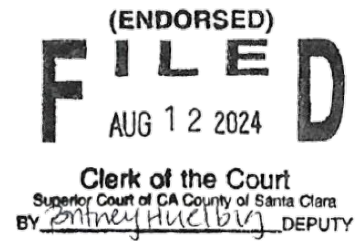


From: [Kevin Park](#)
To: [Civil Grand Jury](#)
Subject: Civil grand jury response
Date: Monday, August 12, 2024 5:25:08 PM



[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender.

To whom it may concern,

This is my response to the report titled

Irreconcilable Differences

Thoughts before answers:

On Public Records Act (PRA) requests:

While the jury correctly notes the numbers of PRA requests and their costs to the City, it fails to mention that a great majority of the PRA requests in the City of Santa Clara are from one person who supports Mayor Gillmor and openly threatens council members during meetings. It seems to be standard operating procedure to simply state numbers without going into any detail as to who, why, and what.

A large number of PRA requests coming from a large number of people is certainly different from over a thousand requests coming from one person, but the report did not make that clear for the sake of sensationalism.

On a “council majority voting bloc”:

Trying to show that there is a majority voting bloc of five is harder to prove than stating that there is a minority voting bloc of two with five more-independent members. The fact that the narrative focuses on the five as a group in collusion seems more to imply a biased jury. Even examples in the report show that voting is mixed.

The fact that the jury referenced the 2022 civil grand jury report “Unsportsmanlike Behavior” and treated it as a source of truth is also troubling. There are accusations in that report that are impossible to verify because they did not happen, like my stadium tour. The report findings were no more than a restatement of the concerns as if they were verified as true, which they certainly were not. The fact that there are so many contested civil grand jury reports that now refer to one another is troubling and shows a problem with the civil grand jury process.

The jury also fails to go deeper into details. Even when council members vote the same way, it can be for very different reasons. Did the jury compile voting data for all issues? The numbers are likely to suggest a different thesis, but the desire to group the five others against the two who asked for the investigation was probably too strong to ignore. There is often alignment amongst different members of councils, and along different issues. The “49er Five” narrative pushes alignment along a single issue and still has a

hard time being proven. To state that there is a voting bloc on stadium issues is likely to be just as correct and incorrect as it is on any other issue. Is that not how an impartial and unbiased investigation should look at things and verify first?

On quality of the investigations:

It is worrisome that the jury failed to get many facts that were verifiable correct. From non-NFL event profit to the campaign for Measures A and B to behavior of council members, it is easy to question how the jury reached their conclusions. Interestingly, some of the arguments used by the jury were exactly those used by members Watanabe and Gillmor in council meetings. Rather than make findings, it seems like the jury was told what to look at, or what to say. How could jury and council members make the same mistakes on performance rent and legal contingency funds, especially when the staff who the jury says should be thanked explained it time and again?

On survey results:

In June of 2018, the city was on its final stages of the California Voting Rights Act lawsuit that eventually brought districts and the first Asian American elected council member to Santa Clara. As someone who followed almost every case management hearing, it was a hopeful time for many residents. Measure A had just been defeated and it looked like change was going to come to Santa Clara. While issues of the International Swim Center were known, the pool was still functional and the swimmers and divers carried on with their routines. The problems of the BMX track and COVID-19 and all of its follow-on issues were yet to come. Life was relatively normal.

This year, 2024, we are still recovering from COVID, which still exists, and the BMX track and International Swim Center have been closed, for different reasons. The last two years have seen tens of thousands of tech workers laid off, all while housing prices increase relatively unabated. The ability for the public to directly put items on a council agenda has been removed.

It is hard for a survey to capture why answers are given without making the answers more labor intensive to compile. The fact that the topic of the survey was feedback for a \$400 million to \$600 million bond measure because of a \$600 million infrastructure deficit put people on guard even if nothing else had changed. Add to that the fact that Council Member Watanabe admitted at the priority setting meetings held earlier this year that she had talked to a number of residents before they responded, and survey results become more trivial. It is no wonder that satisfaction was down in the 2024 survey.

