



**City of  
Santa Clara**  
The Center of What's Possible

(ENDORSED)  
**FILED**  
JAN 12 2023  
Clerk of the Court  
Superior Court of CA County of Santa Clara  
By *Britney Huebner* DEPUTY

Mayor

Lisa M. Gillmor

**Councilmembers**

Kathy Watanabe, District 1  
Raj Chahal, District 2  
Karen Hardy, District 3  
Kevin Park, District 4  
Suds Jain, District 5  
Anthony J. Becker, District 6

January 4, 2023

Honorable Beth McGowan  
Presiding Judge  
Santa Clara Superior Court  
191 North First Street,  
San Jose, CA 95113

Dear Presiding Judge McGowan,

Please see the attached Report to Council. This report was approved by a 4-2 vote (with one member absent) at the December 8, 2022 City Council and its associated Authorities concurrent meeting.

Per California Penal Code sections 933(c) and 933.05, this report is the City of Santa Clara's comment to the findings and recommendations found in the October 10, 2022 Santa Clara County Civil Grand Jury Report, "Unsportsmanlike Conduct: Santa Clara City Council."

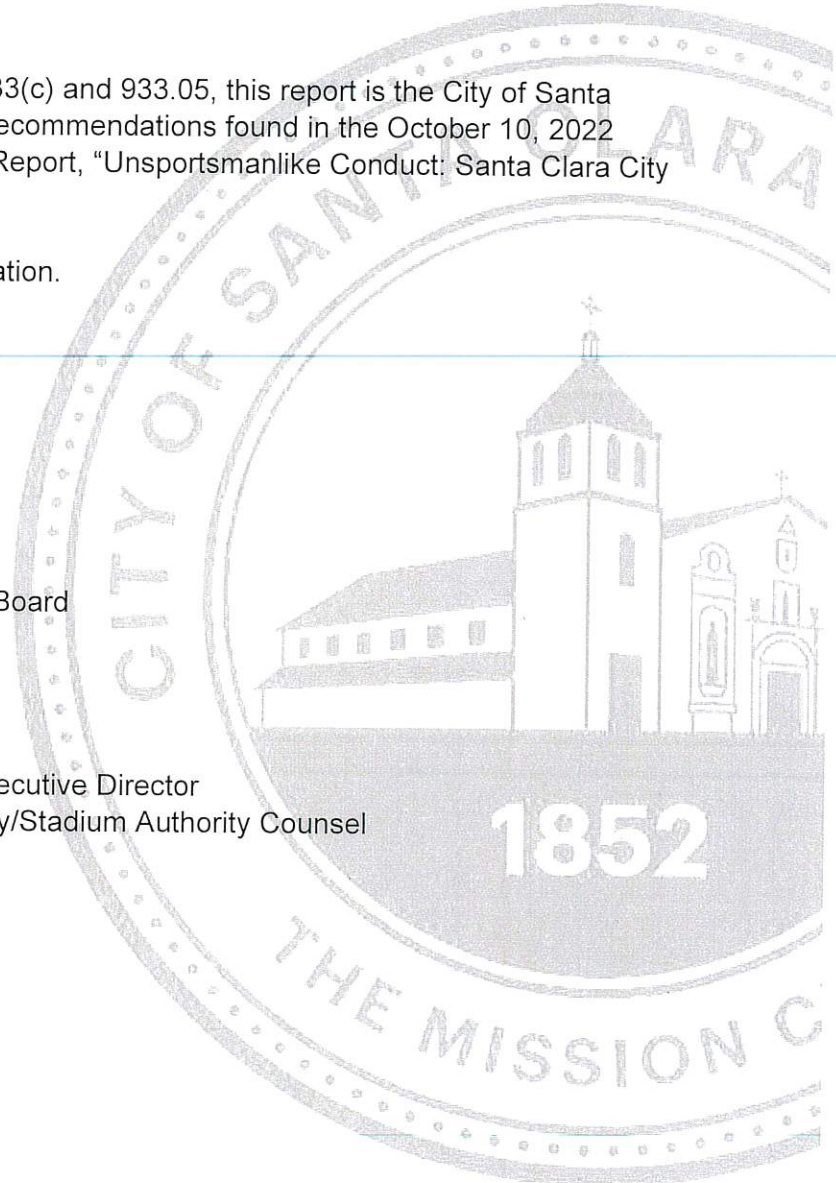
Thank you for your time and consideration.

Sincerely,

Lisa M. Gillmor  
Mayor  
City of Santa Clara  
Chair, Santa Clara Stadium Authority Board

Enclosure

cc: Rajeev Batra, City Manager/Executive Director  
Steve Ngo, Interim City Attorney/Stadium Authority Counsel



## REPORT TO COUNCIL

### SUBJECT

Action on the Council/Board's Comment to the October 10, 2022 Santa Clara County Civil Grand Jury Report: "Unsportsmanlike Conduct: Santa Clara City Council."

### BACKGROUND

On October 10, 2022, the Santa Clara County Civil Grand Jury ("Grand Jury") transmitted a letter to the City of Santa Clara along with a report ("Report") entitled "Unsportsmanlike Conduct: Santa Clara City Council" (Attachment 1). As noted below, it is not clear whether the Grand Jury intended to transmit the Report to the Santa Clara Stadium Authority Board ("Board"), which is a separate legal entity.

California Penal Code § 933(c) requires that a governing body of a particular public agency or department which has been the subject of a Grand Jury final report respond within 90 days to the presiding judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. California Penal Code § 933.05 contains guidelines for responses to Grand Jury findings and recommendations.

As stated in Penal Code § 933.05(a), the City of Santa Clara's governing body and/or the Santa Clara Stadium Authority is required to "Agree," or "Disagree" in whole or in part, with each applicable Finding. Further, as stated in Penal Code § 933.05(b), the City of Santa Clara's governing body and/or the Santa Clara Stadium Authority is required to respond to each applicable Recommendation with one of four possible actions:

1. **The recommendation has been implemented**, with a summary regarding the implemented action.
2. **The recommendation has not yet been implemented**, but will be implemented in the future, with a timeframe for implementation.
3. **The recommendation requires further analysis**, with an explanation and the scope and parameters of an analysis or study, and a timeframe of no more than 6 months from October 10, 2022, for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable.
4. **The recommendation will not be implemented** because it is not warranted or is not reasonable, with an explanation therefor.

The City and/or Stadium Authority's Comment to the Civil Grand Jury's Findings and Recommendations is due to the Office of the Presiding Judge, Santa Clara Superior Court, no later than January 9, 2023. Approval of this report satisfies the requirements of Penal Code § 933(c), which requires the City Council/Stadium Authority Board to respond to the Civil Grand Jury Report no later than 90 days after the Grand Jury submits its final report to the presiding judge of the Superior Court.

## **DISCUSSION**

Below are proposed responses to the Grand Jury's Findings and Recommendations. The proposed responses for Findings and Recommendations in Groups 1, 2, 4, 5 (in part), 6, and 7, which are more appropriate for Council/Board comment, are based on Council/Board discussion, statements, and representations at the November 16, 2022, Council and Authorities Concurrent Meeting. Therefore, the proposed responses for these Groups attempted to capture the various comments by individual Council/Board Members on each Finding and Recommendation at the November 16, 2022 meeting, and are written to conform as reasonably necessary to the response requested under the Penal Code within the scope of the Findings and Recommendations in the Report. Additionally, as directed by the Council/Board, staff recommendations on the Council/Board's responses to Findings and Recommendations in Group 3, and 5 (in part) are incorporated into these proposed responses.

## **RESPONSES TO FINDINGS AND RECOMMENDATIONS [Penal Code § 933(c)]**

### **GENERAL STATEMENT**

The Grand Jury addressed the Report to the City of Santa Clara, requesting that the City of Santa Clara comment on the Report as required under the Penal Code. Given the content of the Report and nature of the Findings and Recommendations, it is unclear whether the Grand Jury intended to address the Report to the Santa Clara Stadium Authority Board. For example, the title of the Report refers to the "Santa Clara City Council" rather than the Stadium Authority Board, which are two separate legal entities even though they are comprised of the same individuals. Because of the plain language of the Grand Jury's October 10, 2022 letter, addressed to the City of Santa Clara and requesting that the City of Santa Clara respond to the Report, the City of Santa Clara will respond to the Report, but notes this distinction as a preface to its comment and where possible throughout in response to the phrasing of a given Finding or Recommendation. As a precaution, however, and pursuant to Penal Code § 933(c), which provides that the agency which has been the subject of the grand jury report comment on the Report, both the City Council and Board will take action to approve this comment.

### **GROUP 1**

#### **Finding 1a:**

The City Council Voting Bloc meets regularly, and as often as weekly, with lobbyists for the 49ers. While these councilmembers report the date, some of the attendees, and a topic of the meeting, there is no requirement to disclose the substance of those discussions, and the councilmembers do not disclose the content of these meetings.

#### **Response:**

The Council/Board disagrees, wholly, with Finding 1a. The Council/Board specifically objects to the term "Voting Bloc" as an inaccurate account of the full voting record of the Council/Board. The Council/Board does not agree that there is a "Voting Bloc," and

believes that the Report did not substantiate this claim based on a full record. The term suggests that a group of Council/Board Members always votes the same way, which is incorrect. Council/Board Members often disagree on issues, even those pertaining to the 49ers (e.g., on November 16, 2021, the change to the Stadium curfew passed by a simple 4-3 majority).

In addition, all Council Members comply with the City's calendaring ordinance, Ordinance No. 1950. Per the ordinance, "The Mayor, City Council Members, City Manager, City Clerk, Chief of Police and City Attorney shall publish their calendars to the City's website on the tenth business day of each month and shall reflect the schedules of the previous month." The Council Members must disclose all meetings with constituents, including citizens, developers, union representatives, consultants, and lobbyists, among other City-related public engagements. The calendars must include the name(s), title(s) and affiliated organization(s) of the people in attendance, as well as a general statement of the issues discussed.

Contrary to Finding 1a, the Council Members comply with this ordinance as it relates to meetings with all lobbyists, developers, and stakeholders, including the 49ers. The number and frequency of meetings with 49ers lobbyists reflects the complicated issues that need to be addressed. Moreover, the subject matter of Finding 1a was a topic of discussion at the City's June 7, 2021 Governance and Ethics Committee meeting. The Committee recommended that topics should be listed, as required under the existing ordinance, but that the substance of discussions with lobbyists was not required. Because Finding 1a is based on an inaccurate premise that there is a "City Council Voting Bloc," the Council/Board wholly disagrees with it.

### **Finding 1b**

The meetings are typically held serially, with three councilmembers in one meeting and two in the next.

### **Response:**

The Council/Board disagrees, wholly, with Finding 1b. The Council/Board maintains that its Council/Board Members have, at all times, complied with the requirements of the Brown Act in carrying out their official duties. The Council/Board specifically objects to use of the term "serially" as an unfair and inaccurate legal assertion, suggesting violation of the Brown Act, even though the accused Council/Board Members have consistently acted in accordance with the law and principles of good governance.

The Council/Board Members meet with the 49ers to work toward the best policy outcomes for the residents of Santa Clara with respect to use of the Stadium. These meetings often occur consecutively. At these meetings, groups of two or three Council/Board Members are in attendance. The process is similar to Council/Board Member briefings, which staff provide to groups of Council/Board Members to ensure compliance with the Brown Act. However, in the meetings with the 49ers, the Council/Board Members are not provided information or materials from previous

discussions, nor do they disclose any information or materials to others attending subsequent meetings. Accordingly, the Council/Board wholly disagrees with Finding 1b.

**Finding 1c:**

The frequency of meetings of the City Council Voting Bloc with the 49ers lobbyists has created concern about the City Council's governance and leaves the impression that the City Council Voting Bloc is meeting in a manner to subvert the Brown Act's open meeting requirements. This has led to distrust amongst councilmembers as well as between the councilmembers and their constituents.

**Response:**

The Council/Board disagrees, wholly, with Finding 1c. Again, the Council/Board specifically objects to the term "Voting Bloc" as inaccurate.

In addition, the Council/Board has been plagued by political distrust for some time, but these issues predate member meetings with 49ers. For several years, the relationship with the 49ers was so fractured that there were no meetings between the Council/Board and 49ers at all. It is incumbent on Council/Board Members to effectively communicate with representatives of the 49ers and foster a better working relationship with the City's major business partner. The Council/Board Members willingly accept this responsibility and make decisions to secure better policy outcomes for the City of Santa Clara. The frequency of these meetings reflects the significance and complexity of the issues presented. There are no designs to subvert open meeting laws—the Council/Board Members have consistently complied with the requirements of the Brown Act and principles of good governance. Because of these inaccurate assumptions, which build upon Findings 1a and 1b, the Council/Board wholly disagrees with Finding 1c.

**Recommendation 1a:**

Prior to voting on any 49ers-related matters and to prevent violations of the Brown Act, the City councilmembers should publicly disclose on the record if they have met with a 49ers lobbyist regarding a topic on the meeting agenda, the name of the lobbyist(s), the date of the meeting, all individuals present, and any information provided by the lobbyist(s). This recommendation should be implemented by February 1, 2023.

**Response:**

The Council/Board will not implement Recommendation 1a because it is not warranted.

In an effort to foster greater transparency, the City already instituted Ordinance No. 1950 in 2016. Per the ordinance, "The Mayor, City Council Members, City Manager, City Clerk, Chief of Police and City Attorney shall publish their calendars to the City's website on the tenth business day of each month and shall reflect the schedules of the previous month." The Council Members must disclose all meetings with citizens, developers, union representatives, consultants, and lobbyists, among other City-related public engagements. The calendars must include the name(s), title(s) and affiliated organization(s) of the people in attendance, as well as a general statement of the issues discussed. Council Members diligently adhere to this ordinance. Accordingly, the

desired information is already accessible via the Council Members' calendars and notes online.

The Council/Board will nevertheless continue discussions regarding the public disclosure suggested in this Recommendation. Council/Board Members have several concerns about the viability of this suggested practice. If such a practice is adopted, it should apply to all, including the 49ers. But how, then, could Council/Board Members ensure they are relating details for each meeting with each special interest group as required for a current agenda item? How far back in time would Council/Board Members be expected to go to review records until their contents are no longer considered relevant to a current agenda item? Where staff members are already overloaded with work, what additional burden would such a requirement entail for them? These questions represent just a few of the basic logistical issues which would need to be resolved prior to implementation of such a Recommendation. Thus, the Council/Board will not implement Recommendation 1a.

**Recommendation 1b:**

The City should expand its existing calendar ordinance, City of Santa Clara Ordinance No. 1950, to require minutes of all meetings, including the attendees, agenda, duration, and a detailed summary of matters discussed, to be posted online with the calendar. This recommendation should be implemented by February 1, 2023.

**Response:**

The Council/Board will not implement Recommendation 1b because it is not reasonable.

