

2009-2010 GRAND JURY REPORT

Community Redevelopment Agency of the City of Banning

Background

Banning, California is located midway between Riverside and Palm Springs. Incorporated in 1913, the city has a population of fewer than 30,000 residents. The city is governed by a five-member city council that also sits as the board for the Community Redevelopment Agency of the City of Banning (the "Redevelopment Agency"). The redevelopment agency is charged with eliminating blight in designated areas of the city.

Economic activity in Banning is concentrated among the motels, gasoline stations and restaurants that service Interstate 10 motorists and truckers. In 1978 the city council created the Downtown Project Area in order to begin a redevelopment process for the city. A second project area (the Midway Project Area) was formed six years later. In February 2002, the two areas, along with some new territory, were merged to form the present boundaries of the redevelopment area.

Authority for formation and operation of a redevelopment agency is found in the California Community Redevelopment Law, contained in the California Health and Safety Code, beginning with Section 33000. Article XVI, Section 16 of the California Constitution, adopted in 1952 by the voters, provides for tax increment financing.

Banning's redevelopment agency is financed through tax increment revenue and tax allocation bonds. The tax increment revenue is calculated using this formula: when a redevelopment project area is formed, the assessed values of all of the properties within the area are frozen; the total assessed value becomes the base-year valuation; real estate taxes associated with any growth in the base-year valuation are considered tax increment revenue. Most of the revenue is allocated to the redevelopment agency.

The redevelopment agency is required to spend the tax increment revenue only on redevelopment purposes, including a 20 percent set-aside restricted to low-income housing.

The redevelopment agency supported a non-profit organization called the Banning Cultural Alliance (the "Alliance"). Formed in 2005, the Alliance obtained tax-exempt status under Section 501c(3) of the Internal Revenue Code. According to the Alliance website, its mission is to provide education about and support for arts and culture in Banning.

Findings

1. In 2007 the redevelopment agency floated a bond issue that netted approximately \$24 million to fund projects in the redevelopment area. The official statement listed three general categories of planned expenditures: revitalization of downtown, economic incentives and public improvements. Little specificity was included in the official statement. Investigation revealed that the redevelopment agency board had not formulated detailed, prioritized plans for the use of the proceeds.
2. Testimony revealed that the city's and the redevelopment agency's planning and project implementation have been hampered by key employee turnover. Since 2008, three city managers have left, and a fourth is scheduled to begin work in February 2010. Since 2004 five community development directors/consultants have come and gone, and the sixth is now in place. Since 2004, four redevelopment managers have left, and the fifth is now in place. Additional investigation revealed that allegations of micro-managing have been leveled against members of the city council/redevelopment agency board.
3. One of the programs of the redevelopment agency is called Façade Improvement. Property owners are given grants or forgivable loans to improve the exteriors of their buildings in the project area. It was found that the redevelopment agency board has committed funds for improving the appearance of vacant, unrented property while ongoing businesses are made to wait for assistance.
4. Onsite visits and sworn testimony revealed East Banning to be a blighted area in need of priority attention from the redevelopment agency. There is a paucity of sidewalks, streetlights and parks. Old furniture is strewn about the neighborhood; trash and weeds are plentiful. Aside from some low-income housing expenditures, the redevelopment agency has neglected this blighted area of the city.
5. Redevelopment agencies are required by law to prepare five-year plans. The 2004-2009 Banning plan notes the need for an additional staff person to assist the one agency employee devoted exclusively to redevelopment. Deadlines have been missed, and programs and contracts have not been monitored and administered adequately. Without the additional person or the hiring of outside consultants, the plan notes, "it is not probable that the agency will be able to implement the programs and projects in the time periods identified herein."

6. In July 2009, the redevelopment agency bought property in the western side of the city without acquiring its own independent certified appraisal. Witnesses testified that the price paid, \$1,200,000, was above market value. Since the purchase, the redevelopment agency board has budgeted an additional \$800,000 to make the property more desirable.
7. On August 4, 2005 the city council voted to give the Alliance \$10,000. In the course of the next four years, the city council and the same people acting as the redevelopment agency board voted to give the Alliance a total of \$806,503.08 in public funds for a variety of uses (see appendix for a breakdown on the funds). On August 21, 2006, the first and largest contract between the redevelopment agency and the Alliance was approved for \$343,000 over a two-year period. While this contract called for the Alliance to stage arts and cultural events, it also required the Alliance to perform specific redevelopment activities. The following redevelopment activities were never performed: development of a downtown Property-Based Improvement District (PBID) and a campaign to market Banning with advertising on billboards, radio, television and infomercials.
8. The first two contracts, covering the period between 2006 and 2009, followed the same format. The Alliance was given a check for the total at the beginning of the each contract year. The agreements contained no means to measure success or failure of the efforts by the Alliance, and they contained no criteria to determine whether the obligations were indeed fulfilled.
9. An examination of the relationship between the Alliance and the redevelopment agency revealed a willingness by the board to fund the group without any measure of accountability, without measures of success or failure and without demands for return of funds not spent on contractual obligations. No other outside organization in Banning has been treated this way by the board of the redevelopment agency.

