



AGENDA

CITY COUNCIL - SPECIAL MEETING (WORKSHOP)

CITY OF BANNING, CALIFORNIA

April 18, 2025
10:00 a.m.
In Chambers

Council Chambers
99 E. Ramsey Street
Banning, CA 92220

The following information comprises the agenda for the special 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 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).

To observe and participate in the online video portion of the meeting through your personal computer or device, follow this link:

<https://us02web.zoom.us/j/82012644588?pwd=RwqtJC8xehLDKZvr3LEKOf9u8uP2pt.1>

Dial in: +1 669 900 9128

Meeting ID: 820 1264 4588
Password: 92220

Per the City of Banning Manual of Procedural Guidelines, matters taken up by the Council before 10 p.m. may be concluded, but no new matters shall be taken up except upon a majority 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.

TELECOMMUTING LOCATION

Council Member Wallace will be participating remotely from the following location: 8323 S. Figueroa St., Los Angeles, CA 90044. Members of the public are invited to participate remotely from this location

1. CALL TO ORDER

2. PUBLIC COMMENTS

3. CLOSED SESSION

3.1 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION –

SIGNIFICANT EXPOSURE TO LITIGATION

Pursuant to Government Code Section 54956.9(d)(2) and/or (2)
Two Potential Cases

3.2 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – POTENTIAL INITIATION OF LITIGATION

Pursuant to Government Code Section 54956.9(d)(4)
One Potential Case

3.3 PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957

Title: Interim City Attorney

4. REPORT OF OFFICERS

4.1 Consideration of a Professional Services Agreement contract with Sloan, Sakai, Young & Wong, LLP.

Recommendation: Approve professional services contract with Sloan, Sakai, Young & Wong, LLP.

5. WORKSHOP

5.1 AB 1234 Ethics, Brown Act, Conflicts, Decorum, Parliamentary Procedure and related training by City Attorney's office.

Recommendation: AB 1234 Ethics Training.

6. DISCUSSION ITEM

6.1 Discussion and possible action to approve proposed edits to the City of Banning Manual of Procedural Guidelines. An edited version of the Guidelines is included in the packet for Council consideration.

Recommendation: Approve proposed edits to Banning Manual of Procedural Guidelines.

7. ADJOURNMENT

Zoom Community Standards for Public Meetings

By participating in this meeting on Zoom, you are agreeing to abide by the City of Banning's Community Standards for Public Meetings. Zoom attendees that fail to adhere to these standards may be removed from the meeting room.

- 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.

Estándares comunitarios de Zoom para Reuniones Públicas

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, at least 24 hours in advance of the meeting.



Caroline Patton, Administrative City Clerk
Secretario adjunto de la ciudad

PUBLIC NOTICE • NOTICIA PÚBLICA

Meeting Agendas and Notices

Interested in receiving email and/or text notifications of upcoming City Council meetings? Sign up for meeting notifications through the City's website. Pursuant to amended Government Code §54957.5(b), staff reports and other public records related to open session agenda items are available on the City's website (www.banningca.gov/).

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 City 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 City 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 City 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.

Special Assistance/Accessibility Requests

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 City Clerk's Office. 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

City Clerk's Office | 951-922-3102 | CityClerks@banningca.gov
99 East Ramsey Street, Banning, California 92220



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Robert Fisher, Acting City Manager

PREPARED BY: John Pinkney, Interim City Attorney
City Attorney John Pinkney

MEETING DATE: April 18, 2025

SUBJECT: Consideration of a Professional Services Agreement contract with Sloan, Sakai, Young & Wong, LLP.

RECOMMENDATION:

Approve professional services contract with Sloan, Sakai, Young & Wong, LLP.

BACKGROUND:

It is proposed that the City Council approve a professional services agreement with Sloan, Sakai, Young, & Wong LLP ("Sloan Sakai"). Bob Deis will be the City's main contact with the Sloan Sakai firm. Mr. Deis' resume is attached to this staff report as Exhibit "1". Mr. Deis will conduct and complete an organizational assessment of the City's culture, management processes and overall capacity in meeting City Council goals. As part of the assessment process, Mr. Deis will provide a report with observations and recommendations that will improve the performance in the above areas all with the purpose of furthering the Council's vision for the City.

JUSTIFICATION:

Exhibit "1"

FISCAL IMPACT:

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ALTERNATIVES:

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BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. [BOB DEIS STAFF REPORT \(002\).pdf](#)
2. [PSA - Bob Deis.pdf](#)



BOB DEIS STAFF REPORT

TO: CITY COUNCIL MEMBERS
FROM: City Attorney John Pinkney City
PREPARED BY: Attorney John Pinkney
MEETING DATE: April 18, 2025
SUBJECT: Professional Services Agreement

RECOMMENDATION:

Approve professional services contract with Sloan, Sakai, Young & Wong, LLP.

BACKGROUND:

It is proposed that the City Council approve a professional services agreement with Sloan, Sakai, Young, & Wong LLP ("Sloan Sakai"). Bob Deis will be the City's main contact with the Sloan Sakai firm. Mr. Deis' resume is attached to this staff report as Exhibit "1". Mr. Deis will conduct and complete an organizational assessment of the City's culture, management processes and overall capacity in meeting City Council goals. As part of the assessment process, Mr. Deis will provide a report with observations and recommendations that will improve the performance in the above areas all with the purpose of furthering the Council's vision for the City.

EXHIBIT "1"

TEAM MEMBER



Bob Deis

Senior Consultant

 5109955800

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I ACCEPT

OVERVIEW

Mr. Deis has spent 34 years in public service either managing critical parts of cities and counties or entire local governmental agencies in California, Oregon and Washington. During his career he managed a new Washington city with only 200 employees and a California county with 5,000 employees. His last stop in his public service career was at the City of Stockton (300,000 pop.) as their City Manager.

Most of Mr. Deis' career can be characterized as being one of transformational leadership. He demonstrates an astute political acumen, develops actionable strategic plans, facilitates self-assessments, while collaborating with chief executives, governing bodies and other stakeholder groups in order to effectuate positive change.

As an experienced County Administrator and City Manager with a unique background, he has the ability to interpret financial statements and converse with technicians. Concurrently, he has worked with public agency and community leaders to quickly diagnose, design and implement complex solutions to intransigent problems that affect entire communities. Due to his success at Stockton, he has been asked to assist in addressing substantial issues on behalf of chief executives and governing bodies. Stockton is now the 6th most fiscally solvent large city in the United States—an unprecedented transformation from insolvency. In the words of the Stockton City Council, Mr. Deis was “the architect of Stockton’s recovery.”

Mr. Deis has been a consultant since 2014. Some examples of his consultant practice follow.

- He assisted a southern California city that was insolvent for seven years and did not know it. Seven of that city’s senior executive team were indicted by the District Attorney, and it faced a \$67 million court judgment—twice its total annual budget. In a relatively short period of time, Mr. Deis worked with their City Council and senior management to return that city to solvency, resolve judgments and claims, and restore confidence in the community.

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- He has completed various assessments of public agency departments, e.g., human resources, public works, housing authority, with the goal of improving performance. He has facilitated goal setting with the governing body and senior leadership teams and helped resolve difficult interpersonal and work group conflicts. He also designed a new performance management system for a large city.

RELATED PUBLIC SECTOR EXPERIENCE

Mr. Deis retired as the City Manager of Stockton, CA in 2013, where he inherited an insolvent large city that was chaotic and in distress from operational, budget and governance perspectives. In 3.5 years, he assembled a highly motivated management team and created a new high-performing agency culture. He put the city on a path to solvency by taking the severe but necessary step of seeking bankruptcy protection. He restructured and eliminated short and long-term obligations and passed a unique revenue measure. While prosecuting a massive bankruptcy, he also oversaw the creation and implementation of the Marshall Plan on Crime, a comprehensive approach to a problem that has plagued Stockton for years.

Prior to Stockton, Mr. Deis was the County Administrator of Sonoma County where he led the development of the county's first strategic plan that guided multiple successful initiatives, including: addressing an immense OPEB unfunded liability, creating their first Criminal Justice Master Plan, and initiating a new approach for investing in "upstream" programs to prevent more expensive "downstream" criminal justice and human services costs. He also designed, negotiated and implemented a new compensation system for 5,000 employees.

In 1996, Mr. Deis became the third City Manager in Shoreline, WA as they just celebrated their first anniversary as a city. He inherited a chaotic environment, but within four years formed a completely new management team, a budget with substantial reserves, a well-funded capital improvement program, a new general plan, and new operating policies and practices. He designed their first performance management system. Through Mr. Deis' outreach with stakeholders, they created a new sense of cohesion and pride in a diverse community.

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communities. He also spearheaded a unique performance management system and new compensation system that supported the new values of senior management.

PRESENTATIONS AND PUBLICATIONS

Mr. Deis has made presentations at the New York Federal Reserve Bank at the invitation of the Volcker Institute, the International City/County Manager's Association (ICMA) conference, at many League of CA Cities annual conferences, the annual CA Public Employers Labor Relations Association (CALPELRA) conference, the USC Price School of Public Policy and Lafayette College. He covered topics such as: strategies to avoid fiscal distress, what do City Managers need from their Human Resources Directors, transforming cities during fiscal crises, paradigm shifts in performance management and compensation systems, how cities can recover from bankruptcy and strategies for City Managers during stressful times and the building blocks of good governance and high performance for public agencies.

Mr. Deis has been published in the *Wall Street Journal*, *Sacramento Bee*, *Public Administration Review* and *Bond Buyer*.

Practice Areas

- Labor Relations & Collective Bargaining
- Management Strategies Group

← **Go back to Team page**

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AGREEMENT FOR PROFESSIONAL SERVICES BY INDEPENDENT CONTRACTOR

THIS AGREEMENT FOR PROFESSIONAL SERVICES BY INDEPENDENT CONTRACTOR is made and effective as of the 18th day of April, 2025, by and between the CITY OF BANNING (“CITY”) whose address is 99 E. Ramsey Street, Banning California 92220 and Sloan, Sakai, Yeung & Wong, LLP, a California limited liability partnership whose address is 555 Capitol Mall, Suite 600, Sacramento, California 95814 (“CONTRACTOR”).

RECITALS

This Agreement is entered into on the basis of the following facts, understandings and intentions of the parties to this Agreement:

A. CITY desires to engage CONTRACTOR to provide an organizational assessment of the CITY’s culture, management processes and overall capacity in meeting City Council goals. Additionally, CONTRACTOR will provide assistance with budgeting issues, financial issues as well as perform any and all tasks directed by City Council; and

B. CONTRACTOR agrees to provide such services pursuant to, and in accordance with, the terms and conditions of this Agreement, and represents and warrants to CITY that CONTRACTOR possesses the necessary skills, licenses, certifications, qualifications, personnel and equipment to provide such services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants contained herein, CITY and CONTRACTOR agree as follows:

1. Term of Agreement. This Agreement is effective as of the date first above written and shall continue until terminated as provided for herein. Notwithstanding anything in this Agreement to the contrary, this Agreement shall automatically terminate after one (1) year unless extended by the parties with the approval of the City Council of the CITY.

2. Services to be Performed. CONTRACTOR agrees to provide the services (“Services”) as follows: a complete organizational assessment of the CITY’s culture, management processes and overall capacity in meeting City Council goals. Additionally, CONTRACTOR will provide assistance with budgeting issues, financial issues as well as any and all tasks directed by City Council. CONTRACTOR designates Bob Deis as CONTRACTOR’S professional responsible for overseeing the Services provided by CONTRACTOR.

3. Associates and Subcontractors. CONTRACTOR may, at CONTRACTOR’s sole cost and expense, employ such competent and qualified independent associates, subcontractors and consultants as CONTRACTOR deems necessary to perform the Services; provided, however, that CONTRACTOR shall not subcontract any of the Services without the written consent of CITY.

4. Compensation.

4.01 CONTRACTOR shall be paid at the rate of Three-Hundred and Fifty Dollars (\$350.00) per hour.

4.02 CONTRACTOR shall not be compensated for any Services rendered nor reimbursed for any expenses incurred in excess of those authorized unless approved in advance by the CITY, in writing.

4.03 CONTRACTOR shall submit to CITY, on or before the fifteenth (15th) of each month, itemized invoices for the Services rendered in the previous month. The CITY shall not be obligated to pay any invoice that is submitted more than sixty (60) days after the due date of such invoice. CITY shall have the right to review and audit all invoices prior to or after payment to CONTRACTOR. This review and audit may include, but not be limited to CITY's:

- a. Determination that any hourly fee charged is consistent with this Agreement's approved hourly rate schedule;
- b. Determination that the multiplication of the hours billed times the approved rate schedule dollars is correct;
- c. Determination that each item charged is the usual, customary, and reasonable charge for the particular item. If CITY determines an item charged is greater than usual, customary, or reasonable, or is duplicative, ambiguous, excessive, or inappropriate, CITY shall either return the bill to CONTRACTOR with a request for explanation or adjust the payment accordingly, and give notice to CONTRACTOR of the adjustment.

