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SUPERIOR COURT OF CALIFORNIA
COUNTY OF CONTRA COSTA
By: *[Signature]* MAYOR
Jeff Wan, VICE MAYOR

6000 HERITAGE TRAIL CLAYTON, CALIFORNIA 94517
Telephone: (925) 673-7300

Jim Diaz, COUNCILMEMBER
Holly Tillman, COUNCILMEMBER
Richard Enea, COUNCILMEMBER

June 27, 2025

Contra Costa County Superior Court
Judge Terri Mockler
Civil Grand Jury Foreperson Peter Appert
725 Court Street
PO Box 431
Martinez, CA 94553-0091

**Re: City of Clayton response to 2024-2025 Contra Costa County Civil Grand Jury Report No. 2505:
Clayton: Small City, Big Concerns: Clayton City Council**

Your Honor and Foreperson Appert,

On behalf of the City of Clayton City Council (Council), this letter is in response to the Contra Costa County Civil Grand Jury Report No. 2505: Clayton: Small City, Big Concerns: Clayton City Council (Report). The City Council approved this response at its meeting on June 24, 2025. Pursuant to California Penal Code §933.05 the City of Clayton (City) has responded to the applicable findings and recommendations. The City also offers the following comments:

The City finds the magnitude of errors, omissions, and misrepresentation of information, both troubling and disappointing. The Report focused on four main areas: Turnover, Agenda Setting, Financial Management, and Committee Activity.

Turnover:

In addressing turnover, the Report makes no effort to distinguish between the different reasons for staff departure. People leave employment for a variety of reasons and in Clayton this is no different. Some may be related to retirement, relocation, compensation, termination, or

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opportunities for advancement that the City of Clayton could not provide.

The Report specifically identifies two financial consequences of turnover, but in doing so relies on false information to draw its conclusions. First, the Report asserts that the role of Community Development Director is responsible for code enforcement. This is false and the following extrapolated consequence based on this false assertion is also false. Second, the Report relies on erroneous information regarding the number of businesses without licenses in Clayton and based on this error, extrapolates potential lost revenue. Relying on false information undermines the conclusions of the Report.

Agenda Setting:

The Report describes a request for an agenda item regarding an investigation over the course of 15 months from the Fall of 2023 through January of 2025 and states that this item was never placed on the agenda. The Report itself indicates that a request that complies with Council Guidelines was not made until March of 2024, and fails to mention that the request was in fact satisfied in January of 2025.

The Report also asserts without evidence that meetings initiated to discuss agendas by an Interim City Manager constituted a policy change and were subject to notice and public meeting provisions of the Brown Act. See response to Finding #6.

Financial Management:

The Report relied on a financial forecast created by a previous City Manager. The forecast the Report relied on indicated a forecasted deficit for FY26 of approximately \$560K, whereas the adopted budget for FY26 indicates a deficit of approximately \$80K – an 85% difference.

In describing Clayton's general fund over a four year period from FY20 – FY23, the Report materially misstates every single figure in its analysis. All of the City's audited financial statements are available on Clayton's website. In ignoring the City's audited financial data, the Report conducts analysis and draws conclusions based on information of unknown provenance.

The Report states, "Since 2022, the Council has declined to take any revenue enhancement measures, saying it is waiting for direction from the Citizens Financial Sustainability Committee, but as noted above, no such direction has been provided" is false. The Council has taken significant revenue enhancement measures described below in response to Finding #11. In addition, the Council was not waiting for the Community Financial Sustainability Committee to provide direction.

Committee Activity:

The Report seems to misunderstand the difference between an Ad Hoc and Standing Committee. An example of this misunderstanding can be found when referring to the Ad Hoc

committee formed to negotiate with the CBCA: "Following the termination of the Master Use Agreement between the City and the CBCA in 2023, the City Council formed an ad hoc committee to negotiate a revised agreement. The committee did not publish any agendas or minutes of any meetings that took place." An Ad Hoc Committee would not be expected to publish any agendas or minutes of any meetings that took place as this is not required.