Recommendations

City Council, City of Banning Community Redevelopment Agency, City of Banning

1. The redevelopment agency should develop a prioritized list of redevelopment projects to justify any future funding through the bonding process. Further, projects and their prioritization should be widely publicized and then reviewed by members of the community for their input prior to the issuance of future bonds.
2. The Banning City Council and the redevelopment agency should consider retaining an outside consultant to ascertain from employees their attitudes toward their work environment and their relationship with policymakers. Further, the leaders in Banning should take the initiative to establish ongoing workshops on the role of policymakers and employees and how to improve relations.
3. The redevelopment agency board should prioritize how façade improvement money is spent. First priority should be given to owners of buildings where businesses are operating; second priority should go to building owners who have a commitment to rent a vacant structure; and lowest priority should be instances where a building owner seeks redevelopment money for a vacant building.
4. The redevelopment agency should commit now to a major improvement program over the next 10 years to reduce the blight in East Banning.
5. The redevelopment agency board should consider the hiring of an additional staff person to help in monitoring current projects and administering programs.
6. All future development property purchases by the redevelopment agency must include an independent certified appraisal ordered by the redevelopment agency staff.
7. The redevelopment agency board should enforce the immediate return of \$162,000 of public money from the Banning Cultural Alliance in accordance with the terms of the contracts. The amount arises from the Alliance failing to meet its contractual requirement to use \$34,000 to develop a PBID; to use \$110,000 for a marketing program between 2006 and 2008; and \$18,000 to develop a PBID between 2008 and 2009. A reasonable rate of interest on the amount should also be included.

8. The redevelopment agency board should include in all of its contracts with personal services suppliers and outside organizations provisions for measurement of success or failure and of fulfillment or nonfulfillment of the obligations assumed. Penalties and/or termination provisions for nonperformance should be included.
9. The redevelopment agency board should immediately cease and desist awarding any redevelopment funds to the Cultural Alliance.

Appendix

Breakdown of city or redevelopment money paid to the Banning Cultural Alliance

Date	Amount	Description
8/4/05	\$10,000	This is a Community Development Block grant from the city council to provide access to cultural activities for underprivileged children and their families.
9/13/05	\$5,000	This is a city council donation to help the Alliance stage a fundraiser on behalf of the victims of Hurricane Katrina in the Gulf Coast.
3/30/06	\$10,000	This is for a two-month agreement between the redevelopment agency and the Alliance. The money is used to stage an "Art Hop" along North San Gorgonio Avenue.
6/1/06	\$19,800	This is for a three-month agreement for Phase II of the Arts District planning proposal, begun with the previous contract.
8/21/06	\$343,000	This is the original two-year contract with the redevelopment agency. The Alliance is paid: <ol style="list-style-type: none"> 1. \$48,000 to stage Art Hops in 2007 and 2008. 2. \$42,000 for a Western art show during the city's annual Stage Coach Days celebration in 2007 and 2008. 3. \$68,000 for a marketing and promotional campaign called Brush with Banning. 4. \$11,000 to facilitate a Youth Arts Council. 5. \$30,000 to develop a five-year downtown revitalization implementation plan. 6. \$34,000 to organize a downtown property-based improvement district. 7. \$110,000 to buy billboards, radio, television advertising, and infomercials promoting Banning.
1/27/07	\$100,000	This is a redevelopment agency façade improvement grant that was used for the Alliance headquarters building at 175 West Hays Street. Other businesses in Banning received similar amounts.
3/29/07	\$1,000	This is a Community Development Block Grant from the city council to the Alliance for its Youth Arts Council.
8/5/08	\$171,500	This is a one-year contract between the redevelopment agency and the Alliance. The group is paid: <ol style="list-style-type: none"> 1. \$50,400 to stage special events. 2. \$41,500 for marketing. 3. \$16,500 for operating the Center for the Arts at 128 North San Gorgonio Avenue. 4. \$30,100 to operate a youth program. 5. \$18,000 to organize a downtown property-based improvement district. 6. \$15,000 for "overhead" expenses.

Date	Amount	Description
2/5/09	\$14,678.08	This is a Community Development Block Grant from the city council to make the restrooms at the group's headquarters on Hays Street compliant with the federal Americans with Disabilities Act.
5/14/09	\$25	This is a fee for a city council member to attend the dedication ceremony for the group's sculpture garden at its Hays Street headquarters.
6/23/09	\$131,500	<p>This is the third contract between the redevelopment agency and the group. The Alliance has proposed that it should be paid:</p> <ol style="list-style-type: none"> 1. \$63,550 for downtown promotion events. About 60 percent of the amount is for the salary of a coordinator. 2. \$14,500 for the Center for the Arts operations. About half of the amount is for the salary of a manager. 3. \$32,550 for the operation of the Youth Council. About 80 percent of the amount is for the salary of a program director. 4. \$9,000 to organize the Banning Business Association, which will be an entity "active in all aspects of downtown planning and activities." The entire amount of money will be spent on the salary of an executive director. 5. \$11,900 for "overhead."
Total	\$806,503.08	