The Council/Board is dedicated to meeting with members of the public and various interest groups. This means Council/Board Members attend many different types of meeting as part of their duties. Yet, the Council/Board is comprised of part-time Councilmembers. As a result, Council/Board Members face numerous time constraints. This translates to attending meetings virtually and while in transit, or arriving in person late, and otherwise being unable to take detailed notes as required for meeting minutes. And, staffing is limited, which further constrains the City's capacity to require laborious minutes. Taken together, the Council/Board believes that this Recommendation underestimates the practical burden of detailed notetaking, tracking all meetings attended, posting minutes to a specified location, and related coordination efforts, which would afflict an already reduced staff with limited resources.

Despite these doubts as to feasibility, the Council/Board is interested to learn whether other public entities have implemented similar ordinances. The Council/Board wishes to continue this discussion as it considers less onerous alternatives to the scope and parameters of recording information on Councilmember calendars. At this time, though, it is not feasible to implement this Recommendation, or to do so in the stated timeframe.

**Recommendation 1c:**

To restore public trust, the City should require that meetings with 49ers lobbyists be recorded so the public can be assured that these closed-door, frequent, and proximal meetings to the City Council meetings do not violate the Brown Act. This recommendation should be implemented by February 1, 2023.

**Response:**

The Council/Board will not implement Recommendation 1c because it is not reasonable.

The Council/Board does not believe it is appropriate to single out 49ers' employees or agents in this manner, as there are numerous organizations and interests that seek to meet with Council/Board and City/Stadium Authority employees. If the Council/Board were to adopt a recording ordinance, it would need to apply equally to all lobbyists. Members of the public also actively engage the City/Stadium Authority from time to time and would balk at meeting with a Councilmember/Board Member if the meeting was recorded.

The Council/Board recognizes its obligations to meet and work with the City's stakeholders, varied, and divided as they may be. Council/Board Members take this responsibility seriously. Council/Board Members must do their homework by meeting with different stakeholders, communicating about important issues, and understanding the context of these issues. They must learn every side of an issue. Without this research, the Council/Board cannot make informed decisions.

The situation is no different as applied to meetings with the 49ers. The Council/Board recognizes that the Stadium is an asset of the people of Santa Clara, and decision-making authority is vested in the Stadium Authority Board. The interplay of interests and issues affecting Stadium operations is complex and involved. Without listening to the other side, in this case the 49ers, the Council/Board would lack the appropriate background to make informed decisions—decisions which each Council/Board Member seeks to make for the City's benefit. The Council/Board is committed to transparency. A recording ordinance, which raises concerns about singling-out one unpopular person or entity over another, as well as the ability to have candid discourse and informed discussion, is not necessary or appropriate. Consequently, the Council/Board will not implement this Recommendation.

**Recommendation 1d:**

The City should establish an open governance commission to evaluate the City's current open government practices and make recommendations for improvement. This recommendation should be implemented by February 1, 2023.

**Response:**

The Council/Board will not implement Recommendation 1d because it is not warranted.

The City Council has a dedicated Governance and Ethics Committee, and the Council does not believe it is necessary to establish an additional commission to accomplish the

same end. Vice Mayor Jain serves as Chair of the Committee, Mayor Gillmor and Councilmember Chahal serve as Committee Members, and Councilmember Park acts as an alternate. The Committee focuses on the refinement or establishment of policies and procedures regarding City Council operations and general good government practices, as well as the further implementation of the City's Code of Ethics & Values program. The Committee meetings are open, recorded, and provide members of the public an opportunity to give input. At its meeting on June 7, 2021, the Committee conveyed numerous recommendations for the City Council to consider and implement.

The Committee had not been able to meet since then due to lack of staffing resources. Thus, the City Council cannot justify creating an overlapping commission when the City does not have the resources to support its existing committees. Instead, the City Council is committed to addressing such concerns through the existing Governance and Ethics Committee. The City already held a Committee meeting on December 5, 2022 at 3 p.m. Accordingly, the City will not implement this Recommendation.

## **GROUP 2**

### **Finding 2:**

There is concern that the City Council Voting Bloc is getting real-time influence from 49ers lobbyists during City Council meetings.

### **Response:**

The Council/Board disagrees, wholly, with Finding 2.

First, the Council/Board again disputes use of the term "Voting Bloc" as an inaccurate account of the full voting record of the Council/Board. Second, this Finding unfairly uses the word "concern" as a substitute for proof or substantiation. The Finding neither defines "real-time influence," nor explains the basis for this suspicion. Third, Council/Board meetings are a public forum in which all constituents may listen in, share their opinions, or try to convince or persuade the governing body. The Council/Board wholly disagrees with the unsupported conclusion drawn in Finding 2.

### **Recommendation 2:**

The City should require councilmembers to be visible at all meetings either in person or on camera.

### **Response:**

The Council/Board will not implement Recommendation 2 because it is not reasonable.

The Recommendation assumes, without any citation to research or any best practices, that a requirement for Council/Board Members to be visible would resolve the asserted claim of "real-time influence." In any case, there are legitimate reasons a Council/Board Member may not be able to appear on camera, including bandwidth or connectivity problems, rendering this rule unenforceable. Finally, while remote meetings proved useful during the COVID-19 pandemic, virtual attendance at Council/Board meetings is



dwindling and will likely be a moot point soon. It bears mention that the City is not aware that this requirement has been imposed by other public entities. Thus, the Council/Board will not implement Recommendation 2.

### **GROUP 3**

#### **Finding 3a:**

ManCo has not provided sufficient financial accounting to the City/Stadium Authority as required.

#### **Response:**

The Council/Board disagrees, in part, with Finding 3a. This issue is a work in progress. The Stadium Authority worked with ManCo to procure and implement a Financial Management System to increase transparency with financial transactions on a more timely basis. The Financial Management System went live April 2022. The Stadium Authority continues to work with ManCo on the use and uploading of financial information into the system. Stadium Authority staff has a monthly review procedure in place to review Shared Expenses and Non-NFL Event records. Some financial documents that are confidential in nature are also reviewed separately at the end of the fiscal year. Separately, KPMG, serving as the Stadium Authority's financial auditor, reviews and opines on the reasonableness of the Stadium Authority's financial statements.

#### **Finding 3b:**

The City has identified several fire and safety violations that ManCo has not remediated.

#### **Response:**

The City of Santa Clara wholly disagrees with Finding 3b.

Levi's Stadium is one of the most highly regulated facilities in the City, primarily due to the number of significant events held at the facility. The Fire Department's code enforcement program is designed to ensure compliance with applicable building, fire, life safety, and environmental protection regulations and the goals and objectives of the community. Code enforcement is accomplished by performing fire, life safety, and hazardous material inspections. While the Fire Department has identified building, fire, life safety, and hazardous materials violations during its inspections, many are corrected and/or addressed voluntarily. In addition to conducting fire inspections, our Fire Department is also a Certified Unified Program Agency (CUPA). Our Unified Program is authorized by the California Environmental Protection Agency (Cal/EPA) to implement six environmental-based code enforcement programs that ensure compliance with hazardous materials use, storage, and waste generation.

The inspection goals for the Stadium are a comprehensive fire-life safety inspection on a 12-month cycle, inspections of the onsite detection facility on a 24-month cycle, and Unified Program inspections on a 36-month cycle. Inspection frequencies have been established to ensure compliance with applicable state regulations and our community

risk assessment. The inspection frequency can vary based on identified risks and staffing. In addition to the inspections outlined above, a pre-event safety inspection before Stadium events with an expected attendance of more than 20,000 is conducted by the Fire Department as required by the Stadium Life Safety Evaluation.

As noted above, the goal of our code enforcement program is to gain voluntary compliance. Voluntary compliance is the most efficient, effective, and long-term method for ensuring code compliance. The Fire Department works with ManCo staff, consultants, and vendors to address violations consistently through education, empowerment, enforcement, and economic incentives. ManCo has remediated all code violations for the identified period between January 22, 2020, to October 23, 2020, as referenced in the Grand Jury Report. "Enforcing the California Code of Regulations in existing occupancies necessitates granting sufficient time to effect the necessary changes. Therefore, the inspection authority must exercise good judgment in authorizing sufficient time to complete the required changes, considering the degree of danger to life in the event of a fire while rectification is being carried out. The inspection authority may require immediate compliance with any or all of the regulations or grant reasonable time to conform." (California Code of Regulations, Title 19, 1, §1.11, Enforcement of Regulations)

**Finding 3c:**

The agreement with ManCo is designed to result in Performance Rents payable to the Stadium Authority for non-NFL events; however, expenses from those events result in no income payable to the Stadium Authority.

**Response:**

The Council/Board disagrees, in part, with Finding 3c, as explained below. While the agreements allow for the payment of Performance Rents, and pre-development presentations included the projected payments of Performance Rents, there is no specific clause that guarantees these payments. Performance Rents are payable annually; they are comprised of both ticketed and non-ticketed events and the net profit that is generated from these activities. Performance Rents payable to the Stadium have been impacted more recently, primarily due to the pandemic, when there were significant health restrictions limiting any use of the Stadium. ManCo last paid Performance Rent in Fiscal Year 2017/18.

**Finding 3d:**

Despite ManCo's lack of financial transparency, failure to schedule non-NFL events in a fashion that yields a financial benefit to the City/Stadium Authority, and repeated unabated fire and safety violations, the City recently agreed to keep ManCo as the operator of the Stadium.

**Response:**

The Council/Board disagrees, in part, with Finding 3d, as stated in its Responses to Finding 3a, Finding 3b, and Finding 3c. The Council/Board agrees that ManCo continues to operate the Stadium. Regardless of the operator of the Stadium, the Fire

and Life Safety inspection will continue to be conducted and any code violations identified will need to be corrected by the operator of the Stadium.

**Recommendation 3a:**

The City/Stadium Authority should hire a certified public accounting firm to conduct a comprehensive audit of Stadium Authority finances and the financial documents submitted by ManCo, to begin no later than February 1, 2023 and annually thereafter.

**Response:**

The Council/Board will not implement Recommendation 3a because it is not warranted.

In addition to our annual review of financial documents, the following audits/outside financial reviews were conducted or are underway:

1. Annual Financial Statements for SCSA (KPMG) – This review is conducted annually, and findings are reviewed with the Audit Committee. This was completed last month for Fiscal Year 2021/22.
2. Shared Expenses Agreed Upon Procedures (KPMG) – KPMG conducts a random sampling of Shared Expenses records each year after the completion of the financial statements review. This audit is currently in progress for Fiscal Year 2021/22.
3. Non-NFL Events (JS Held) – A forensic accounting firm was hired to review Non-NFL Event information in the first three years of operations. This review was completed and reported to the Board in late 2020. The Board directed an additional three years of review and analysis on trends. This report is close to final and will be brought forward to the Audit Committee before the end of the 2022 calendar year.
4. Construction Fund/Public Safety Costs (JS Held) – In response to a Harvey Rose finding, the Stadium Authority engaged JS Held to review Public Safety costs in the initial Construction Fund when the Stadium first opened. This work is nearly complete and a report to the Audit Committee is anticipated before the end of the calendar year.

Given the ongoing and regular reviews of financial documents, a comprehensive audit is not warranted. Thus, the Council/Board will not implement Recommendation 3a.

**Recommendation 3b:**

The City/Stadium Authority should advocate for a third-party referee to oversee all of ManCo's management activities. This third party should report on a quarterly basis at City Council meetings the status of fire and safety remediation efforts, to begin no later than February 1, 2023.

**Response:**

The Council/Board will not implement Recommendation 3b because it is not reasonable.

It is unclear to the Stadium Authority what the function of a third-party referee would be or how this function would be performed. Stadium Authority staff are responsible for the oversight of Stadium activities, including ManCo's management activities. For Fiscal

Year 2022/23, the Stadium Authority has 6.70 FTEs (Full-Time Equivalent Employees) budgeted, who are responsible for the programmatic oversight of Stadium activities. For additional reasons, please see the response to Recommendation 3c. Thus, the Council/Board will not implement Recommendation 3b.

**Recommendation 3c:**

The City/Stadium Authority should allocate staff to oversee Stadium operations. This should include finances, management policy development, and regular website updates of the City's financial reporting documents. This will facilitate a better awareness of ManCo's day-to-day operations. This recommendation should be implemented by February 1, 2023.

**Response:**

The Board has implemented Recommendation 3c since the 2014/15 fiscal year.

Stadium Authority already has staff assigned for this function. These staff members are responsible for the programmatic oversight and audit of Stadium activities. Since the opening of the Stadium in 2014, the oversight of Stadium activities is allocated primarily to the Executive Director, Stadium Authority Counsel, Auditor, Treasurer and various supporting professional staff. In total, there are 6.70 full-time equivalent (FTE) staff budgeted in the Stadium Authority Fiscal Year 2022/23 Operating Budget. These staff members work on a variety of efforts, including but not limited to, finances, policy, and operations, to administer the necessary requirements for owning and operating Levi's Stadium. Thus, the Board does not intend to modify its current approach to further Recommendation 3c at this time.

**GROUP 4**

**Finding 4:**

FIFA and the 49ers have announced that 2026 FIFA World Cup matches will be held at the Stadium. The former City Manager raised concerns about the lack of information and potential risks the event could pose to the City/Stadium Authority.

**Response:**

The Council/Board disagrees, in part, with Finding 4. The Council/Board agrees that the Stadium will host 2026 FIFA World Cup matches and that the former City Manager raised concerns about lack of information and potential risks posed by this event.

However, the Council/Board otherwise disagrees with this Finding because it lacks context. The former City Manager had concerns about lack of information. However, some Councilmembers believe that the lack of information was a result of ongoing disputes or lack of trust between the City/Authority and the 49ers. Therefore, the Council/Board believes that a better working relationship with the 49ers can help address any concerns about the lack of information and empower the Council/Board to exercise proper oversight over 2026 FIFA World Cup events where public resources are implicated.

**Recommendation 4a:**

The City/Stadium Authority should request that the 49ers provide a report on the status of the commitments made to the FIFA event. This recommendation should be implemented by February 1, 2023.

**Response:**

The Council/Board will not implement Recommendation 4a because the implementation date of February 1, 2023 is not reasonable.

North America is the host of the 2026 FIFA World Cup, which is slated for three and a half years from now, in summer 2026. However, the Council/Board has every intention of gathering information about the Stadium's commitments for the 2026 FIFA World Cup at the time and manner its Council/Board and staff deem appropriate and will request regular status reports of the commitments made. To the extent that Recommendation 4a and 4b overlap, therefore, please see the response to Recommendation 4b.

**Recommendation 4b:**

The City/Stadium Authority should evaluate if the FIFA event poses risks to the City/Stadium Authority, including specifically the risks outlined by the former City Manager regarding security costs and the nature of declarations required of the host city.

**Response:**

The Council/Board will implement Recommendation 4b by December 31, 2023. The Council/Board agrees it should be kept apprised as to the details of its hosting obligations. The Council/Board will start by requesting a review of the bid proposal by February 1, 2023, and will seek information regarding security costs and any other aspect of the event that implicate the use of public resources. The Council/Board will then evaluate and address risks posed to the City/Authority under the terms of any FIFA hosting obligations.

**Recommendation 4c:**

The City and Stadium Authority should take no further action regarding FIFA until the information in 4a and 4b is made public.