4.04 If the work is satisfactorily completed, CITY shall pay such invoice within thirty (30) days of its receipt. Should CITY dispute any portion of any invoice, CITY shall pay the undisputed portion within the time stated above, and at the same time advise CONTRACTOR in writing of the disputed portion.

5. Obligations of CONTRACTOR.

5.01 CONTRACTOR agrees to perform all Services in accordance with the terms and conditions of this Agreement.

5.02 Except as otherwise agreed by the parties, CONTRACTOR will supply all personnel, materials and equipment required to perform the Services. CONTRACTOR shall provide its own offices, telephones, vehicles and computers and set its own work hours. CONTRACTOR will determine the method, details, and means of performing the Services under this Agreement.

5.03 CONTRACTOR shall keep CITY informed as to the progress of the Services by means of regular and frequent consultations. Additionally, when requested by CITY, CONTRACTOR shall prepare written status reports.

5.04 CONTRACTOR is responsible for paying, when due, all income and other

taxes, fees and withholding, including withholding state and federal taxes, social security, unemployment and worker's compensation, incurred as a result of the compensation paid under this Agreement. CONTRACTOR agrees to indemnify, defend and hold harmless CITY for any claims, costs, losses, fees, penalties, interest, or damages suffered by CITY resulting from CONTRACTOR's failure to comply with this provision.

5.05 In the event CONTRACTOR is required to prepare plans, drawings, specifications and/or estimates, the same shall be furnished in conformance with local, state and federal laws, rules and regulations.

5.06 CONTRACTOR represents that it possesses all required licenses necessary or applicable to the performance of Services under this Agreement.

5.07 CONTRACTOR shall be solely responsible for obtaining Employment Eligibility Verification information from CONTRACTOR's employees, in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a), and shall ensure that CONTRACTOR's employees are eligible to work in the United States.

5.08 In the event that CONTRACTOR employs, contracts with, or otherwise utilizes any CalPERS retirees in completing any of the Services performed hereunder, such instances shall be disclosed in advance to the CITY and shall be subject to the CITY's advance written approval.

5.09 Drug-free Workplace Certification. By signing this Agreement, the CONTRACTOR hereby certifies under penalty of perjury under the laws of the State of California that the CONTRACTOR will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code, Section 8350 et seq.) and will provide a drug-free workplace.

5.10 CONTRACTOR shall comply with all applicable local, state and federal laws, rules, regulations, entitlements and/or permits applicable to, or governing the Services authorized hereunder.

6. Insurance. CONTRACTOR hereby agrees to be solely responsible for the health and safety of its employees and agents in performing the Services under this Agreement and shall comply with all laws applicable to worker safety including but not limited to Cal-OSHA. Therefore, throughout the duration of this Agreement, CONTRACTOR hereby covenants and agrees to maintain insurance in conformance with the requirements set forth below. Attached hereto as **Exhibit "A"** are copies of Certificates of Insurance and endorsements as required by Section 7.02. If existing coverage does not meet the requirements set forth herein, CONTRACTOR agrees to amend, supplement or endorse the existing coverage to do so. CONTRACTOR shall provide the following types and amounts of insurance:

6.01 Commercial general liability insurance in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; CONTRACTOR agrees to have its insurer endorse the general liability coverage required herein to include as additional insured's CITY, its officials, employees and agents. CONTRACTOR also

agrees to require all contractors and subcontractors to provide the same coverage required under this Section 6.

6.02 Business Auto Coverage in an amount no less than \$1 million per accident. If CONTRACTOR or CONTRACTOR's employees will use personal autos in performance of the Services hereunder, CONTRACTOR shall provide evidence of personal auto liability coverage for each such person.

6.03 Workers' Compensation coverage for any of CONTRACTOR's employees that will be providing any Services hereunder. CONTRACTOR will have a state-approved policy form providing statutory benefits as required by California law. The provisions of any workers' compensation will not limit the obligations of CONTRACTOR under this Agreement. CONTRACTOR expressly agrees not to use any statutory immunity defenses under such laws with respect to CITY, its employees, officials and agents.

6.04 Optional Insurance Coverage. Choose and check one: Required X /Not Required ___; Errors and omissions insurance in a minimum amount of \$2 million per occurrence to cover any negligent acts or omissions committed by CONTRACTOR, its employees and/or agents in the performance of any Services for CITY.

7. General Conditions pertaining to Insurance Coverage

7.01 No liability insurance coverage provided shall prohibit CONTRACTOR from waiving the right of subrogation prior to a loss. CONTRACTOR waives all rights of subrogation against CITY regardless of the applicability of insurance proceeds and shall require all contractors and subcontractors to do likewise.

7.02. Prior to beginning the Services under this Agreement, CONTRACTOR shall furnish CITY with certificates of insurance, endorsements, and upon request, complete copies of all policies, including complete copies of all endorsements. All copies of policies and endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

7.03. All required policies shall be issued by a highly rated insurer with a minimum A.M. Best rating of "A:VII"). The insurer(s) shall be admitted and licensed to do business in California. The certificates of insurance hereunder shall state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice has been given to CITY.

7.04 Self-insurance does not comply with these insurance specifications. CONTRACTOR acknowledges and agrees that that all insurance coverage required to be provided by CONTRACTOR or any subcontractor, shall apply first and on a primary, non-contributing basis in relation to any other insurance, indemnity or self-insurance available to CITY.

7.05 All coverage types and limits required are subject to approval, modification and additional requirements by CITY, as the need arises. CONTRACTOR shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction

of discovery period) that may affect CITY's protection without CITY's prior written consent.

7.06 CONTRACTOR agrees to provide immediate notice to CITY of any claim or loss against CONTRACTOR or arising out of the Services performed under this Agreement. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

8. Indemnification.

8.01 CITY's Indemnification Obligations. CITY shall indemnify, defend, and hold harmless CONTRACTOR, its officers, directors, employees, and agents from and against any and all damages, liabilities, losses, claims, actions, demands, lawsuits, costs, and expenses (including, without limitation, reasonable attorney's fees and court costs) arising out of or relating to the negligence or willful misconduct of CITY, its employees, agents, or representatives in connection with this Agreement.

8.02 CONTRACTOR's Indemnification Obligations. CONTRACTOR shall indemnify, defend, and hold harmless CITY, its officers, directors, employees, and agents from and against any and all damages, liabilities, losses, claims, actions, demands, lawsuits, costs, and expenses (including, without limitation, reasonable attorneys' fees and court costs) arising out of or relating to the negligence or willful misconduct of CONTRACTOR, its employees, agents, or representatives in connection with this Agreement.

9. Additional Services, Changes and Deletions.

9.01 CONTRACTOR may perform additional or different services than those described herein with the prior approval of the City Council or City Manager.

10. Termination of Agreement.

10.01 Notwithstanding any other provision of this Agreement, CITY, at its sole option, may terminate this Agreement with or without cause, or for no cause, at any time by giving twenty (20) days' written notice to CONTRACTOR.

10.02 In the event of termination, the payment of monies due CONTRACTOR for undisputed Services performed prior to the effective date of such termination shall be paid within thirty (30) business days after receipt of an invoice as provided in this Agreement. Immediately upon termination, CONTRACTOR agrees to promptly provide and deliver to CITY all original documents, reports, studies, plans, specifications and the like which are in the possession or control of CONTRACTOR and pertain to CITY.

11. Status of CONTRACTOR.

11.01 CONTRACTOR shall perform the Services in CONTRACTOR's own way as an independent contractor, and in pursuit of CONTRACTOR's independent calling, and

not as an employee of CITY. However, CONTRACTOR shall regularly confer with CITY's City Manager as provided for in this Agreement.

11.02 CONTRACTOR agrees that it is not entitled to the rights and benefits afforded to CITY's employees, including disability or unemployment insurance, workers' compensation, retirement, CalPERS, medical insurance, sick leave, or any other employment benefit. CONTRACTOR is responsible for providing, at its own expense, disability, unemployment, workers' compensation and other insurance, training, permits, and licenses for itself and its employees and subcontractors.

11.03 CONTRACTOR hereby specifically represents and warrants to CITY that it possesses the qualifications and skills necessary to perform the Services under this Agreement in a competent, professional manner, without the advice or direction of CITY and that the Services to be rendered pursuant to this Agreement shall be performed in accordance with the standards customarily applicable to an experienced and competent professional rendering the same or similar services in the same geographic area where the CITY is located. Further, CONTRACTOR represents and warrants that the individual signing this Agreement on behalf of CONTRACTOR has the full authority to bind CONTRACTOR to this Agreement.

12. Ownership of Documents; Audit.

12.01 All draft and final reports, plans, drawings, studies, maps, photographs, specifications, data, notes, manuals, warranties and all other documents of any kind or nature prepared, developed or obtained by CONTRACTOR in connection with the performance of Services performed for the CITY shall become the sole property of CITY, and CONTRACTOR shall promptly deliver all such materials to CITY upon request. At the CITY's sole discretion, CONTRACTOR may be permitted to retain original documents, and furnish reproductions to CITY upon request, at no cost to CITY.

12.02 Subject to applicable federal and state laws, rules and regulations, CITY shall hold all intellectual property rights to any materials developed pursuant to this Agreement. CONTRACTOR shall not such use data or documents for purposes other than the performance of this Agreement, nor shall CONTRACTOR release, reproduce, distribute, publish, adapt for future use or any other purposes, or otherwise use, any data or other materials first produced in the performance of this Agreement, nor authorize others to do so, without the prior written consent of CITY.

12.03 CONTRACTOR shall retain and maintain, for a period not less than four years following termination of this Agreement, all-time records, accounting records and vouchers and all other records with respect to all matters concerning Services performed, compensation paid and expenses reimbursed. At any time during normal business hours and as often as CITY may deem necessary, CONTRACTOR shall make available to CITY's agents for examination all of such records and shall permit CITY's agents to audit, examine and reproduce such records.

13. Miscellaneous Provisions.

13.01 This Agreement, which includes all attached exhibits, supersedes any and all previous agreements, either oral or written, between the parties hereto with respect to the rendering of Services by CONTRACTOR for CITY and contains all of the covenants and agreements between the parties with respect to the rendering of such Services in any manner whatsoever. Any modification of this Agreement will be effective only if it is in writing signed by both parties.

13.02 CONTRACTOR shall not assign or otherwise transfer any rights or interest in this Agreement without the prior written consent of CITY. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

13.03 CONTRACTOR shall timely file FPPC Form 700 Conflict of Interest Statements with CITY if required by California law and/or the CITY's conflict of interest policy.

13.04 If any legal action or proceeding, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs, in addition to any other relief to which that party may be entitled.

13.05 This Agreement is made, entered into and shall be performed in the County of Riverside in the State of California and shall in all respects be interpreted, enforced and governed under the laws of the State of California. The parties agree that venue in any litigation between them shall be in Riverside County, California.

13.06 CONTRACTOR covenants that neither it nor any officer or principal of its firm has any interest, nor shall they acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of their Services hereunder. CONTRACTOR further covenants that in the performance of this Agreement, no person having such interest shall be employed by it as an officer, employee, agent, or subcontractor.

13.07 CONTRACTOR has read and is aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the Government Code relating to conflicts of interest of public officers and employees. CONTRACTOR agrees that they are unaware of any financial or economic interest of any public officer or employee of the CITY relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, the CITY may immediately terminate this Agreement by giving notice thereof. CONTRACTOR shall comply with the requirements of Government Code section 87100 et seq. and section 1090 in the performance of and during the term of this Agreement.

13.08 Improper Consideration. CONTRACTOR shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, services, the provision of travel or entertainment, or any items of value to any

EXHIBIT “A”

CERTIFICATES OF INSURANCE AND ENDORSEMENTS

(insert behind this page)



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Robert Fisher, Acting City Manager

PREPARED BY: John Pinkney, Interim City Attorney

MEETING DATE: April 18, 2025

SUBJECT: AB 1234 Ethics, Brown Act, Conflicts, Decorum, Parliamentary Procedure and related training by City Attorney's office.

RECOMMENDATION:

AB 1234 Ethics Training.

BACKGROUND:

Members of the City Council will be participating in ethics, conflicts and Brown Act Training designed to meet the State Ethics requirements for Local Officials (AB1234), as well as addressing parliamentary procedure, decorum and related issues.

JUSTIFICATION:

Members of the City Council are required by State Law to complete AB1234 training every two years.

FISCAL IMPACT:

None

ALTERNATIVES:

None

BUDGETED?:

No

CONTRACT/AGREEMENT:

No



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Robert Fisher, Acting City Manager

PREPARED BY: John Pinkney, Interim City Attorney

MEETING DATE: April 18, 2025

SUBJECT: Discussion and possible action to approve proposed edits to the City of Banning Manual of Procedural Guidelines. An edited version of the Guidelines is included in the packet for Council consideration.