On passing a bond measure:

While I appreciate the sentiment, the fact that a civil grand jury report basically dictates how the City should resolve its issues is troubling. Again, the civil grand jury report favored one side, who used the increased concern to their advantage to unilaterally dictate the bond measure. Is this the role of the civil grand jury? Who are the experts on the jury who are better than professional staff? Especially when the other sides of their mouths are talking up staff as the ones we need to respect.

On running a city:

Not only does the civil grand jury report explain what we need to do to remedy our infrastructure debt, it goes on to say how staff should be managed and rewarded. Is this really the scope and expertise of a civil grand jury?

While the mayor holds the responsibility of chairing meetings, the ultimate responsibility lies with council, which can be seen when the chair is out of line with the council majority. This parliamentary notion does not seem to be understood by the civil grand jury, which parrots the comments about the gavel while ignoring how the gavel is used and suggesting that others take parliamentary training. When the gavel disrupts or prevents robust discussion, a stated purpose of the council meetings, the absolute authority comes from council. This misunderstanding and the tone of the civil grand jury's admonition of those who defy the gavel certainly raises the question of impartiality even higher, especially when each and every argument is made against an identified five and not considered against each and every council member uniformly, or the council as a whole.

On civil grand jury reports:

In the last two election years, including this one, Santa Clara has had three civil grand jury investigations, none of which showed any wrongdoing on the part of any council member. One report seems to have been triggered by someone unhappy with legal settlements and deals with things that happened over a decade ago, when only one person on the current council was around: Mayor Gillmor.

The civil grand jury report from 2022 seemed rushed so that it would affect the election. These two latest reports seemed to have been delayed to affect this election, with the recommendations generally going against the people running. The biggest complaints seem to be "council members are not getting along" which is true for almost any city in the nation.

The civil grand jury could have used Santa Clara as part of a larger county-wide study and report, and there would certainly have been grounds to do so. There are other cities with similar and possibly worse dynamics. That would have been a better use of taxes than the petty findings presented in any of the reports for this City.

On the civil grand jury:

The tone, timing, and text of the civil grand jury reports are concerning, but equally so is the makeup and behavior of the civil grand jury itself. After indications that the two council members (council member and mayor) glorified in the report had communications with civil grand jurors, and then deleted their messages to them, every finding, recommendation, and opinion is suspect. The notion that civil grand juries can hide bad actions under the cover of confidentiality subverts transparency and justice, especially when there does not seem to be a balance for civil grand jury power or behavior. The power of the civil grand jury is in their name and their charter, but when trust is broken, power should be suspended.

The additional fact that members of the grand jury include people who have been supported by the two members glorified in the report raises the concern to alarm. Friends, neighbors, members of previous juries with reports referenced in recent reports — none of these add confidence to the findings or recommendations, or even the purpose of the reports themselves. The fact that there are so many problematic facts about the jury in alignment is huge.

On justice:

In the United States we have a standard supported by the Fifth Amendment's Due Process Clause: innocent until proven guilty. Yet the civil grand jury report uses events that are still on-going to make implications of wrongdoing. If the compass of justice is this badly broken, it should be no wonder when the findings and direction of those holding the compass are questioned or disbelieved.

But the larger question is why are those in there at all in a fair and unbiased report? Were the reports to make Santa Clara a better city above all others in the county?

Answers to findings and recommendations:

Finding 1a

The working relationships among Councilmembers and the Mayor are broken.

My Response

Disagree in part. It takes two to tango. While there is dysfunction amongst several groups of council members, there are some great working relationships as well. We are always civil with one another, even when we disagree. We understand that the longer term relationship is worth more than any single issue. There are several council members I share meals with before almost every council meeting; the only notable absences tend to be members Watanabe and Gillmor. Several council members have tried to work with the mayor, but the mayor has not agreed to work — or even meet — with them. In addition, there have been several instances where the mayor has ignored requests from council members and threatened to move forward unilaterally. The response letter to Icheon in 2023 is a personal example of an instance where the mayor told staff to send the letter without a secondary signature if the secondary signatory — in this case, me — took any issue; there was no discussion to be had. Relationships are fundamentally broken if one side will not even engage in dialogue with the other. I have always been open to any discussion with the mayor, but no requests from my side have ever been met with openness from the mayor.