**Response:**

The Council/Board will not implement Recommendation 4c because it is not reasonable. This Recommendation is also overbroad. Without any other explanation, this Recommendation, as worded, appears to call on the Council/Board to abdicate its oversight authority and fiduciary responsibilities by agreeing without exception to "take no further action regarding FIFA." The Council/Board must take action to evaluate and address risks posed to the City and the Stadium by any FIFA hosting obligations.

## **GROUP 5**

### **Finding 5:**

The City/Stadium Authority has a protocol for initiating and completing operational tours of Levi's Stadium. Several councilmembers have not used this protocol and have conducted operational tours on game days, which has raised concerns about whether these councilmembers have accepted gifts in violation of the Political Reform Act and City policy. These actions have also created the appearance of a lack of transparency, which has fostered distrust between City councilmembers, toward the City staff, and most importantly, with the residents of the City.

### **Response:**

The Council/Board disagrees, wholly, with Finding 5. This Finding states that the City/Stadium Authority has an operations tour protocol, when no such protocol exists. The Finding is contradicted by Recommendation 5a, which recommends adoption of policies and procedures related to operational tours. The City/Stadium Authority does not have a current standard protocol for initiating and completing operational tours of Levi's Stadium.

There was a general protocol in place when the Stadium first opened by which Council/Board members would initiate an operational tour by making a request to the City Manager, who would then coordinate with the Police Department and/or the Stadium Manager to schedule and complete the tour. One of these prior operational tours was publicly noticed on May 17, 2017 as a Special Council Meeting and Closed Session for a briefing regarding public safety. While the described protocol of making requests through the City Manager's office is still generally used by staff, the steps for Council/Board Members and staff to initiate and complete operational tours has not been consistent, nor consistently communicated, in the last couple of years due to the transition of staff and the COVID-19 pandemic. Staff can prepare a policy to address operational tours for Council/Board Members for Council/Board review and approval. A companion Administrative policy (City Manager Directive) can be prepared to provide direction to staff seeking access to the Stadium for administrative/operational purposes.

The Council/Board further disagrees that these tours have contributed to a sense of distrust. The Finding implies conducting operational tours of the Stadium on game days creates the appearance of impropriety. But, observing the Stadium when in operation is consistent with a Council/Board Member's duties. As public servants who need to understand the Stadium's functionality, including its operational strengths and weaknesses, observations of the Stadium operations give valuable insight to Councilmembers (Stadium Authority Board members), who should make reasoned and informed policy decisions regarding Stadium management. But as discussed above, there were no protocols in place for conducting operational tours of the Stadium. Thus, the Finding as a whole is unfair and inaccurate.

**Recommendation 5a:**

The City/Stadium Authority should adopt a policy and outline procedures for elected and appointed officials to conduct operational tours of the Stadium. This document should be published on the City's website to properly inform the public. This recommendation should be implemented by February 1, 2023.

**Response:**

The Council/Board will implement Recommendation 5a because, contrary to Finding 5, no such protocol exists. The Council/Board finds it would benefit from a straightforward policy outlining the appropriate procedures for elected officials to conduct operational tours of all City or Authority assets, including the Stadium. The policy will be widely distributed so that all elected officials are aware of its terms, including any consequence for any violation of the policy. A defined and accessible policy of this nature would serve to reduce the possibility of unfounded accusations and the risk of unequal enforcement.

However, the City/Stadium Authority is unable to implement the Recommendation in the proposed timeframe. The City/Stadium Authority will first consider and review a policy for adoption by July 31, 2023.

**Recommendation 5b:**

The consequence for not adhering to the proper protocols for operational tours should result in an evaluation whether the City of Santa Clara Council Policy Manual, Admonition and Censure Policy should be invoked.

**Response:**

The Council/Board will not implement Recommendation 5b because it is not warranted.

The Council/Board has already agreed, in response to Recommendation 5a, to implement a policy outlining the appropriate procedures for elected officials to conduct operational tours of all City or Authority assets. Included in drafting the policy will be consideration of violations and their attendant consequences, if any. Because the Council/Board believes Recommendation 5b overlaps with Recommendation 5a, and given the response to Recommendation 5a, the Council/Board finds that Recommendation 5b is unwarranted.

**Recommendation 5c:**

The City should hire an independent consultant to evaluate and publicly report on whether councilmembers have violated City Policy No. 050, "Gifts to Appointed and Elected Officials." This recommendation should be implemented by February 1, 2023.

**Response:**

The Council/Board will not implement Recommendation 5c because it is not reasonable.

The Council/Board does not agree that taxpayer funds should be spent on an evaluation of an alleged violation of City Policy No. 050, which overlaps with regulations of the Fair

Political Practices Commission (“FPPC”) and is currently being investigated through that state entity, and especially where the Council/Board and the Report acknowledge that no protocols existed for operational tours of the Stadium.

## **GROUP 6**

### **Finding 6:**

The relationships between the City, Stadium Authority, StadCo, and ManCo are creating ethical dilemmas and governance challenges. The governing body for the City now consists of the City Council Voting Bloc, which (1) has received significant campaign contributions from 49ers lobbyists, (2) meets regularly with 49ers lobbyists behind closed doors, and (3) has engaged in actions that suggest loyalty to the 49ers above the City.

### **Response:**

The Council/Board disagrees, wholly, with Finding 6. The Council/Board maintains that the Report presents no evidence of the characterizations underpinning Finding 6. The Council/Board again objects to the term “Voting Bloc” as an inaccurate account of the more complete voting record of the Council/Board. The Report cites to Appendix F, Late Contribution Report Form 497s, to unfairly characterize a “Voting Bloc” swayed by 49ers lobbyists through illicit campaign contributions. The referenced contributions were made to interest groups supporting three of the Councilmembers’ campaigns for reelection. These independent expenditures by a corporation are not coordinated by the Councilmembers and Councilmembers otherwise have no control over such contributions.

At all times, the Council/Board Members have complied with applicable law and City policy. As previously stated, Council/Board Members report all necessary information regarding constituent meetings in accordance with the City’s calendaring ordinance. The Council/Board Members are driven by their loyalty to the residents of the City of Santa Clara. Each Council/Board Member takes an oath of office and shoulders the responsibility of engaging with constituents—residents, special interest groups, lobbyists, and developers—to address the issues confronting the City. Meeting with the 49ers is no different. Council/Board Members are committed to ensuring the best policy outcomes for the oversight, management, and use of the Stadium, for the benefit of the people of Santa Clara. The Council/Board believes that working with the 49ers is essential to achieving that goal. Thus, the Council/Board believes that this Report made unfair and inaccurate assertions in Finding 6.

### **Recommendation 6a:**

The City should hire a qualified legal and ethical consultant to evaluate the challenges presented by the unique relationship between the City and 49ers and prepare a public report on the findings and recommendations. This recommendation should be implemented by February 1, 2023.



**Response:**

The Council/Board will not implement Recommendation 6a because it is not reasonable. Although the Council/Board believes that it must confront its political turmoil, including mending strained relationships among Council/Board Members and between the City/Stadium Authority and the 49ers, this Recommendation will not be helpful. While the City's budget deficit persists, the Council is averse to spending more tax dollars on a legal and ethical consultant. Nevertheless, the Council/Board will explore alternative methods to managing these complex challenges.

**Recommendation 6b:**

The consultant should be tasked with looking at the unique challenges presented by the likely chance that the 49ers lobbyists will continue to influence elected officials and City governance. The consultant should specifically be tasked with evaluating the benefits of mechanisms like an oversight body or commission, auditors, and changes to the ordinance code and other governing documents that better ensure accountability and transparency in the relationship with the 49ers.

**Response:**

The Council/Board will not implement Recommendation 6b because it is not warranted. The Council/Board disputes the assumptions that led to this Recommendation, as stated throughout this formal comment to the Report. Because the Council/Board rejects this premise, it will not implement this Recommendation. Additionally, this Recommendation contemplates an overbroad scope of review, which would inevitably create more work for the City/Stadium Authority's overburdened staff and incur significant expenses the City/Stadium Authority cannot afford. As discussed in response to Recommendation 5a, the Council/Board will consider alternative methods to address any perceived influence of the 49ers over this governing body and work to form a responsive plan.

**GROUP 7**

**Finding 7:**

Although the City consulted with Markkula Center for Applied Ethics and boasts of having model ethics rules, those rules were developed before the complexities created by the passage of Measure J. The City's current policies, like the Admonition and Censure Policy, do not work where the challenges are presented by a minority of the City Council membership.

**Response:**

The Council/Board disagrees, in part, with Finding 7. The Council did consult with the Markkula Center for Applied Ethics, resulting in the institution of model rules of ethics. The Council also acknowledges the challenges of ensuring that all voices are heard, even when expressed in a minority vote of any Council/Board action.

However, the Council/Board disagrees with this Finding's conclusion that the City's rules of ethics are not working. The Council/Board is concerned that this Finding

dismisses the significance of majority rule on the Council, as ultimately determined by the voters of the City in any given Council election. A majority on the Council/Board changes in any given Council/Board meeting depending on policy differences among its members on any given issue. The Council/Board again objects to the term “Voting Bloc” as an inaccurate account of the more complete voting record of the Council/Board. In addition, laws such as the Brown Act foster transparency and afford constituents a platform to criticize any Council/Board Members in a public meeting for any reason, including perceived unethical conduct. The Council/Board Members embrace these principles. Thus, the Council/Board disagrees with this Finding.

**Recommendation 7a:**

The City should add to the City Code of Ethics & Values and the Admonition and Censure Policy a procedure to enable the public to file a complaint and testify at a public hearing to help remediate ethics violations. This should include a procedure for public admonishment, revocation of special privileges, or censure. This recommendation should be implemented by February 1, 2023.

**Response:**

The Council/Board will not implement Recommendation 7a because it is not warranted. This recommendation ignores the City’s existing Policy 030, which provides,

“Any member of the public may submit a written request raising any issue or item within the subject matter jurisdiction of the City Council to be heard under the ‘Written Petition’ section of the City Council’s regular agenda within two (2) Council meetings after received. After the initial Written Petition is placed on the agenda, a majority vote of the City Council may add the item to a future Council meeting for action. Any member of the public may address the City Council under the “Public Presentations” section of the agenda. If the presentation includes a request of the Council, a majority vote of the City Council may refer the item to the City Manager to be properly added to a future meeting, in compliance with the Brown Act.”

According to this policy, constituents may address the Council/Board regarding any concerns or complaints in a public forum. Indeed, this policy has been used very frequently by Santa Clara residents. Constituents have several other forms of recourse—they may file an FPPC complaint, provide information to news media outlets, or pursue a recall of unsatisfactory elected officials. Moreover, the City’s Governance and Ethics Committee, reconvened on December 5, 2022, and can take up these issues. The Council/Board is open to considering whether additional mechanisms of public oversight are necessary and financially feasible, but no such measure could be adopted in the stated timeframe.

**Recommendation 7b:**

The City should establish an independent Public Ethics Commission, with guidance from the Markkula Center for Applied Ethics, to help ensure that all public officials conduct government decision-making processes in an ethical, transparent and unbiased manner without favor. This recommendation should be implemented by February 1, 2023.

**Response:**

The Council/Board will not implement Recommendation 7b because it is not warranted. As previously mentioned, the Council already has a Governance and Ethics Committee. Between June 2021 and December 2022, the Committee was unable to meet as a result of reduced staffing and budgetary deficits. Thus, the Council cannot commit to creating and staffing a separate commission with an overlapping purpose. The Council already held a Governance and Ethics Committee meeting on December 5, 2022, and intends to prioritize reconvening the Committee on a regular basis to address concerns of this nature. In addition, the Council/Board welcomes possible guidance from and consultation with the Markkula Center or other sources, with due consideration for cost and related factors.

**Recommendation 7c:**

The City should require councilmembers to attend additional training in good governance provided by a third party such as the Markkula Center for Applied Ethics no later than February 1, 2023, and once a year thereafter. The training should include the Brown Act with emphasis on issues such as serial meetings, closed sessions, the fiduciary duty of government officials, filing Form 700s, and other issues related to good governance.

**Response:**

The Council/Board will not implement Recommendation 7c because it is not warranted. As it stands, the Council/Board should already, or plans to, receive regular and ongoing trainings in good governance and will have the added benefit of guidance and support from staff. Again, the Council/Board is cognizant of limited funding and resources. The Council/Board will contemplate whether there are gaps to be filled in the Council/Board current training structure and offerings.

**ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

**FISCAL IMPACT**

There is no fiscal impact to sending the response other than administrative staff time and expense. However, implementing the additional record-keeping or training contemplated may result in increased expense, which will be addressed by budget action, if necessary.

### **COORDINATION**

This report was prepared by the City Attorney's Office in coordination with the City Manager's Office.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) or at the public information desk at any City of Santa Clara public library.

### **RECOMMENDATION**

It is recommended that the City Council/Stadium Authority Board:

1. Consider the draft comment to the Report, including a date to implement Recommendation 4b, and propose any other revisions to the draft comment.
2. Approve the final version of the draft comment ("Comment to the Civil Grand Jury Report").
3. Authorize Mayor/Board Chair to submit the Council/Board's Comment to the Civil Grand Jury Report subject only to technical, conforming, non-substantive modifications prepared by the City Attorney's Office, to the Honorable Beth McGowan, Presiding Judge, Superior Court of California, County of Santa Clara, 191 North First Street, San Jose, California 95113, no later than Monday, January 9, 2023.

Reviewed and approved by: Rajeev Batra, City Manager/Executive Director and Steve Ngo, Interim City Attorney/Stadium Authority Counsel

### **ATTACHMENTS**

1. 2022 Santa Clara County Civil Grand Jury Report "Unsportsmanlike Conduct: Santa Clara City Council" dated October 10, 2022
2. Draft Cover Letter for Comment to the Civil Grand Jury Report



October 10, 2022

City of Santa Clara  
c/o Mr. Hosam Haggag, City Clerk  
1500 Warburton Avenue  
Santa Clara, CA 95050

Sent via email: [Clerk@santaclaraca.gov](mailto:Clerk@santaclaraca.gov)

Dear Mr. Haggag:

The 2022 Santa Clara County Civil Grand Jury is transmitting to you its Final Report, **Unsportsmanlike Conduct: Santa Clara City Council**.

California Penal Code § 933(c) requires that a governing body of the particular public agency or department that has been the subject of a Grand Jury final report shall respond within 90 days to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. California Penal Code § 933.05 contains guidelines for responses to Grand Jury findings and recommendations and is attached to this transmission.

Please note:


1. As stated in Penal Code § 933.05(a), attached, you are required to "Agree" or "Disagree" with each applicable Finding: 1a, 1b, 1c, 2, 3a, 3b, 3c, 3d, 4, 5, 6, and 7. If you disagree, in whole or part, you must include an explanation of the reasons you disagree.
2. As stated in Penal Code § 933.05(b), attached, you are required to respond with one of four possible actions to each applicable Recommendation: 1a, 1b, 1c, 1d, 2, 3a, 3b, 3c, 4a, 4b, 4c, 5a, 5b, 5c, 6a, 6b, 7a, 7b, and 7c.