RECOMMENDATION:

Approve proposed edits to Banning Manual of Procedural Guidelines.

BACKGROUND:

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JUSTIFICATION:

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FISCAL IMPACT:

None

ALTERNATIVES:

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BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. [Redline Banning Procedural Manual - Formatted Version.pdf](#)

CITY OF BANNING MANUAL OF PROCEDURAL GUIDELINES



Adopted October 23, 2012, by City Council Resolution 2012-83
Amended April 23, 2013, by City Council Resolution 2013-48
Amended November 12, 2013, by City Council Resolution 2013-103
Amended May 26, 2020, by City Council Resolution 2020-67
Amended February 14, 2023, by City Council Resolution 2023-34
Amended October 8, 2024, by City Council Resolution 2024-164

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ARTICLE 1 – SCOPE OF MANUAL

ARTICLE 1 – SCOPE OF MANUAL

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1.1 Application of Rules

This Manual (the “Manual”) shall establish the procedures for the conduct of all meetings of Banning’s City Council, Successor Agency to the Banning Community Redevelopment Agency, Housing Authority, Utility Authority, Financing Authority and other constituent governing bodies, and commissions including, but not limited to, the Planning Commission, Parks and Recreation Commission, Youth Council, Historic Preservation Commission, and Budget and Finance Committee.

This Manual rescinds and supersedes all prior City Council resolutions setting forth rules of procedure for the conduct of meetings by City Legislative Bodies (defined below). Wherever there is a conflict between this Manual and any prior City resolution, the terms and rules in this Manual shall govern. Resolutions more specifically superseded by this Manual include, without limitation, the following:

- City of Banning Resolution No. 2023-34;
- City of Banning Resolution No. 2020-67;
- City of Banning Resolution No. 2013-103;
- City of Banning Resolution No. 2013-48;
- City of Banning Resolution No. 2012-83
- City of Banning Resolution No. 2004-43;
- City of Banning Resolution No. 2003-06;
- City of Banning Resolution No. 2000-41;
- City of Banning Resolution No. 1999-31;
- Banning CRA Resolution No. 2010-13; and
- Banning CRA Resolution No. 1990-04.

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1.2 Definitions

The following definitions shall apply to these rules and procedures:

Agenda	The document that outlines topics to be discussed during a meeting.
Staff Report	A document prepared by City Staff containing information and a recommendation about certain action(s) by the Legislative Body.
Agenda Packet	The agenda with accompanying staff reports for each agenda item.

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Legislative Body	Any quorum of any council, board, commission or standing committee (as defined in Government Code § 54952), or other governing body of the City of Banning that is subject to the Brown Act (Government Code § 54950 <i>et seq.</i>). This includes the Banning City Council, Banning Successor Agency to the former Redevelopment Agency, Banning Housing Authority Board, Banning Utility Authority, Banning Financing Authority, Planning Commission, Parks and Recreation Commission, Youth Council, Historic Preservation Commission, and Budget and Finance Committee, and any standing committee subject to the Brown Act. The term "Legislative Body" does not include Non-Governing Bodies, as defined below.
Presiding Officer	The Chairperson of the Legislative Body. For example, this refers to the Mayor when read in the context of the City Council, the Board Chair in the cases of the Successor Agency to the Redevelopment Agency and/or the Housing Authority, and the Chair of any Commission.
Vice Chair	The vice chairperson to the Presiding Officer. For example, the Vice Chair means the Mayor Pro Tem in the case of the City Council, the Vice Chairperson in the cases of the Successor Agency to the former Redevelopment Agency and/or Housing Authority, and the Vice Chairperson of any Commission.
Clerk/Secretary	The person responsible for taking and maintaining the record of proceedings for all meetings, preparation of agendas, calendar clerk, and custodian of rules, resolutions, ordinances and Legislative Body records. For example, the Clerk/Secretary refers to the Administrative City Clerk in the case of the City and the Agency Secretary in the cases of the Successor Agency to the former Redevelopment Agency and/or the Housing Authority.
General Counsel	The legal advisor to the Legislative Body, such as the City Attorney in the case of a City Council meeting, or Agency Counsel in the cases of the Successor Agency to the former Redevelopment Agency and/or Housing Authority.
City Manager	The Chief Executive Officer of the City, the Successor Agency to the former Redevelopment Agency, Housing Authority, Financing Authority and Banning Utility Authority. The City Manager may serve as the Secretary to the Successor Agency or Housing Authority, and the City Manager can designate appropriate staff to serve as the Clerk/Secretary to any Commission of the City.

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Non-Governing Bodies	Wholly advisory committees and bodies that are not subject to the provisions of the Brown Act.
Sub-Legislative Bodies	Such advisory committees which are subject to the Brown Act but are not "governing" Legislative Bodies.
Adjourned Meeting	A meeting that is the continuation of a regular or special meeting which deals with unfinished business of the regular or special meeting.

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These rules and procedures are enacted pursuant to authority granted by Government Code Sections 36813 and 54954. The purpose of this Manual is to provide procedures for Legislative Bodies that are consistent with the Brown Act and also to establish procedures that are convenient for the public and contribute to the orderly conduct of any Legislative Body's business. The procedures herein are in addition to, and not in place of, Robert's-Rosenberg's Rules of Order, attached hereto as Exhibit "BA," and any applicable ordinances and statutes. Rosenberg's Rules of Order are to be used as a guideline for the Legislative Body and such use is not intended to be rigidly binding and only serves as a recommendation. Rosenberg's Rules of Order are intended to provide for constructive and efficient conduct of meetings. In the event of conflict between this Manual and applicable ordinances or statutes, the latter shall govern. In the event that any state statute referenced herein is renumbered, the reference herein shall be deemed to refer to the successor statute dealing with the same subject matter. If there is any conflict between Robert's Rosenberg's Rules of Order and this Manual, the provisions of this Manual shall govern.

ARTICLE 2 – MEETINGS

ARTICLE 2 – MEETINGS

2.1 General Guidelines for Conduct of Board Meetings – Rosenberg’s Rules of Order

All noticed meetings are conducted using Rosenberg’s Rules of Order as a procedural guideline. Rosenberg’s Rules of Order are intended to provide for constructive and efficient conduct of meetings.

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2-22.2 Regular Meetings

Unless otherwise specified by a resolution or ordinance applicable to a specific Legislative Body, the regular meetings of all Legislative Bodies shall be held on the second and fourth Tuesday of each month at the time designated by the Legislative Body, in the Council Chambers at City Hall, 99 East Ramsey Street, Banning, California 92220, or at such other locations as the Legislative Body may from time to time designate by resolution, in the order of adjournment, or in the notice or call of any special meeting. In the event the day of a meeting shall be a legal holiday, said meeting shall be held on the next business day.

2-22.3 Special Meetings

The Presiding Officer may, when he or she deems it expedient, or upon the written request of a majority of the Legislative Body, call a special meeting of the Legislative Body for the purpose of transacting the business designated in the call. The means or method for calling such special meeting shall be as set forth in the Brown Act as it now exists or may hereafter be amended. At such special meeting, no business shall be considered other than as designated in the call.

2-32.4 Special Emergency Meetings

A special emergency meeting may be called by the Presiding Officer or by a majority of the Legislative Body where an emergency exists:

(a) A work stoppage, terrorist act or threat, crippling disaster or other activity which severely impairs public health or safety as determined by the majority of the Legislative Body; or

(b) Such other circumstance specified by State law as authorizing the conduct of an emergency meeting. Any special emergency meeting shall be called, noticed, and conducted only in accordance with the procedures set forth in State law.

2-42.5 Attendance

A majority of members of the Legislative Body shall constitute a quorum. Less than a majority may adjourn from time to time and may compel the attendance of absent members. Except for City Council, any member who fails to attend any of the meetings of the Legislative Body for 60 consecutive days, unless such absences are excused, shall surrender the office, and be deemed to have surrendered the office. An absence is "excused" in non-emergency circumstances if the member provides the Clerk/Secretary with at least forty-eight (48) hours advance written notice of the member's intended absence. In emergency circumstances, which is limited to a physical or family medical emergency that prevents a member from attending a meeting, an absence is

"excused" if the member provides written notice of the member's intended absence as soon as possible prior to the meeting.

2.6 Workshops

The Legislative Body may meet informally in conference or "workshops" regarding concerns of the Legislative Body to interchange information, provided that all discussions and conclusions shall be informal. Such meeting shall be called in the same manner as for special meetings or adjourned meetings, as applicable, and be subject to the Brown Act. Each notice shall indicate that an opportunity for public comment shall be provided before any matter shall be determined. When a meeting has been designated a Workshop, the Legislative Body shall not take any action with respect to the matter under review except with prior public notice, appearing on a properly posted agenda, of such intent to take action.

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ARTICLE 3 – NOTICE & AGENDA

ARTICLE 3-NOTICE AND AGENDA

3.1 Notice and Agenda for Regular Meetings

For every regular Legislative Body meeting, the Clerk/Secretary, or their designee, shall post a notice of the meeting, specifying the time and place at which the meeting will be held, and an agenda containing a brief description of all the items of business to be discussed at the meeting as set forth herein. The notice and agenda may be combined in a single document.

The notice and agenda must be posted at least seventy-two (72) hours before the regular meeting in a location freely accessible to the public twenty-four (24) hours a day during the seventy-two (72) hour period and where the notice and agenda is not likely to be removed or obscured by other posted material. Specifically, the notice and agenda shall be posted at the place indicated below, and/or at such other location(s) as the Clerk/Secretary may designate:

CITY HALL LOBBY
CITY OF BANNING WEBSITE

3.2 Notice and Agenda for Special Meetings

For every special meeting, the Clerk/Secretary, or their designee, shall post a written notice specifying the time and place of the special meeting and the business to be transacted must be sent to each member of the Legislative Body (unless the member has filed a written waiver of notice with the Clerk/Secretary) and to each local newspaper of general circulation, and radio or television station that has requested such notice in writing. The notice shall serve as the agenda for the special meeting and shall contain a brief description of all the items of business to be discussed at the meeting as set forth herein.

The notice for a special meeting shall be conspicuously posted at least twenty-four (24) hours prior to the special meeting in a location that is freely accessible to the public twenty-four (24) hours a day and where the notice is not likely to be removed or obscured by other posted material. Specifically, the notice shall be posted at the place indicated below, and/or at such other location(s) as the Clerk/Secretary may designate:

CITY HALL LOBBY
CITY OF BANNING WEBSITE

3.3 Notice and Agenda for Adjourned Meetings

The Legislative Body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If a quorum is not present, less than a quorum may so adjourn. If all members are absent from any regular or adjourned regular meeting, the Clerk/Secretary may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be delivered personally to each member of the Legislative Body at least twenty-four (24) hours before the adjourned meeting. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held, within twenty-four (24) hours after the time of adjournment. When a regular or adjourned regular

meeting is adjourned as provided herein, the resulting adjourned regular meeting shall be a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings. If the subsequent meeting is conducted within five (5) days of the original meeting, matters properly placed on the agenda for the original meeting may be considered at the subsequent meeting. If the subsequent meeting is more than five (5) days from the original meeting, a new agenda must be prepared and posted pursuant to Government Code Section 54954.2.

3.4 Affidavit of Posting

Immediately following the posting of the notice and agenda, the Clerk/Secretary, or their designee, shall complete an Affidavit of Posting, in a form to be developed by the Clerk/Secretary. The Affidavit of Posting shall indicate the time of the posting, the location(s) of the posting, and shall be signed under penalty of perjury. The Clerk/Secretary shall retain all such affidavits, together with a copy of each notice and agenda so posted. The affidavit, notice, and agenda shall be retained at least two (2) years subsequent to the date of posting, and pursuant to Government Code Section 34090, shall not be destroyed by the Clerk/Secretary thereafter except in accordance with the City's record retention policies.

3.5 Preparation of Agendas

Barring insurmountable difficulties, the agenda shall ordinarily be delivered to the members of the Legislative Body on Friday (as an informal deadline) preceding the meeting to which it pertains. The agenda shall also be available to the general public at the time it is delivered to the members of the Legislative Body, or in any case as required by the Brown Act.

Any Legislative Body member may have the City Manager place any business on the agenda that should be discussed under the item of the regular meeting agenda titled "New Items." Any Legislative Body member desiring to present a subject for the Legislative Body's consideration shall advise the City Manager's office of that fact not later than **12:00 noon on the Tuesday** of the week preceding the meeting at which the member wishes the subject to be considered. The matter shall then be listed on the next agenda for discussion under Item 11 (New Items) of the regular meeting agenda. The Legislative Body shall then determine whether the proposed item should be a future agenda item for discussion and deliberation by consensus. The City Manager shall advise the Legislative Body member of constraints affecting staff's ability to produce an agenda report, and when the matter should be scheduled.

