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Superior Court of California
County of Butte
SEP 08 2023
Sharif Elmallah, Clerk
By _____ Deputy
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City of Oroville

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David W. Pittman
Mayor

September 5, 2023

Hon. Corie J. Caraway, Judge of the Superior Court
c/o Administrative Services
Superior Court of California, County of Butte
One Court Street, Oroville, CA 95965

Re: *City of Oroville's Response to 2022-2023 Grand Jury Report*

Dear Judge Caraway:

Pursuant to Penal Code section 933, subsection (c), the City Council has reviewed the 2022-2023 Grand Jury Final Report regarding anonymous complaints from citizens. In preparing this response, information and input was obtained from various sources regarding each finding and recommendation, including the City Administrator and other staff members. In response to the Grand Jury Final Report released June 29, 2023, the City Council unanimously approved the following response in a public session of its duly noticed meeting held on September 5, 2023.

It should be noted that the Grand Jury invited responses from individuals from which the Grand Jury may not require a response as outlined in Penal Code section 933(c). This letter takes into account the thoughts of those from whom the Grand Jury improperly invites a response. The City of Oroville again respectfully requests that the Grand Jury limit its future requests for a response to only the City Council, as proscribed in Penal Code section 933(c).

FINDINGS:

F1. The City of Oroville currently pays over $400k annually to a law firm in Sacramento with a physical availability of less than one week per month.

Response: Disagree. Legal costs will vary from year to year based upon many variables. City attorney services accounted for approximately 35% of the total legal services in the prior fiscal year. The balance of fees were consumed by personnel matters, independent investigations conducted by outside law firms, litigation and other legal matters. While the City Attorney is only physically on site one day per week, the attorneys from the City Attorney firm are always

accessible and available, without limitation, by telephone, email, video conference and in person meetings whenever necessary.

F2. The electronic communication system within the City of Oroville administration is not maintained or coordinated well enough to provide effective communication with the public, specifically telephone numbers, voicemail boxes, and emails.

Response: Disagree in part; Agree in part. The City of Oroville has two full time IT staff members who regularly service and maintain the City's computer servers and systems. Pertaining to internal City matters, the IT system is well maintained and functioning. As is true of many organizations, the City of Oroville agrees that it can improve employee training and implementation of technology resources available to its staff to enable better communication with the public.

F3. The OCC has repeatedly allowed one individual to hold multiple key positions, claiming it is allowed in the City Charter.

Response: Disagree. This issue was raised in the Grand Jury's previous report. The City disagreed with the findings then, and the City continues to disagree with the findings now. The City does not believe this is occurring.

F4. In several key positions, only one employee has the information or authority required to keep city business flowing.

Response: Disagree in part; Agree in part. The City of Oroville has many layers of authority over every department and it empowers those employees to delegate authority as they see fit. The City agrees that in at least one instance, some information, particularly that related to public release of records, the delegation of authority did result in some difficulty by members of the public and the Grand Jury Members in obtaining records to review. The City believes that these matters have been addressed with additions of personnel.

F5. Oroville has become a financially solvent city government, with excess funds in reserve.

Response: Agree in part; Disagree in part. The City agrees that it has become financially solvent, which has allowed the City to add various personnel positions back into the City's ranks which positions were either previously cut or remained in place, but unfilled. The City disagrees that it has an excess of funds in reserve. Many of the funds are designated as restricted for a specific purpose.

F6. The majority of City of Oroville employees interviewed report feeling disrespected, harassed, or fearful.

Response: Disagree in part. The City was not present for any of the confidential interviews conducted by members of the Grand Jury. The City, therefore, cannot speculate as to what was said to the Grand Jury. However, recent discussions between employees and the City Administrator do not indicate that employees currently feel "disrespected, harassed, or fearful."

F7. There is not adequate private workspace available for Council members to be at City Hall without disrupting ongoing city business.

Response: Disagree. The amount of work in which each City Council Member engages varies from one Council Member to another. Further, the Grand Jury's statement that Council Members have approximately four hours of potential work per week is not accurate. City Council members may reserve workspace in the Fireside Conference Room at City Hall as needed.

F8. The need for significant changes to the Oroville City Charter have [sic] been reported by 4 previous Grand Juries over the past 10 years.

Response: Agree. The Grand Jury has addressed the issue of modifications to the City Charter several times in the past. The City properly addressed that issue each time it was raised. At its regularly scheduled June 20, 2023 meeting, the City Council appointed a subcommittee to work with staff to make recommendations to the City Council for potential proposed modifications to the City Charter. As the Grand Jury is well aware based on prior responses to this issue by the City, the City Charter can only be amended by a vote of the public at a general election.

The City Charter can be found online, in conjunction with the City's Municipal Code ("OMC"). All portions of the Charter and OMC are searchable by key word and by drop down directories. The City agrees that navigation of the Charter and OMC can be improved in some measure.