Your comments are due to the office of the Honorable Beth McGowen, 2023 Presiding Judge, Superior Court of California, County of Santa Clara, 191 North First Street, San José, CA 95113, no later than **January 9, 2023**.

Copies of all responses shall be placed on file with the Clerk of the Court.

If you have any questions, please contact Britney Huelbig, Deputy Manager for the Civil Grand Jury, at (408) 882-2721 or [CGJ@scscourt.org](mailto:CGJ@scscourt.org).

Sincerely,



James Renalds

Foreperson, 2022 Civil Grand Jury

Enclosures

cc: Nora Pimentel, Assistant City Clerk, City of Santa Clara



UNSPORTSMANLIKE CONDUCT:  
Santa Clara City Council



2022 Santa Clara County  
Civil Grand Jury

*October 10, 2022*



# UNSPORTSMANLIKE CONDUCT

*A Statement on Unsportsmanlike Conduct: Santa Clara City Council  
Adopted by the 2022 Santa Clara County Civil Grand Jury on October 7, 2022*

## **FINAL REPORT V. DRAFT REPORT**

On October 7, 2022, several media outlets published articles about the Grand Jury’s draft report “Unsportsmanlike Conduct: Santa Clara City Council.” Pursuant to Penal Code section 933.05(f), on October 5, 2022, a draft report was sent by the Civil Grand Jury to the Santa Clara City Clerk and the Assistant City Clerk. Section 933.05(f) prohibits the City from disclosing the draft report prior to the public release of the final report:

A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

The purpose of this period is for the affected public officials or agencies to identify and notify the Civil Grand Jury of any inconsistencies or factual errors, and for the Civil Grand Jury to review and respond accordingly.

The City had until 10:00 a.m. on Monday, October 10, 2022, to respond to the Civil Grand Jury and raise concerns about inconsistencies or factual errors. The Civil Grand Jury received no response from the City. Thus, the final report is being released.

## **CONFLICTS**

Members of the Civil Grand Jury are instructed to determine if, as a result of prior or current employment or associations, investment in public or private enterprise, or personal relationship, they are subject to recusal from participating in a matter before the Civil Grand Jury. Two jurors recused themselves from the subject matter of this report.

# UNSPORTSMANLIKE CONDUCT

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# UNSPORTSMANLIKE CONDUCT

## GLOSSARY AND ABBREVIATIONS

<b>The Brown Act</b>	The Ralph M. Brown Act (Cal. Gov. Code § 549501, et seq.) governs meetings conducted by local legislative bodies, such as boards of supervisors, city councils, and school boards.
<b>City Councilmembers</b>	<ul style="list-style-type: none"><li>• Anthony Becker (elected November 2020, term expires 2024)</li><li>• Raj Chahal (elected November 2018, term expires 2022)</li><li>• Lisa Gillmor (Mayor) (elected November 2018, term expires 2022)</li><li>• Karen Hardy (elected November 2018, term expires 2022)</li><li>• Sudhanshu “Suds” Jain (elected November 2020, term expires 2024)</li><li>• Kevin Park (elected November 2020, term expires 2024)</li><li>• Kathy Watanabe (elected November 2020, term expires 2024)</li></ul>
<b>FIFA World Cup</b>	The Federation Internationale de Football Association (FIFA) World Cup, an international soccer competition.
<b>ManCo</b>	Forty Niners Stadium Management Company LLC, an affiliate of the Forty Niners Santa Clara Stadium Company LLC; manages Stadium operations and books non-NFL events.
<b>Measure J</b>	Santa Clara Stadium Taxpayer Protection and Economic Progress Act, passed by the voters of the City of Santa Clara in June 2010. This measure altered the City of Santa Clara charter and created the Santa Clara Stadium Authority.

# UNSPORTSMANLIKE CONDUCT

<b>Political Action Committee</b>	A political committee organized for the purpose of raising and spending money to elect and defeat candidates, ballot initiatives, or measures. Most PACs represent business, labor, or ideological interests.
<b>Performance Rent</b>	The City's portion of the revenue-share arrangement that is derived from non-NFL events held at the Stadium after expenses are accounted for.
<b>Political Reform Act</b>	Political Reform Act: The Political Reform Act of 1974 (Cal. Gov. Code § 81000, et seq.) governs the disclosure of political campaign contributions, spending by candidates, and ballot measure committees. It also sets ethics rules for state and local government officials that impose strict limits on decisions or votes that affect the official's financial interests. The Act also regulates lobbyists' financial disclosure and lobbying practices. The California Fair Political Practices Commission (FPPC) is the state commission responsible for the impartial administration of the Act.
<b>StadCo</b>	Forty Niners Santa Clara Stadium Company LLC, an affiliate of the San Francisco 49ers NFL football team and the tenant of Levi's Stadium.
<b>Stadium Authority</b>	Santa Clara Stadium Authority, the managing entity created by Measure J to construct and own Levi's Stadium while insulating the City of Santa Clara taxpayers from any financial liability deriving from Levi's Stadium construction, maintenance, and operation.

# UNSPORTSMANLIKE CONDUCT

## SUMMARY

In 2010, the City of Santa Clara (City) voters approved Measure J to build a stadium on City-owned property and lease it to the San Francisco 49ers Football Company LLC (the 49ers) as tenants. Voters were told that the measure would generate new revenue for the City, create new jobs, provide taxpayer protections, and generate community funding. Measure J authorized the formation of the Santa Clara Stadium Authority (Stadium Authority), which is a separate entity from the City governed by a Stadium Authority Board consisting of the Santa Clara City Council (City Council) and managed by an Executive Director – the City Manager. The City Attorney acts as the Stadium Authority General Counsel. The Stadium Authority is responsible for oversight of stadium operations.

The Stadium Authority entered into an agreement with the Forty Niners Santa Clara Stadium Company LLC (StadCo) for a long-term lease of Levi's Stadium (Stadium). Additionally, the Stadium Authority contracted with the Forty Niners Stadium Management Company LLC (ManCo), an affiliate of StadCo, to manage the Stadium and non-National Football League (NFL) events. The Stadium Authority pays ManCo for services related to Stadium operations. The complexities of these agreements and relationships have been the subject of extensive litigation, a prior Civil Grand Jury report, audit reports, public scrutiny, and numerous media articles.

The 2022 Santa Clara County Civil Grand Jury (Civil Grand Jury) received numerous complaints regarding the governance ethics of some members of the City Council. The complaints allege that five of the seven councilmembers – referred to by the media as the “49er Five” – engage in unethical behavior, lack transparency in their governance, and govern as if the City Council owes a fiduciary duty to the 49ers as opposed to the City, which they were elected to lead.

The Civil Grand Jury's investigation confirms that the actions and inaction of certain councilmembers are not consistent with the duties owed to the constituents they were elected to serve, causing severe dysfunction in City governance. The seven-member City Council is deeply divided. Three councilmembers – Anthony Becker, Suds Jain, and Kevin Park – were elected in 2020 with the campaign backing of Political Action Committees (PACs) affiliated with the 49ers. Two other councilmembers – Karen Hardy and Raj Chahal – have aligned with the three, and these five councilmembers together constitute more than a majority of the City Council. The Civil Grand Jury found through the course of its investigation that these five members can – and do – vote in a manner that is favorable to the 49ers. The Civil Grand Jury will refer to these councilmembers in this report as the City Council Voting Bloc.

The Civil Grand Jury learned that this City Council Voting Bloc frequently meets with registered 49ers lobbyists close in time to City Council meetings but does not reveal the substance of those meetings to the remainder of the City Council or the public, except to frequently repeat the

# UNSPORTSMANLIKE CONDUCT

lobbyists' talking points. There is a serious question about whether their practice is in violation of state laws governing open meetings.

The City Council Voting Bloc is not holding ManCo accountable for its financial accounting deficiencies or its inability to hold non-NFL events that create revenue for the City. Neither does it require ManCo representatives or 49ers representatives to attend City Council meetings to explain matters related to the Stadium and its management.

The City and Stadium Authority have recently settled litigation brought by the 49ers. Two members of the City Council Voting Bloc who are up for re-election, and one who is challenging the current Mayor, received almost \$750,000 in donations from 49ers PACs within days after the settlement was reached.

The Civil Grand Jury learned that some members of the City Council Voting Bloc have failed to follow City protocol regarding "operational tours" of the Stadium. The Fair Political Practices Commission (FPPC) has opened a case into whether two councilmembers violated state law regulating gift limitations related to these operational tours. This conduct potentially violated City policy as well. Not surprisingly, there is no City-level inquiry into these actions because that would require a vote by the City Council, which is ruled by the City Council Voting Bloc whose conduct is at issue.

The former City Attorney and former City Manager raised many of these financial, safety, and ethical concerns to the City Council publicly at City Council meetings. Registered lobbyists with the 49ers informed members of the City Council Voting Bloc that they wanted the City Attorney and City Manager fired. The City Council Voting Bloc obliged, and both the City Manager and City Attorney were fired – leaving City management rudderless and without strong leadership.

Although the City has ethics rules designed to promote good governance, City Council ethics guidelines are routinely disregarded and are not enforced. The Civil Grand Jury has serious concerns that the current City Council Voting Bloc, which essentially dictates City action due to the majority they hold, is not acting in the best interests of the City or acknowledging the ethical duties owed to their constituents.

## BACKGROUND

### The City of Santa Clara

In its 170 years, the City has evolved from a farming community into a successful Silicon Valley city with a convention center, a university, its own utility and water company, and a wealth of high-tech companies, including three in the Fortune 500 as of the year of this report. It is a Charter City with a Council/Manager form of government, consisting of an appointed City Manager and City Attorney, an elected at-large Mayor, and six elected City councilmembers who represent six districts.

### Measure J and Management of the Stadium

In 2010, voters approved Measure J to build a stadium on City-owned property and lease it to the 49ers as tenants. The purpose of the measure was to generate new revenue for the City, create new jobs, provide taxpayer protections, and generate community funding.

Measure J authorized the formation of the Stadium Authority as a joint-powers authority to oversee the design and construction of the Stadium, be its landlord, and oversee all business related to Stadium maintenance and operation. This entity was created to insulate the City from any financial burdens related to Stadium operations.

Per Measure J, the Stadium Authority entered into an agreement with StadCo to lease the Stadium for an initial term of 40 years with the option of four five-year extensions. In 2014, the Stadium was completed and the 49ers became the City's tenant.

Following the passage of Measure J, the Stadium Authority contracted with 49ers affiliate ManCo to manage Stadium operations. This contract has an initial term of 25 years with a 15-year renewal option.

This report discusses StadCo, ManCo, and Stadium Authority relationships throughout. For the sake of clarity, here is a very brief summary of those entities. A more complete diagram of the relationships is shown in [Appendix A](#).

49ers entities:

- StadCo – the tenant of Levi's Stadium
- ManCo – the manager of Levi's Stadium and scheduler of non-NFL events

# UNSPORTSMANLIKE CONDUCT

City of Santa Clara entities:

- Stadium Authority – entity of the City to keep Stadium finances separate from the City finances and oversee ManCo

## **The 2015-2016 Civil Grand Jury Report**

During its 2015-2016 term, the Santa Clara County Civil Grand Jury, in response to a complaint regarding possible nonconformance to the requirements of Measure J, reported on insufficient oversight by the Stadium Authority and found that no compliance audit had been performed to assure City taxpayers that all transactions were in compliance with Measure J. During the 2015-2016 Grand Jury investigation, the Stadium Authority board approved a Measure J compliance audit.

## **The 2017 Compliance Audit**

In August of 2017, Harvey M. Rose Associates, LLC completed a “Comprehensive Audit of Stadium Authority Finances” to evaluate compliance with Measure J. According to the report, the audit proceeded with an “audit limitation,” as follows:

Audit Limitation: One of the objectives of this audit, review of non-NFL event revenues and expenses, could not be conducted as originally anticipated. Further, a number of other revenue and expense items could not be reviewed and reported on because the Forty Niners Stadium Management Company (ManCo), the company under contract with the Stadium Authority and the Stadium Management Company to manage the Stadium would not allow the audit team to review and report on their records for non-NFL events or parking revenue without signing a non-disclosure agreement that would have prohibited presentation of information from those records in a public document such as this audit report. We did not sign such an agreement and, after that request was made, we did not review or analyze any records maintained by ManCo or include their contents in this report.

The 137-page report details numerous findings and 37 recommendations to improve billing, invoicing, financial transparency, and other such processes so that the City could plan and expect income from these activities.

The Civil Grand Jury received current information on the 37 recommendations. In all, there are 15 instances where compliance has never been achieved or has deteriorated rather than improved. The most egregious items are:

- Existing plans, reports, and budget documents have not been provided by ManCo as required.

# UNSPORTSMANLIKE CONDUCT

- A one-year budget and five-year projection of shared Stadium expenses were required to be supplied on an annual basis to the Stadium Authority. ManCo has not provided these budgets with necessary details.
- Financial information is required on an ongoing basis to assess non-NFL event financial performance, including incentive payments to ManCo. This was partially completed as of 2017 and has since slipped into non-compliance.
- Reports and documentation to verify accuracy of the revenue calculated by ManCo to back up NFL tickets sold each fiscal year have not been provided.

A detailed list of audit recommendations with the 2017 status and current status is shown in [Appendix B](#).

## **2020 City Council Election**

In 2020, the 49ers created PACs that spent \$2.9 million in support of four candidates for the City Council. Three of those candidates – Anthony Becker, Suds Jain, and Kevin Park – won seats on the City Council.

Two existing councilmembers, Karen Hardy and Raj Chahal, joined the three new councilmembers in creating a five-member majority City Council Voting Bloc that has been referred to in the media as the “49er Five” for their decisions favoring the 49ers.

## **Registered 49ers Lobbyists and Political Action Committees**

California has adopted laws regarding lobbying activities; they are commonly known as the Political Reform Act. (See Cal. Gov. Code § 81000, et seq.) Like a growing number of jurisdictions, the City has also adopted its own lobbying laws.

According to its website, the City “has won many accolades for its programs fostering ‘government at its best,’ which promote transparency and openness of government.” In 2016, the City adopted Ordinance No. 1949, “Regulation of Lobbying Activities.” Ordinance No. 1949(i) defines lobbying as “influencing or attempting to influence a legislative or administrative action of the City.” Under Ordinance No. 1949, a lobbyist is required to register with the City, renew annually, and pay an annual registration fee. Lobbyists are also required to report to the City semi-annually on their lobbying activity.

Ordinance No. 1949 also makes it unlawful for any lobbyist to deliver or cause to be delivered any gift to any City official, and for any City official to accept any gift from a lobbyist.

A list of current registered 49ers lobbyists appears on the City website.

# UNSPORTSMANLIKE CONDUCT

PACs are also considered to be lobbyists. Figure 1 lists PACs created by the 49ers on behalf of City Council Voting Bloc members Karen Hardy and Raj Chahal (running for reelection) and Anthony Becker (challenger to Mayor Lisa Gillmor) in the November 2022 General Election.