Notwithstanding the foregoing, the City Manager and the Mayor generally have responsibility for setting the agenda for the Legislative Body (except for any other legislative body where the responsibility may be assigned to the City Manager's designee and the Chair of the body).

3.6 Description of Matters

All items of business to be transacted or discussed at a meeting of the Legislative Body, shall be briefly described on the agenda. The description may, but need not, set out the specific action or alternatives which will be considered by the Legislative Body, but should contain sufficient detail so that a person otherwise unaware could determine the general nature or subject matter of the item by reading the agenda. The description of closed session matters shall meet the requirements of Government Code Section 54954.2 and, where applicable, Section 54954.5. Matters may be designated as "New Items" and listed for the sole purpose of determining if they will be on a future agenda.

3.7 Action Items

(a) Items may formally be adopted by an ordinance, a resolution, minute order, or other motion (thereafter recorded by minute entry). Technically, all three are equally as legally effective and binding but vary in the formality of respective memorialization. While most actions will be presented to the Legislative Body in a written form prior to, or at, the meeting, the Legislative Body may amend any proposed action as written by carried motion of the Legislative Body at the time of its presentation for adoption. If an action as written is amended by the Legislative Body, it shall be revised to reflect the Body's amendments for later execution by the Presiding Officer.

(b) Besides ordinances and resolutions, action can be taken by motion and recorded as a minute order. A "minute order" denotes a Legislative Body action which is recorded simply by an item entered in the minutes of the meeting at which it was accomplished, and no separate document is made to memorialize it.

(c) As a general rule, a recorded majority of the quorum for a Legislative Body may take an action. However, for the City Council, resolutions, orders or the payment of money, and all ordinances require a recorded majority vote of the total membership of the City Council. Some actions, such as the passage of an urgency ordinance or adoption of a resolution of necessity to condemn property, require a super-majority vote. Under the Political Reform Act of 1974, a member with a financial conflict of interest regarding a matter before the member's board must leave the room while that matter is being discussed, heard, or acted on, so that member cannot be counted towards the quorum for that matter.

3.8 Resolutions

(a) A "resolution" is a formal action with findings taken by the Legislative Body, generally pre-prepared in writing, designated by sequential number, and reference to which shall be inscribed in the minutes and an approved copy of each resolution filed in the official book of resolutions of the Legislative Body. Resolutions are used when specifically required by law, when needed as a separate evidentiary document to demonstrate findings or to be transmitted to another governmental agency, or where the frequency of future reference back to its contents warrants a separate document (with the additional "whereas" explanatory material it often recites) to facilitate such future reference and research.

(b) A resolution may be adopted at the same meeting it is presented. Where a resolution has been prepared in advance, the procedure shall be: motion, second, discussion, vote pursuant to methods prescribed in Article 10, and result declared. It shall not be necessary to read a resolution in full or by title except to identify it.

(c) Where a resolution cannot reasonably be prepared in advance of a meeting, the Legislative Body may instruct the City Manager or the General Counsel to prepare a resolution for presentation at the next Legislative Body meeting. Where urgent, a resolution may be presented verbally in motion form together with instructions for written preparation for later execution. After the resolution has been verbally stated, the voting procedure in Article 10, shall be followed.

3.9 Ordinances (City Council Only)

(a) The City Council is the only Legislative Body empowered to amend the Banning Municipal Code by adoption of ordinances.

(b) Ordinances, other than urgency ordinances, require at least two readings at different meetings held at least five days apart with the first reading considered to be introduction of the ordinance and the second adoption.

(c) A waiver of further readings requires a majority vote of the Council members present and voting. The waiver of further reading may be accomplished by one vote for all ordinances presented on the agenda of the present meeting. Government Code Section 36934.

(d) The Clerk/Secretary shall prepare copies of all proposed ordinances for distribution to all members of the City Council at the meeting at which the ordinance is introduced, or at such earlier time as is expedient. Ordinances shall be numbered and kept by the Clerk/Secretary with the same formality as resolutions as described above in Section 3.8.

(e) An urgency ordinance is an ordinance adopted for the immediate preservation of the public peace, health, and safety, containing a declaration of facts constituting the urgency. An urgency ordinance takes effect immediately and requires a four-fifths vote of the City Council for passage pursuant to Government Code Section 36937.

3.10 Agreements

When any agreement is to be considered by the Legislative Body, the complete agreement, if complete in form for execution, shall be made a part of the agenda package presented to the Legislative Body and shall be made available for viewing by the public within the time frames required under the Brown Act and/or the California Public Records Act (Government Code Sections 7920.000 *et seq.*). The Legislative Body may choose to leave the final form of the contract to the discretion of General Counsel if the Legislative Body has determined the general conditions of the contract.

3.11 Limitation of Actions by Agenda

No action or discussion shall be taken by the Legislative Body, on any item not appearing on a posted agenda, subject only to the exceptions listed in Section 3.13 below. "Action taken" as used herein shall mean a collective decision made by a majority of the Legislative Body, a collective commitment or promise by a majority of the Legislative Body to make a positive or a negative decision, or an actual vote by a majority of the Legislative Body upon a motion, proposal, resolution, order, or ordinance.

3.12 Public Comment Period

Pursuant to Government Code Section 54954.3, every agenda posted for any meeting shall contain an item entitled "Public Comment" in order to provide for an opportunity for the public to address the Legislative Body on items of interest to the public within the Legislative Body's subject matter jurisdiction. The public comment period should be conducted in accordance with Article 6.

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3.13 Exceptions to Agenda Requirement for Action Taken

The Legislative Body may take action at a meeting on an item not appearing on the agenda for that meeting only under one of the following circumstances:

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(a) Upon a majority determination that an "emergency situation" exists that is either (i) a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, or (ii) a dire crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a Legislative Body to provide one-hour notice before holding an emergency meeting may endanger the public health, safety, or both. All discussion of such emergencies must be in open session.

(b) Upon a determination by a two-thirds (2/3) vote of the Legislative Body, or if less than two-thirds (2/3) of the Legislative Body are present by a unanimous vote of those members present, that the need to take action arose subsequent to the agenda posting. For the purposes of this subsection, the term "need to take action" shall mean those circumstances whose occurrence creates a situation which is materially different from that which existed at the time the agenda was posted, and which requires the immediate attention of the Legislative Body. The mere failure of any person to notify the Legislative Body or staff of a pre-existing situation requiring Legislative Body attention until after the time for the posting of the agenda shall not be deemed to constitute a "need to take action" hereunder. If the Legislative Body makes a determination pursuant to this subsection, the minutes of the meeting at which the determination is made shall reflect what circumstances gave rise to the "need to take action" and why the item could not be placed on the agenda.

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3.14 Minutes and Recordings

(a) An account of the actions taken in all proceedings of the Legislative Body in open meetings shall be kept by the Clerk/Secretary. The Clerk/Secretary shall prepare a record of the actions taken by the Legislative Body during open meetings, which when adopted by the Legislative Body shall be the official Minutes of the meeting. Amendment of the Minutes may be

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made only as to factual accuracy of the actions taken and not as to a change of intent. The Minutes of the meeting shall not be verbatim but rather shall be or summary minutes. Only the best and most complete available audio recording of the meeting shall constitute the official record of the Legislative Body, but the Minutes shall constitute the official record of the Legislative Body meeting where a verbatim audio record of the meeting is not available.

~~(b) — If members of the Legislative Body make comments during a meeting of the legislative body, the members may not request that the Clerk/Secretary attach written comments to the Minutes that are verbatim of the comments made during the meeting.~~

~~(e)(b)~~ Any recording of a meeting made by or at the direction of the Legislative Body is a public record that must be retained and made available to the public in accordance with the Public Records Act. The Legislative Body must provide to the public, without charge, equipment to review the recording.

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ARTICLE 4 – CLOSED SESSIONS

ARTICLE 4 – CLOSED SESSIONS

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4.1 Generally

The Legislative Body may hold closed sessions during a regular or special meeting, or at any time otherwise authorized by law, to consider or hear any matter which it is authorized by State law to hear or consider in closed session. Public comment shall be permitted on closed session matters prior to the closed session. If a closed session is included on the agenda, the description of the item shall meet the requirements of and shall identify the statutory basis for the closed session. During closed session, the Legislative Body shall exclude all persons which it is authorized by State law to exclude from a closed session. There shall be no closed session during any special emergency meeting. Closed session may not be held regarding a matter not listed on a properly posted agenda for closed session except upon the Legislative Body first taking action to place the item on the agenda as a closed session item as permitted by law.

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4.2 Persons Authorized

Persons present in the closed session shall be only those persons necessary to the discussion of the matter under consideration. All other persons shall be excused. ~~The Council may request the Clerk/Secretary to shall attend each closed session of the Legislative Body and may direct the Clerk/Secretary to keep and~~ enter into a minute book a record of any reportable decisions made at the meeting. ~~unless attendance is excused.~~

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4.3 Confidentiality

The minute book for any closed session is not a public record and shall be kept confidential and shall be available only to members of the Legislative Body or as otherwise provided by law. (Government Code § 54957.2(a).) No person attending a closed session shall publicly discuss or otherwise reveal the proceedings in the closed session unless such publication has been approved by the vote of the Legislative Body taken during the closed session or as otherwise required by law. Violation of this rule shall subject the violator to censure by the Legislative Body as provided in Section 9.5 herein.

4.4 Public Reports

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Before recessing into closed session, the Presiding Officer or General Counsel shall announce that the Body is recessing into closed session and shall name each closed session topic that will be discussed in closed session. ~~in at least as much detail as provided on the agenda.~~

Upon leaving closed session, the Presiding Officer or General Counsel shall report publicly any reportable actions taken on a closed session matter and, if any vote was taken, shall announce that the matter was put to a vote, the results of the vote, and how each Legislative Body member voted.

ARTICLE 5 – ORDER OF BUSINESS

ARTICLE 5 – ORDER OF BUSINESS

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5.1 Order of Business

The order of business of each meeting shall be as contained in the agenda prepared by the Clerk/Secretary unless the majority of the Legislative Body members consent to take items out of order. The order of business at meetings of the Legislative Body may be as follows, in accordance with the procedures specified below:

1. Call Meeting to Order.
 - Pledge of Allegiance
 - Roll Call
2. Agenda Approval.
3. Presentations.
4. Closed Session Report, if applicable.
5. Public Comments, Correspondence, Appointments, and Reports.
6. Consent Items. (See Section 5.3 below.)
7. Public Hearings.
8. Reports of Officers.
9. Discussion Items.
10. Announcements from Legislative Body Members.
11. Items for Future Agendas (New Items; Existing Items).
12. Adjournment.

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5.2 Call to Order

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The meeting of the Legislative Body shall be called to order by the Presiding Officer, or the Vice-Chair in the Presiding Officer's absence. In the absence of both the Presiding Officer and Vice Chair, the meeting shall be called to order by the Clerk/Secretary and the three Legislative Body members present shall elect by majority vote a Presiding Officer for that meeting.

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5.3 Consent Items

Matters of a routine or generally uncontested nature and non-controversial, shall be placed on the agenda as Consent Items and may be approved by the Legislative Body in a single motion by adoption of the Consent Calendar. Matters of a routine or generally uncontested nature and non-controversial may include a matter where the City Manager believes (i) the matter would most likely be unanimously approved by the Legislative Body, or (ii) there is not likely to be public comment on the matter, or (iii) a public presentation of the matter would not be particularly beneficial to the community or public interest. The approval of the Consent Calendar shall signify the approval of each matter or recommendation included therein. All matters on the Consent Calendar shall be the subject to public comment procedures in Article 6. Upon the request of any member of the Legislative Body or upon the request of a member of the public made through the Presiding Officer, a matter may be removed from the Consent Calendar for separate discussion and/or action. Any such item shall be considered as part of the Excluded Consent Calendar. Each matter proposed for consideration as part of the Consent Items, including any recommended action, shall be described on the notice and agenda posted for the meeting. Ordinances shall not be

placed on the Consent Calendar for approval unless the ordinance has first been read or the reading of the ordinance has been waived as required by law.

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5.4 City Representatives and Advisory Bodies (City Council Only)

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(a) From time to time the Council may be required to assign a representative of the City to non-City boards, commissions, or organizations (e.g., boards or commissions of another agency or joint powers authority). Except as otherwise required by law or by the policies of the non-City organization, the Mayor shall make all such appointments of City representatives on non-City organizations after consultation with the City Council. Council appointments to non-City organizations shall be considered and made with the goal of keeping the appointee in the organization for a long enough period of time that the appointee may gain seniority and/or a position of leadership within the organization. This goal shall be construed to mean that the same appointee should remain within a non-City organization for at least two years where reasonably possible and convenient for said appointee. Nothing herein, however, shall be construed to limit or waive the City Council's power to remove appointees pursuant to subsection (c) below.

