



## AGENDA

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

March 9, 2021  
5:00 P.M.

**In Chamber and Video/Teleconference**

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

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

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

<https://us02web.zoom.us/j/87415277765?pwd=dFVSOFBuMGpSeTBSREtPNytXYnhSQTO9>

**Meeting ID: 874 1527 7765**

**Password: 870511**

One tap mobile: +16699009128,, 87415277765#

Dial in: +1 669 900 9128 US

Meeting ID: 874 1527 7765

Find your local number: <https://us02web.zoom.us/j/87415277765?pwd=dFVSOFBuMGpSeTBSREtPNytXYnhSQTO9>

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

#### **1. CALL TO ORDER**

- 1.1 Invocation – Mike Moyer, of Mountain Avenue Baptist Church
- 1.2 Pledge of Allegiance
- 1.3 Roll Call - *Council Members Hamlin, Happe, Pingree, Sanchez and Mayor Wallace*

## **2. AGENDA APPROVAL**

2.1 Approve Agenda

## **3. PRESENTATIONS**

3.1 Mayor's Special Recognition  
3.2 Women's History Month

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

*Moved to Item 12*

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

### **PUBLIC COMMENTS** –*Items Not on the Agenda*

*A three (3) minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. No member of the public shall be permitted to "share" his/her three minutes with any other member of the public. Usually, any items received under this heading are referred to staff for future study, research, completion and/or future Council Action (see last page). **PLEASE STATE YOUR NAME FOR THE RECORD***

### **CORRESPONDENCE**

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

### **APPOINTMENTS**

*None*

### **CITY MANAGER REPORT**

*Doug Schulze, City Manager*

### **CITY ATTORNEY REPORT**

*Kevin Ennis, City Attorney*

### **CITY COUNCIL COMMITTEE REPORTS**

*Mayor and City Council*

## 6. CONSENT ITEMS

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

Recommendation: Approve Consent Items 6.1 – 6.2

- 6.1 Minutes of the February 23, 2021 City Council Meetings ..... **1**
- 6.2 Resolution 2021-11, a Resolution of the City Council of the City of Banning, Establishing the Formation of, Soliciting Applications for, a General Plan Advisory Committee (GPAC) to Facilitate the Update of the 2021 Focused General Plan Update ..... **2**

## 7. PUBLIC HEARINGS

*None*

## 8. REPORTS OF OFFICERS

- 8.1 Resolution 2021-10, Amendment No. 2 to the Employment Agreement with Douglas Schulze..... **5**  
*(Staff Report: Kevin G. Ennis, City Attorney)*  
**Recommendation:** City Council Adopt Resolution 2021-10

## 9. DISCUSSION ITEMS

- 9.1 Art in Public Places ..... **8**  
*(Staff Report: Doug Schulze, City Manager)*

## 10. ITEMS FOR FUTURE AGENDAS

New Items:

Pending Items:

- 1. Permanent Homeless Solution
- 2. Shopping Cart Ordinance Update
- 3. Cannabis Microbusiness Workshop

## 11. CLOSED SESSION:

- 11.1 **CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION**  
Significant exposure to litigation pursuant to paragraph (2) subdivision (d) Of Government Code Section 54956.9: Two potential cases

- 11.2      **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**  
Pursuant to Government Code Section 54956.8  
Property: 447 E. Ramsey Street  
City Negotiator: Douglas Schulze, City Manager  
Negotiating Parties: Milestone Development LLC  
Under Negotiation: Price and terms for potential sale of property

## **12. REPORT ON CLOSED SESSION**

*City Attorney*

## **13. ADJOURNMENT**

***Next Meeting: Tuesday, March 23, 2021 at 5:00 P.M.***

**IT IS HEREBY CERTIFIED** under the laws of the State of California that the above Agenda was posted on the Banning City Hall Bulletin Board and the City's Website by 5:00 P.M. on the 4th day of March 2021.



Laurie Sampson, Executive Assistant/ Acting Deputy City Clerk

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

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

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

*Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m. **Since City Hall is currently closed to the public due to COVID, please call (951) 922-3102 or email [lsampson@banningca.gov](mailto:lsampson@banningca.gov) to request information be mailed.***



**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL  
**FROM:** Douglas Schulze, City Manager  
**PREPARED BY:** Laurie Sampson, Acting Deputy City Clerk  
**MEETING DATE:** March 9, 2021  
**SUBJECT:** Minutes of the February 23, 2021 City Council Meetings

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**RECOMMENDED ACTION:**

Approve the Minutes of the February 23, 2021 City Council Meetings.

