the community.
- (3) The retail business applicant shall provide and demonstrate how the economic benefit of the cannabis business outweighs potential negative impacts to the Community as a whole.
- (4) Demonstrate reasonable efforts to seek community input on the proposed cannabis business.

Upon a request being made, and application submitted for an additional retail cannabis dispensary, the Community Development Director ("Director") shall review and may request additional information in order to justify a finding of public convenience.

Furthermore, the Director may deny this request if any one of the following instances occur:

- (A) The proposed use is to be located in an existing target law enforcement area as documented by specific and abnormally high general health and safety indicators that have some nexus with alcohol use or substance abuse.
- (B) The proposed use is within a crime reporting area that exhibits an excess amount of alcohol or substance abuse related crimes, greater than a 20% increase of the reported crimes from the previous year.
- (C) The proposed use is inconsistent with the direction and policies set forth by the Council.

The City of Lake Elsinore – A unique approach to the permitting and establishment of retail cannabis dispensaries is utilized within the City where the sale of recreational cannabis is only permissible through the licensing and permitting of a "fully operational" Cultivation or Manufacturing Cannabis Oriented Business.

Since this concept is antithetical to the City of Banning's Cannabis Program, further evaluation seems irrelevant. However, it is important to note that the City of San Jacinto originally established permits and procedures for stand-alone retail cannabis dispensaries but initiated a substantial re-write of their cannabis ordinance in 2019.

BACKGROUND:

On July 10, 2018, the City Council adopted Ordinance 1523, which established a conditional use permit process for cannabis cultivation, manufacturing level 1, and testing laboratory facilities within the Industrial zoning district. The City Council also adopted Ordinance 1524, which added Chapter 5.35 (Cannabis Regulatory Permits) to the Banning Municipal Code to establish a procedure for issuance of cannabis regulatory permits to cannabis cultivation, manufacturing level 1, and testing laboratory facilities.

In addition to Ordinance 1523, the City Council also adopted Ordinances 1527 and 1528, placing Measures N and O on the November 2018 General Election Ballot. Measure N imposes 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 imposes a tax on commercial cannabis cultivation, manufacturing and testing laboratories at 10% of the gross receipts of the business. Measure O imposes a tax on cannabis retailers at 10% of gross receipts of the business. Both measures were approved by the voters.

On November 13, 2018, the City Council also adopted Ordinances 1531 and 1532, which authorized a limited number of cannabis retailers to develop within the City subject to conditional use permit (CUP) approvals and established a regulatory permit process.

On June 23, 2020, the City Council approved Ordinance 1564 to reduce the tax on cannabis cultivation facilities.

On July 1, 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. On 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.

On 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 September 28, 2021, the City Council adopted Ordinance 1577 allowing cannabis microbusinesses to operate in the Industrial and Business Park Zones with a conditional use permit. At that meeting the Council directed staff to prepare updates to the City's cannabis retailer program to eliminate the cap on cannabis retailers and allow cannabis retailers to operate in the General Commercial (GC) Zone. Additionally, the Council directed staff to allow distributors and manufacturers in the Business Park (BP) Zone.

At the meeting of November 3, 2021, the Planning Commission adopted Resolution 2021-18 recommending the City Council approve Zoning Text Amendment 21-97503 with the following recommended revisions to the proposed ordinance:

- Not allow cannabis retailers in the General Commercial Zone.
- Not allow cannabis distributors and manufacturers in the Business Park Zone.

Proposed amendments to the Banning Municipal Code

The draft Ordinance 1580 (Attachment 1) reflects the Council's policy direction. Accordingly, Ordinance 1580 makes the following amendments to the Municipal Code:

1. Chapter 5.33, Cannabis Retailer Regulatory Permits: remove the cap on retailers, allowing cannabis retailers in the General Commercial (GC) Zone, and remove the requirement for a lottery system for to approve additional cannabis retailers.
2. Chapter 17.12, Commercial and Industrial Districts: amend Table 17.12.020 to add cannabis manufacturing and distribution as conditionally permitted uses in the Business Park (BP) zoning district and add cannabis retailer as a conditionally permitted use in the General Commercial (GC) zoning district.
3. Chapter 17.54, Cannabis Retail Conditional Use Permits: amend Section 17.54.010, Definitions, to revise the definition of "Bureau;" amend Section 17.54.080, Separation requirements and other limitations, by removing the provisions of Sub-Section "A" pertaining to the numerical cap on cannabis retailers.

