



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

**MINUTES
CITY COUNCIL**

**04/27/2021
REGULAR MEETING**

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Douglas Schulze, City Manager
Kevin Ennis, City Attorney
Marie Calderon, City Clerk
Caroline Patton, Deputy City Clerk
Alejandro Geronimo, City Treasurer*
Tom Miller, Electric Utility Director
Art Vela, Public Works Director/City Engineer
Adam Rush, Community Development Director
Ralph Wright, Parks & Recreation Director
Suzanne Cook, Deputy Finance Director
Laurie Sampson, Executive Assistant
Shannon Mead, Human Resources Technician*
A'ja Wallace, Budget and Financial Analyst*
Shiloh Rogers, Purchasing Manager*
Michael Estrada, City Attorney's Office*

*Participated via Zoom.

1. CALL TO ORDER

The Mayor called to order the regular meeting of the Banning City Council at 5:07 PM.

1.1. Invocation

Pastor Ryan Houssein of Calvary Chapel Sweet Hills led the invocation.

1.2. Pledge of Allegiance

Council Member Happe led the Pledge of Allegiance.

1.3. Roll Call – Council Members Hamlin, Happe, Pingree, Sanchez and Mayor Wallace

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

2. **AGENDA APPROVAL**

2.1. Approve Agenda

Mayor Wallace announced the addition of Agenda Items 5.4 City Council Committee Reports, 5.5 City Manager Report, and 5.6 City Attorney Report.

Motion to approve the agenda with the addition of items 5.4, 5.5, and 5.6.

Motion by Council Member Happe
Seconded by Council Member Pingree

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

Motion approved by a vote of 5-0

3. **PRESENTATION(S)**

3.1. Proclamation – Kids to Parks Day

4. **REPORT ON CLOSED SESSION**

4.1. Moved to Item 12

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

5.1. **PUBLIC COMMENTS**

Inge Schuler stated that the City Council’s April 16, 2021 Special Meeting was an illegal meeting. She commended the Council for not taking any official action since it would have been illegal.

Frank Connelly stated the City's utility billing department had overcharged him \$5,000 and demanded a refund from the City. He also commented that Waste Management has charged him for a recycling bin not on his property and would like a refund from them as well.

John Baca said he was a union representative from International Brotherhood of Electrical Workers (IBEW) Local 47 and spoke on behalf of the City's two bargaining units. He urged Council to consider those City employees as contract negotiations between the two parties continue.

5.2. CORRESPONDENCE

City Clerk Calderon read a letter from Tracy Miranda regarding trucks on Charles Street into the record.

5.3. APPOINTMENTS

None

5.4. CITY COUNCIL COMMITTEE REPORTS

Mayor Wallace shared a report from the Mayors' meeting last week and their desire to help smaller cities with finding additional revenues.

5.5. CITY MANAGER REPORT

None

5.6. CITY ATTORNEY REPORT

Kevin Ennis, City Attorney said the Special Meeting on April 16, 2021 had an agenda that was posted, the meeting was open to the public and the Council discussed the item on the agenda. Therefore, he believes the meeting was held in full compliance with the Brown Act.

6. CONSENT ITEMS

- 6.1.** Minutes of the April 13 and April 16, 2021 City Council Meetings
- 6.2.** Receive and File Contracts Approved Under the City Manager's Signature Authority for the Month of March 2021
- 6.3.** Receive and File Cash, Investments and Reserve Report for the Month of March 2021
- 6.4.** Approval and Ratification of Accounts Payable and Payroll Warrants Issued in the Month of March 2021
- 6.5.** Public Works Capital Improvement Project Tracking List
- 6.6.** Receive and File Police Department Statistics for March 2021
- 6.7.** Receive and File Fire Department Statistics for March 2021
- 6.8.** Parks and Recreation Report of Monthly activities through March 2021