**OPTIONS:**

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

**ATTACHMENTS:**

1. Minutes of the February 23, 2021 Regular City Council Meeting  
<https://banningca.gov/DocumentCenter/View/8426/Regular-Meeting-Minutes-2-23-2021>
2. Minutes of the February 23, 2021 Special City Council Meeting  
<https://banningca.gov/DocumentCenter/View/8424/Special-Meeting-Minutes-2-23-2021>
3. Minutes of the February 23, 2021 Workshop Meeting  
<https://banningca.gov/DocumentCenter/View/8425/Workshop-Minutes-2-23-2021>

Approved by:

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Douglas Schulze  
City Manager



## CITY OF BANNING CITY COUNCIL REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Adam B. Rush, Community Development Director

**MEETING DATE:** March 9, 2021

**SUBJECT:** Adopt Resolution 2021-11, a Resolution of the City Council of the City of Banning, Establishing the Formation of, and Soliciting Applications for, a General Plan Advisory Committee (GPAC) to Facilitate the Update of the 2021 Focused General Plan Update.

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### **RECOMMENDED ACTION:**

City Council adopt Resolution 2021-11 approving the following:

1. Establishing the General Plan Advisory Committee and soliciting applications for no more than ten (10) members for appointment by the City Council at a subsequent meeting.

### **BACKGROUND:**

The GPAC will facilitate, in concert with city staff, consultants and the public, the update of the 2021 City of Banning Focused General Plan Update. This focused update consists of updates to the City's Land Use, Circulation, and Safety Elements. The primary focus will be to review, update, and bring forth a series of changes to the City's Land Use Designations, Roadway alignments, sizes, and locations, and cover these updates with the appropriate CEQA-level environmental documents. In addition, California state law requires that a jurisdiction must update their Safety Element when two or more required General Plan Elements are also updated. As such, the Safety Element will be drafted and updated solely by City staff as to maximum the limited budget allocated for the two aforementioned elements.

Furthermore, the GPAC will supplement the community input provided at public workshops and provide feedback and guidance throughout the General Plan Update.

Members of the Committee are expected to provide feedback and direction to the project consultant and City staff, with the goal of developing policies and objectives of the updated General Plan

Elements that are responsive to community input, conditions, goals, and vision. Based upon public input, and as considered by the GPAC, City staff will refine the approach taken for each major step in the process, provide feedback through interim steps, review reports, and review policy alternatives to select preferred policies. City staff intends for the Committee to provide guidance at key project milestones, communicate information about the General Plan Update to Banning community members and to encourage all interested parties to participate in the process. The Committee will conclude its obligation by submitting a recommendation to the Planning Commission and the City Council on the adoption of the Focused General Plan Update.

### **JUSTIFICATION:**

A General Plan Update, even in a limited form such as this particular update, requires and uses public input to vet critical decisions on the staff proposed document. The Committee's input covers a wide spectrum of issues, such land use densities, housing stock and type of housing, and strives to balance the interests of a broad based constituency with the intention of City staff, Commission, and Council on an update that can be in effect for a generation or more

### **MEMBERSHIP:**

The ten-member committee will meet on a monthly-basis at minimum, throughout the General Plan Update process, which is anticipated to last between 12 and 14 months. All meetings of the committee are open to the public. Meetings may be viewed live via webcast or as video recordings within 48 business hours after a meeting takes place. Meeting times and agendas may be viewed on the meetings and agendas page for the GPAC, located on the City's Planning Division webpage. Two members from the City Council (appointed by the Mayor) and two members of the Planning Commission. The remaining six members who are considered bona fide stakeholders with a firm interest in the City of Banning.

Staff recommends the following distribution of members; however, the Council retains the ultimate authority to amend as desired:

- Two members of the Banning Chamber of Commerce (one board member and one non-board member)
- One representative from the Riverside Chapter of the Building Industry Association (BIA)
- One representative from the Riverside Chapter of NAOIP
- Two long-time and permanent residents of the Banning community, that are not members of any of the groups referenced above.

**FISCAL IMPACT:**

City staff will manage, moderate, and provide support services to the GPAC. These items have been budgeted for within the General Plan Update which is being funded through the L.E.A.P. grant, provided by the Department of Housing and Community Development (HCD).