ENVIRONMENTAL DETERMINATION:

Planning Division staff has determined that this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. Adoption of this Ordinance is covered by the commonsense exemption in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Here, the Ordinance eliminates the numeric cap placed on the number of cannabis retailers allowed to operate in the city, currently limited to a ratio of one retailer for every 10,000 residents and therefore allowing a current maximum of three retailers to operate in the City.

Cannabis retailers are conditionally permitted uses in the Highway Serving Commercial (H-SC) zoning district. This Ordinance will allow cannabis retailers to also operate in the General Commercial zone which already allows for uses akin to cannabis retailers such as general retail outlets, neighborhood serving retail markets, and drug stores. The Ordinance will also permit cannabis manufacturing and cannabis distribution uses to operate in the Business Park zone. These uses are already conditionally permitted uses in the Business Park zone as cannabis microbusinesses can be comprised of cannabis manufacturing, cultivation, distribution, and retail uses. Moreover, further projects subject to this Ordinance will require a discretionary permit and each individual project will be analyzed at the appropriate time in accordance with CEQA.

Multiple Species Habitat Conservation Plan (MSHCP)

This proposed Ordinance does not relate to any one physical project and is not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of the MSHCP, including mitigation through payment of the MSHCP Mitigation Fee.

PUBLIC COMMUNICATION:

The proposed Ordinance and Municipal Code Amendment were advertised in the Record Gazette newspaper on November 19, 2021. As of the date of this report, staff has not received any written comments on the project.

JUSTIFICATION:

It is in the City's financial interest and in the public interest that the City act to remove constraints on cannabis businesses desiring to operate in the City as these businesses will pay local taxes and generate revenue for the City's general fund.

FISCAL IMPACT:

The adoption of this Ordinance could have a positive effect on the City's general fund by the collection of tax generated by additional cannabis businesses.

ALTERNATIVES:

1. Approve the Ordinance as written.
2. Approve the Ordinance as revised to reflect the Planning Commission's recommendations.
3. Direct Staff to make Council recommended changes.

ATTACHMENTS:

1. Excerpts from the City of Corona Retail Cannabis Program
<https://banningca.gov/DocumentCenter/View/10148/Att-1-CORONA>
2. Excerpts from the City of Lake Elsinore Retail Cannabis Program
<https://banningca.gov/DocumentCenter/View/10149/Att-2-Lake-Elsinore>
3. Excerpts from the City of San Jacinto Retail Cannabis Program
<https://banningca.gov/DocumentCenter/View/10150/Att-3-SAN-JACINTO>
4. Ordinance 1580
<https://banningca.gov/DocumentCenter/View/10151/Att-4-Draft-Ordinance-1580>
5. Planning Commission Resolution 2021-18
https://banningca.gov/DocumentCenter/View/10152/Att-5-Resolution-2021-18_adopted-1132021
6. Planning Commission recommended version of Ordinance 1580
https://banningca.gov/DocumentCenter/View/10144/Att-6-Ordinance-1580_PC-version-unformatted
7. Zoning Map
<https://banningca.gov/DocumentCenter/View/10145/Att-7-Ordinance-1580-zoning-map>

February 22, 2022

Page **6** of **6**

8. Public Hearing Notice – Proof of Publication

<https://banningca.gov/DocumentCenter/View/10146/Att-8-Proof-of-Publication-ZTA-21-97503>

9. Notice of Exemption

https://banningca.gov/DocumentCenter/View/10147/Att-9-NOT-FILED--ZTA-21-97503_NOE-appendix-E_md

Approved by:



Douglas Schulze
City Manager



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Suzanne Cook, Finance Director

MEETING DATE: February 22, 2022

SUBJECT: Overview and Potential Uses of Funds of the Treasury's Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) Funded by the American Rescue Plan Act (ARPA)

RECOMMENDATION:

Staff recommends:

1. Council reviews potential use of funds of the Treasury's Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) Funded by the American Rescue Plan Act (ARPA) presented by staff and provide direction.
2. Project list for appropriation approval to be provided at a future Council meeting.

BACKGROUND:

On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President. Section 9901 of ARPA amended Title VI of the Social Security Act (the Act) to add Section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and Section 603, which establishes the Coronavirus Local Fiscal Recovery Fund. The Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments in responding to the impact of COVID-19 and in their efforts to contain COVID-19 in their communities, residents, and businesses.