- 6.9. Authorize the City Manager to sign the Notice of Completion for Project No. 2020-03, "Building Demolition & New Parking Lot Construction" as complete and direct the City Clerk to record the Notice of Completion.
- 6.10. Approving Amendment No. 1 to the Agreement (C00623) for Backflow Services by and Between City of Banning and E.R. Block Plumbing, Inc.
- 6.11. Approving the Addition of One Vehicle to Support the City's Animal Control Services to the List of Vehicles for Fiscal Year 2021 pursuant to the Five (5) Year Master Equity Lease Agreement with Enterprise Fleet Management.
- 6.12. Adopt Resolution 2021-30, Approving the Measure "A" Five Year Capital Improvement Plan Project List and Authorizing the City Manager to Execute the Maintenance of Effort Certification Statement.
- 6.13. Adopt Resolution 2021-29, awarding a Construction Agreement for Project No. 2016-11 "Ramsey Street and Hathaway Street Improvements" to All American Asphalt of Corona, CA in the amount of \$3,697,562.50 and establishing a total project budget of \$4,067,318.75 and rejecting all other bids.
- 6.14. Authorize City Manager to Enter Into a New Exclusive Negotiated Agreement with Grandave Capital, LLC for City-owned Property located at 200 S. Hathaway Street
- 6.15. Butterfield Specific Plan ("Atwell") Annual Review
- 6.16. Accept the Easements from Tri Pointe Homes for Electric Utility Purposes on Assessor's Tract Map 37390 for the Maintenance of the City Owned Electric Distribution System
- 6.17. Resolution 2021-22, Mapping Project – Amending Acculine, LLC Contract to the amount of \$400,000 for Continuation of Project Software Development and Field Inventory

Council Member Pingree requested that item 6.14 be pulled from the consent agenda.

PUBLIC COMMENT:

Frank Burgess said he disagreed with items 6.1, 6.11 and 6.13. He stated that the April 16, 2021 Special City Council Meeting was illegal and violated the Brown Act and he planned to report the City Council and staff to the Fair Political Practices Commission (FPPC).

Motion to approve items 6.1 through 6.13 and 6.15 through 6.17.

Motion by Council Member Happe
 Seconded by Council Member Hamlin

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

Motion approved by a vote of 5-0

6.14. Authorize City Manager to Enter into a New Exclusive Negotiated Agreement with Grandave Capital, LLC for City-owned Property located at 200 S. Hathaway Street

Council Member Pingree said he thought there were outstanding questions that needed to be answered before extending this agreement. City Manager Schulze explained that the agreement was expired and he was not aware of any questions.

Ruben Islas of Grandave Capital, LLC said he was available to any member of the Council at any time and he was happy to answer any questions they may have.

Council Member Happe clarified that the ultimate goal of this Exclusive Negotiating Agreement (ENA) was so eventually execute a Development Agreement with Grandave.

Motion to approve item 6.14.

Motion by Council Member Happe
Seconded by Council Member Hamlin

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

Motion approved by a vote of 5-0

7. PUBLIC HEARING(S):

None

8. REPORTS OF OFFICERS:

- 8.1. Adopt Resolutions approving: Mid-Year Budget Adjustments for Fiscal Year 2020-2021 for the City of Banning, Banning Utility Authority and Amending the Classification and Compensation Plan

Deputy Finance Director Suzanne Cook presented the staff report.

Council Member Happe asked why all the changes requested were increases and questioned why staff did not anticipate several of the expenditures.

Mayor Wallace said she was concerned about the budget over the next year with the amount the City is spending from its reserves. She stated she would like more information from staff on how the City can stop experiencing budget overruns.

PUBLIC COMMENT

John Baca, union representative from IBEW Local 47, said that this item sent the wrong message by increasing the pay rate of a new hire, the Human Resources Manager, while contracts for union staff have not been executed and members have not yet received a cost-of-living adjustment (COLA).

Mayor Wallace asked staff for more information about the HR Manager reclassification. City Manager Schulze confirmed that the HR Manager was offered the position at an unauthorized amount and the position needed to be reclassified to a higher salary range.