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(b) The City Council shall have the power to establish advisory committees, commissions, other Legislative Bodies and Non-Governing Bodies. Any committee which is (i) established by ordinance, resolution, or other formal action, (ii) has a fixed regular meeting schedule, (iii) has continuing subject matter jurisdiction over a non-temporary issue, (iv) which continues to conduct business in excess of 180 days, or (v) has a majority membership of officials from other Legislative Bodies, shall be subject to the provisions of the Brown Act.

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Advisory bodies and committees may take the following form:

i) The Council may, as the need arises, authorize the appointment of "ad hoc" Council committees composed of two members. Except where otherwise specifically provided by law, the Presiding Officer shall appoint the members of the Council committees, subject to the approval of the Council. Any committee so created shall cease to exist upon the accomplishment of the special purpose for which it was created or when abolished by a majority vote of the Council.

ii) The Council may, subject to the Brown Act, create other committees, boards, and commissions, whether Legislative Bodies or Non-Governing Bodies, to assist in the conduct and operation of the City government with such jurisdiction and duties as the Council may specify. Except as otherwise required by law, the Mayor shall make appointments of members to such committees, boards, or commissions subject to the approval of the Council. The procedure of filling vacancies and provision of notice thereof shall be subject to the provisions of the Maddy Act (Government Code, Sections 54970-54974).

iii) Sub-Legislative Bodies, including Non-Governing Bodies, shall be responsible for reporting the Body's activities to the City Council. The members of a Sub-Legislative Body or Non-Governing Body shall operate within the jurisdiction established by the Council and shall not have authority to make subcommittees unless specifically granted such authority by action of the City Council. Staff members may be assigned to assist any Council-created committee by the City Manager; staff members so assigned shall not be members of the committee unless specifically appointed as such by action of the Council.

(c) Absent any other provision to the contrary, members of any non-City organization, or City committees, boards or commissions may be removed by the Council without cause by a majority vote of the City Council. Any member of the City Council may place the question of such removal on the agenda. Any committees, boards, or commissions so created may be abolished by a majority vote of the City Council by repeal of the enacting ordinance or resolution.

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5.5 Budgets

The City Council shall have the power to approve the City budget, and each Legislative Body shall have the power to approve the budget of funds specifically apportioned to control of that Legislative Body (e.g., the Successor Agency Board shall approve the budget of the Agency and the Housing Authority Board shall approve the budget of the Authority). Approval of the budget constitutes approval of a proposed plan of expenditures and revenues. It does not constitute an authorization for expenditure. With respect to any given expenditure the applicable procedure shall be followed. Adoption of the budget does not, unless otherwise specified by resolution, constitute authorization for any specific employment class or position.

5.6 Items from Members, the City Manager, and the City Treasurer

(a) There is a specific item on the agenda - "Announcements from Legislative Body Members" - for receiving general comments, announcements, and/or suggestions from members of the Legislative Body. This can be used to inform the public concerning upcoming events, report on members' attendance at conferences and seminars, and for requests by members that staff look into specific matters. Legislative Body members shall report at this time on any conferences, seminars or other events they attended and for which they received compensation or reimbursement from the City. Such report should include the dates of attendance, and a brief description of the subject matter of topics covered at the events. These matters may not be discussed among the Legislative Body members, opined upon, or deliberated, and if they do not concern a matter on the agenda, shall be handled by the Presiding Officer according to the same procedures set out for Public Comment in Section 6.2. No action may be taken on such matters without being placed on a subsequent agenda.

(b) There is an agenda item referred to as "New Items." Matters are listed under this item pursuant to Section 3.5 where a member has asked that the matter be scheduled for discussion of whether a future staff report should be prepared. The listing of the matter allows a discussion of whether a staff report should be prepared, or it may be held in the "Existing Items" section of the agenda to keep track of if the City Council determines that a staff report should be prepared for a future agenda.

(c) There is an agenda item referred to as "City Manager's Report." This may be used by the City Manager similarly to the item for members of the Legislative Body in Subsection (a) above to make announcements without separately listing the matter on the agenda, and subject to the same restriction that there may be no discussion or action on such matter.

(d) There is an agenda item referred to as "City Treasurer's Report." The City Treasurer shall attend the meetings of the Legislative Body, unless excused. The City Treasurer may report on (i) the activities of the Budget and Finance Committee, and (ii) the duties of the City Treasurer as imposed under State law, except such duties otherwise delegated by the City Council to the City Clerk or the Administrative Services Director.

(d) — (e) There is an agenda item referred to as "City Council Committee Reports." Under this agenda item, City Council members may report on meetings of committees that City Council members are assigned to attend

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ARTICLE 6 – PUBLIC COMMENT AND PRESENTATIONS

ARTICLE 6- PUBLIC COMMENT AND PRESENTATIONS

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6.1 City Council Meeting Presentations

City Council presentations are for providing information to the Mayor and Council, City management, and the community about activities of interest and value, including activities, events and infrastructure projects relating to the City, honors and celebrations for organizations, corporations and residents which reflect their service to the Banning community, honors, and recognitions for City staff for outstanding service or commitment to the City's mission and goals. **Please Note:** This is not the appropriate time to seek funds from the City and/or endorsements from City Council or discuss politics.

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All presentations are to be no more than five minutes in length, including all speakers for the group being recognized. Please see the attached "Exhibit BB" for a complete copy of the Banning City Council Meeting Presentation Policy contained and incorporated as an exhibit to this Manual.

6.2 Public Comment

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At the beginning of any Legislative Body meeting, the public shall be afforded the right to comment on any and all issues (not on the agenda) within the subject matter jurisdiction of the Legislative Body. Such general public comment on non-agendized issues shall be taken at the beginning of the meeting under a "Public Comments" heading. Each speaker will be limited to a maximum of three (3) minutes to provide comments on non-agendized issues. With regard to matters not on the agenda, the Legislative Body may ask questions of persons who raise new matters during the Public Comment period or otherwise. However, all Legislative Body questions must be limited to facts-only informational inquiries, and the Legislative Body may not discuss the merits, express any opinions, or ask questions that convey opinions or thought processes with respect to any non-agendized issue. The public shall also be afforded the right to comment on every item appearing on the agenda prior to the Legislative Body's consideration of that item, as provided in Section 6.5 below.

6.3 Time Limitations

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The time limit to speak for public comments is five (5) minutes during a noticed public hearing and to provide comments on all other agendized items, provided that these limits do not apply to a project applicant speaking at a public hearing pursuant to Article 7. All such time limits shall be noticed on the agenda for the meeting. Notwithstanding these time limits, the Presiding Officer has the full prerogative to maintain meeting order and decorum as provided in Section 9.1 and Article 9 generally, and the Presiding Officer may reasonably reduce the time if there are a significant number of speakers or extend time if he/she finds such extension is reasonably necessary to allow the speaker to complete his/her message without repetition or unnecessary tangents.

6.4 Reserved

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6.5 Additional Procedures for Public Comment on Agenda Items

(a) Members of the public shall have the opportunity to address the Legislative Body on each and every item listed on the agenda. Public comment on agenda items must be heard prior to the Legislative Body's consideration/discussion of the item. Public comments on an agenda item may be heard either in combination with the Public Comment period at the start of the meeting, or at the time the Legislative Body opens the item, or both, as determined by the Legislative Body and set forth in the agenda.

(b) The purpose of the public comment period is to receive input from the public, not to create a debate between the Members and the public. Members should generally refrain from debating members of the public during the period for public comment, but if Members desire to clarify comments by members of the public, they may ask factual questions, and if necessary, should do so during the public comment period.

(c) The Presiding Officer should clearly open and close the public comment period. After the close of the public comment period or after a motion has been made, no member of the public shall address the Legislative Body without first securing permission of the Presiding Officer.

ARTICLE 7 – NOTICED PUBLIC HEARINGS

ARTICLE 7—NOTICED PUBLIC HEARINGS

7.1 Public Hearings: Notice: Fairness

(a) Matters noticed to be heard by the Legislative Body shall commence at the time specified in the notice of hearing, or as soon thereafter as is reasonably possible, and shall continue until the same has been completed or until other disposition of the matter has been made.

(b) Legislative Body members shall not overtly or implicitly promise a particular action by City staff or by any Legislative Body. Where a Legislative Body member is contacted about an issue that will be presented to any Legislative Body of the City, it is appropriate to give a brief overview of City policy, to refer to City staff for further information, or to suggest that the concern be brought to the whole Council at the hearing or Council meeting, as appropriate.

(c) All public hearing notices shall be issued and published in compliance with any statutory notice requirements applicable to the particular hearing at issue and such notice shall inform interested persons of the statute of limitations to challenge the validity any action taken Legislative Body on such matter.

(d) Although every Legislative Body member has a right to their own personal opinions, Legislative Body members should by their demeanor show an ability to listen to a variety of viewpoints and demonstrate a reasonable willingness to consider all sides of an issue before them. For quasi-adjudicative matters involving public hearings, the members of the Legislative Body shall not prejudice the matter prior to the public hearing, shall be fair and impartial, and shall decide the matter based upon the evidence and the statutorily required findings.

(e) For such matters, Legislative Body members should avoid expressing an opinion or divulging their thought process until after the public hearing has been completed.

7.2 Continuance of Hearings

(a) Any hearing being held or noticed or ordered to be held by the Legislative Body may, by order or notice of continuance, be continued, or re-continued to any subsequent meeting in the manner provided for adjourned meetings.

(b) When it is the decision of the Legislative Body to continue an item, which appears on the agenda, prior to hearing any report, testimony or taking evidence on the item, the Legislative Body may make such intent known at the beginning of the meeting. At that time, the public shall be offered the opportunity to speak regarding the intent to continue the item. At the time regularly scheduled for the hearing of the item, the Legislative Body shall then take action to continue the item after again informing the public of the intent to continue the matter. No testimony or evidence shall be taken at that time unless the speaker will not be available at the continued hearing date.

~~(c) When the Legislative Body has continued the public hearing on an item after its commencement, persons testifying at the first public hearing may shall be permitted by the Presiding Office to again address the Legislative Body on the item at the renewed hearing, provided the testimony is not redundant, subject to the finding of the Presiding~~

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~~Officer that the testimony is redundant. Upon such finding the time allotted for testimony by the individual may be summarily reduced.~~

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~~(d)~~(c) Continuances of a public hearing to a date certain need not be re-noticed unless (i) the hearing has not been continued to a date certain, or (ii) has been continued three or more times and the Presiding Officer believe confusion may be created as to the time of the hearing.

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7.3 **Conduct of Hearings**

(a) When a matter for public hearing comes before the Legislative Body, the Presiding Officer shall request that staff present the staff report and any other relevant evidence, but the presentation of the staff report prior to the formal opening of the public hearing shall not prevent its consideration as evidence. Any such evidence shall be made a part of the record of the public hearing. The Presiding Officer shall permit members of the Legislative Body to ask questions of staff but should prevent expressions of opinion by members of the Legislative Body before the conduct of the hearing.

(b) The Presiding Officer shall thereafter open the public hearing and inquire if there are any persons present who desire to address the Legislative Body on the matter. Any person desiring to speak or present evidence upon being recognized, may speak or present evidence relevant to the matter being heard. Any testimony shall be truthful.

(c) Members of the Legislative Body who wish to ask questions of the speakers, during the public hearing portion, may do so but should be mindful that the purpose of the public hearing is to obtain testimony and evidence from the speakers, and not to debate the merits of the matter with speakers. Members should avoid debate and expressions of personal opinion until after the close of the public hearing. Unlike public comment periods, generally there should be no response to speaker comments until after the close of the hearing. The Presiding Officer shall conduct the hearing in such a manner as to afford due process to all affected persons.

(d) All persons interested in the matter being heard by the Legislative Body shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented shall be retained by the Clerk/Secretary as part of the record. Each speaker may only speak once during the public hearing unless the Legislative Body requests additional clarification later in the process.

(e) Upon closing of the public hearing by the Presiding Officer, no additional public testimony shall be solicited or received by the Legislative Body without reopening the public hearing. If, however, the Legislative Body receives relevant new evidence after the close of the public hearing and such new evidence may impact the Legislative Body motion or vote, the Legislative Body may re-open the public hearing to obtain public comments upon such new evidence.

~~(f)~~—The Presiding Officer has the prerogative to establish special rules, such as to require group spokesmen, to limit the number of speakers, to limit the total time for testimony, to allow speakers to give time to others, or otherwise control the hearing, provided that (i) speakers are treated fairly, and that (ii) any such special rules are announced in advance of their application. The Presiding Officer always retains the prerogative to cut off speakers who are unduly repetitious, and to permit the extension of time to speakers.

~~and to permit the extension of time to speakers.~~

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7.4 Extra-Meeting Contacts on Matters Set for Public Hearing

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(a) Legislative Body members should minimize their contacts with, applicants, or other persons who will be the subject of a quasi-adjudicative public hearing matter to be heard before the Legislative Body. Legislative Body members should avoid extra-meeting contacts with persons who will be the subject of a public hearing before the Body or with advocacy groups or special interests.