F9. The Oroville City Charter document is not well assembled or easily navigated.

Response: Agree. The response to Finding 8 are included herein by reference.

F10. The Oroville City Charter document is vague, allows multiple interpretations, and leads to opportunities for manipulation.

Response: Disagree in part; Agree in part. The response to Finding 8 are included herein by reference. The City agrees that some language of the City Charter could be clarified. However, the City disagrees that the language allows for multiple interpretations or manipulation.

F11. Currently, the City of Oroville Charter allows the mayor to appoint administrative staff/department heads under certain conditions, creating an incentive for the mayor to help create those conditions, in order to appoint specific persons without Council super-majority approval.

Response: Agree in part; Disagree in part. As to positions directly appointed by the Council, Article VI of the Oroville City Charter states that the appointment and removal of any officer requires a five-sevenths Council vote. When a vacancy does exist in any appointed position, and the Council fails to agree or does not fill such vacancy within 60 days, then such vacancy can be filled by the mayor. The purpose of this clause in the City Charter is to ensure that individuals appointed by the Council have more than mere majority support in their position. It should be noted that the mayor is only one of seven votes. This issue is one that will be proposed for clarification by the Charter Review Committee.

F12. The 1906 City Charter document requires an elected City Treasurer. The city treasurer position is no longer necessary to administer city financial business.

Response: Agree in part; Disagree in part. The City agrees that the City Charter requires an elected City Treasurer. However, the City does not take a position as to whether an elected City Treasurer is no longer necessary. The determination as to whether an elected City Treasurer is necessary is one for the voters to make. This issue is one that will be proposed for clarification by the Charter Review Committee.

F13. Oroville City Charter currently requires only a vote of 3 council members in favor to terminate a department head, requires a vote of 5 council members in favor to hire a new department head, or appointment solely by the Mayor.

Response: Disagree in part; Agree in part. The City disagrees that three Council members may terminate a department head. All department head positions require a 5/7ths vote of the Council to enter into and to terminate employment agreements for department head positions. The City agrees that if no agreement can be reached to fill a vacant position, the City Charter currently authorizes the Mayor to fill the vacancy after 60 days.

F14. The BCGJ remains uncertain why the public safety emergency access exit door was removed from the Police & Fire Department lobby.

Response: Agree. The City has sufficient experts to make a determination on this matter and it will revisit the issue of a fire exit.

RECOMMENDATIONS:

R1. The BCGJ recommends OCC should seek to engage an attorney who is readily accessible for city business more often than less than half time March 31, 2024 [sic].

Response: Will not be implemented. The Grand Jury conflates physical presence with availability. The City Attorney represents the City as an entity and does not represent or provide legal advice to individual citizens, groups or other entities. The City Attorney is available and accessible at all times to Council Members and City Staff for any and all city matters via phone, email, video conferencing, in addition to one day per week of in-person office hours. In fact, video teleconferencing has been added to many offices within City Hall to enable cost effective and efficient representation.

R2. The BCGJ recommends that ORO provide the council members with a physical place to work by December 31, 2023.

Response: Will not be implemented. City Council members are currently able to reserve workspace at City Hall when needed.

R3. The BCGJ recommends council members work only on OCC business when at City Hall, lest problems occur from private enterprise transactions by September 30, 2023.

Response: Will not be implemented. This recommendation assumes a finding not offered by the Grand Jury. The City is unaware of private enterprise transactions occurring at City Hall, and the Grand Jury has not offered any evidence to establish such a finding.

R4. The BCGJ recommends all OCC and ORO employees, staff, appointed or hired, [sic] be given necessary technical training by Information Systems so that others can reach them by September 30, 2023.

Response: Will be implemented in part; Will not be implemented in part. Pertaining to internal City matters, the IT system is well maintained and functioning. Therefore, to the extent that the Grand Jury's recommendation focuses on internal

City matters, it will not be implemented. However, as is true of many organizations, the City of Oroville agrees that it can, and will, improve employee training and implementation of technology resources available to its staff to enable better communication with the public.

R5. The BCGJ recommends the ORO website be managed, updated, and checked for errors on a quarterly basis, with required reporting to the OCC by the managing department by November 30, 2023.

Response: Will be implemented, in part. The City intends to update and revise its online presence, and process for updates, beginning with the website. However, the reporting by department heads will be to the City Administrator, who will update the Council on a regular basis.

R6. The BCGJ recommends OCC contract with an independent, non-Butte County consultant for the review of positions with long-term vacancies and determine how the staffing structure can be altered to allow business to flow with one person in one position by March 31, 2024.

Response: Will not be implemented. The City has recently hired a new City Administrator and several new department heads. Existing City leadership is capable of assessing and addressing staffing needs appropriately. The City does not believe that an independent consultant is needed at this time. However, City staff will continue to formalize policies and procedures related to the functioning of the City.