**OPTIONS:**

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

**ATTACHMENTS:**

1. Resolution 2021-11  
[https://banningca.gov/DocumentCenter/View/8433/Att-1-Resolution-2021-11\\_GPAC\\_20210309](https://banningca.gov/DocumentCenter/View/8433/Att-1-Resolution-2021-11_GPAC_20210309)

Approved by:



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Douglas Schulze  
City Manager





## CITY OF BANNING CITY COUNCIL REPORT

**TO:** City Council  
**FROM:** Kevin G. Ennis, City Attorney  
**PREPARED BY:** Kevin G. Ennis, City Attorney  
**MEETING DATE:** March 9, 2021  
**RE:** Amendment No. 2 to the City Manager Employment Agreement with Douglas Schulze

On October 8, 2018, the City Council entered into an Employment Agreement with Doug Schulze to serve in the position of City Manager, which position is prescribed by state law and the City's Municipal Code. That Agreement was amended in 2020 by way of Amendment No. 1 and is now proposed to be amended again pursuant to Amendment No 2 to make certain adjustments in the term of the Agreement, vacation accrual rates, City-provided computer equipment and utility allowances.

### **RECOMMENDATION**

It is recommended as follows:

(1) The Mayor first give the following orally summary of Amendment No. 2 to the City Manager's Employment Agreement:

"Consistent with Section 54953(c)(3) of the Government Code, I am required to orally report a summary of a recommendation for a final action on the compensation paid in the form of fringe benefits of a local agency executive, as defined in Section 3511.1(d) of the Government Code, during the open regular meeting in which the final action is to be taken and prior to the motion to approve the item. The City Manager is a local agency executive as defined in Section 3511.1(d) of the Government Code. Amendment No. 2 will change the Employment Agreement of the City Manager to increase his annual vacation accrual rate from 160 hours to 180 hours in two steps on October 1, 2021 and October 1, 2022, provide for City-paid laptop computer, smart phone and hot spot device, and allow him to continue to receive a \$150 per month City utility credit for water service to his residence."

(2) City Council adopt Resolution No. 2021-10, approving Amendment No. 2 to the City Manager's Employment Agreement

## **BACKGROUND**

Commencing on the second-year anniversary of Mr. Schulze's employment with the City, and pursuant to Sections 2.1., 2.2 and 5.2 of Agreement, the City Council conducted an annual performance review and evaluation of the City Manager on October 27, November 5 and November 10, 2020. On February 9, 2021 the parties commenced negotiations of certain non-salary amendments to Mr. Schulze's Employment Agreement and completed those negotiations on February 23, 2021, by which the City would, pursuant to this Amendment No. 2 to the Agreement, change the term of the Agreement from a three-year agreement to an indefinite term agreement and provide EMPLOYEE with adjustments with respect to vacation accrual amounts, computer and cellular telephone equipment purchases by the CITY, and changes to utility allowance provisions.

Amendment No. 2 to the City Manager Agreement has now been prepared to effectuate those four changes to the City Manager's Employment Agreement consistent with the completed negotiations. The City Manager has reviewed those changes and has found them to be acceptable.

### **A. Proposed Terms in Amendment No. 2 to City Manager's Employment Agreement.**

#### **1. Term of Agreement - Change from 3-year Term to Indefinite Term.**

The 2018 Employment Agreement provided that the Agreement would run for three (3) years and automatically terminate on October 8, 2021. Mr. Schulze and the City Council have agreed to make the term indefinite; meaning that it would not terminate automatically at some point in the future and would only terminate by a decision or action of either party, such as Mr. Schulze's voluntary separation or retirement from the City, or the City Council's act to terminate his employment.

#### **2. Vacation Leave Accrual Rate - From 160 hours per year up to 180 hours per year over Time**

The 2018 Employment Agreement provided that Mr. Schulze would accrue vacation leave at the rate of 160 hours per year. Mr. Schulze and the City Council have agreed to a phase-in approach to an increase up to 180 hours per year, with the amount increased by 10 hours per year beginning on October 1, 2021 and October 1, 2022 so as have it increase from 160 to 170 hours per year on October 1, 2021 and then from 170 to 180 hours per year on October 1, 2022.

#### **3. Business Equipment - Laptop Computer, Smartphone and Hot Spot Device**

The 2018 Employment Agreement provides that the City would finance at no interest to Mr. Schulze and the City Council have agreed that the cost of job-related laptop computer, a smartphone and a hot spot device would be paid for by the City.

**4. Utility Allowance - Change from City residency to City Water Service Area and for Water**

The 2018 Employment Agreement provides that if Mr. Schulze chose to reside in the City, he would be entitled to a \$150 per month credit against his residence's City water and electric utility bills. The City Council and Mr. Schulze have agreed that the utility allowance would apply if he resided outside the City but within the water utility service area and that it could apply just to the cost of water utility service.