Through the Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID-19 public health emergency and on January 6, 2022, the Treasury issued the Final Rule clarifying prior guidance and enumerated additional allowable expenditures for economic impacts through four categories of eligible uses which are:

- A. Public Health and Negative Economic Impacts: To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel and hospitality.
 - a. COVID-19 Mitigation and prevention

- b. Medical Expenses
- c. Behavioral healthcare, such as mental health treatment, substance use treatment, and other behavioral health services
- d. Preventing and responding to violence (Public Safety)
- e. Referrals to trauma recovery services for victims of crime
- f. Community violence intervention program
- g. Law enforcement officers focused on advancing community policing
- h. Enforcement efforts to reduce gun violence, including prosecution
- i. Technology & equipment to support law enforcement response
- j. Assistance to Households
 - i. Impacted Households/Communities
 - ii. Disproportionately Impacted Households/Communities
- k. Assistance to Small Businesses
 - i. Definition: no more than 500 employees and are a small business concern as defined in section 3 of the Small Business Act (independently owned and operated and not dominant in field of operation)
 - ii. Impacted Small Businesses and Disproportionately Impacted Small Businesses
 - 1. Impacted Small Businesses Examples of projects: Loans or grants to mitigate financial hardship; or technical assistance or other business planning services
 - 2. Disproportionately Impacted Small Businesses Examples of projects: Rehab of commercial property, storefront improvements, and façade improvements
 - 3. Technical assistance, business incubators & grants for startup or expansion
 - 4. Support for microbusinesses
- l. Assistance to Nonprofits
 - i. Examples of projects: Loans or grants to mitigate financial hardship; Technical or in-kind assistance to mitigate negative economic impacts of pandemic
- m. Aid to Impacted Industries
 - i. Designate an impacted industry
 - 1. Travel, tourism, or hospitality sector
 - 2. OR: at least 8% employment loss from pre-pandemic levels or industry experience comparable or worse economic impacts as the national travel/tourism/hospitality sectors
 - ii. Provide eligible aid to impacted industry
 - 1. Aid to mitigate financial hardship
 - 2. Technical assistance, counseling, or business planning services
 - 3. COVID-19 mitigations and infection prevention measures
- n. Public Sector Rehiring and Employment Uses
 - i. Public Safety, Public Health and Human Services Staff

1. Identify eligible employees
2. Determine time spent on COVID-19 response and use funds for payroll and covered benefits for eligible COVID-19 time
- ii. Government employment and rehiring public sector staff
 1. Pre-pandemic employment
 2. Supporting and retaining government workers (including worker retention incentives)
 3. Cover admin costs for administering hiring, support and retention programs
- iii. Effective service deliver
 1. Program evaluation, data and outreach and administrative needs

B. Premium Pay: To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers.

1. ARPA funds may be used to provide premium pay to eligible workers performing essential work during the pandemic, who maintain the continuity of operations of essential critical infrastructure sectors. Premium pay may be awarded to eligible workers up to \$13 per hours. Premium pay must be in addition to wages or compensation the eligible worker otherwise receives.
 - a. Premium pay may not exceed \$25,000 for any single worker during the program
2. Premium pay may be awarded in installments or lump sums and may be awarded to hourly, part-time, or salaried or non-hourly workers
3. Premium pay may be paid retrospectively.
4. ARPA funds cannot be used to reimburse itself for premium pay or hazard pay already received by the workers
 - a. Premium pay may not be paid to volunteers

B. Public Sector Revenue Loss: For the provision of government services to the extent of the reduction in revenue due to COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency.

1. MAJOR Revenue loss change: The Final Rule allows recipients to elect a standard allowance of \$10 million revenue loss instead of using the calculation
 - a. Allowance covers entire period of performance
 - b. Allowance is not dependent on the “size” of the entitlement
2. These expenditures do not have to qualify under one of the other ARPA categories but do have the same time frame for when the costs must be obligated or expended.
3. Provided for streamlined reporting, however, must still report on projects and use of funds in general.

4. Used for spending on Government Services with the following restrictions:
5. Cannot be used to offset a reduction in net tax revenue
6. Cannot be deposited into pension funds
7. Cannot be used for debt service and replenishing reserves, settlements, and judgements

Government services include, but are not limited to:

8. Maintenance or pay-go funded building of infrastructure, including roads.
9. Modernization of cybersecurity, including hardware, software, and protection of critical infrastructure.
10. Health services.
11. Environmental remediation.
12. School or educational services.
13. And the provision of police, fire, and other public safety services
14. Construction of schools and hospitals
15. Road building and maintenance, and other infrastructure
16. General government administration, staff, and administrative facilities
17. Provision of public safety services includes purchase of fire trucks and police vehicles

D. Water, Sewer and Broadband Infrastructure: To make necessary investments in water, sewer, or broadband infrastructure.