(b) If a Legislative Body member is contacted directly by such person outside the meeting setting, the member shall refrain from expressing any viewpoints or thought processes to the person until after the public hearing. The Legislative Body member may explain that they are unable to express any viewpoint on the matter until all evidence has been heard in the course of a public hearing and should encourage any such person to present their position in writing or orally at the public hearing.

(c) At the commencement of the public hearing, the Legislative Body member must disclose publicly any extra-meeting contacts or discussions had which may be relevant to the decision.

(d) The limitations set forth in this Section shall not be read as preventing a Legislative Body member from inspecting a site that will be relevant to a public hearing, although such sight inspection should be disclosed on the record at the beginning of the public hearing.

ARTICLE 8 – MEETING OFFICERS

ARTICLE 8 - MEETING OFFICERS

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8.1 Presiding Officer

(a) The meeting shall be presided over and chaired by the Presiding Officer, or, in the Presiding Officer's absence, the Vice Chair. The Presiding Officer shall have the authority to rule any speaker out of order, including speakers during the public comment period if the subject raised is not within the subject matter jurisdiction of the Legislative Body, or during a public hearing if the speaker is not presenting testimony or evidence relevant to the matter which is the subject of the public hearing. The Presiding Officer shall have the responsibility for the conduct of meetings in an orderly manner and to prevent the obstruction of business, and in carrying out this responsibility shall have the authority to give the floor to any member of the Legislative Body or the public by recognizing them, to prevent the misuse of legitimate forms of motions or privileges, to take matters up out of order, to caution speakers as to disruptive behavior, and to order any persons willfully interrupting the meeting to be removed from the room, including as provided in Article 9.

(b) The Vice Chair shall generally take the place of the Presiding Officer in the absence of the Presiding Officer. In the absence of the Vice Chair, the Presiding Officer may call any other member to take his or her place as Presiding Officer; such substitution not to continue beyond adjournment.

(c) Any determination made by the Presiding Officer may be appealed by the making of a Motion to Appeal the Ruling by any other member of the Legislative Body. The Presiding Officer's determination will stand unless a majority of the Legislative Body members vote in favor of the Motion to Appeal the Ruling, in which case the ruling of the Presiding Officer will be overridden. The Motion to Appeal the Ruling is governed by the [Chart of Motions attached as Exhibit A](#) Rosenberg's Rules of Order attached hereto as Exhibit "BA".

8.2 Representation of Legislative Body

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(a) The Mayor is the designated representative of the City and the City Council for purposes of presenting and expressing the official City position on an issue. If individual members of the Council or other Legislative Bodies are contacted by the media for a statement of official City position, the member should refer such inquiries to the Mayor. Otherwise, public or media statements by a Legislative Body member should be clearly characterized as comments upon a personal viewpoint.

(b) Members of the City Council may use official City letterhead to correspond with other public officials and with consultants, but any such correspondence shall state that the views expressed therein are personal and not the position of the City unless the City Council has officially adopted such position. No other Legislative Body may take a position officially representing the City unless authorized to do so by the City Council.

8.3 Email and Social Media Policy

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(a) Members of the Legislative Body are provided with City email accounts which may be utilized for the conduct of City business, including communications with constituents.

Members should be aware that all such communications may be subject to the Public Records Act (Government' Code Section 7920.000 *et seq.*). The use of private email accounts for City business may also make them subject to disclosure.

(b) Members of the Legislative Body are subject to the Brown Act in the use of email and social media.

(c) Email communications may not be used to develop a collective consensus or decision on any matter. Email communications to the entire Body should be avoided but may be permitted to provide factual information, such as arranging an event, where no discussion or exchange of opinions on a matter within the jurisdiction of the Legislative Body is initiated or occurs.

(d) Members of the Legislative Body may engage in separate conversations or communications on an internet-based social media platform to answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the Legislative Body. A majority of the Legislative Body members shall not use any internet-based social media platform to discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the Legislative Body. A Legislative Body member shall not respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the Legislative Body that is made, posted, or shared by any other member of the Legislative Body.

8.4 Clerk/Secretary

The Clerk/Secretary, or their deputy, shall attend all meetings of the Legislative Body unless excused and shall keep the official minutes and perform such other duties as may be requested by the Legislative Body.

8.5 City Manager

(a) The City Manager, or designee, shall attend all meetings of the Legislative Body unless excused. The City Manager may make recommendations to the Legislative Body and shall have the right to take part in all discussions of the Legislative Body but shall have no vote. The City Manager shall provide the Legislative Body with a staff report providing sufficient information to be the basis for any action by the Legislative Body at its meeting. Any officer or employee of the City, when directed by the City Manager, shall attend any meeting of the Legislative Body, and may present information relating to matters before the Legislative Body.

(b) The City operates under the city manager form of government (Government Code Section 34851 *et seq.*). The City Manager has the power to: (i) administer the day-to-day affairs of the City; (ii) hire and fire City employees (except the City Attorney); and (iii) perform such other functions as the City Council chooses to authorize by ordinance. The City Manager shall carry out the City Council's policy direction through the day-to-day management of City functions.

~~City Councilmembers may not individually provide direction to the City Manager.~~

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8.6 General Counsel

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(a) The General Counsel, or deputy, shall attend all meetings of the City Council unless excused and shall upon request of any member give an opinion, either written or oral, on questions of law. The General Counsel, or deputy, shall attend all meetings of such other Legislative Bodies as directed by the City Council or City Manager. The General Counsel serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Presiding Officer, subject to the appeal of the full Legislative Body pursuant to Section 8.1 above. All ordinances and resolutions, all contracts, deeds, and easements or other legal instruments shall be approved as to form by the General Counsel. Agreements may be approved as to form by the General Counsel when exceeding purchasing ordinance and policy guidelines. In any case of ambiguity or uncertainty in the interpretation or application of this Manual to any procedure, the Presiding Officer may direct such question to the General Counsel for a ruling.

(b) Any member of the Legislative Body may request from the General Counsel a legal opinion regarding any matter related to the interests of the City. Where a legal opinion involves substantial cost, the request for the opinion must first be approved by the City Manager or by a majority of the Legislative Body. The General Counsel is the legal representative of the City acting through its Legislative Body. There is a continuing legal question as to whether the General Counsel may have an attorney-client relationship with any individual member of the Legislative Body or the City staff. As a consequence, any discussion with the General Counsel which leads to the conclusion that the interests of the City are at risk must be revealed to all relevant members of the Legislative Body and the City staff by the General Counsel. The General Counsel shall not have an attorney-client relationship with individual Council members. The General Counsel is required to maintain the confidentiality of such communications from persons outside the City to the extent required or permitted by law and the code of ethics.

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(c) The General Counsel has no statutory duty or authority under the Political Reform Act to provide Political Reform Act advice to any Legislative Body member but should provide advice to members when requested. However, a Legislative Body member may not rely on advice from the General Counsel to provide him or her with immunity from FPPC enforcement or prosecution. Such immunity may be obtained only through a written advice letter obtained from the FPPC, on the question in issue, by the Legislative Body member. A Legislative Body member enjoys no privilege of attorney/client confidentiality in reviewing these matters with the General Counsel. Any advice given to an individual member of a Legislative Body cannot be withheld from the rest of the City or Legislative Body. If, after receipt of an opinion of the General Counsel, the Legislative Body member wishes to participate in the decision-making process with immunity from prosecution or enforcement, the General Counsel shall assist the Legislative Body member in making direct contact with the FPPC for informal or formal advice upon which the Legislative Body member can rely.

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(d) *[City Council Only]*. It often happens that other jurisdictions or the League of California Cities or other regional or statewide association will ask the City to participate in the filing of a letter or brief before a court in a matter deemed to be of concern to all or a great many cities. These "friend of the court" or "amicus" briefs have the effect of informing the court how widespread will be its opinion and how that opinion will affect cities. Such participation is

normally without direct cost to the City. In considering whether to direct General Counsel to file an amicus brief, the City Council shall consider whether such brief would represent or propose a position that conflicts with, or causes strife amongst, other City-related interests such as, without limitation, the interests of employee organizations, law enforcement or public safety.

i) Upon receipt of the request, the General Counsel shall make the request available through the City Manager to the Council. Upon a determination by any Council member that there is an interest in participating in the action in the manner proposed, the Council member shall inform the City Manager or General Counsel who shall place the matter as an item for discussion in closed session on the agenda of the next Legislative Body meeting. The General Counsel may otherwise place an amicus request on the agenda on his or her initiative.

ii) In lieu of the foregoing process, where there is urgency to the matter, General Counsel is authorized to undertake the filing of the letter or brief where (i) in the opinion of General Counsel the legal matter significantly affects the interests of the City, (ii) the General Counsel has consulted with and received the approval of the City Manager, (iii) the cost to the City will not exceed \$5,000, and (iv) the General Counsel makes a written report of the action to the Legislative Body.

iii) Approval given to the General Counsel to defend, or seek or refrain from seeking, appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a closed session consultation shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

8.7 Conflicts of Interest

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All Legislative Body members are subject to the provisions of California Law, such as Chapter 1, Title 9, of the California Government Code, relative to conflicts of interest, and to conflicts of interest codes adopted by the Legislative Body. Any Legislative Body member prevented from voting because of a conflict of interest shall refrain from in any way participating in the matter giving rise to the conflict. Where abstention from a matter is made on the basis of a conflict of interest arising from a financial interest in the decision, the Legislative Body member shall announce their abstention from the matter when it is first opened, and then shall set forth the reason for the abstention with the degree of specificity at least equal to the disclosure of the Legislative Body member's financial interests on the Legislative Body member's annual statement of financial interests; immediately after such announcements, the Legislative Body member shall leave the room. The Legislative Body member shall not overhear the staff report, participate in the discussion or deliberations, and shall not otherwise make or participate in making the decision or in any way attempt to use his or her official position to influence the decision. This shall not prevent the conflicted Legislative Body member from coming before the Legislative Body solely

during the public comment period as an affected citizen to state his/her opinion on how the matter impacts their disqualifying interests.

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8.8 Reserved

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8.9 No Financial Interest in Agreements

A member of a Legislative Body shall not have a financial interest in an agreement within the meaning of (Government Code Section 1090 *et seq.*) made in their official capacity. An agreement in which a Legislative Body member has a financial interest shall be null and void whether the member participates in the making of the contract or not, unless a remote or non-interest exception applies under Government Code Sections 1091 or 1091.5.

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8.10 Ethical Standards

A member of a Legislative Body shall maintain the highest ethical standards and shall adhere to all laws and the ordinances and regulations of the City in carrying out their duties.

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8.11 Confidential Information

No Legislative Body member may disclose confidential information to any unauthorized person. A violation of this rule shall subject the violator to censure by the Legislative Body as provided in Section 9.5 herein.

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ARTICLE 9 – DECORUM AND ORDER

ARTICLE 9- DECORUM AND ORDER

9.1 Decorum and Order – Legislative Body Members

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(a) Any member of the Legislative Body wishing to speak, or any member of the public wishing to address the Legislative Body must first obtain the floor by being recognized by the Presiding Officer. The Presiding Officer must recognize any member of the Legislative Body who seeks the floor when appropriately entitled to address the Legislative Body. The Legislative Body member shall confine himself or herself to the question under debate.

(b) Any member of the Legislative Body, including the Presiding Officer, may bring a matter of business properly before the Legislative Body for decision by making a motion. Any Legislative Body member, including the Presiding Officer, except the Legislative Body member making the motion, may second a motion. Once a motion is seconded, it may be opened for discussion and debate.

(c) The Presiding Officer shall determine all points of order, subject to the right of any member to appeal to the majority Legislative Body.

(d) A Legislative Body member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer, unless a Point of Order is raised by another Legislative Body member, or unless the speaker chooses to yield to questions from another Legislative Body member.

(e) Any Legislative Body member called to order while speaking shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall comply with ruling of the Presiding Officer.

(f) Legislative Body members shall accord the utmost courtesy to each other, to City or Legislative Body employees, and to the public appearing before the Legislative Body and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities, which disrupt, disturb, or otherwise impede the orderly conduct of the Legislative Body meeting.

(g) Any Legislative Body member may move to require the Presiding Officer to enforce the rules and the affirmative vote of a majority of the Legislative Body shall require the member to so act.

(h) The members of the Legislative Body shall not engage in communications during the Legislative Body meeting (including breaks) regarding matters being considered on the agenda unless and until the Legislative Body has opened that agenda item. In order to minimize exposure to a Brown Act violation, Legislative Body members are discouraged from discussing any City business during breaks or before and after meetings; City business may only be discussed by a quorum of Legislative Body members when it is opened as a duly noticed agenda item.

(i) The members of the Legislative Body shall always be attentive and show respect to those addressing the Legislative Body provided that nothing shall prevent the enforcement of the

rules of decorum herein.