City Manager Schulze highlighted the revenue challenges facing the City but emphasized that the budget adjustments do not take into account several one-time revenues expected soon, such as cannabis taxes, Tri-Pointe settlement, and federal COVID relief funds.

There was Council discussion regarding continued budget overruns and the desire to identify new revenue sources.

Motion to approve:

- 1. Resolution No. 2021-17, approving the Mid-Year Budget Adjustments for Fiscal Year 2020-2021 for the City of Banning; and**
- 2. Resolution No. 2021-31, amending the Classification and Compensation Plan; and**
- 3. Authorize the Administrative Services Director or designee to make necessary budget adjustments, appropriations, and transfers.**

Motion by Council Member Happe
Seconded by Council Member Pingree

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

Motion approved by a vote of 5-0

- 8.2. Resolution 2021-27, Approving a New Franchise Agreement between the City and Waste Management of the Inland Empire for the Collection,**

Transportation and Disposal of Solid Waste and to Proceed with Proposition 218 Notifications, and Scheduling a Proposition 218 Public Hearing

Public Works Director Arturo Vela presented the staff report.

Council Member Happe expressed concerns about allowing delinquent accounts to be added to the tax roll for the property. City Attorney Ennis and Michael Estrada, also from the City Attorney's Office, confirmed it was legal to do so and it provides Waste Management a way to collect. The City is able to stop service until payment is made, but since waste removal is mandatory, they cannot suspend service.

PUBLIC COMMENT

Frank Burgess opposed the agreement, stating he disagreed with the 20-year term of the agreement, as well as the rate increases allowed within the agreement. He recalled the rates being \$17 when he was on the City Council.

Robert Ybarra spoke in support of the agreement, saying Waste Management was active in the Banning community and helped sponsor community events.

Frank Connelly was opposed to the agreement, stating he disagreed with the handling of delinquent accounts as well as organic waste, and thought the City had created a monopoly over waste collection. He asked for more public comment on the matter before the agreement was approved.

Daniela Andrade spoke in support of the agreement, stating Waste Management does great work within the community. She said the new contract would reduce City costs for administration of accounts and billing while providing a much-needed one-time payment of \$4.5 million up front.

Lily Quiroa, Area Community Relations Manager for Waste Management, spoke in support of the agreement. She stated most cities allow delinquent accounts to be added to the tax roll but that they work diligently to reach resolution before that point. She highlighted the strong community partnership their organization has with the City and its residents and said their employees live and work in the communities they serve.

At 7:23 PM, Mayor Wallace called a short recess. Mayor Wallace reconvened the meeting at 7:31 PM.

Motion to approve Resolution 2021-27, thereby: 1. Approving a new Collection Services Franchise Agreement for the Provision of Residential and Commercial Garbage, Recyclable Materials and Organics Waste Collection, Transportation, Recycling and Disposal Services between the City and Waste Management of the Inland Empire. 2. Authorizing the City Manager, or his designee, in consultation with

the City Attorney, to make any non-substantive revisions to the draft Franchise Agreement, that are consistent with the action of City Council. 3. Scheduling a Public Hearing for June 22, 2021 at 5 p.m. to consider all public protests related to the proposed rates in the Franchise Agreement. 4. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Prop 218 notification and public hearing process.

Motion by Council Member Hamlin
 Seconded by Council Member Pingree

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

Motion approved by a vote of 5-0

8.3. Animal Care and Shelter Services Agreement

City Manager Schulze presented the staff report.

PUBLIC COMMENT

Frank Connelly spoke in support of the agreement but stated he was concerned with the 10-year term.

City Clerk Calderon read a letter from Gary Hironimus into the record.

Council Member Hamlin asked ARE Rescue Services representatives to respond to the concerns in Mr. Hironimus’s letter. Shelter representatives Amber Schlieder and Grant Brubaker explained that their intent would be to return the pet to the owner and that operating on someone’s pet would not make sense for the shelter economically.