1. Clean Water State Revolving Fund Project
2. Drinking Water State Revolving Fund Projects
3. Other “Necessary” projects
 - a. Responsive to an identified need to achieve or maintain an adequate minimum level of service, which may include a reasonable projection of increased need, whether due to population growth or otherwise,
 - b. A cost-effective means for meeting that need, considering available alternatives, and
 - c. For investments in infrastructure that supply drinking water to meet projected population growth, projected to be sustainable over its estimate useful life.
4. Eligible area
 - a. Encouraged to prioritize locations without access to 100/20 Mbps
 - b. Lack of access to reliable high-speed broadband connection
 - c. Lack of affordable broadband
 - d. Lack of reliable service
5. Meet high-speed technical standards
 - a. 100 Mbps download and upload speeds unless not practicable
 - b. 100/20 Mbps minimum scalable to 100 Mbps download and upload speeds
6. Low-income subsidy program
 - a. Requires the service provider to either participate in the FCC’s Affordable Connectivity Programs (ACP) or provides access to low-income program commensurate to ACP

7. Cybersecurity

- a. Eligible use for cybersecurity for existing and new broadband infrastructure
- b. Includes modernization of hardware and software

The City of Banning has been allocated \$7,468,726 in CSLFRF to be disbursed in two equal installments. The first installment was received in July 2021, \$3,734,363 and the second installment expected to be received in July 2022. A separate fund was created to track the funds.

JUSTIFICATION:

City staff have put together suggestions for uses of these funds to help with responding to public health and safety, negative economic impacts, needed water, sewer, and broadband infrastructure, and pay for essential workers as described below:

Public Health and Negative Economic Impacts

1. **Public Safety** – To help keep the community safe, hire additional police officers (5), increase salary to retain and recruit officers and pay for additional overtime (Council approved May 11, 2021) – **allocated amount \$1,317,350**
2. **Zen City** – Community engagement platform to help reach more of the community through information sharing and dialogue. Includes collaboration with the Civil Space platform, which provides the ability to engage in ongoing dialogue. (Council approved November 9, 2021) – **allocated amount \$24,000**
3. **Business grants/Façade Improvements** – Provide grants of \$5,000 (20) for active small businesses and allocate funds to help with façade improvements. Grants of \$5,000 to businesses based in Banning with an active Business License that can meet the following criteria and demonstrate the following: 1.) Have no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and 2.) Are a small business concern as defined in section 3 of the Small Business Act8 (which includes, among other requirements, that the business is independently owned and operated and is not dominant in its field of operation).
 - a. Recipients can identify small businesses impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:
 - i. Decreased revenue or gross receipts
 - ii. Financial insecurity
 - iii. Increased costs
 - iv. Capacity to weather financial hardship
 - v. Challenges covering payroll, rent or mortgage, and other operating costs
 - b. Assistance to small businesses that experienced negative economic impacts includes the following enumerated uses:

- i. Grants to mitigate financial hardship, such as by supporting payroll and benefits, costs to retain employees, and mortgage, rent, utility, and other operating costs
- ii. technical assistance, counseling, or other services to support business planning

In addition to the grants of \$5,000, provide assistance to help with façade improvements to help beautify the community. – **proposed allocation for grants and façade improvements \$200,000**

**Total Public Health and Negative Economic Impact project allocations
\$1,541,350**

Premium Pay

Provide premium pay for essential workers for the continuity of operations during the COVID-19 public health emergency. (Council approved January 25, 2022, Resolution 2022-07) – **allocated amount \$1,300,000**

Total Premium Pay Allocations \$1,300,000

Water, Sewer and Broadband Infrastructure

Broadband Projects:

1. **Public Safety Police Department** the Banning Police Department building was completed in 2010. The infrastructure was completed with 2010 technology and has not been updated since. If you were to look at cell phone technology alone about every 12 months there are upgrades making the newest phone almost obsolete after it is purchased. Our computer infrastructure and camera systems at the Banning Police department is failing under the weight of the old technology. The Police Department is working off 12-year-old technology when training and attempting to utilize online meetings. The request of funding is to upgrade the entire department of the infrastructure.