Committees
Names of Committees that matched your search criteria.
<a href="#">Concerned Citizens Opposing Christian Pellecchia for City Council District 3 2022, sponsored by DeBartolo Corp. &amp; Affiliated Entities, including 49ers Football Co. LLC</a>
<a href="#">Concerned Citizens Opposing Larry McColloch for City Council District 2 2022, sponsored by DeBartolo Corp. &amp; Affiliated Entities, including 49ers Football Co. LLC</a>
<a href="#">Frustrated Santa Clarans Opposing Gillmor for Mayor 2022, sponsored by DeBartolo Corp. &amp; Affiliated Entities, including 49ers Football Company, LLC</a>
<a href="#">John Edwards (Jed) York and Affiliated Entities, including the San Francisco 49ers</a>
<a href="#">Santa Clara Neighbors Supporting Karen Hardy for City Council District 3 2022, sponsored by and major funding from DeBartolo Corp. &amp; Affiliated entities, including 49ers Football Co., LLC</a>
<a href="#">Santa Clara Neighbors Supporting Raj Chahal for City Council District 2 2022 sponsored by and major funding from DeBartolo Corp. &amp; Affiliated Entities, including 49ers Football Co., LLC</a>

**Figure 1. Excerpt from the City of Santa Clara Public Portal for Campaign Finance Disclosure and Lobbyist Filings**

The [website](#) is clickable and searchable. For instance, clicking on “Santa Clara Neighbors Supporting Raj Chahal...” shows an \$81,309.04 contribution on September 20, 2022, from a 49ers PAC. At the time of the writing of this report, 49ers PACs have contributed \$1.7 million to support members of the City Council Voting Bloc in the upcoming election.

## City Councilmembers’ Standards for Governance

The Markkula Center for Applied Ethics at Santa Clara University employs government ethics experts who specialize in ethical dilemmas and analysis. The City worked closely with the Markkula Center for Applied Ethics in the past when it formulated its own Code of Ethics and Values. The Markkula Center for Applied Ethics detailed the nature of these ethical duties in an article entitled “*Public Officials as Fiduciaries.*” In describing the public official’s fiduciary relationship to the public, the article states:

The public delegates governing authority to public officials to exercise discretion over the public treasury and to create laws that will impact their lives. The public official, once elected, appointed, or hired, is in a superior position to that of the individual citizen due to specialized governmental knowledge and the ability to advise, deliberate, and participate in the representative process. And finally, the public trusts that the public official will act in the public’s best interest.



# UNSPORTSMANLIKE CONDUCT

The article describes the public officials' duties as care, loyalty, impartiality, accountability, and preserving the public's trust in government. The article details those duties as follows:

**The Duty of Care:** The duty of care requires that the public official competently and faithfully execute the duties of the office. Under duty of care fall such obligations as the duty to manage assets competently and be good stewards of the public treasury, to use due diligence in the selection and supervision of staff, to follow the rules and to uphold the constitution and laws of the jurisdiction...

**The Duty of Loyalty:** Public fiduciaries have an absolute obligation to put the public's interest before their own direct or indirect personal interests. The public fiduciary breaches this obligation when he or she benefits at the public expense...

**Duty of Impartiality:** Public officials have a duty to represent all of their constituents fairly. This means that the public fiduciary cannot favor those of his or her own party over other constituents, or let the fact that someone voted against him or her impact the ability to act fairly. They must overcome any inherent bias that they possess.

**Duty of Accountability:** Without a duty of accountability, the public's ability to monitor the behavior of public fiduciaries would be severely limited. From the duty of accountability flow the duty of transparency and the concepts of disclosure, open meetings, and accessibility of public records...

**Duty to Maintain Public Trust in Government:** Without public trust, government doesn't work. The public is willing to delegate authority and sacrifice some freedoms in exchange for an orderly and civilized society, but only if it believes that government is acting in the public's best interest...

These principles are the underpinning of a host of federal, state, and local laws that govern the conduct of public officials. For instance, as discussed further below, the Ralph M. Brown Act (Cal. Gov. Code §§ 54950-54963, referred to as the "Brown Act") is intended to provide public access to meetings of California local government agencies. Its purpose is described in the Brown Act: "The people of this State do not yield their sovereignty to the agencies which serve them. The people insist on remaining informed to retain control over the legislative bodies they have created." (Cal. Gov. Code § 54950.) Likewise, the Political Reform Act (Cal. Gov. Code § 81000, et seq.) places limitations on lobbying activities and was passed by California voters in June of 1974 (Proposition 9) to battle the culture of corruption that was thought to be pervasive in government in the pre-Watergate years.

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Further, the City has adopted its own ordinances and policies dictating the governance of the City and the conduct of its elected officials. For instance, as described above, the City has passed an ordinance on lobbying activities. Noteworthy to this report are the following additional City legislative or policy enactments.

## **Code of Ethics and Values**

In 2000, the City, after working with the Markkula Center for Applied Ethics, adopted “Santa Clara’s Code of Ethics & Values” that was designed to “provide clear, positive statements of ethical behavior reflecting the core values of the community. The Code includes practical strategies for addressing ethical questions and a useful framework for decision-making and handling the day-to-day operations of the municipality.” According to the City’s website, all elected officials are required to subscribe to the City’s Code, which includes among other things being ethical, professional, service-oriented, and communicative.

The City describes itself as a “national leader in incorporating community ethics and values into local government.” The City’s Ethics & Values Program has received national attention and has been used as a model for other cities. One standard the City has set addresses “Behavioral Standards for Council Members.” The document details positive and negative behaviors illustrative of the core value of ethics. Among the positive behaviors that are encouraged of councilmembers:

- Making careful decisions, advancing the best long-term interests of the City, after considering all available facts, City Staff recommendations, and public comment
- Treating the public and City Staff, at all times, the way I treat highly regarded colleagues in businesses or professions

Among the negative behaviors that are discouraged of councilmembers:

- Paying more attention to friends’ and supporters’ projects
- Giving special treatment to the companies that pay the most in taxes and to my largest campaign donors
- Making “back room” deals and decisions
- Criticizing or embarrassing the City Manager or other City Staff in public

## **Admonition and Censure Policy**

In May of 2018, the City adopted Policy 47, “Admonition and Censure Policy.” This policy applies only to the councilmembers. It states that the City Council is to abide by federal, state, and local laws, including the Code of Ethics & Values. It notes that violations of such laws or policy

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“tend to injure the good name of the City and undermine the effectiveness of the City Council as a whole.”

Under this Policy, admonition and censure are self-policing processes that may be initiated only by the councilmembers themselves. Further, since the process of initiating an admonition or censure requires a vote of the City Council, the policy is likely to be ineffective if the need for admonition or censure applies to anyone on the City Council Voting Bloc.

Policy 47 is included in [Appendix C](#).

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## METHODOLOGY

The Civil Grand Jury conducted more than ten interviews; reviewed City ordinances and policies; studied legal opinions and legal documents; reviewed more than 700 emails; watched videos of City Council meetings; examined councilmembers' public calendars; reviewed portions of the City's charter and ordinance code, the City's Ethics and Values Program, and the Council Policy Manual; reviewed public Stadium Authority financial documents; reviewed multiple media articles; and consulted with legal experts. The Civil Grand Jury used these sources of information to develop facts, findings, and recommendations.

## INVESTIGATION

### **The City Council Voting Bloc's Serial Meetings with 49ers Lobbyists**

One of the duties of accountability and transparency that the City Council owes to its constituents is codified in the open government law known as the Brown Act, which guarantees the public's right to attend and participate in meetings of the local legislative bodies. California Government Code section 54950 et seq. governs the way in which local governmental bodies such as boards of supervisors, city councils, and school boards hold both public (open session) and non-public (closed session) meetings. The concept of open meetings serves as the foundation for good governance by protecting transparency in government affairs.

Under the Brown Act, a "meeting" is defined as a congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any matter which is under the subject matter jurisdiction of the agency. (Cal. Gov. Code § 54952.2(a).) The times and dates of all meetings must be posted, and an agenda must be prepared and published ahead of time to provide a brief general description of all matters to be discussed or considered at the meeting. (Cal. Gov. Code §§ 54954, 54954.2(a).) Importantly, Section 54952.2(b)(1) prohibits a majority of members of a legislative body outside of a lawful meeting from directly or indirectly using a series of meetings to discuss, deliberate, or act on any item of business within the subject matter jurisdiction of the body. This concept is known as a "serial meeting," which is described by a California Attorney General publication on the Brown Act as follows:

Typically, a serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body's members...Once serial communications are found to exist, it must be determined whether the communications were used to develop a concurrence as to action to be taken.

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Serial meetings typically occur in one of three ways:

1. Hub and spoke – These meetings occur when one person acts as the center and communicates with members of the legislative body.
2. Daisy chain – These meetings occur when councilmember A calls councilmember B to discuss an item of city business, and then councilmember B calls councilmember C to discuss the same thing. This type of meeting is also particularly likely to occur by e-mail due to the ease of forwarding emails.
3. Meetings in cyberspace – The internet provides numerous opportunities for local officials to post their thoughts and opinions about City issues. At this time, no court has specifically ruled on the intersection of comments posted on the internet and the Brown Act’s requirements.

For more detail, relevant portions of the California Attorney General's pamphlet “The Brown Act: Open Meetings for Local Legislative Bodies (2003)” are excerpted in [Appendix D](#).

The City Council holds meetings at least twice a month in both public (“open”) and non-public (“closed”) sessions. When the newly elected councilmembers joined the City Council in January 2021, they began scheduling regular closed-door meetings with registered 49ers lobbyists. Notably, the meeting arrangements often occur in a “hub and spoke” fashion of serial meetings with two groups meeting with the 49ers lobbyists—the same three members in one meeting, the same two in the other, typically held back to back. These meetings occur with the members of City Council Voting Bloc and never include the remaining two members of the City Council. These meetings are primarily scheduled the day before or the day of regular City Council meetings, with many held immediately prior to the City Council meetings.

Figure 2 illustrates the number of meetings with the 49ers that are in close in time to a City Council meeting and the increasing frequency of those meetings since 2020. The data below comes from the councilmembers’ calendars shown in [Appendix E](#).

Year	Councilmember Park		Councilmember Jain		Councilmember Becker		Councilmember Chahal		Councilmember Hardy	
	Met with the 49ers	Met with the Council	Met with the 49ers	Met with the Council	Met with the 49ers	Met with the Council	Met with the 49ers	Met with the Council	Met with the 49ers	Met with the Council
2022	50	67	24	20	26	26	19	19	17	22
2021	27	37	44	37	37	37	23	37	29	38
2020	0	5	0	5	0	5	8	40	11	42
<b>Total</b>	<b>77</b>	<b>109</b>	<b>68</b>	<b>62</b>	<b>63</b>	<b>68</b>	<b>50</b>	<b>96</b>	<b>57</b>	<b>102</b>

**Figure 2. Comparison of City Councilmember Schedules**

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The above meeting pattern and cadence create numerous concerns. First, the meeting arrangement between the City Council Voting Bloc and the 49ers lobbyists – in a serial fashion – raises serious concerns about potential violations of the Brown Act, which prohibits serial meetings where City business is conducted.

Second and relatedly, the close proximity just before the City Council meetings certainly suggests that the content of the meetings concerns the matters before the City Council. And this frequency and proximity of the meetings with lobbyists to City Council meetings does not happen with any other entity in the City. As to why this type of meeting cadence is needed, one of the councilmembers expressed that the need to meet with 49ers lobbyists was because they were the management company, which of course is not true and underscores at least one councilmember's contorted view of the reporting relationships.

Third, the Civil Grand Jury learned from legal experts that this type of meeting pattern between the City Council Voting Bloc and 49ers lobbyists creates a risk that the councilmembers will divulge privileged information. The likelihood of inadvertent disclosure of privileged information is increased based on the frequency of these meetings.

Fourth, the Civil Grand Jury has transparency concerns with these meetings. According to the City's website, "[i]n an effort to foster greater transparency" the City adopted Ordinance No. 1950 in 2016 requiring that councilmembers publish their calendars to the public. According to the ordinance, "The Mayor, City Council Members, City Manager, City Clerk, Chief of Police and City Attorney shall publish their calendars to the City's website on the tenth business day of each month and shall reflect the schedules of the previous month." Ordinance No. 1950(c) provides that "[e]ach non-internal city-related appointment must include the following information: name(s), title(s), and affiliated organization(s) and a general statement of the issues discussed."

The Civil Grand Jury reviewed the public calendars of the councilmembers and observed that while the calendars of the City Council Voting Bloc include a "general statement of the issues discussed" as required by the Ordinance, the councilmembers' descriptions of their meetings with the 49ers lobbyists are still vague and abbreviated, with only one- or two-word descriptors, most commonly "SCSA/49ers." (SCSA stands for Santa Clara Stadium Authority.) Because of the large number and systematic nature of these closed-door meetings with lobbyists, the Civil Grand Jury is concerned about transparency and whether the 49ers lobbyists are dictating City/Stadium Authority policy to the detriment of the residents.

[Appendix E](#) shows the calendars of the five members of the City Council Voting Bloc from January to September of 2022. The meetings with 49ers lobbyists are highlighted.

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Fifth, according to the Civil Grand Jury's investigation, the content of those meetings is not shared with the minority members of the City Council and Stadium Authority. The Civil Grand Jury found no evidence that the minority councilmembers met with the registered 49ers lobbyists. The meetings between the 49ers lobbyists and the City Council Voting Bloc occur behind closed doors. There are no known notes of the meetings and meeting minutes are not required, so there is no way to know what was discussed. When the Mayor tried to require minutes of these meetings, the City Council Voting Bloc voted against it.

## **ManCo**

Stadium management and event booking for non-NFL events at the Stadium are run by ManCo, a 49ers affiliate. A complex revenue sharing agreement apportions income from non-NFL events. The Stadium Authority relies on ManCo's accounting of the expenses and revenues to know if the non-NFL event is profitable.

If the non-NFL event is profitable, the City earns Performance Rent. The City has not earned Performance Rent in six years. To know if ManCo is properly accounting for the expenses and revenues, the Stadium Authority needs to be able to review sufficiently detailed financials. As discussed above, obtaining financials has proven problematic.

The Civil Grand Jury's investigations revealed several concerns about the City/Stadium Authority's ability to hold ManCo accountable for its responsibilities.

First, many issues surrounding the lack of proper financial accounting have not been resolved. For years, ManCo has not provided sufficient financial documentation (and in the early years no documentation at all), making it difficult to verify whether the funds received from ManCo were accurate in accounting for all the revenue due to the City. As discussed above, the Harvey Rose audit raised several areas of deficiency regarding ManCo, many of which remain unresolved.

In July 2020, the City Manager published an update on the City website informing residents about the lack of revenue generated by non-NFL events. At that time, 75 percent of non-NFL events lost money.

Figure 3 below, from the Santa Clara Stadium Authority, *Adopted Fiscal Year 2021/2022 Operating, Debt Service and Capital Budget* dated March 23, 2021, provides details. For example, during the 2019 Rolling Stones concert, the City made only \$872,000. The City was told that revenue was \$11.4 million and expenses were \$10.5 million. For the Pac-12 Championship, the City lost \$2.6 million: revenue was \$3.1 million and expenses were \$5.7 million. There is no way to verify these numbers because ManCo has not been forthcoming with detailed documentation.