R7. The BCGJ recommends the independent consultant (see R6) offer a redefined position and position duties/responsibilities listing, along with revised adequate financial compensation for the consideration of the OCC by June 30, 2024.

Response: Will not be implemented. The City's response to Recommendation 6 is incorporated herein by reference.

R8. The BCGJ recommends the position and financial realignment recommendations from the study provided (see R7) be reviewed by the OCC and accepted recommendations be implemented by November 30, 2024.

Response: Will not be implemented. The City's response to Recommendation 6 is incorporated herein by reference.

R9. The BCGJ recommends the City Administrator research and select a training entity, to work with the OCC, training how to be effective leaders with positive and supportive methods by December 31, 2023.

Response: Will not be implemented. In general, regular training reflects good governance. State law currently requires trainings on ethics, harassment, and discrimination on an annual and semi-annual basis. The City will look into additional training on effective leadership for Council Members and customer service training for employees. However, the actions of elected officials are ultimately in the hands of, and controlled by, the constituents who elect them.

R10. The BCGJ recommends this interpersonal leadership training be implemented by the City Administrator with an initial training by March 31, 2024.

Response: Will not be implemented. The City's response to Recommendation 9 is incorporated herein by reference.

R11. The BCGJ recommends the OCC include this interpersonal leadership training to be repeated annually, as the Council body can change, to be calendarized within the first quarter of each and announced at a City Council meeting by December 31, 2023.

Response: Will not be implemented. The City's response to Recommendation 9 is incorporated herein by reference.

R12. The BCGJ recommends the OCC seek and hire a database consultant to begin the process of bringing the City Charter current in both platform and technological abilities by March 31, 2024.

Response: Will not be implemented in part, Will be implemented in part. At its regularly scheduled June 20, 2023 meeting, the City Council appointed a subcommittee to work with staff to make recommendations to the City Council for potential proposed modifications to the City Charter. The City Charter can be found online, in conjunction with the City's Municipal Code ("OMC"). All portions of the Charter and OMC are searchable by key word and by drop down directories. The City agrees that navigation of the Charter and OMC can be improved in some measure.

R13. The BCGJ recommends the OCC hire a consultant to begin the process of providing the City Charter in a format that is easily understood and searchable by member [sic] of the public June 30, 2024 [sic].

Response: Will not be implemented in part, Will be implemented in part. The City's response to Recommendation 12 is incorporated herein by reference.

R14. The BCGJ recommends OCC to amend the City Charter to include each position in City administration and city government be filled by one individual; and that

only a 6-month temporary appointment may occur, including all necessary steps for voter approval of this amendment by July 31, 2024.

Response: Will not be implemented. As stated previously, the City Council does not approve or amend the City Charter. However, at its regularly scheduled June 20, 2023 meeting, the City Council appointed a subcommittee to work with staff to make recommendations to the City Council for potential proposed modifications to the City Charter, which would necessarily be placed on a general election ballot for the public to determine.

R15. The BCGJ recommends the hired consultant(s) assist the City Administrator to ensure these changes include the culmination of all past amendments and the initial code, into a current complete statement, are given to the people to vote on November 2025 ballot.

Response: Will not be implemented. The OMC is adopted and approved by the City Council. It is not voted on by the people.

R16. The BCGJ recommends OCC have the Charter and Municipal Codes reviewed by an independent consultant to eliminate areas allowing the perception of unfair hiring, firing, and appointing practices by December 31, 2023.

Response: Will not be implemented. As previously mentioned, at its regularly scheduled June 20, 2023 meeting, the City Council appointed a subcommittee to work with staff to make recommendations to the City Council for potential proposed modifications to the City Charter, which would necessarily be placed on a general election ballot for the public to determine. An independent consultant is not necessary for this process.

R17. The BCGJ recommends the OCC amend the Charter to remove the unnecessary position of City Treasurer, to include all necessary steps to having [sic] on the November 2024 ballot.

Response: Will not be implemented. The City disagrees that it can unilaterally determine whether the position is no longer necessary. The determination as to whether an elected City Treasurer is necessary is one for the voters to make. The City would note that the City Treasurer has submitted a response to this matter and she is of the opinion that an elected City Treasurer is a necessary position. Notwithstanding, this subject will be considered by the subcommittee established by the Council to review the City Charter.

R18. The BCGJ recommends OCC hire an independent inspector to review the Fire & Police Department lobby replacement of emergency fire exit with fire wall, to ensure the safety of employees and the general public by October 31, 2023.

Response: Will not be implemented. The City has sufficient experts to make a determination on this matter and it will revisit the issue of a fire exit.

Respectfully submitted,

City Council of the City of Oroville, California

David W. Pittman, Mayor

cc: Oroville City Council