Council Guidelines were updated to provide greater transparency to the public by having Council reports in writing, rather than issued verbally, however the Grand Jury Report states: "These written reports do not address the question of what was accomplished in these meetings. The transition to written reports only has not promoted compliance with the Guidelines nor provided transparency to the public." This is simply not accurate. Each individual Councilmember has the opportunity each meeting to provide a report of what was accomplished in their Committee meetings, when the next meeting would occur and actually provides increased transparency to the public by having a written record included in the minutes.

Responses pursuant to California Penal Code §933.05

Findings:

F1: Since 2019, Clayton has had 12 City Managers, eight Finance Directors, and five Community Development Directors.

The City disagrees with this finding. Interim and Acting positions are not equivalent to the full time positions. The quantities tabulated in the finding are incorrect using the Grand Jury's stated methodology. Excluding Acting and Interim roles, the correct figure for City Managers from 2019 to the date of the report is five, including our current City Manager.

F2: The level of turnover of City Managers in Clayton is greater than other cities in the County.

The City agrees with this finding.

F3: Prior to January 1, 2025, the City Council did not follow its established guidelines for inclusion of an agenda item despite requests over the course of 15 months by a council member to do so.

The City disagrees with this finding. Council Guidelines allow discretion by the Mayor and City Manager to set future agendas.

F4: Prior to January 7, 2025, the public could learn of requests for agenda item inclusion in real time when proposed by council members in open session.

The City agrees with this finding.

F5: Subsequent to January 7, 2025, the public could learn of requests for agenda item inclusion only by an oral report of the City Manager made once per quarter.

The City disagrees with this finding. The public could learn of requests for agenda item inclusion from Councilmembers directly. The public could also learn of requests for agenda item inclusion through written Council reports published in Agenda packages.

F6: Prior to January 9, 2025, there was a City Council agenda-setting committee meeting, held regularly with the Mayor and Vice-Mayor along with the City Manager, City Clerk, and City Attorney.

The City disagrees with this finding. A City Council Agenda Setting Committee has never existed. The Interim City Manager on his own accord, scheduled meetings to discuss agendas. These meetings which at times included the Mayor, Vice Mayor, City Clerk, and City Attorney are not subject to the Brown Act.

F7: Committee meeting minutes are not consistently posted as a standalone document in the column provided on the City website.

The City agrees with this finding. There is no requirement to post meeting minutes online, however the City chooses to do so. Certain meeting minutes are posted as standalone documents while others are included in agenda packets.

F8: In 2024, 52% (13 of 25) of committee meetings were scheduled as special meetings. Consequently, opportunity for public comment on non-agenda items was eliminated.

The City disagrees with this finding. While agendizing public comment on non-agenda items is not required for Special Meetings, some Special Meetings included an agenda item for public comment on non-agenda items, therefore the opportunity for public comment on non-agenda items was not eliminated.

F9: Regular meetings of committees do not consistently place on the agenda an opportunity for public comment on non-agenda items, which violates the Brown Act requirements.

The City partially disagrees with this finding. Public comment on non-agenda items is often included however there have been occasions where it was not. This matter has been addressed with staff who prepare meeting agendas.

F10: The CBCA Negotiation Committee neither informed nor sought approval from the Council at a public meeting for actions taken, contrary to Council Guidelines.

The City disagrees with this finding. The Committee informed the Council of its activities. And while there were discussions held, the Committee did not take any action on behalf of the City.

F11: Revenue shortfall has been identified and confirmed as an issue by several City Managers since 2022. However, while the Council has discussed the issue, it has taken no action to increase revenue.

The City disagrees with this finding. The City has taken several actions in an effort to increase revenue including:

- The City has updated its investment policy and engaged a third party for managed investment services in an effort to increase revenue.
- The City has updated its master fee schedule to bring more current the costs associated with providing services for permits, rental uses, and administrative services. This included adding a special event fee for larger events that consume more of the City's resources.
- The City has engaged HdL to assist managing business license renewal process, including efforts to determine if there were additional businesses operating in the City that required a license in an effort to increase revenue.
- The City renegotiated its waste management service agreement to bring us in compliance with new statewide mandates for recycling and increase the franchise fee.
- In 2024, the City Council voted 4-1 directing staff to budget for the appropriate resources needed to fund and achieve a general parcel tax and move forward with a general parcel tax on the 2026 ballot.