Motion to authorize the City Manager to execute the Animal Shelter Service Agreement with ARE Animal Rescue.

Motion by Council Member Pingree
 Seconded by Mayor Wallace

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

Wallace, Colleen X

Motion approved by a vote of 5-0

9. DISCUSSION ITEM(S)

9.1. Strategic I-10 Corridor Projects

Arturo Vela, Public Works Director presented the staff report.

Motion to support the I-10 Corridor Strategic Plan concept and authorize Mayor Wallace to coordinate with area stakeholder in these regional efforts.

Motion by Council Member Pingree
Seconded by Council Member Happe

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

Motion approved by a vote of 5-0

9.2. Authorization of Additional Police Officers

Doug Schulze, City Manager presented the staff report.

Detective Brandon Smith spoke to the department’s desire to begin a Peace Officer Standards and Training (POST) certified training program at the City. This would increase revenues when the City hosted trainings to police officers from other agencies. These trainings are required and there are not many certified training providers in the local area.

City Manager Schulze also reported that an ordinance to establish a False Alarm Program will be coming before Council soon.

Council discussed the possibility of funding a portion of the requested five police officer positions. Council members expressed concern over the consequences of not funding additional police positions.

Motion to authorize five (5) additional police officer positions and direct the City Manager to prepare a budget adjustment for funding the positions.

Motion by Council Member Pingree

Seconded by Council Member Happe

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

Motion approved by a vote of 4-1

10. ITEMS FOR FUTURE AGENDAS

- 10.1.** New Items:
1. Cannabis Microbusiness/More dispensaries
 2. Revenue Generation Ideas
- 10.2.** Pending Items:
1. Permanent Homeless Solution
 2. Shopping Cart Ordinance Update
 3. Scholarship/Internship Program
 4. Golf Cart/EV Ordinance
 5. Census/Redistricting/Demographer

11. CLOSED SESSION

Meeting adjourned at 8:40 PM to convene a Closed Session to discuss items 11.1. through 11.4.

- 11.1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Paragraph (1) of subdivision (d) of Section 548956.9 Name of Case and Case No.: City of Banning v. Terra Firma Enterprises, LLC, et al., Riverside Superior Court Case Number RIC2002049
- 11.2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Paragraph (1) of subdivision (d) of Section 548956.9 Name of Case and Case No.: City of Banning v. Raymond Ngoc Huyhn, Trustee, et al., Riverside Superior Court Case Number RIC2002135
- 11.3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Paragraph (1) of subdivision (d) of Section 548956.9 Name of Case and Case No.: City of Banning v. Jen H. Huang, et al., Riverside Superior Court Case Number RIC2002131
- 11.4. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9: One (1) Case

Closed session adjourned and the regular meeting reconvened at 9:37 PM.

12. REPORT ON CLOSED SESSION

City Attorney Ennis reported that Item 11.3 has reached settlement and therefore this item is final.

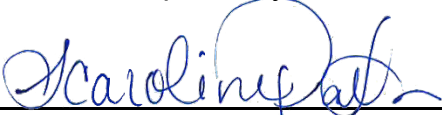
Item 11.1, 11.2, 11.4 involved an update provided to Council, with no final or reportable action.

13. ADJOURNMENT

Mayor Wallace adjourned the meeting at 9:37 PM.

Next Meeting – May 11, 2021 at 5:00 p.m.

Minutes Prepared by:


Caroline Patton, Deputy City Clerk

This entire meeting may be viewed here:

<https://banninglive.viebit.com/player.php?hash=MhzNSYtwTk1Y>

**A CD or DVD may be purchased for \$7.00 each at Banning City Hall,
located at 99 E. Ramsey Street, Banning, CA 92220.**

All documents related to this meeting are available here:

<http://banning.ca.us/ArchiveCenter/ViewFile/Item/2462>