As for council member relationships, council member Watanabe is famous for ignoring or avoiding people she does not agree with, both inside and outside of council. It can be seen in many photographs, including pictures with the Chief Security of Intel when the city showed appreciation for Intel's donation of PPE during COVID and with the Silicon

Valley Central Chamber of Commerce, that council member Watanabe either refused to take the photo with the rest of the members or stood so far away from the others that there was a visible gap (which I sometimes stepped in to fill). In fact, you can look online for almost any picture with the full council in public and see how council member Watanabe stands apart: opening of the Ray Gamma dog park, Veterans Day celebration at Central Park, sewage treatment plant tour. How is this kind of behavior missed when going through the other findings, even after trying to remind council members of the Code of Ethics & Values? How was this missed when choosing people to interview? It seems that the interviews and questions were to support a specific narrative, and not consider the council as a whole.

After talking to council members in other cities, broken relationships on council is quite a common problem. Why is Santa Clara being singled out? And why is the civil grand jury only taking one side when the problem affects all of council?

Finding 1b

Some Councilmembers do not adhere to the City's adopted ethical and behavioral standards while conducting City business on the dais.

My Response

Disagree in part. Some council members do.

If that were not enough, the fact that the civil grand jury prefaces their findings against members Watanabe and Gillmor with "Even though {person in question} has shown appropriate meeting decorum" is unfortunate. It seems to go against the independent and unbiased intent of the civil grand jury and ignores the actions of those members that show otherwise. While I disagree in part with findings 1b, 1c, 1d, 1e, and 1f, I disagree fully with findings 1g and 1h. For all of the time spent, it does not seem that the jury completed its homework.

Recommendation 1b

Councilmember Park should attend one-on-one conflict resolution training so he can learn to behave in a manner reflective of an elected official. This recommendation should be implemented by October 1, 2024.

My Response

3) I would welcome training in conflict resolution and would strongly suggest that all others do so as well. It is pretty clear, except, it seems, to the civil grand jury, that all are in need of training, for refreshers or otherwise. I will work with staff to come up with a schedule and timeline for maximum efficiency and lowest use of resources.

Looking to recommendations 1g and 1h, it seems that the jury included those to give the appearance of impartiality, but it is exactly the manner in which they are included that shows the partiality of the jury and that is the reason I cannot simply agree at all with

those.

Finding 1c

Councilmembers Becker and Park air petty grievances and engage in squabbles with other elected officials and constituents from the dais.

My Response

Disagree. The fact that the finding suggests that these council members “engage in squabbles with other elected officials” would seem to necessitate inclusion of the other elected officials. Why are they excluded? I have often witnessed “squabbles” between other council members when I have refused to take part. Why are Becker and Park singled out?

As for “real-time searches from the dais”, it is not possible to prepare for every possible statement another council member or member of the public can give during a meeting. In those cases, real-time searches for meaningful information are quite useful, and common, not just for squabbles.

After talking to other elected officials, this also seems quite common in other jurisdictions.

The quotes on report pages 18 and 20, and some elsewhere, that point to a lack of unity and a wish that council members would “get along” indict all council members, not just five or three.

Finding 2

Councilmembers Becker, Park, and Chahal do not understand and/or do not follow established parliamentary and meeting procedures.

My Response

Disagree in part. While it is true that possibly no one on any dais in any jurisdiction anywhere fully understands parliamentary and meeting procedures, especially when the adopted rules are Robert’s Rules of Order, the council members singled out in this finding have a good working understanding of the procedures most often used in council. In some cases, they have corrected or provided alternatives to procedures being followed in meetings, and it is the chair or other members who have lacked understanding.

