

**NOTICE AND CALL OF A SPECIAL MEETING
OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA.
COUNCIL CHAMBER 99 E. RAMSEY STREET
BANNING, CALIFORNIA 92220**

NOTICE IS HEREBY GIVEN that a special meeting of the City Council of the City of Banning is hereby called to be held on Wednesday, August 7, 2019, commencing at 5:00 p.m. Said meeting will convene in the Council Chamber located at 99 E. Ramsey Street, Banning, California, 92220.

Said Special Meeting shall be for the purpose of considering the following:

I. CALL TO ORDER

II. AGENDA APPROVAL

III. DISCUSSION ITEM

Discussion of, and Direction to City Staff regarding, the June 18, 2019 Riverside County Grand Jury Report entitled "City of Banning Council and City Manager Relationship"

- A. Summary of Grand Jury Report Findings and Recommendations
- B. Questions from Councilmembers regarding Report
- C. Public Comments on Grand Jury Report
- D. City Council Discussion of Findings, Recommendations and Actions
- E. Direction to Staff on Contents of Draft Response due by September 19, 2019

IV. ADJOURNMENT

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

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

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

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m.

CITY COUNCIL – Next Regular City Council Meeting, August 27, 2019, 5:00 p.m.

**AGENDA
SPECIAL MEETING OF THE BANNING CITY COUNCIL
CITY OF BANNING
BANNING, CALIFORNIA**

August 7, 2019
5:00 p.m.

Banning Civic Center
Council Chamber
99 E. Ramsey Street

The following information comprises the agenda for the regular meeting of the City Council, and a joint meeting of the City Council and the Banning Utility Authority.

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

I. CALL TO ORDER

- Invocation
- Pledge of Allegiance
- Roll Call – Council Members Happe, Peterson, Wallace, Mayor Pro Tem Andrade and Mayor Welch

II. AGENDA APPROVAL

III. DISCUSSION ITEM

Discussion of, and Direction to City Staff regarding, the June 18, 2019 Riverside County Grand Jury Report entitled “City of Banning Council and City Manager Relationship”.....Page 5

- A. Summary of Grand Jury Report Findings and Recommendations
- B. Questions from Councilmembers regarding Report
- C. Public Comments on Grand Jury Report
- D. City Council Discussion of Findings, Recommendations and Actions
- E. Direction to Staff on Contents of Draft Response due by September 19, 2019

CITY COUNCIL – Next Regular City Council Meeting, August 27, 2019, 5:00 p.m.

IV. ADJOURNMENT

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

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

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

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m.



CITY OF BANNING CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

MEETING DATE: August 7, 2019

SUBJECT: Discussion of, and Direction to City Manager and City Attorney regarding, the June 18, 2019 Riverside County Grand Jury Report entitled, "City of Banning Council and City Manager Relationship"

RECOMMENDED ACTION:

Staff recommends the City Council discuss the Grand Jury Report, receive public comment on the Grand Jury Report, and provide direction to the City Manager and City Attorney on contents of a draft response due by September 19, 2019.

BACKGROUND:

On June 18, 2019, the City Council and City Manager received a 2018 – 2019 Grand Jury Report entitled: "City of Banning Council and City Manager Relationship". The cover letter references the requirement of California Penal Code Section 933 et seq. that the City Council and the City Manager file a response within ninety (90) days. The City Council response must be approved by majority vote of the City Council prior to filing with the Superior Court Presiding Judge, Riverside County Grand Jury, and Riverside County Clerk-Recorder. Council action on a draft response is tentatively scheduled for the Tuesday, August 27, 2019 meeting and the deadline for a City Council response to the Grand Jury Report is September 19, 2019.

Procedurally, the City Council is advised to:

1. Staff summary of Grand Jury Report Findings and Recommendations
2. Direct questions regarding Report to City Attorney or City Manager
3. Accept public comments on Grand Jury Report
4. Discuss Findings and Recommendations of the Grand Jury Report and Potential Actions in connection therewith

5. Provide direction to City Manager and City Attorney on contents of a draft response due by September 19, 2019.

JUSTIFICATION:

A response to the Grand Jury Report is required by September 19, 2019.

FISCAL IMPACT:

N/A

OPTIONS:

Discussion and direction on the contents of a response and other actions to be taken in response to the Report.

ATTACHMENTS:

1. 2018 – 2019 Grand Jury Report: City of Banning Council and City Manager Relationship

Approved by:



Douglas Schulze
City Manager

ATTACHMENT 1

2018 – 2019 Grand Jury Report: City of Banning Council and City Manager Relationship



RIVERSIDE COUNTY GRAND JURY

(951) 955-8990 OFFICE • (951) 955-8989 FAX

June 18, 2019

Banning City Council's Office
99 East Ramsey Street
Banning, CA 92220

Subject: 2018-2019 Grand Jury Report: "City of Banning Council and City Manager Relationship"

Dear Council Members:

Please note that Penal Code Section 933 et seq. specifies that you file a response with the following agencies within **ninety days**.

John W. Vineyard, Presiding Judge
Superior Court of California, County of Riverside
4050 Main Street
Riverside, CA 92501

Riverside County Grand Jury
Post Office Box 829
Riverside, CA 92502

Riverside County Clerk-Recorder
2720 Gateway Drive
Riverside, CA 92507

Further, it specifies that this report be kept **confidential for a minimum of two working days** prior to public release. The contents of this report will be made public after the close of business **June 21, 2019**.

Sincerely,

Michael McDonald, Foreperson
2018-2019 Riverside County Civil Grand Jury

Attch.

2018 – 2019 Civil Grand Jury

“City of Banning Council and City Manager Relationship”

Background

The City of Banning is located in the San Geronimo/Desert Pass, between Mount San Geronimo 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 nineteenth 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

Report Issued: 06/18/2019
 Report Public: 06/21/2019
 Response Due: 09/23/2019