F12: The City Council did not follow the established requirements in Resolution 76-2022 for selecting members of the Citizens Financial Sustainability Committee.

The City disagrees with this finding. The Committee is titled the "Community Financial Sustainability Committee". The established requirements of Resolution 76-2022 were followed. To date, three members have been appointed to the Committee. All appointed members possess a background in finance, accounting, auditing, or related field. One member who was appointed serves as the City's Treasurer and is a former Councilmember and Mayor. In those roles he had experience with governmental finance and budgeting, governmental accounting, and auditing. This satisfies all requirements of Resolution 76-2022.

In addition, the Committee consists of five positions. Only three positions have been seated. If additional qualified candidates that meet the criteria as established by the Resolution apply, then they may be seated at the pleasure of the Council.

F13: Committees formed by the City Council are not authorized to take action (other than advice and recommendations) without the Council's approval.

The City disagrees with this finding. Committees formed by the City Council are not authorized to take action on behalf of the Council, however they may take action as a Committee within the scope of the duties of that Committee as created by the Council.

Recommendations:

R1: By December 1, 2025, the City Council should consider adopting a new procedure for Council Members to request items be placed on future agendas.

The City will not be implementing this recommendation because it is not warranted. The Council has already adopted guidelines for Councilmembers to request items be placed on future agendas.

R2: By December 1, 2025, the City Council should consider directing the City Manager to maintain a written, on-going list—available for public view—of all items that have been requested for inclusion in the Council’s agenda and either the date on which the item will be agendized or the reasons for denial of inclusion.

The City will not be implementing this recommendation because it is not warranted. The Council has already adopted guidelines for making public items that have been requested for inclusion in the Council’s agenda.

R3: By December 1, 2025, the City Council should consider directing all committees to post their minutes as a standalone document in the minutes column of the City website.

The City will not be implementing this recommendation because it is not warranted. This is not required by any law nor statute and may be done based on available staff time.

R4: By December 1, 2025, the City Council should consider directing all Brown Act committees to place on the agenda the opportunity for public comment on non-agenda items for all regular scheduled meetings.

The recommendation has already been implemented by the City.

R5: By December 1, 2025, the City Council should consider enforcing the Council Guidelines (City Council Guidelines and Procedures Section C.8.c) that committees come to the Council for approval of actions to be taken.

The City will not be implementing this recommendation because it is not warranted. Previous Council Guidelines section C.8.c does not state that Committees come to the Council for approval of actions to be taken. This enumeration was revised at our January 7, 2025 meeting. The new Council Guidelines section N.1.c. states, “Before sub-committees start moving in new directions, they will obtain direction from the rest of the Council.” It is the current state that Committees are not authorized to act on behalf of the Council but may act within the purview of their committee responsibilities.

R6: By December 1, 2025, the City Council should consider directing the City Manager to conduct a study of the causes of senior staff turnover.

The City will not be implementing this recommendation because it is not warranted. Seven of eight open City positions have been filled since February of 2025 and the City has experienced expected levels of turnover during the course of the last year.

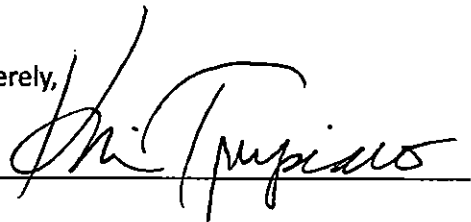
R7: By July 1, 2026, the City Council should consider ways to increase City revenue.

This recommendation has already been implemented. Prior to receiving this recommendation, the City has already and is currently considering ways to increase City revenue. Refer to response in Finding #11.

R8: By December 1, 2025, the City Council should consider following Resolution 76-2022's requirements for qualifications of members to serve on the Citizens Financial Sustainability Committee.

This recommendation has already been implemented. Prior to receiving this recommendation, the City has already and is currently following Resolution 76-2022's requirements. Refer to response to Finding #12.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Trupiano", is written over a horizontal line.

Mayor Kim Trupiano