Conflicts arise when the chair misunderstands the role and tries to quell “robust” discussion, or try to avoid the process altogether.

At the 2023-07-17 Special City Council meeting, First item on commission interviews:
Watanabe: I am going to abstain from this particular commission appointment.

Gillmor: I have not even announced the item yet. Do you mean item 1A, Parks & Rec?

Watanabe: Yes.

Gillmor: I am with you in spirit, but I will be participating in the voting.

The chair is unclear on some basic meeting processes:

- Substitute motions
- Points of order
- Calling the question
- Appealing the Chair to the rest of council
- Reconsideration

These would not be as much of an issue, but the chair has been on council for over a decade, not including time served in the 1990s.

Given the example above, how is it that only some council members, and not member Watanabe, are guilty of cutting prematurely to the chase?

Recommendation 2b

Councilmember Park should pledge to attend trainings in parliamentary procedures so that his behavior is more reflective of an elected who is dedicated to the electorate. This recommendation should be implemented by October 1, 2024.

My Response

3) I would very much enjoy trainings in parliamentary procedures and would strongly suggest that all members of council do so. Especially the chair, for the aforementioned reasons. I will work with staff to come up with a schedule and timeline for maximum efficiency and lowest use of resources.

Finding 5

Councilmembers Becker and Park have engaged in unethical behavior on the dais by insulting, humiliating, and intimidating constituents and volunteers. Councilmembers Becker and Hardy explicitly encourage this behavior by laughing, snickering, or eye-rolling. Councilmembers Becker, Park, Hardy, Jain, and Chahal implicitly encourage these behaviors by failing to call out inappropriate conduct.

My Response

Disagree. This jury seems to misunderstand the word “ethics” and have ignored both the comments made during the one major example they give for this conduct from me and the answer I gave in person over a year later. While no member of the public expects to be attacked, no person in a position — even one appointed to a position — should feel free from criticism. The example seems to be my bequest to the position of special advisor to the mayor. It was clear at the time of the incident and at every explanation after it that the book was not to be held by any one person, and it was not any one person being called out. The criticism was of the position itself. Criticism is one of the major things protected by our government. To have a person complain about a bequest given to a seat

seems vain and petty, especially when that person has himself given similar bequests to seats. You would think that the action would be understood.

As for supposedly comparing homeowners to toddlers, that was clearly a figure of speech and not intended as a direct comparison. Please look up “simile”. This is not an ethical issue.

As for visible gestures in response to comments made, I can only refer to Shylock in Act III of “The Merchant of Venice”. If you prick us, we will bleed. If I recall correctly, members Watanabe and Gillmor also failed to call out some of these behaviors until they had a chance to regroup with their followers and attack in subsequent meetings. Most understood the context of similes until someone decided they could use this to attack. The jury also seems to ignore the eye rolling of members Watanabe and Gillmor, which is a little harder to see because they do not have cameras from the public centered on them as often as some other council members. Was public video considered? There seems to be more considered than the granicus videos listed in the report, and we should have full disclosure. Either way, the jury findings seem to ignore the realities in council meetings and in public, and perhaps you should have considered a wider range of character witnesses before coming to conclusions, not just witnesses that supported the intended narrative.

Recommendation 5a

Councilmember Park should pledge to train with an ethics expert from an established outside entity that specializes in government ethics. This recommendation should be implemented by October 1, 2024, and should occur annually.

My Response

3) While, as the civil grand jury knows, AB1234 is required every two years, having a refresher in between trainings is a good practice for everyone. I will work with staff to come up with a schedule and timeline for maximum efficiency and lowest use of resources. It is unfortunate and distracting when the civil grand jury in the past had not only suggested actions, but named the entities it preferred council to deal with.

===== end =====

Thank you. Please feel free to call or write if there are any questions.

Kevin Park
Santa Clara City Council, District 4
1500 Warburton Avenue
Santa Clara, California 95059
City Mobile: (408) 650-2186