

City of Banning

Office of the Mayor

99 East Ramsey Street

Banning, CA 92220

August 28, 2019

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

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

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

Re: Response to the Riverside County Grand Jury's Report entitled "2018 - 2019 Civil Grand Jury 'City of Banning Council and City Manager Relationship'"

Dear Judge Vineyard:

On June 18, 2019, the Riverside County Grand Jury issued its 2018-2019 Grand Jury Report to the City of Banning that was entitled "City of Banning Council and City Manager Relationship." For ease of reference, we will refer to this Report as the "2019 Report." The 2019 Report became public on June 21, 2019. Pursuant to the cover letter to the Banning City Council's Office from Michael McDonald, Foreperson, the City Council was instructed to file a response to the 2019 Report to each of you within ninety days (by September 16, 2019). The 2019 Report was divided into sections for background, methodology, findings and recommendations.

The Banning City Council appreciates the opportunity to provide the following responses to these findings and recommendations in accordance with Penal Code Section 933.

A. The City Council's Responses to the Findings in the 2019 Report

The Grand Jury's Finding No. 1 was as follows:

"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."

The City Council's response to Finding No. 1 is as follows:

The City Council generally agrees with this finding. The Council believes that Councilmembers should abide by Banning Municipal Code Section 2.08.110 and deal with the administrative services of the City through the City Manager and not give orders to any subordinate of the City Manager. A decision by the City Manager to hire a department director that is not someone universally supported by all councilmembers should not then become a basis for a Councilmember to not talk to the City Manager about issues directly with the City Manager.

The Grand Jury's Finding No. 2 was as follows:

"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."

The City Council's response to Finding No. 2 is as follows:

The City Council agrees with this Finding with respect to: (i) one Councilmember's actions has created a destructive culture within the city government; (ii) the need to improve the culture between the City Council and City employees; (iii) that no councilmember should engage in improper, unprofessional or inappropriate contact with City employees; and (iv) that the Police Chief is under the direction of the City Manager and that the City Manager, not the City Council or any one councilmember, should direct the actions of the Police Chief.

The Grand Jury's Finding No. 3 was as follows:

"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)."

The City Council's response to Finding No. 3 is as follows:

The City Council generally agrees with this Finding with respect to one Councilmember's inappropriate actions and the high level of turnover in management staff at the City. The City Council also believes it is not in the interests of the City, and would be inappropriate for the City Council from a risk management perspective, to specifically comment upon on work environment at the City except to affirm the City's goal of maintaining a professional, safe and legally compliant workplace.

B. The City Council's Responses to the Recommendations in the 2019 Report

The Grand Jury's Recommendation No. 1 was as follows:

"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."

The City Council's response to Recommendation No. 1 is as follows:

The City Council agrees with the recommendation that Councilmembers should follow Banning Municipal Code Section 2.08.110 and that no councilmember has the authority to act alone and without the concurrence of a quorum of the Council at a properly agendized meeting. The City Council agrees that the City Attorney should instruct City Council Members of their duties and responsibilities and that additional instruction has commenced and will continue to take place in upcoming meetings and workshops.

The Grand Jury's Recommendation No. 2 was as follows:

"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."

The City Council's response to Recommendation No. 2 is as follows:

The City Council agrees with this Recommendation.

The Grand Jury's Recommendation No. 3 was as follows:

“Low Employee Retention

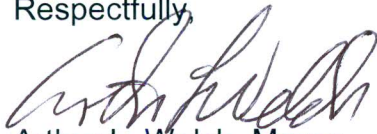
3. The Banning City Council Members must strive to eliminate such bullying behavior and implement specific policies and procedures for disciplinary actions against any city council member or department head who violates city procedures or ordinances. The City Council should publically censure any of 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.”

The City Council's response to Recommendation No. 3 is as follows:

The City Council agrees that there needs to be disciplinary actions against any city councilmember or department head who violates city procedures and ordinances. The City Council will be considering two motions for censure at its meeting on September 10, 2019, one of which is specifically based on the Findings and Recommendations of the 2019 Report and the other one is based on the Findings and Recommendations of the 2018 Grand Jury Report.

The City Council appreciates the opportunity to respond to the report. Should you have any further questions or desire any further information, please contact me or City Attorney, Kevin G. Ennis.

Respectfully,



Arthur L. Welch, Mayor
City of Banning

Attachments: 2019 Report

cc: Honorable City Council
Doug Schulze, City Manager
Kevin G. Ennis, City Attorney