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## FY2019/20 Ticketed Non-NFL Events Revenue and Expenditure Summary

In Millions \$

Ticketed Event	Revenue	Expense	Net
Monster Jam	\$ 1.6	\$ 2.0	\$ (0.4)
Bay Area Wedding Fair	0.0	0.0	0.0
USWNT vs South Africa	0.3	0.1	0.2
ICC: Chivas vs Benfica	1.2	1.5	(0.3)
Rolling Stones: No Filter Tour	11.4	10.5	0.9
High School Football Series	0.1	0.1	0.0
Pac-12 Championship	3.1	5.7	(2.6)
Redbox Bowl	4.6	5.2	(0.6)
<b>Total Ticketed Non-NFL Net Revenue to date</b>	<b>\$ 22.3</b>	<b>\$ 25.1</b>	<b>\$ (2.8)</b>

\*Numbers may vary due to rounding

**Figure 3. Revenue and Expenditure Summary for Levi's Stadium**

According to a 2021-2022 budget document prepared by the Stadium Authority, a forensic auditor had been retained to conduct an "expanded analysis of non-NFL events' revenues and expenses." That forensic auditor was hired by the former City Manager. According to the document, the forensic audit was expected to be completed by the Fall of 2021. However, the audit was never completed, and the Civil Grand Jury learned that the effort was ceased after the City Manager was terminated.

To fully appreciate the seriousness of the situation and the pessimism of the City about the prospect of non-NFL events resulting in income to the City, the 2022-2023 Stadium Authority budget specifies zero dollars for Performance Rent. See Figure 4 below.



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<b>Stadium Authority Operating Budget (cont.)</b>		
<b>Expenses:</b>		
Shared Stadium Manager Expenses		\$3,230,000
Legal Contingency		10,542,420
SBL Sales and Service		2,089,000
Senior and Youth Program Fees	←	237,000
Ground Rent	←	460,000
Performance Rent	←	0
Discretionary Fund Expense		250,000
Utilities		1,444,000
Use of StadCo Tenant Improvements		48,000
Stadium Authority General & Administrative		4,205,000
Naming Rights Commission		91,000
Other Expenses		723,000
Contribution to Operating Reserve		369,000
Transfers Out		44,785,580
<b>Total Expenses</b>		<b>\$68,474,000</b>

Paid to  
the  
City's  
General  
Fund

12

**Figure 4. Post-Meeting Material from the March 15, 2022, City Council and Authorities Concurrent Meeting**

Second, Measure J promised the voters that the City would financially benefit from the Stadium agreements. For that reality to occur, ManCo needs to book non-NFL events that result in Performance Rent to the City. One of the reasons ManCo has expressed for not being able to successfully book more events has been the 10 p.m. weeknight curfew. The Civil Grand Jury watched a February 2022 presentation made to the City Council by a reputable event management company hired by City staff, which proposed options for increasing revenue streams at the Stadium. According to their envisioned marketing strategies, the curfew need not be a significant impediment for booking talent. One of the ways presented to work around the curfew is to book half-bowl or quarter-bowl events that cater to smaller, more specific demographics.

After the presentation, the City Council Voting Bloc voted not to forward the marketing plan presented that evening to ManCo for consideration. The City Council Voting Bloc members did not address any of the substantive points made by the marketing firm. Instead, one of the City Council Voting Bloc members referred to an email prepared by a 49ers lobbyist disparaging both the marketing firm and the City Manager. It is not clear to the Civil Grand Jury why the City Council Voting Bloc would not want ManCo to consider all strategies for booking non-NFL events. It is actions like these that show that the City Council Voting Bloc puts the 49ers' interests ahead of the City's interests.

Third, City staff have noted chronic fire and life safety violations at the Stadium. A senior Santa Clara Fire Department official detailed ManCo's extensive safety violations to help ManCo achieve compliance. From January 22 to October 23, 2020, for example, ManCo consistently had a monthly average of 21 outstanding violations. Repeated violations included ventilation and explosion control safety measures, lack of compliance with minimum code requirements, expired

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permits, alarm deficiencies, damaged doors on freight elevators, failure to maintain fire alarm systems, and portable unventilated heaters.

The Civil Grand Jury reviewed emails showing that the City Manager was criticized by 49ers lobbyists for supporting the actions of the Fire Department official. In August 2021, one of the members of the City Council Voting Bloc questioned why equipment had to be inspected each year. The City Manager responded that equipment inspections were required by state codes, and that neither councilmembers nor staff has discretionary authority to ignore these statutory mandates.

Last, ManCo rarely, if ever, attends City Council meetings where Stadium Authority business relevant to ManCo is being discussed. Commonly, a representative from an organization whose matter is being discussed would be present at the City Council meeting to present, answer questions, or explain a matter. As noted above, the City Council Voting Bloc who meet privately with the 49ers lobbyists have instead become the de facto spokespeople for the 49ers organization, advocating for their positions. This dynamic does not allow the minority councilmembers to ask direct questions of ManCo staff.

The Civil Grand Jury finds that the City Council Voting Bloc has displayed unacceptable behavior by aligning themselves with ManCo and putting the interest of the 49ers ahead of the interest of the citizenry of the City. By aligning itself with ManCo, the City Council Voting Bloc has effectively breached its duties to the City.

## **Lawsuits**

The relationship between the City and the 49ers has been difficult from the outset. Immediately upon taking possession of the Stadium, the 49ers filed to have the possessory interest tax reevaluated. This was an unexpected setback for the City, resulting in \$13 million in rebates to the 49ers in 2018.

In August 2018, before the current City Council Voting Bloc was in place, the City/Stadium Authority fought and won a major victory that resolved a \$180 million rent dispute with the 49ers. The 49ers' request for a rent reduction over the 40-year lease term was denied and instead, the City/Stadium Authority was awarded a significant rent increase by an arbitrator.

In 2018, the City determined that the 49ers failed to pay \$718,000 for the use of a City-owned golf course for Stadium parking. The 49ers responded with a lawsuit claiming that it had overpaid by more than \$1 million and offered to settle with a \$350,000 payment. The Civil Grand Jury learned that some people with knowledge of the litigation believed that the City had a strong case;

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however, that litigation was recently settled when the City Council Voting Bloc accepted the 49ers' offer. The settlement amount did not even cover the City's legal fees.

In 2019, before the current City Council Voting Bloc was in place, the City Council voted to terminate the contract with ManCo, triggering a lawsuit by the 49ers contesting the termination. That lawsuit and others were combined by the court, and the parties were directed to attend mediation. Anxious to wrap this up quickly, the 49ers began an almost daily pressure campaign to sway public opinion and force the City to settle the lawsuits, all of which were initiated by the 49ers. The settlement would enable them to continue managing the Stadium.

A settlement was announced on August 31, 2022, pursuant to which ManCo would continue managing the Stadium and non-NFL events. There are reports of shouting, swearing, offensive hand gestures, and aggression by one of the members of the City Council Voting Bloc during the closed session that occurred the evening prior to the announcement. The police were called, and they remained present for the balance of the Council meeting.

One day after the settlement announcement, contributions of almost \$750,000 were made by the "Debartolo Corporation & Affiliated Entities, Including the Forty Niners Football Company LLC" to the PACs that support three members of the City Council Voting Bloc in the upcoming November election. See [Appendix F](#) for copies of the Late Contribution Report Form 497, which is the public disclosure form for these contributions.

## **FIFA World Cup**

The Federation Internationale de Football Association (FIFA) World Cup is an international soccer competition. In June of 2022, FIFA announced that the Stadium will host matches for the 2026 FIFA World Cup.

The Civil Grand Jury learned that as early as 2021, members of the City Council Voting Bloc met with 49ers lobbyists privately to discuss hosting FIFA matches at the Stadium. Neither the 49ers nor the councilmembers would share with the City Manager or City staff what was being discussed or anticipated. At least one councilmember would not share what they knew because of a belief that confidentiality was owed to the 49ers. This is another blatant example of a councilmember putting the interest of the 49ers ahead of the City.

In February 2022, the City Council passed a resolution welcoming the 2026 FIFA World Cup (Competition) to the City. At that meeting, the then-City Manager raised concerns about how hosting the FIFA World Cup at the Stadium could negatively impact the City/Stadium Authority. The then-City Manager presented a PowerPoint that noted concerns like security costs, as follows:

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Government is requested - at its own cost - to assume full responsibility for safety and security at the [FIFA] Competition and Competition-related events. Security operations are not limited to stadiums, but also other locations used for the Competition, such as training sites, team base camps, hotels, broadcast center, FIFA Fan Fest sites, airports, train and bus stations, and other transportations[sic] hubs, etc.

The PowerPoint noted that the host city is also required to make certain declarations, and the then-City Manager expressed concerns about whether the City would be able to make these declarations. For instance, the then-City Manager noted that the host city might be required to “adopt all measures and enact all necessary laws, ordinances or regulations (including local, regional or national laws, ordinances or regulations).” The then-City Manager further raised concerns about possible conflicts of interest because one of the heads of the host committee is also president of the 49ers.

As discussed below, the City Council Voting Bloc voted to terminate the City Manager two days later.

The City Manager’s concerns were warranted. A commitment to host the FIFA World Cup comes with many costs and possible pitfalls.

- Although the FIFA World Cup is expected to be a boon for local tourism, a major percentage of the profits for the World Cup is derived from ticket sales and advertising rights. The host city gets no part of these profits; FIFA takes all the profit as part of the agreement.
- FIFA has strict terms and conditions for host cities. The hosts are expected to have temporary housing to accommodate the players and fans from other countries. It is unknown if the City will be able to accommodate this requirement, what new infrastructure will be required, and how this influx will affect surrounding neighborhoods.
- According to Measure J, the City is responsible for all public safety costs associated with non-NFL events. One estimate for security costs alone to support FIFA events exceeded \$15 million. This includes safety and security for hotels, training sites, transportation, broadcast sites, and team facilities.

Two major cities, Chicago and Quebec, declined to bid. One reason cited was that the cost to a host city had more than doubled in the past three years to almost \$80 million. Others include the lack of transparency with FIFA’s policies, inflexibility, and long list of demands, which includes the requirement that all contracts for the event be written under Swiss law.

The City/Stadium Authority remains in the dark about the FIFA commitments and the potential impact to the City. Even though members of the City Council Voting Bloc met with 49ers’ lobbyists on the subject of the FIFA bid, the Civil Grand Jury’s investigation could not uncover any further information regarding this subject.

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## Operational Tours

The objective of the Political Reform Act is the promotion of impartial and ethical conduct of public affairs by state and local government officials. (See Cal. Gov. Code § 81000 et seq.) The California Fair Political Practices Commission (FPPC) has primary responsibility for the administration of the Political Reform Act. (Cal. Gov. Code § 83111.) Elected officials, like the City Council, are required to disclose their financial holdings on the Statement of Economic Interests filing via a form commonly known as the Form 700. (Cal. Gov. Code § 87200, et seq.) One of the central purposes of the disclosure requirements is to ensure that public officials “perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.” (Cal. Gov. Code § 81001, subd. (b).) The Political Reform Act was enacted because “[a]ssets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided.” (Cal. Gov. Code § 81002(c).)

The City has its own rules regarding accepting gifts, including a prohibition against gifts from lobbyists. The City Council adopted and promulgated the Council Policy Manual “to provide clear, consistent and detailed direction by which the City Council, Boards, Commissions, Standing and Ad Hoc Committees, shall conduct City Council business and activities.” The City Council Policy Manual, Policy 050, “Gifts to Elected and Appointed Officials,” contains the following rules about gifts:

Elected and appointed officials are required to report gifts worth \$50 or more on their annual Statement of Economic Interests (Form 700) with the FPPC. If a gift valued at less than \$50 is accepted, the elected or appointed official shall promptly disclose such acceptance either at a public meeting of a body on which official serves during the Reports of Members portion of the Agenda or, for elected department heads, in a written Report to Council.

Elected and appointed officials shall not accept gifts from any single source aggregating to \$470 or more in a calendar year. If a gift or series of gifts aggregating to \$470 or more is accepted from a single source during any 12-month period preceding the officials’ involvement in a decision affecting the gift-giver, the elected or appointed official may be required to disqualify him or herself from participating in that decision-making process.

Elected and appointed officials may not accept any gift from a lobbyist.

Councilmembers Karen Hardy and Raj Chahal are being investigated by the FPPC for exceeding the gift limitation from the 49ers. This investigation involves receiving 49ers game tickets. These

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councilmembers claim in their defense that they gained entry into the Stadium on a game day to conduct “operational tours” of the Stadium, ostensibly not to watch the game.

The Civil Grand Jury learned that the City had a protocol for scheduling operational tours. Operational tours require significant advance planning and scheduling. Security personnel, paid for by the City, must be available to escort councilmembers throughout the facility. Past operational tours were arranged through the City Manager’s office in coordination with the police department. Badges or access passes for an event were sent to the City Manager’s office and then distributed to councilmembers and staff who signified that they wanted to attend the tour. In addition, the operational tours were publicly noticed as a special meeting, and the public was invited to the outside portion of the tour.

Hardy and Chahal attended the November 15, 2021, 49ers v. Rams game. They received passes to the game from the 49ers. It is unknown what kind of pass they received (e.g., general admission, VIP) because they have refused to publicly provide this information. Further, it is not known what the operational tour involved. For example, did the councilmembers observe the areas of ManCo’s fire and safety violations? None of this information is available because they did not arrange it through the City, have not discussed this information publicly, and the typical protocol of arranging, noticing, and coordinating operational tours was not followed. The Assistant Chief of Police for the Santa Clara Police Department was unaware that this was going to happen, and protocol would have dictated that he or his staff be forewarned of a tour.

An additional councilmember on the City Council Voting Bloc told the Civil Grand Jury that he purchased a ticket on the day he was conducting his “operational tour” to avoid the scrutiny his fellow councilmembers were going through with the FPPC. If the City Council Voting Bloc requested operational tours in the manner that tours had been conducted by previous City Councils, there would be no need for councilmembers to “protect” themselves. When asked by members of the electorate to put the topic of their tickets on the City Council agenda as an opportunity to explain themselves, the councilmembers refused.

It is worth noting that operational tours should be available for all councilmembers on the same basis.

Councilmembers’ acceptance of football tickets from the 49ers has raised serious concerns that these members are in violation of the Political Reform Act. Further, there are City laws that regulate this conduct, including the City’s ordinance code that makes it “unlawful...for any City official to accept any gift from a lobbyist.” As of this writing, the City has not opened an investigation into whether Hardy and Chahal violated City law. The FPPC investigation, however, is ongoing.

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There is a concern in the community about the temporal aspect of councilmembers attending special 49ers events and voting in favor of the 49ers on important Stadium Authority business. In particular, the day after Hardy and Chahal attended the 49ers game, they voted with the City Council Voting Bloc in favor of extending the weekday Stadium curfew. The curfew was put in place to protect the neighbors on weeknights, but the 49ers have been lobbying to change it. The Civil Grand Jury cannot read the minds of the councilmembers, but their actions give an appearance of impropriety that is diminishing the trust of their constituents, their own City staff, and fellow councilmembers.

