

2018 – 2019 Civil Grand Jury

“City of Banning Council and City Manager Relationship”

Background

The City of Banning is located in the San Gorgonio/Desert Pass, between Mount San Gorgonio to the north and Mount San Jacinto to the south in Riverside County, approximately 30 miles east of the City of Riverside. Banning takes pride in its history of being on the stagecoach route through the desert pass region and celebrates its important and historical heritage. The Butterfield Overland Mail and passenger stagecoach route was authorized by the United States Congress in 1858. Its coast-to-coast route with several branch routes, and a cross country main route, undoubtedly influenced the formation and growth of many communities across the country through the early nineteen hundreds.

The City of Banning was incorporated in 1913 as a general law city. California Government Code Title 4, §§34000 – 45345, states that a city can organize as either a general law city or charter city. General law cities and charter cities follow the state constitution and the same general principles. However, charter cities have the choice to use more original approaches concerning municipal affairs.

As a general law city, with a Council-Manager form of government, Banning has five elected council members, one of which is appointed Mayor by the Council every year. Council members serve as the legislative branch of city government and vote on laws and proposals relating to various community issues. The City Council makes legislative decisions dealing with topics such as allocation of funds for public services, community development projects, issues of land use and budgetary matters. The city budget for Fiscal Year 2018-2019, adopted on June 26, 2018, anticipates total revenues of \$16,159,132. The 2017 U.S. Census estimates Banning’s median household income was \$39,700 with a population of 31,230.

There are staggered election cycles for the council members to ensure continuity of knowledge and representation. The election method for City Council members changed from an at-large format to five distinct districts, effective June 7, 2016.

The City Manager is the chief administrative officer, hired by the City Council through a negotiated contract, and is an “at will employee”. The City Manager

supervises the city departments and staff via the appropriate department heads and is responsible for the day-to-day operations of the city, including overseeing the process of recruitment, dismissal and discipline of employees.

METHODOLOGY

Interviews

- Sworn testimonies
 - Five current Banning City Council members
 - Two former Banning City Council members
 - Three Banning residents
 - Two former Banning City Managers
 - Three former Banning Police Chiefs
 - Current Banning City Manager
 - Former Banning Human Resources Department Head
 - Former and current Banning sworn and civilian police department employees
 - Former Banning Deputy City Clerk
 - Current Banning IT Department Head
 - Current Banning Police Chief

Official City Documents

- City of Banning official website including Council Meeting Agenda and Minutes and Municipal Code of Ordinances (December 31, 2018) (library.municode.com/ca/banning/codes/code-of-ordinances)
- *Banning Municipal Code: 2.08.110: "The city council and its members shall deal with the administrative services of the city only through the City Manager, except for the purpose of inquiry; and neither the city council nor any member thereof shall give orders to any subordinate of the city manager."*
- City of Banning Ordinance No.1540 (Adopted January 8, 2019) "Modifying the City Managers powers and duties..." Ordinance 1540 (adopted January 8, 2019) amends the Municipal Code to state as follows:

Section 1. Code Amendment

C. To appoint, promote, demote and remove any officers and employees of the city except the city clerk, city treasurer and city attorney.

Internet Resources

- <https://www.banning.ca.gov>
- www.library.municode.com
- California League of Cities (cacities.org/index.jsp)
- Institute for Local Government (www.ca-ilg.org)

2017 2018 Riverside County Civil Grand Jury (RCCGJ) Report

- “City of Banning”; Finding #5 on page 53; and Recommendation #5 on page 55

FINDINGS

City Council Member Circumvents City Manager Relationship

1. The 2018 – 2019 RCCGJ investigation discovered recent incidents where one City Council Member frequently circumvented the authority of the City Manager and dealt directly with department heads and city employees. In one example, a Council Member directed a police officer to open a criminal investigation into the water use activities of a private citizen.

Council Member’s Independent Actions

2. One Council Member’s actions created a destructive culture within the city government. Interviews of Banning employees revealed that several city employees resigned from city employment in response to improper, unprofessional and inappropriate contact and actions by this Council Member. Another such action was directing an Interim Police Chief on the day-to-day functions in the police department. This Interim Police Chief regularly adopted these directions as his own and appeared to not make independent decisions.

Low Employee Retention

3. One Council Member’s inappropriate actions have contributed to low employee retention and difficulty in filling open positions with qualified personnel. An acting city manager, a department head, and several other city employees left city employment following continuous harassment. The word “bully” was frequently used to describe this Council Member’s interactions with former and current city employees. This hostile work environment has resulted in litigation settlements from the City of Banning which totaled nearly two million dollars (\$2,000,000).

Recommendations

**Riverside County Board of Supervisors
Banning City Manager
Banning City Council**

City Council Member Circumvents City Manager Relationship

1. City Council Members must follow Article 2.08.110 of the Banning Municipal Code which stipulates no council member has the authority to act alone without the concurrence of a council quorum and an actionable vote. The city attorney and/or designated legal expert should instruct City Council Members of their duties and responsibilities.

Council Member's Independent Actions

2. The Banning City Manager must, per Banning Municipal Code Article 2.08.110, require department heads to notify him or her of any unauthorized contact by any City Council member.

Low Employee Retention

3. The Banning City Council Members must strive to eliminate such bullying behavior and implement specific policies and procedures for disciplinary actions against any city council member or department head who violates city procedures or ordinances. The City Council should publically censure any of its members who violate standards of civil and ethical conduct, including violations of laws and municipal codes. They must govern themselves in a professional manner.

SUMMARY

The Banning Municipal Code and Ordinances are clear on how the City Council and City Manager are expected to interact. The people of Banning deserve and expect the proper function and operation of their city government. The City Council and City Manager must aspire and strive toward collaboration and professionalism in order to govern effectively. The dynamics of solid city government demand cooperation, civility and trust.

GOALS

The citizens of Banning should:

- Hold the City Council accountable to high standards and expectations
- Observe, attend and voice their concerns at City Council public meetings
- Vote for City Council members who inspire confidence and will perform their duties according to laws and policies
- Run for elected office to open up a wider range of candidates
- File a written complaint regarding any city agency with the appropriate department

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