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(j) No Legislative Body member attending a meeting of another Legislative Body shall make any statement or, give the appearance or indicate in any way that they are representing the Legislative Body unless they have been authorized to do so by the Legislative Body. When making a comment at such a meeting, the Legislative Body member should make it clear that they are speaking solely as an individual. Unless officially appointed to participate on a committee, Legislative Body members should make an effort not to insert themselves into or take positions on matters which will ultimately be decided upon by the Legislative Body.

(k) The Legislative Body may punish its own members for misconduct pursuant to Section 9.5.

9.2 Decorum and Order – Employees

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(a) Members of administrative staff and employees of the Legislative Body shall observe the same rules of procedure and decorum applicable to Legislative Body members. The City Manager shall ensure that all staff and employees observe such decorum. Any staff members, including the City Manager, desiring to address the Legislative Body or members of the public shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to any individual Legislative Body member or member of the public.

(b) Questions of City staff and/or requests for follow-up or additional background information should be directed only to the City Manager, General Counsel, Assistant City Manager, or Department Heads. The Office of the City Manager should be copied on any request, except those to the General Counsel. When in doubt about what staff contact is appropriate, Legislative Body members should ask the City Manager for direction. Materials supplied to a Legislative Body member in response to a request will be made available to all members of the Legislative Body so that all have equal access to information.

(c) Legislative Body members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

9.3 Decorum and Order – Public

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(a) Members of the public attending Legislative Body meetings shall observe the same rules of order and decorum applicable to the Legislative Body. All remarks and questions should be addressed to the Presiding Officer and not to any individual Legislative Body member, staff member or other person.

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(b) Any person conducting their public remarks or behavior before the Legislative Body in such a way as to actually cause disruption to the conduct of the meeting may be removed from the room by the sergeant-at-arms as directed by the Presiding Officer. Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar disruptive demonstrations shall not be permitted by the Presiding Officer, who may direct the sergeant-at-arms to remove such offenders from the room or call a recess of the meeting. Aggravated cases may be prosecuted on

appropriate complaint signed by the Presiding Officer.

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(c) Members of the public shall be allowed to video or audio record a public meeting unless such recording becomes an actual and unreasonable disruption to the Legislative Body's ability to carry-out the meeting.

9.4 Enforcement of Decorum

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(a) The Banning Police Chief or designee shall be ex-officio sergeant-at-arms of the Legislative Body. He shall carry out all orders and instructions given him by the Presiding Officer for the purpose of maintaining order and decorum in the Legislative Body meeting. Upon instructions from the Presiding Officer, it shall be the duty of the sergeant-at-arms to eject any unruly person from the Legislative Body meeting chamber or place him or her under arrest or both for conduct actually disrupting to the Legislative Body proceedings. Such person may be barred from further participation in the meeting.

(b) Generally, if the Presiding Officer intends to eject a person for disruption of a meeting, a public warning should be issued. Examples of remarks or behavior that cause actual disruption of the Legislative Body proceedings include:

- Unauthorized remarks from the audience, stamping of feet, whistles, yells, outbursts, catcalls, cursing, applause, offensive or obscene gestures or similar demonstrations which disrupt, disturb, or otherwise impede the Legislative Body proceedings
- Interrupting speakers or speaking when not recognized
- Calling members of the audience names or threatening them
- Extended discussion of matters beyond the jurisdiction of the Legislative Body
- Physical threats to any person
- Shouting into the microphone
- Dumping objects on the floor of the chamber where the proceeding is held for symbolic or other reasons.
- Speaking beyond the time limits
- Being unduly repetitious

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(c) Examples of non-disruptive conduct include:

- Silent gestures by members of the audience, such as a thumbs up or thumbs down or ~~Nazi salute~~ that are not otherwise disruptive of the meeting.
- Catcalls or booing during a time allowed for applause that does not otherwise disrupt the meeting.
- Criticisms of public officials or staff during a time reserved for public comment that does not otherwise violate this Manual and does not disrupt the meeting.

(d) As set forth in Government Code Section 54957.9, in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully

interrupting the meeting, the Legislative Body members may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this Section. Nothing in this Section shall prohibit the Legislative Body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

9.5 Censure of Legislative Body Members

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(a) It shall be a violation of this section for any sitting member of a Legislative Body to violate any general law or regulation, and any, rule, law, ordinance, or resolution of the City of Banning. It shall also be a violation of this section for any sitting member of a Legislative Body to violate an administrative policy of the City which has been adopted following a vote of the Legislative Body or the City Council on the matter and which by its terms is expressly made applicable to the Legislative Body.

(b) Any violation of the foregoing paragraph by a Legislative Body member may be punished through the administration of a public censure of the member by the member's Legislative Body. Such censure may be in addition to any other punishment applicable to the violation. For purposes of this section, "censure" shall mean the adoption of a motion setting forth a statement of disapproval of a Legislative Body member's conduct.

(c) When evaluating a request for defense made by the censured member in litigation arising from the censured conduct, the record of the censure shall be considered by the Legislative Body. Such record shall not be determinative. Failure of the Legislative Body to censure the conduct of a member does not constitute waiver of the Body's right to refuse to defend the member in an action.

(d) A Legislative Body member may not be made the subject of a motion for censure without first being given notice of the violation and an opportunity to correct the violation if it can reasonably be corrected. Upon a continued violation or failure to correct, the charged member shall be given notice and an opportunity to be heard as follows:

- (i) Only a sitting member of the Legislative Body whose member commits the violation may initiate proceedings for the censure of one of its members.
- (ii) Proceedings shall be commenced by the presentation of a written statement of charges to the subject Legislative Body member with a copy delivered concurrently to the Clerk/Secretary by the member initiating the charge. Initiation shall not require the prior approval of the Legislative Body. The statement of charges shall be given at least ten (10) days prior to the meeting at which the censure motion is proposed to be brought. The notice shall contain, at a minimum, the designation of the specific rule, law regulation, etc. which the member is claimed to have violated and a statement of the date, place, and time at which the violation occurred. The statement shall further contain a description of the conduct of the member which is alleged to constitute the violation. The statement of charges shall be delivered to all

other Legislative Body persons.

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- (iii) Within seven (7) days after delivery of the statement of charges, the charged member should deliver a written response to the other members of the Legislative Body unless the charged member chooses to defer to response to the hearing.

(e) The motion for censure shall be agendized and considered at the first regular meeting occurring ten (10) days following the delivery of the statement of charges to the member and Clerk/Secretary. The hearing may not be continued except upon the absence from the meeting of a member of the Legislative Body other than the member bringing the charge or the member who is the subject of the charge.

- (i) The hearing shall be conducted in an open session by the Presiding Officer unless the Presiding Officer is a party to the action, in which case the Vice Chair or some other member shall conduct the proceedings.
- (ii) The hearing shall generally proceed by a reading of the charges by the charging member. The charging member may present witnesses; the charged member may answer in rebuttal; members of the public may speak in favor or opposed to the charge; and the remaining members may speak to the charges in that order.
- (iii) Passage of the motion for censure shall require a majority vote of the members of the Legislative Body. The voting members shall not go into closed session for deliberation.

(f) If the motion for censure does not pass the proceedings shall be at an end. A new motion for censure on the same grounds of violation may not thereafter be commenced against the same Legislative Body member for a period of 1 calendar year from date of the vote. However, new proceedings may be commenced on the same charges within the 1-year period on the vote of 4 members of the Legislative Body.

(g) If the motion for censure does pass, such motion shall become a part of the public record a copy of which shall be made available upon demand to any member of the public and notice of same shall be placed in the administrative file of the Legislative Body member.

9.6 Persons Authorized To Be Within Platform/Dais

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No person except Legislative Body officials or authorized Legislative Body staff shall be permitted behind the Legislative Body dais without permission or consent of the Presiding Officer.

9.7 Personal Privilege

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If a Legislative Body member is personally offended by the remarks of another member, the offended Legislative Body member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The Presiding Officer will maintain control of this discussion. The right of a

member to address the Legislative Body on a question of personal privilege shall be limited to cases in which his integrity, character, or motives are assailed, questioned, or impugned.

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ARTICLE 10 – PARLIAMENTARY PROCEDURES

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10.1 Procedures In Absence Of Rules

(a) Unless otherwise specified in this Manual or by ordinance or resolution, meetings of the Legislative Body shall be conducted ~~in accordance~~ with the most recently revised edition of ~~Robert's-Rosenberg's~~ Rules of Order ~~serving as a procedural guideline~~. In the event of any conflict between ~~Robert's-Rosenberg's~~ Rules and this Manual, the provisions of this Manual shall govern.

(b) Any provision of these rules not governed by the Government Code may be temporarily suspended by a two-thirds (2/3) vote of all members of the Legislative Body. Such suspension may be moved at any time by a member. The vote on any such suspension shall be taken by yeas or nays and entered upon the record.

(c) Motions, motion procedures and precedence of motions shall be conducted in accordance with Exhibit "~~ABA~~" hereto.

10.2 Voting

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(a) After a full opportunity for debate if it appears that there is a consensus of opinion among the members of the Legislative Body on the matter to be voted upon, the Presiding Officer may state the consensus of the Legislative Body and ask if there is any objection. If there is no objection, the consensus as so stated shall become the order of the Legislative Body. The Presiding Officer may also determine that a consensus exists following a call for a vote by any member of the Legislative Body by a Motion to Call the Question.

(b) Except as in Subsection (a) above, otherwise, all votes of the Legislative Body shall be taken by electronic vote. In the event the electronic voting machine is not functioning or otherwise unavailable, vote shall be by roll call vote. The order voting shall be alphabetical with the Presiding Officer voting last. The Clerk/Secretary shall call the names of all members seated when a roll call vote is ordered or required. Members shall respond 'aye', 'no' or 'abstain.' After every vote, the Legislative Body shall declare the result and, on all but consensus votes, shall note for the record the number of votes for or against the question. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the official record of the Legislative Body.

10.3 Votes Needed

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(a) Usually, in the absence of a contrary statutory provision (such as urgency measures), a majority of a quorum which constitutes a simple majority of the Legislative Body may act for that body. However, resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of a Legislative Body.

(b) State law may dictate certain instances in which the number of votes required is greater than a majority of all Legislative Body members. As a matter of convenience, questions on which the voting requirement is varied by the State statutes and these rules, include, without limitation, the following:

- (i) Levying Taxes - Ordinances providing for the Assessment and collection of taxes require the approval of two-thirds of the members of the whole Council.
- (ii) Assessment - Assessments require a two-thirds vote of the whole Council.
- (iii) Bonds and Certificates of Participation - Authorizing these financial instruments the issuing requires a two-thirds vote of the total Council.
- (iv) Eminent Domain - The exercise of Eminent Domain requires a two-thirds vote of the total Council.
- (v) Certain Parliamentary Motions – Motions requiring a supermajority vote are noted in [the Motions Chart](#) [Rosenberg's Rules of Order](#) attached hereto.

(c) Any official with a conflict of interest is not counted for purposes of establishing a quorum, and must not vote on, make, participate in any way in, or attempt to influence the decision. A Legislative Body member abstaining on any other grounds than a conflict under the Political Reform Act shall be counted as present for purposes of a quorum and such abstentions are counted with the majority. The Legislative Body member who leaves the dais solely to avoid participating in a specific item shall, in absence of a conflict, be counted as if they were present but abstaining and such abstentions are also counted with the majority.

(d) Reconsider

Any Legislative Body member who voted with the majority may move to reconsider any action at the same meeting or at an adjourned meeting following the meeting at which the action was taken, provided that reconsideration shall not be permitted where a party other than the City has acted in reliance on the Legislative Body's action and would be substantially prejudiced by such reconsideration. The Clerk shall apprise the City Attorney of any facts constituting substantial prejudice and may rely upon the determination of the City Attorney.

- In the event that the subject of the reconsideration is a motion that failed as the result of a tie vote, any Legislative Body member who voted against the earlier motion may move for reconsideration at the following meeting. The member seeking reconsideration must have the matter agendaized unless the motion will be made at the same meeting where the original action was taken.
- If the motion to reconsider passes, then the original item may be reconsidered at that time or agendaized for the next meeting which meets any applicable noticing requirements.

After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the Legislative Body.

(e) Adjournment

To adjourn a meeting, the Presiding Officer shall ask the Legislative Body members whether there is a consensus to adjourn the meeting. If a Legislative Body member makes a motion to adjourn, and this motion is followed by a second, then the Presiding Officer shall have

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the Legislative Body members vote on the adjournment motion. The meeting is adjourned if there is a majority vote of the Legislative Body members on a motion or if there is a consensus to adjourn, at which time the Presiding Officer shall pronounce the time that the meeting is adjourned.

10.4 Tie Votes

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Tie Votes shall be lost motions unless an additional Motion is made which obtains a majority vote to break the tie. When all Legislative Body members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal. In such case the findings in support of the decision shall be those of the lower body. If a tie vote results at a time when less than all members of the Legislative Body are present, the matter shall automatically be continued to the agenda of the next regular meeting of the Legislative Body, unless otherwise ordered by the Legislative Body.