## **Ethics**

As described above, the City touts itself as a leader in ethics and professionalism. The City has a policy that addresses “Behavioral Standards for Council Members.” The document details positive and negative behaviors illustrative of the core value of ethics.

## **Meeting Behavior**

The Civil Grand Jury watched more than 28 hours of video recordings of at least seven City Council meetings and was shocked to see repeated instances of councilmembers behaving acrimoniously and disrespectfully toward each other, City staff, and the public. This type of behavior is not consistent with the Code of Ethics & Values that is supposed to guide the City Council (e.g., communicative and collaborative decision-making, mutual respect, and trust). And certainly, the Behavior Standards for City Councilmembers, which are supposed to dictate “a basic set of character traits and actions residents can expect to see Council Members meet and exceed” are not being adhered to by the councilmembers.

The Civil Grand Jury learned of a concern that a member of the City Council Voting Bloc has participated with their video camera off during Zoom City Council meetings so as to communicate with 49ers lobbyists for direction. Whether this is legally permissible is beyond the scope of this report; however, for the sake of transparency and accountability, and because of the unique challenges of the relationship with the 49ers, the Civil Grand Jury believes all video cameras should remain on during remote meetings.

There is a City Council Government and Ethics Committee that is supposed to meet regularly. According to the Legislative Meeting Calendar on the City’s website, it appears that they have not met this year. There are also ethics guidelines and an Admonition and Censure Policy on the City’s website, but there is no effective enforcement mechanism of the City’s ethics guidelines other than self-policing—singling out an individual for bad behavior and voting for their dismissal. This type of enforcement mechanism fails for members of a majority voting bloc because a majority vote of the City Council is required to initiate an action.

# UNSPORTSMANLIKE CONDUCT

## **Treatment of City Staff**

Another behavioral standard the City Council has adopted is “[t]reating the public and City Staff, at all times, the way I treat highly regarded colleagues in businesses or professions.” And a behavior to be avoided is “criticizing or embarrassing the City Manager or City Staff in public.” Throughout its investigation the Civil Grand Jury uncovered evidence of disrespect toward staff by members of the City Council Voting Bloc.

Members of the City Council Voting Bloc doubted the accuracy of City staff’s work and favored the 49ers’ interpretation on a variety of subjects. The Civil Grand Jury saw no evidence that this doubt was warranted. As mentioned previously, the Civil Grand Jury viewed documents showing members of the City Council Voting Bloc advocating on behalf of the 49ers and arguing with staff about state safety codes and established norms. On many occasions, these arguments led to City staff expending an inordinate amount of time defending their already well-reasoned analysis. During City Council meetings, members of the City Council Voting Bloc repeatedly challenged the staff’s efforts and recommendations regarding increasing revenues of the Stadium. Most disturbing was the instance described above where during a City Council meeting a member of the City Council Voting Bloc used an email sent by a 49ers lobbyist as his reason for not accepting City staff recommendations. Overall, the Civil Grand Jury saw a hostile environment for City staff, illustrated by a text conversation between two members of the City Council Voting Bloc remarking that a member of the City staff was not afraid of them.

Section 807 of the City Charter makes it clear that “except for the purpose of inquiry, the City Council and its members shall deal with the administrative service under the City Manager solely through the City Manager and neither the City Council nor any member shall give orders to any subordinates of the City Manager, either publicly or privately.” A violation is a misdemeanor. Under the City Code, the City Manager is tasked as the chief administrative officer with responsibility for the administration of all affairs of the City. (Santa Clara City Code §§ 2.15.020(a) & (c).) The Civil Grand Jury learned that the then-City Manager made a complaint that, among other things, a councilmember was directing City staff. An outside investigator was hired to investigate the complaint. If true, the allegations in that complaint may have violated the Charter. On August 23, 2022, the City noticed a closed session meeting under the exception for "public employment appointment" for the City Manager. At that meeting, the City Council Voting Bloc voted to stop the investigation made from that complaint.

## **City Attorney and City Manager**

The influence of the 49ers on the City’s governance is undeniable: regular meetings with councilmembers, PAC funding of campaigns supporting 49ers-favorable candidates, and feeding



# UNSPORTSMANLIKE CONDUCT

councilmembers talking points are all counter to the City's interest. This dynamic presented insurmountable challenges for the former City Attorney and former City Manager.

The job of the City Attorney, who also holds the position of General Counsel for the Stadium Authority, includes defending both entities in the numerous lawsuits the 49ers have initiated over the years. (Santa Clara City Code § 2.25.020.) Before the City Council Voting Bloc existed, the City was successful in defending litigation brought by the 49ers. The Civil Grand Jury learned that the City/Stadium Authority had reason to believe that it could prevail in defense of litigation filed by the 49ers. At a City Council meeting in April 2021, two of the City Council Voting Bloc admitted that 49ers lobbyists had expressed that they "would like to see [the City Attorney] gone" and that they had "concerns about the City Attorney." In September 2021, the City Council fired the City Attorney. The vote was 5-2, with the City Council Voting Bloc voting in favor of termination.

As detailed above, the former City Manager defended her staff against inappropriate behavior from the City Council Voting Bloc. She opened investigations. She raised concerns about ManCo's compliance with contractual agreements. She has had to defend herself from personal attacks by 49ers lobbyists, who told the City Council Voting Bloc that they wanted the City Manager/Stadium Authority Executive Director gone. On February 22, 2022, she spoke out about concerns related to the FIFA event, urging caution and the need for more information. She also raised the issue of potential conflicts of interest related to the 49ers. Two days later, the City Council fired the City Manager with a contractually obligated severance package. The vote was 5-2, with the City Council Voting Bloc voting in favor of termination.

The Civil Grand Jury commends the former City Attorney and former City Manager for putting the interests of the City and Stadium Authority first, which has come at great personal and professional cost.

## CONCLUSION

The promise of Measure J was exciting for City residents. However, the reality has proven more complex than expected and has unveiled the lack of protections the City has in place to insulate itself from Stadium management issues and 49ers influence.

Open meetings are the core of good governance. The Civil Grand Jury has noted the frequency and proximity of closed-door meetings between the City Council Voting Bloc and 49ers lobbyists, which are suggestive of serial meetings prohibited by the Brown Act. Further, the relationship with ManCo is proving problematic in that the City/Stadium Authority is not holding ManCo to its obligations.

Recently, the City/Stadium Authority settled legal action brought by the 49ers. The details have yet to become public, but it is very concerning to the Civil Grand Jury that several councilmembers received large campaign donations from 49ers-backed PACs within days after the decision to settle. This, compounded with the fact that the City has been without a permanent City Attorney for over a year, raises great concern.

The former City Manager attempted to bring to light the lack of transparency surrounding the management of the Stadium and its finances. Additionally, the former City Manager raised questions regarding potential risks to the City posed by upcoming FIFA events. The City Manager was subsequently fired. Those concerns remain unresolved, and it seems unlikely that they will be addressed under the current culture.

In general, with the existing City Council Voting Bloc, the City Council operates in a manner inconsistent with the ethical ideals it touts on the City website. The Civil Grand Jury finds that the City needs to rethink its current structure for maintaining high ethical standards and work with experts in this field who can help the City insulate itself from its current ethical dilemmas.

# UNSPORTSMANLIKE CONDUCT

## FINDINGS AND RECOMMENDATIONS

This report points to serious concerns about the City Council Voting Bloc. The Civil Grand Jury recognizes that the “City”– which currently has a governing board that consists of this majority – will be required to vote to determine if it agrees with these findings and whether it will accept the recommendations. (Cal. Pen. Code § 933.05.) It is the Civil Grand Jury’s charge to investigate government operations, and this report seeks to do that despite the obvious limitation posed by the City Council Voting Bloc.

### **Finding 1a**

The City Council Voting Bloc meets regularly, and as often as weekly, with lobbyists for the 49ers. While these councilmembers report the date, some of the attendees, and a topic of the meeting, there is no requirement to disclose the substance of those discussions, and the councilmembers do not disclose the content of these meetings.

### **Finding 1b**

The meetings are typically held serially, with three councilmembers in one meeting and two in the next.

### **Finding 1c**

The frequency of meetings of the City Council Voting Bloc with the 49ers lobbyists has created concern about the City Council’s governance and leaves the impression that the City Council Voting Bloc is meeting in a manner to subvert the Brown Act’s open meeting requirements. This has led to distrust amongst councilmembers as well as between the councilmembers and their constituents.

### **Recommendation 1a**

Prior to voting on any 49ers-related matters and to prevent violations of the Brown Act, the City councilmembers should publicly disclose on the record if they have met with a 49ers lobbyist regarding a topic on the meeting agenda, the name of the lobbyist(s), the date of the meeting, all individuals present, and any information provided by the lobbyist(s). This recommendation should be implemented by February 1, 2023.

### **Recommendation 1b**

The City should expand its existing calendar ordinance, City of Santa Clara Ordinance No. 1950, to require minutes of all meetings, including the attendees, agenda, duration, and a detailed summary of matters discussed, to be posted online with the calendar. This recommendation should be implemented by February 1, 2023.

### **Recommendation 1c**

To restore public trust, the City should require that meetings with 49ers lobbyists be recorded so the public can be assured that these closed-door, frequent, and proximal meetings to the City Council meetings do not violate the Brown Act. This recommendation should be implemented by February 1, 2023.

# UNSPORTSMANLIKE CONDUCT

## **Recommendation 1d**

The City should establish an open governance commission to evaluate the City's current open government practices and make recommendations for improvement. This recommendation should be implemented by February 1, 2023.

## **Finding 2**

There is concern that the City Council Voting Bloc is getting real-time influence from 49ers lobbyists during City Council meetings.

## **Recommendation 2**

The City should require councilmembers to be visible at all meetings either in person or on camera.

## **Finding 3a**

ManCo has not provided sufficient financial accounting to the City/Stadium Authority as required.

## **Finding 3b**

The City has identified several fire and safety violations that ManCo has not remediated.

## **Finding 3c**

The agreement with ManCo is designed to result in Performance Rents payable to the Stadium Authority for non-NFL events; however, expenses from those events result in no income payable to the Stadium Authority.

## **Finding 3d**

Despite ManCo's lack of financial transparency, failure to schedule non-NFL events in a fashion that yields a financial benefit to the City/Stadium Authority, and repeated unabated fire and safety violations, the City recently agreed to keep ManCo as the operator of the Stadium.

## **Recommendation 3a**

The City/Stadium Authority should hire a certified public accounting firm to conduct a comprehensive audit of Stadium Authority finances and the financial documents submitted by ManCo, to begin no later than February 1, 2023 and annually thereafter.

## **Recommendation 3b**

The City/Stadium Authority should advocate for a third-party referee to oversee all of ManCo's management activities. This third party should report on a quarterly basis at City Council meetings the status of fire and safety remediation efforts, to begin no later than February 1, 2023.

## **Recommendation 3c**

The City/Stadium Authority should allocate staff to oversee Stadium operations. This should include finances, management policy development, and regular website updates of the City's financial reporting documents. This will facilitate a better awareness of ManCo's day-to-day operations. This recommendation should be implemented by February 1, 2023.

# UNSPORTSMANLIKE CONDUCT

## **Finding 4**

FIFA and the 49ers have announced that 2026 FIFA World Cup matches will be held at the Stadium. The former City Manager raised concerns about the lack of information and potential risks the event could pose to the City/Stadium Authority.

## **Recommendation 4a**

The City/Stadium Authority should request that the 49ers provide a report on the status of the commitments made to the FIFA event. This recommendation should be implemented by February 1, 2023.

## **Recommendation 4b**

The City/Stadium Authority should evaluate if the FIFA event poses risks to the City/Stadium Authority, including specifically the risks outlined by the former City Manager regarding security costs and the nature of declarations required of the host city.

## **Recommendation 4c**

The City and Stadium Authority should take no further action regarding FIFA until the information in 4a and 4b is made public.

## **Finding 5**

The City/Stadium Authority has a protocol for initiating and completing operational tours of Levi's Stadium. Several councilmembers have not used this protocol and have conducted operational tours on game days, which has raised concerns about whether these councilmembers have accepted gifts in violation of the Political Reform Act and City policy. These actions have also created the appearance of a lack of transparency, which has fostered distrust between City councilmembers, toward the City staff, and most importantly, with the residents of the City.

## **Recommendation 5a**

The City/Stadium Authority should adopt a policy and outline procedures for elected and appointed officials to conduct operational tours of the Stadium. This document should be published on the City's website to properly inform the public. This recommendation should be implemented by February 1, 2023.

## **Recommendation 5b**

The consequence for not adhering to the proper protocols for operational tours should result in an evaluation whether the City of Santa Clara Council Policy Manual, Admonition and Censure Policy should be invoked.

## **Recommendation 5c**

The City should hire an independent consultant to evaluate and publicly report on whether councilmembers have violated City Policy No. 050, "Gifts to Appointed and Elected Officials." This recommendation should be implemented by February 1, 2023.

# UNSPORTSMANLIKE CONDUCT

## **Finding 6**

The relationships between the City, Stadium Authority, StadCo, and ManCo are creating ethical dilemmas and governance challenges. The governing body for the City now consists of the City Council Voting Bloc, which (1) has received significant campaign contributions from 49ers lobbyists, (2) meets regularly with 49ers lobbyists behind closed doors, and (3) has engaged in actions that suggest loyalty to the 49ers above the City.

## **Recommendation 6a**

The City should hire a qualified legal and ethical consultant to evaluate the challenges presented by the unique relationship between the City and 49ers and prepare a public report on the findings and recommendations. This recommendation should be implemented by February 1, 2023.

## **Recommendation 6b**

The consultant should be tasked with looking at the unique challenges presented by the likely chance that the 49ers lobbyists will continue to influence elected officials and City governance. The consultant should specifically be tasked with evaluating the benefits of mechanisms like an oversight body or commission, auditors, and changes to the ordinance code and other governing documents that better ensure accountability and transparency in the relationship with the 49ers.

## **Finding 7**

Although the City consulted with Markkula Center for Applied Ethics and boasts of having model ethics rules, those rules were developed before the complexities created by the passage of Measure J. The City's current policies, like the Admonition and Censure Policy, do not work where the challenges are presented by a minority of the City Council membership.

## **Recommendation 7a**

The City should add to the City Code of Ethics & Values and the Admonition and Censure Policy a procedure to enable the public to file a complaint and testify at a public hearing to help remediate ethics violations. This should include a procedure for public admonishment, revocation of special privileges, or censure. This recommendation should be implemented by February 1, 2023.

## **Recommendation 7b**

The City should establish an independent Public Ethics Commission, with guidance from the Markkula Center for Applied Ethics, to help ensure that all public officials conduct government decision-making processes in an ethical, transparent and unbiased manner without favor. This recommendation should be implemented by February 1, 2023.

## **Recommendation 7c**

The City should require councilmembers to attend additional training in good governance provided by a third party such as the Markkula Center for Applied Ethics no later than February 1, 2023, and once a year thereafter. The training should include the Brown Act with emphasis on issues such as serial meetings, closed sessions, the fiduciary duty of government officials, filing Form 700s, and other issues related to good governance.