**GOVERNMENT CODE SECTION 54953(c)(3) ANNOUNCEMENT**

Consistent with Section 54953(c)(3) of the Government Code, the Mayor shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in Section 3511.1(d) of the Government Code, during the open regular meeting in which the final action is to be taken and prior to the motion to approve. The City Manager is a local agency executive as defined in Section 3511.1(d) of the Government Code, and the oral report is required prior to approval of the attached Resolution approving Amendment No. 2 to the Employment Agreement. The required oral report is included in the Recommendation section of this report.

**FISCAL IMPACT**

The fiscal impact related to the proposed Employment Agreement with respect to the compensation and benefits for the City Manager are already incorporated in the current Fiscal Year 2020-2021 Budget for the City Manager's vacation leave accrual, computer equipment and water utility allowance. The increased vacation accrual will not occur until October 1, 2021 and into the Fiscal Year 2021-2022. The dollar amount of that benefit change would only be applicable Mr. Schulze leaves his employment and obtains the additional approximate \$2,076 value of that additional 20 hours per year or if he elects to cash out some of his accrued vacation leave once he obtains 300 or more hours of accrued vacation leave. Thus, the total value of the change is uncertain and is dependent on whether the vacation leave credits are use or are accumulated and then cashed out in the future.

**ATTACHMENTS:**

Attachment No. 1 - Resolution No. 20201-10, Approving Amendment No. 2 to the City Manager Employment Agreement:

<https://banningca.gov/DocumentCenter/View/8430/Resolution-2021-10-CM-Agreement-Amendment>

Attachment No. 2 - Amendment No. 2 to the City Manager Employment Agreement

<https://banningca.gov/DocumentCenter/View/8431/Amend-No-2-to-CM-Employ-Agreement>



**CITY OF BANNING  
CITY COUNCIL REPORT**

**TO:** CITY COUNCIL  
**FROM:** Douglas Schulze, City Manager  
**PREPARED BY:** Laurie Sampson, Executive Assistant  
**MEETING DATE:** March 9, 2021  
**SUBJECT:** Art in Public Places Program

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**RECOMMENDED ACTION:**

The City Council provide staff direction on the Art in Public Places (AAP) Program.

**BACKGROUND:**

Adoption of an Art in Public Places program would enhance the quality of life for the people of Banning and will further the City's mission to provide citizens a safe, pleasant, and prosperous community in which to live, work, and play.

The APP program would require that all new development and renovation projects provide art to offset the impact of the projects on the City's environment. Exceptions are made for low or moderate-income, senior housing, non-profit service organizations and non-residential Historic Sites projects. In addition to the exempted projects, new construction and renovation projects would be provided a threshold exemption of \$100,000.

Several Cities in Southern California currently have thriving programs and the City of Banning would pattern their program, ordinance and fees based on neighboring cities in order to achieve consistency in our region.

**JUSTIFICATION:**

The goals and intended outcomes of the Art in Public Places are to:

- **Stimulate Excellence in Community Design:** Public art improves the City's appearance and stimulates innovation and high-quality design.

- **Value Artists and Artistic Process:** Public art commissions create opportunities for artists to express their vision for the community and earn a livelihood as artists.
- **Enhance Community Identity:** Public art inspires discussion about issues affecting quality of life and builds pride in community and cultural identity.
- **Contribute to Community Vitality:** Public artworks contribute to livability and vibrancy of public places and attract visitors.
- **Involve a Broad Range of People and Communities:** The process of developing public artworks builds the capacity of a diverse range of artists, community organizations and leaders by involving them in the design and development of public spaces.
- **Uses Resources Wisely:** Well-maintained and well-designed public artworks add to the value of City infrastructure and provide opportunities for private investment in the community.

### **FISCAL IMPACT:**

The proposed APP program places an assessment on new construction and renovation of residential, commercial, and public projects. The assessment on residential and commercial projects is ¼% of the total building valuation of the project. Public projects are assessed at ½% of the total valuation. (Total building valuation is defined as the total “dollar amount of all construction permits using the latest Building Valuation Data, as set forth by the International Conference of Building Officials, unless, in the opinion of the Building Official, a different valuation methodology is more appropriate for a particular project.”)

It is difficult to provide an estimate of the total value of public art that will be created by the APP program. The rate at which the APP program will generate public art is tied to the rate and value of new construction and renovation projects within the City.

### **ATTACHMENTS:**

1. City of Palm Desert Guidelines  
<https://banningca.gov/DocumentCenter/View/8427/City-of-Palm-Desert-Guidelines>
2. City of Indio Guideline  
<https://banningca.gov/DocumentCenter/View/8428/City-of-Indio-Guidelines>

Approved by:



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Douglas Schulze

City Manager