10.5 Abstentions

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Members of the Legislative Body are discouraged from abstaining from a vote for reasons other than a legally-disqualifying, financial conflicts of interest. However, if a member chooses to abstain from voting as a result of what he/she perceives as a personal or non-financial conflict of interest, the member may do so after stating for the record the nature of the perceived conflict. In the event of such a perceived conflict (as opposed to a legally disqualifying conflict), the member is not required to leave the dais.

(a) A Legislative Body member shall generally express their positions on all matters except those where they are required to abstain due to legally recognized conflict of interest.

(b) A Legislative Body member who has appealed the action of any person or body of the City on a matter which does not constitute a conflict of interest for the member under any law, may participate in the hearing on the appeal, unless there is clear and convincing evidence that such member is not objective or the member feels that they are unable to remain neutral, or as may be otherwise advised by the General Counsel. Notwithstanding any contrary provisions herein, in bringing an appeal, the Legislative Body member need not give reasons for making the appeal.

(c) A Legislative Body member may abstain from action on a matter where in the member's opinion, there might be a public perception that participation in the discussion or decision would be inappropriate even though the member has no disqualifying financial interest within the meaning of FPPC rules and regulations.

10.6 Votes Of Members Previously Absent

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(a) A Legislative Body member who was not present at a meeting should generally not vote on the approval of minutes for that meeting, but the voting on such minutes shall have no effect on the validity of the minutes.

(b) A Legislative Body member may vote on a continued item after an absence from the earlier public hearing of the matter if, prior to the vote, the member affirms on the record that they have familiarized themselves with the record of the earlier meeting and are prepared to vote

on the issue. If the member shall abstain from the vote, the member shall be counted towards the quorum on the issue and the abstention shall be counted with the vote of the majority of the quorum.

(c) The forgoing shall not apply to the matter of a vote on the minutes of a meeting at which the member was not in attendance. In that instance, the member abstaining on the grounds of non-attendance at the meeting to which the minutes pertain shall not be counted towards the quorum on the issue and the abstention shall not be counted with the votes of the majority of the quorum.

10.7 Appeals by Members of Legislative Body

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Except where otherwise provided, a member of the Legislative Body shall be deemed an interested person in any matter by a subordinate body and shall have standing to appeal to the Legislative Body any decision by a Sub-Legislative Body, or any determination made by any official of City by filing a written appeal. The appeal shall not state any grounds for the appeal and the resulting hearing shall be *de novo*. The appeal must be filed within 10 days of the making of the decision being appealed and shall be filed with the Clerk/Secretary who shall give written notice to the applicant and provide written notice to other persons as required for the original action. The hearing shall be held at the first regular meeting of the Council for which notice can be legally given. No appeal fee shall be required to be paid for such appeals.

10.8 Findings and Decisions

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Decisions of a Legislative Body, when acting as a quasi-adjudicative body (public hearings) should be framed in terms of "findings" of fact, potentially relevant conclusions of law, and ultimate decisions showing the basis for the decision and the nexus between the findings, the conclusions, and the decision. The Legislative Body members must consider any legally-mandated findings applicable to a matter and consider the evidence presented to them in light of such findings in making their decisions.

10.9 Curfew

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A 10:00 p.m. curfew is imposed upon City Council meetings. 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 majority vote of the Council members present, but such extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue. The City Manager shall arrange the regular order of business on Council agendas to minimize any adverse effects this curfew may have regarding the timely conduct of important City business. This Section 10.9 shall supersede Resolution No. 2016-44.

**ARTICLE 11 — PROCEDURES FOR CONSIDERATION OF DEMANDS FOR
CORRECTIVE ACTION**

ARTICLE 11- PROCEDURES FOR CONSIDERATION OF DEMANDS FOR CORRECTIVE ACTION

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11.1 Requirement of Written Demand

Prior to any person commencing a judicial action for injunction or mandamus to declare any action taken by the Legislative Body void because of failure to observe Brown Act requirements, such person must first serve upon the Clerk/Secretary a written demand clearly describing the challenged action, the nature of the claimed violation, and the corrective action sought. Such demand must be served upon the Clerk/Secretary within ninety (90) days of the alleged violation or thirty (30) days if the action was taken in open session but in violation of Section 54952.2 of the Government Code. Failure to serve any such demand within this thirty (30) day period shall result in the loss of any right to challenge any action alleged to have been taken in violation of Sections 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 of the Government Code.

If the written demand is timely served, the Legislative Body has up to thirty (30) days to cure and correct its action. If the Legislative Body does not act, any lawsuit must be filed within the next fifteen (15) days.

11.2 Consideration of Corrective Action

Upon receipt of such a demand, consideration of the demand shall immediately be placed on the agenda for the next meeting of the Legislative Body. If the demand is received less than 72 hours prior to the time set for the next meeting, the Legislative Body may determine that the notice constitutes the initiation of litigation, and that the need to take action on the threatened litigation arose subsequent to the posting of the agenda and may consider it at that meeting pursuant to Article 3 Section 13, above. A description of any item so placed on the agenda shall include both consideration of the demand, and the possibility of corrective action by the Legislative Body.

In considering such demands, the Legislative Body shall first determine by motion whether to reconsider the prior action. The motion to reconsider shall be in order as long as made by a party on the prevailing side. If no motion to reconsider is carried the Clerk/Secretary shall inform the demanding party in writing of the Legislative Body's decision not to cure or correct the challenged action.

11.3 Implementing Corrective Action

If a motion to reconsider passes, the Presiding Officer may entertain a motion to take corrective action. Any motion taking corrective action shall address the concerns raised in the consideration of corrective action. The motion taking corrective action may include a motion to rescind prior action taken, as appropriate. Passage of a motion to rescind invalidates prior action only as of the time of the passage of the motion, and not from the date of the initial action. A motion implementing corrective action resulting from a written demand is out of order if the action complained of: (i) was in connection with the sale or issuance of notes, bonds, or other evidence of indebtedness, or any contract, agreement, or incident thereto; (ii) gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied; or (iii) was taken in connection with the collection of any tax.

In any event, the Legislative Body shall notify the party making the demand in writing of its decision to take corrective action and shall describe any corrective action taken. This notice shall be given to the demanding party as soon as possible after the meeting, but in no event more than 30 days after receipt of the demand.

ARTICLE 12 – MISCELLANEOUS

ARTICLE 12 – MISCELLANEOUS

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12.1 Interpretation

This Manual shall be liberally construed to effectuate its purpose and no ordinance, resolution, proceeding or other action of the Legislative Body shall be invalidated, or the legality thereof otherwise affected by the failure or omission of the Legislative Body to technically comply with, observe or follow the within rules. The City Council may, by resolution, adopt further rules of interpretation or practice.

12.2 Amendments

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This Manual may be amended from time to time as necessary by resolution passed by a majority vote of the City Council at any regular or special meeting, provided that no such amendment shall be adopted unless at least seven days' written notice thereof has been previously given to all Legislative Body members serving the City. Such notice shall identify the section or sections of the Manual proposed to be amended.

12.3 Power to Issue Subpoenas

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The Legislative Body may issue subpoenas requiring attendance of witnesses or production of books or other document for evidence or testimony any action or proceeding pending before it. (Government' Code Section 37104.) Subpoenas shall be signed by the Presiding Officer and attested by the Clerk. They may be served as subpoenas are in civil actions.

EXHIBIT A **Chart of Motions**

1. Motions listed in order of precedence

MOTION	YOU SAY THIS	May you interrupt the speaker?	Do you need a second?	Is it debatable?	Can it be amended?	What vote is needed?	Can it be reconsidered?
Adjourn meeting	"I move to adjourn."	No	Yes	No	No	Majority	No
Call an intermission ¹	"I move to recess for..."	No	Yes	No	Yes	Majority	No
Register a complaint	"I rise to a question of privilege."	Yes	No	No	No	None	No (usually)
Temporarily suspend consideration of an issue ²	"I move to table the motion."	No	Yes	No	No	Majority	No
Close debate	"I move the previous question."	No	Yes	No	No	2/3	No, unless the vote on question has not been taken
Limit or extend debate	"I move that the debate be limited for 'extended' to..."	No	Yes	No	Yes	2/3	Yes
Give closer study of something ³	"I move to refer the motion to the committee."	No	Yes	Yes	Yes	Majority	Yes, unless the board has already taken up the subject
Amend a motion	"I move to amend the motion by..."	No	Yes	Yes	Yes	Majority	Yes
Motion to continue to a certain time	"I move that the motion be continued to..."	No	Yes	Yes	No	Majority	Yes
Introduce business (bring a main motion)	"I move that [or 'to']..."	No	Yes	Yes	Yes	Majority	Yes

¹ Should specify period of recess.

² A motion to take up a matter previously tabled must be made at the same meeting as the motion to table. If not, the motion tabled dies.

³ May contain specific instructions for board members and a date for certain for reconsideration. If not date is not certain, restored by a motion to take up matter previously tabled, which is permissible in this case even if not same or next meeting.

2. Incidental Motions—no order or precedence. Arise incidentally and decided immediately.

MOTION	YOU SAY THIS	May you interrupt the speaker?	Do you need a second?	Is it debatable?	Can it be amended?	What vote is needed?	Can it be reconsidered?
Protest breach of rules (i.e., Point of Order) ⁴	"I rise to a point of order..."	Yes	No	No	No	None	No
Motion to appeal the ruling ⁵	"I appeal from the decision of the Presiding Officer for 'Chair'!"	Yes	Yes	Yes	No	Majority	Yes
Suspend rules temporarily	"I move to suspend the rules so that..."	No	Yes	No	No	2/3	No
Avoid considering an improper matter	"I object to the consideration of the question..."	Yes	No	No	No	2/3	No, only if the main question or motion was not in fact considered
Divide motion	"I move to divide the question"	No	Yes	No	Yes	Majority	No
Parliamentary law question	Parliamentary inquiry	Yes, if urgent	No	No	No	None	No
Motion to depart from the agenda	"I move to consider matter [...] out of order"	No	Yes	Yes	Yes	Majority	Yes
Take up matter previously tabled ⁶	"I move to take from the table..."	No	Yes	No	No	Majority	No
Cancel or change previous action ⁷	"I move to rescind/amend something previously adopted..."	No	Yes	Yes	Yes	2/3 or majority with notice	No
Reconsider motion	"I move to reconsider the vote on..."	Yes	Yes	Only if motion is debatable ⁸			

⁴ Decision of the Presiding Officer is final, unless overturned by motion to appeal the ruling.

⁵ Presiding Officer may participate in debate. Negative or tie vote sustains ruling.

⁶ A motion to take up a matter previously tabled must be made at the same meeting as the motion to table. If not, the motion tabled dies.

⁷ Does not void action *ab initio*; only from point of rescission. Motion is out of order if relates to contract upon which another party has detrimentally relied, relates to issuance of bonded indebtedness, or relates to the collection of any tax.

⁸ Cannot be made on a quasi-judicial matter or matters required a noticed public hearing. Can only be made by a member who voted with the previously-prevailing side. May be made at the same meeting or a subsequent meeting subject to the same restrictions as a motion to rescind.

EXHIBIT AB
(ROSENBERG'S RULES OF ORDER)

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EXHIBIT B

BANNING CITY COUNCIL MEETING PRESENTATION POLICY

City Council presentations are for providing information to the Mayor and Council, City management, and the community about activities of interest and value including:

- Activities, events, and infrastructure projects relating to the City.
- Honors and celebrations for organizations, corporations and residents related to Banning.
- Honors and celebrations for organizations, corporations and resident which reflect their service to the Banning community.
- Honors and recognitions for City staff for outstanding service or commitment to the City's mission and goals.
- Please note this is not the appropriate time to seek funds from the City and/or endorsements from City Council or discuss politics.

Presentation Length

All presentations are to be no more than five minutes in length; this is to include all speakers for the group being recognized.

Presentation Schedule

City Council begins at 5:00 p.m. with an invocation and pledge to the American flag followed by presentations. All honorees or groups are to arrive no later than 4:45 p.m.

Presentation Location

Presentations take place in the Council Chambers inside Banning City Hall located at 99 E. Ramsey Street. Parking is available in the Police Department parking lot located at 125 E. Ramsey Street (just off Hays Street) adjacent to the Council Chambers, or in the City Hall parking lot located at the corner of Hays and San Gorgonio.

Presentation Technical Support

The City has the capability to display PowerPoint (or equivalent) during the presentation. If a PowerPoint is to be used during the presentation:

- The PowerPoint is to be no more than 10 slides with limited text; and
- To be submitted to the City Clerk's Office no later than the Thursday prior to the scheduled Tuesday City Council meeting (2nd and 4th Tuesdays of the month).
 - PowerPoints are subject to editing for appropriateness.
 - PowerPoints which do not meet these standards will not be used.

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