Part of the overall funding regarding the infrastructure is the camera systems. The camera systems are also working off 12-year-old technology that requires storage of data at the department instead of cloud based. Cloud based allows for the storage of data that can easily be retrieved from anywhere as opposed to only at the police department and on department servers. In 2021, a person damaged one of the large panes of glass at the police building. The suspect was not captured on a camera based on the location and poor quality of the system. An upgraded camera system will assist not only the protection of the police department but will assist with the prosecution of crimes. The camera system upgrade also applies to the interview rooms located in the police department. The older technology hampers the ability of the department to provide the district attorney's office with high quality video on interviews. This is a needed upgrade for the protection of the residents of Banning.

The Department has done several pilot programs with body cameras and has vehicles with in-car cameras. The in-car camera system is at least 12-years old and failing. The body camera pilot program has provided the department with evidence and the ability to review encounters with residents. Studies have shown that body cameras protect both the residents and the officers from false claims. Cameras provide a layer of transparency for the residents and visitors of Banning. Having both an in-car system and an individual body camera enhances the ability of the department to capture video evidence that is needed for prosecution and transparency. One system alone, we have found through the pilot programs, does not provide the same level of clarity. The point of view from the vehicle and from the personal body camera has shown perspectives that can't always be seen from only one of the views.

Projects to upgrade the police departments infrastructure:

- a. PD Interview Room Solution includes car video, black box recording, interview room microphone, with cloud plan installation services for three (3) years – **proposed allocation amount \$26,100**
- b. PD upgrades to technology in briefing room, conference room and community room/EOC – proposed allocation amount of \$117,000
- c. Banning PD in car cameras and body worn cameras (Quantity 30) – **proposed allocation amount of \$380,100**
- d. Cameras at the police station – **proposed allocation amount \$138,500**

2. **Network Upgrade-Citywide** Network and server upgrades to all city facilities; including Blade Center, Nimble, VMware, UPS, switches installation and labor – proposed allocation amount of **\$568,500**
3. **New Enterprise Resource Planning (ERP) System** – An ERP system is business process management software that manages, automates, and integrates an agency's (company) financials, supply chain, operations, reporting, manufacturing, and human resources activities. It helps link information from the different city departments together and helps eliminate costly duplicate and incompatible technology. The city's current ERP is truly antiquated with 1990's technology and needs to be upgraded to current technology that provides a more efficient system and protection for cybersecurity. This should have been done at least 15 years ago. – **proposed allocation amount towards new ERP system \$1,000,000**
4. **Electronic Messaging Board** – to help communicate to the community city services and messages as an additional outlet for getting information out. – proposed allocation amount **\$117,176**

Total Broadband Infrastructure project allocations \$2,377,376

Water and Sewer Projects:

1. **Ramsey Street Water Line** - A water line currently does not exist along Ramsey Street from Sunset Avenue to Highland Home Road, which will prevent the commercial zoned properties fronting Ramsey Street from being developed

without a condition of approval to construct the waterline. Said condition can be economically infeasible for some developments. This issue is at the forefront with the proposed Wyndham Hotel Phase 1 – **proposed allocation amount \$1,000,000**

2. **Replace 4" Waterline on Barbour** - An existing 4" waterline on Barbour Street from Hargrave to Juarez must be replaced in order to provide needed fire flow for the development of industrial zoned properties on the south side of town, west of Hargrave Street – **proposed allocation amount \$550,000**

3. **Sewer Line under I-10 at Hathaway** - The existing 8" line, which stretches from Ramsey Street to the Lincoln Street is at or near maximum capacity. The sewer line is needing replacement in order to accommodate the future development of projects north of the I-10 and east of Hathaway and also to reduce the likelihood of sewer system overflows (SSOs). – **proposed allocation amount \$700,000.**

Total Water and Sewer Infrastructure project allocations \$2,250,000

Total Water, Sewer and Broadband Infrastructure project allocations \$4,627,376

FISCAL IMPACT:

CSLFRF Total Allocation to City of Banning	\$7,468,726
Public Health and Economic Impact Projects	\$1,541,350
Water, Sewer and Broadband Infrastructure	\$4,627,376
Premium Pay	<u>\$1,300,000</u>
Total Use of Funds	\$7,468,726
Balance of Funds Available	\$0

The City has until December 2024 to obligate funds to a specific project and until December 2026 to expend all the funds received from CSLFRF. There may be other grant opportunities, especially for broadband projects, if Council would like to allocate funds differently.

ALTERNATIVES:

1. Accept all the proposed projects and allocated amounts.
2. Provide direction for alternative projects to allocate funds.

ATTACHMENTS:

None

Approved by:



Douglas Schulze
City Manager