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September 23, 2013

Elizabeth M. Rochlin, Foreperson
Alameda County Grand Jury
1401 Lakeside Drive, Suite 1104
Oakland, California 94612

Dear Ms. Rochlin:

With this letter I submit the written responses of the Oakland City Council to the findings and recommendations of the 2012-2013 Grand Jury Report entitled "Misgoverning Oakland." The attached responses were approved by an official vote of the City Council at its meeting of July 25, 2013.

As an individual Councilmember, I also want to share with you the information that in July 2013 I scheduled a motion to censure Councilmember Brooks for the actions pertaining to the Rainbow Teen Center as found in the Grand Jury report. That motion was heard at a Special Meeting of the City Council on July 25, 2013. The majority of the City Council decided not to support that motion, with several of them stating that they believed many past members of the City Council had interfered with administrative actions over the years and they thought it was unfair to single out Councilmember Brooks as the only one to be censured. Instead, on the motion of Councilmember Brooks, the following motion was passed with a vote of six ayes, (Councilmember McElhaney and I abstaining): To deny the censure and create an ad hoc committee to implement policy and procedures for censure and to admonish the past conduct of interference [by all previous Councilmembers] and upholding the values of the Code of Conduct and the Charter of the City of Oakland and the Constitution of the State.

I would like to note my personal observation that the Grand Jury report has drawn a great deal of attention to the issue of City Councilmember interference and that the highlighting of the issue has already had a positive effect on the conduct of business within Oakland City government. All Councilmembers are more aware of the standards and laws that apply to us, as are City staff. I believe that on the whole, the City Council is setting a new tone and adhering to a higher ethical standard than was seen in the past.

Please find attached the official responses of the Oakland City Council to the 2012-2013 Alameda County Grand Jury report.

Respectfully submitted,

Patricia Kernighan
President, Oakland City Council



RESPONSES OF THE OAKLAND CITY COUNCIL
TO THE FINDINGS AND RECOMMENDATIONS OF
THE 2012-2013 ALAMEDA COUNTY GRAND JURY REPORT

Finding 13-1:

The Oakland City Council's failure to provide the Public Ethics Commission with the power to fine and penalize for ethics violations renders the commission largely ineffective.

Response:

We agree in part. We agree that the Public Ethics Commission has historically not played an effective role in monitoring the activities of the City Council and that their limited authority to fine and penalize is a significant contributor to that ineffectiveness. However, the work that the PEC has been able to do does have value.

Finding 13-2:

The Oakland Public Ethics Commission lacks the financial resources to adequately do its job.

Response:

Agreed. Since the release of the Grand Jury report, the City Council added a net of .5 FTE to the Public Ethics Commission, which results in a full time policy analyst position to assist the fulltime Director. This is more resources than the PEC has had for several years but is still insufficient. The addition of the position was made as part of the two-year City budget passed on June 27, 2013.

Finding 13-3:

A lack of participation in state-mandated ethics training could potentially lead to a breakdown in efficient and ethical administration and performance of duties.

Response:

Agreed.

Finding 13-4:

The Oakland city council's interference with, and intimidation of, staff diminish the overall effectiveness of city government.

Response:

Agreed. Instances of Councilmember interference and intimidation diminish the overall effectiveness of city government.

Finding 13-5:

City council individual budgets are not subject to the same scrutiny (open review process) as other city department budgets, creating a potential for misuse of funds.

Response:

Agreed. This has generally been the case in the past, in that there have not been public staff reports to the Finance Committee showing the expenditures of individual Council offices. Last year for the first time, the net amount of expenditures for each Council office was included in a staff report, showing which offices were over or under budget. It should be noted that Council office budgets always have been accessible through the filing of a public records request, according the State law.

Finding 13-6:

Oakland city staff and department heads' failure to report or stop council interference contributes to the unacceptable culture of intimidation and leads to continued misconduct.

Response:

Agreed. The willingness of Department heads and city staff to report Councilmember interference is probably the most effective means of preventing such misconduct. Most of instances of interference are known only to the staff who are being directed or intimidated. Significant positive change has taken place has taken place under the current City

Administrator, who has issued instructions to staff requiring them to report such misconduct to department heads or to the City Administrator herself, and also assuring city staff that they will be supported by the Administration if they do report.

OAKLAND CITY COUNCIL RESPONSES TO GRAND JURY RECOMMENDATIONS

Recommendation 13-1:

The Oakland City Council must provide the Public Ethics Commission with the power to enforce the city's ethics related ordinances (power to fine and punish, including the right to mandate specific training).

Response:

For some ethics related ordinances with regard to the power to fine, the recommendation has already been implemented in the law. With other ethics related ordinances as to the power to fine and with all of the ordinances with regard to the ability to mandate specific training, the recommendation has not yet been implemented, but will be implemented in the future, during the next 18 months.

Enhanced powers and authority for the PEC would be helpful to enforcing ethical behavior and legal requirements for Oakland public officials. Work is in progress toward this goal: Even prior to the Grand Jury report, Councilmember Kalb began convening a working group of experts on ethics and good government to work with him and the PEC Director to research, draft, and consider various enhancements and expansions of powers, authority, and independence of the PEC. The Commission will be asked to hold public hearings on these recommendations. After the recommendations have been publicly vetted with and possibly supplemented by the PEC, they will be brought to the City Council for discussion and adoption.

Recommendation 13-2:

The Oakland City Council must provide the Public Ethics Commission with sufficient financial resources to properly investigate allegations of ethics violations.

Response:

Implementation of the recommendation requires further analysis. The Council agrees that the PEC needs additional resources to properly fulfill its mandates. Subsequent to the release of the Grand Jury report, the City Council added a net of .5 FTE to the Public Ethics Commission, which results in a full time policy analyst position to assist the fulltime Director. This is more staff resources than the PEC has had for many years. The addition of the position was made as part of the two-year City budget passed on June 27, 2013. In the next 6 months, the Council will request an analysis and recommendations from the PEC regarding essential staffing. The Council will also work with the Administration and the PEC to explore and analyze options to significantly enhance the resources of the PEC.

Recommendation 13-3:

Elected officials within the city of Oakland must receive ethics training as required by AB1234 every two years and proof of compliance must be available to the public through the city's website.

Response:

Agreed. This recommendation has been implemented, effective May 2013. The PEC Director initiated monitoring of the compliance of City Councilmembers with taking the State-mandated ethics training, via requesting certificates of completion, and posting of that compliance information publicly. Most City Councilmembers completed a State-approved on-line ethics training in May and June 2013 and all are currently in compliance with this cycle's training requirement.

Recommendation 13-4:

The individual Oakland City Council district budgets must be subject to the same scrutiny and transparency as other city department budgets.

Response:

This recommendation has not yet been implemented, but will be implemented in the future. The Council President will take responsibility for seeing that a report is published annually to the

Council's Finance Committee showing the actual expenditures of each Council office after every fiscal year.

Recommendation 13-5:

No member of the city council should conduct any city business outside of the realm of their council powers as designated in the city Charter and in the municipal code. Additionally, the council should follow its own Code of Ethics including its mandate to "be willing to censure any member who willfully violates the rules of conduct contained in [the] Code of Ethics."

Response:

While Councilmembers, as a matter of course, conduct city business within the limits of their designated powers, this has not always been the case in some instances in years past. The recommendation has not been fully implemented, but will be fully implemented in the future.

Respectfully submitted on behalf of the Oakland City Council,



Patricia Kernighan

President, Oakland City Council