# UNSPORTSMANLIKE CONDUCT

## **Finding 8a**

The City Manager and City Attorney positions are important executive-level leadership positions within the City. The City Attorney and the City Manager raised concerns about the 49ers and councilmembers activities related to the 49ers. Both were fired shortly thereafter.

## **Finding 8b**

Members of City staff, including the former City Attorney and former City Manager, have shown commendable loyalty and dedication to the City and its interests.

## **Recommendation 8**

No recommendation.

# UNSPORTSMANLIKE CONDUCT

## REQUIRED RESPONSES

Pursuant to California Penal Code § 933(b) et seq. and California Penal Code § 933.05, the County of Santa Clara 2022 Civil Grand Jury requests responses from the following governing body:

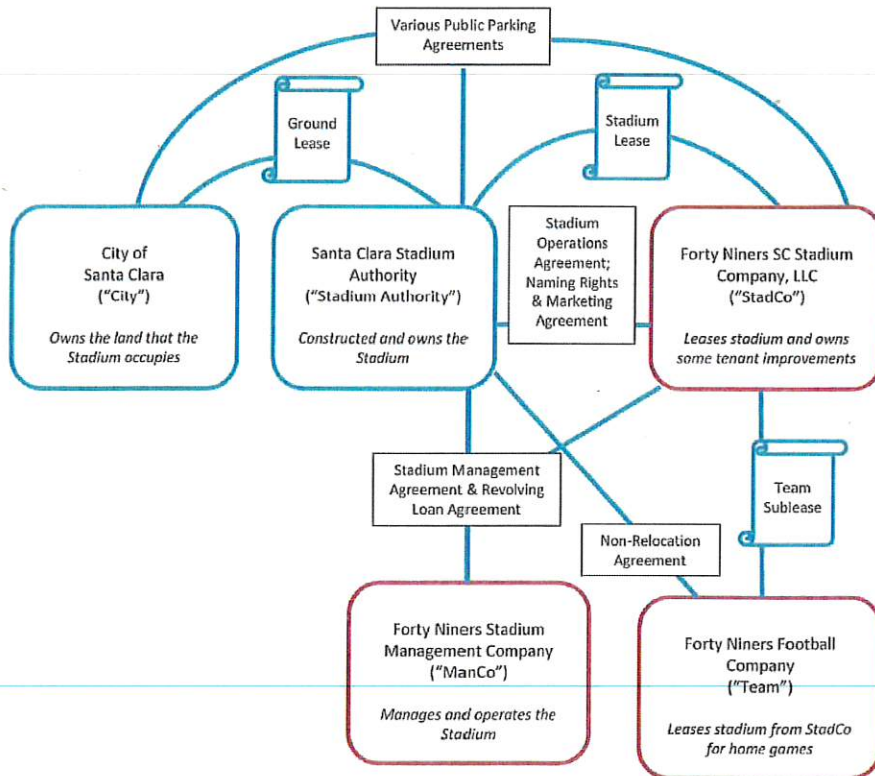
Responding Agency	Findings	Recommendations
The City of Santa Clara	1a, 1b, 1c, 2, 3a, 3b, 3c, 3d, 4, 5, 6, 7	1a, 1b, 1c, 1d, 2, 3a, 3b, 3c, 4a, 4b, 4c, 5a, 5b, 5c, 6a, 6b, 7a, 7b, 7c



# UNSPORTSMANLIKE CONDUCT

## APPENDIX A: CITY AND 49ERS RELATIONSHIPS

Exhibit 1.1: Overview of Stadium-Related Leases and Agreements



*Comprehensive Audit of Stadium Authority Finances*, prepared by Harvey M. Rose Associates, LLC, August 2017.

# UNSPORTSMANLIKE CONDUCT

## APPENDIX B: HARVEY ROSE AUDIT RECOMMENDATIONS

NOTE: Status as of 12/12/17 came from a City analysis. Current status is based on information the Grand Jury learned during the course to its investigation.

Compliance with Harvey Rose Audit Recommendations	Status as of 12/12/17	Current Status
1.A The Stadium Authority Board should direct the Executive Director to request the public safety costs threshold be adjusted through negotiations with StadCo to reflect actual costs to the City for providing public safety services for NFL events.	Partially Complete	Out of Compliance
1.B The Stadium Authority Board should direct the Executive Director and Stadium Authority counsel to notify Manco that the absence of five year capital expenditure plans for FYs 2014-15 and 2015-16 was a breach of Section 10.3 of the Stadium Lease and that Manco is required to provide such plans under the lease for the current and all future Stadium Authority fiscal years.	Complete	Complete
1.C The Stadium Authority Board should direct the Executive Director to provide a copy of the Operation and Maintenance Plan to the Stadium Authority Board for review, in closed session if deemed necessary for public safety reasons by the Stadium Authority counsel.	Complete	Complete
1.D The Stadium Authority Board should require that Stadium Authority staff and Manco prepare an annual public safety budget in conjunction with the City's public safety departments detailing both NFL and non-NFL event public safety costs for submission to and adoption by the Board.	Partially Complete	Partially Complete
1.E The Stadium Authority Board should direct the Executive Director to renegotiate provisions of the Stadium Lease so that the Stadium Authority receives a share of any concessionaire revenue that exceeds the minimum guaranteed amount from non-NFL events.	Complete	Out of Compliance
1.F The Stadium Authority Board should direct the Executive Director to notify StadCo that a formal consolidated draft parking plan must be produced and delivered to the Community Development Department and to the Board for review and approval as required under the Stadium Lease.	Not Implemented	Not Implemented
1.G The Stadium Authority Board should direct the Chief of Police to present the public safety plan to the Stadium Authority Board for review and formal approval (in closed session if deemed necessary by Stadium Authority counsel) and to present any updates to the public safety plan to the Stadium updates to the public safety plan to the Stadium Authority Board for review and documented adoption.	Partially Complete	Out of Compliance
1.H The Stadium Authority Board should direct the Executive Director to formally notify StadCo that the total cost for stadium insurance must be disclosed in the shared stadium expenses budget pursuant to Section 4.6 of the Management Agreement and, based on the disclosure, consider proposing to StadCo an amendment to the Stadium Lease to remove the provision that the Stadium Authority pay a fixed amount of insurance costs, with StadCo paying an	Partially Complete	Complete

# UNSPORTSMANLIKE CONDUCT

1.I	The Stadium Authority Board should direct the Executive Director to formally notify StadCo and Manco that Manco is in breach of the Management Agreement because it did not furnish Annual Statements of Stadium Operations for FYs 2014-15 and 2015-16, and to require that such statements be provided for those years, for FY 2016-17 and each year thereafter.	Not Implemented	Not Implemented
1.J	The Stadium Authority Board should direct the Executive Director to send formal notification to Manco and StadCo that Manco was in apparent breach of the Stadium Lease requirement that a one year budget and five year projection of shared Stadium expenses be provided on an annual basis to the Stadium Authority and demanding that Manco provide such budgets and projections for the current and all future years. The Executive Director should be directed to provide a written response to Manco each year on the draft budget submitted by Manco.	Complete	Out of Compliance
1.K	The Stadium Authority Board should direct the Executive and Treasurer to work with Manco to require that the annual operating budget and quarterly financial status reports disclose sufficient information to ensure that staff and the Board can determine whether the Stadium Authority is adhering to Stadium Lease requirements contained in Article-14 regarding the allocation of excess Stadium Authority revenue.	Not Implemented	Not Implemented
1.L	The Stadium Authority Board should direct the Executive Director to notify Manco that previous annual marketing plans were inadequate as they did not set forth reasonably detailed plans to develop, implement, and monitor marketing, booking, advertising, and promotion of non-NFL activities. The Board should further direct the Executive Director to notify Manco that future marketing plans must include such details and be reviewed for sufficient detail by the Executive Director before being presented to the Board.	Partially Complete	Complete
1.M	The Stadium Authority Board should direct the Executive Director to confer with the Finance Director to confer to determine what financial information would be necessary to assess non-NFL event financial performance, including incentive payments to Manco, and then notify Manco regarding what additional information will be required on an ongoing basis.	Partially Complete	Out of Compliance
1.N	The Stadium Authority Board should direct the Executive Director to notify Manco that it is in breach of Management Agreement Section 3.3, which requires that written revenue or other reports relating to non-NFL events be provided to the Stadium Authority within 45 days of each non-NFL event with attendance projected to exceed \$25,000. The Stadium Authority Board should further direct the Executive Director to demand that Manco provide such written revenue reports according to specifications to be detailed by the Treasurer for all future non-NFL events with attendance projected to exceed \$25,000.	Partially Complete	Out of Compliance

# UNSPORTSMANLIKE CONDUCT

1.O	The Stadium Authority Board should direct the Executive Director and Stadium Authority counsel to request an amendment to the Management Agreement that would require formal and/or informal bidding procedures for any transactions with Manco affiliates or for transactions above a designated threshold to ensure that goods and services received from an affiliate of Manco are competitively priced.	Not Implemented	Partially Complete
1.P	The Stadium Authority Board should direct the Executive Director to direct Manco to provide quarterly written reports to the Stadium Authority, to be maintained as permanent Stadium Authority records, detailing parking lot information as required in the first amendment to the management agreement.	Partially Complete	Out of Compliance
1.Q	The Stadium Authority Board should direct the Executive Director to require that all meetings, including the date and purpose of the meetings, between Stadium Authority staff and Manco be documented and reported quarterly or annually to the stadium authority board.	Complete	Complete
1.R	The Stadium Authority Board should direct the Executive Director to establish procedures to ensure that all existing plans, reports, and budget documents required to be provided by Manco are provided to the Stadium Authority in the manner required by existing agreements. The Stadium Authority Board should further direct the Executive Director to report annually on the status (receipt, review, and approval status) of each required plan, report, and budget document	Partially Complete	Out of Compliance
2.A	The Stadium Authority Board should request that Manco provide the relevant reports and documentation that back up the NFL ticket surcharge summary report in order to retain permanent verification of the accuracy of the surcharge calculated by Manco.	Partially Complete	Out of Compliance
2.B	The Stadium Authority Board should negotiate with Manco to establish a level of detail regarding non-NFL event revenue and expenses that can be provided in City reports, public documents, and permanent records to be kept by the Stadium Authority without compromising ManCo's ability to book and negotiate deals with non-NFL event acts and performances. The Board should direct staff to include this level of detail for both budgeted and actual revenues and expenses in the annual proposed budget and the quarterly financial status reports to allow the Board and public to monitor the performance of non-NFL events and ManCo's performance in	Not Implemented	Not Implemented
2.C	2.C The Stadium Authority Board should require that a detailed breakdown of performance rent calculations and payments to the City of Santa Clara be included in the budget and quarterly financial status reports using additional information provided by Manco.	Complete	Partially Complete
2.D	The Stadium Authority Board should require that Manco provide reports and documentation that can be kept in Stadium Authority records, consistent with confidentiality provisions in the agreements that back up the non-NFL ticket surcharge summary report in order to verify that the surcharge calculated by Manco is accurate.	Partially Complete	Out of Compliance

# UNSPORTSMANLIKE CONDUCT

2.E	The Stadium Authority Board should require that a comprehensive accounting of Debt Service Fund transactions, including beginning and year-end balances, budget vs. actual revenues and expenditures by specific line item, and details on all transfers in and out of the fund, be presented in Stadium Authority budgets and financial status reports.	Complete	Complete
2.F	The Stadium Authority Board should require that Discretionary Fund revenues, expenses, budget-to-actual comparisons, and account balances be reported in Stadium Authority budgetary documents separately from the Operating Fund.	Complete	Complete
2.G	The Stadium Authority Board should require that Manco prepare the five year Shared Expense Budget, per the requirements in the Stadium Management Agreement, and the Board should direct the Executive Director to document receipt of the Shared Expense Budget, and provide written comments to Manco in response to the proposed expenses.	Complete	Complete
2.H	The Stadium Authority Board, StadCo, and ManCo should amend the Management Agreement or separately establish binding policies that do not allow retroactive increases in authorized expenditures such as Stadium Manager expenses, and should require that detailed explanations be provided to the Board when additional funding is requested midyear in advance of such expenses being incurred.	Not Implemented	Not Implemented
2.I	The Stadium Authority should require that Manco provide independently prepared reports and documentation to back up the number of NFL tickets sold for each fiscal year in order to verify that the senior/youth fee calculated by Manco is accurate and to have a set of permanent records documenting the validity of this revenue.	Not Implemented	Not Implemented
2.J	The Stadium Authority Board and the City of Santa Clara should clarify when the City Purchasing Authority procurement thresholds (Santa Clara Municipal Code Chapter 2.105.070 et seq.) apply and when the Stadium Authority Procurement Policy thresholds (Santa Clara Municipal Code Chapter 17.30) apply.	Complete	Complete
2.K	The Stadium Authority Board should direct staff to prepare policies and procedures pertaining to all purchases made on behalf of the Stadium Authority to require a level of specificity in costs and services in all vendor contracts, that all invoices bill using the rates or unit costs specified in their contracts, and that the invoices and contracts be periodically reviewed by Stadium Authority staff.	Not Implemented	Unknown
2.L	The Stadium Authority Board should require that budgets and actual expenditures for the Stadium construction budget be presented alongside the Stadium Authority Operating Budget to provide an accurate overall picture of purchases for all materials, services, and supplies for the Stadium.	Complete	Complete
2.M	The Stadium Authority Board should direct staff to report revenues and expenditures on an accrual basis in budgetary documents so that all amounts presented reflect actual results for the year, regardless of the timing of revenue receipt or expenses incurred.	Not Implemented	Not Implemented

# UNSPORTSMANLIKE CONDUCT

3.A	The Stadium Authority Board should request that staff prepare plans for reimbursement to the City's General Fund for unreimbursed staff costs from the appropriate source: Discretionary Fund, Manco, or, to the extent funds are available and appropriate, the Construction Fund.	Not Implemented	Not Implemented
3.B	The Stadium Authority Board should request that staff have Manco prepare an annual comprehensive Public Safety budget, as required by the Stadium Lease, to include all components of Stadium public safety costs and reimbursement, including NFL public safety costs paid for directly by Manco on behalf of StadCo, by the Stadium Authority from the Discretionary Fund, and any costs paid using other funds such as the Construction Fund.	Partially Complete	Complete
3.C	The Stadium Authority Board should direct staff to develop specific definitions of which costs should be charged as overhead and which should be direct billed. Alternatively, staff should adjust the rate applied to direct billed staff costs from the current 10 percent to a more appropriate rate, and communicate to all staff which positions or activities will be charged as overhead.	Not Implemented	Not Implemented
4.A	The Stadium Authority should exercise its right stipulated in the agreement between master parking lot operator Citypark and Manco to periodically audit the detailed records of individual parking lots for NFL and non-NFL events.	Partially Complete	Unknown
4.B	The Stadium Authority Board should direct staff to report back on the advantages and disadvantages of adding City audit rights as a condition of granting parking permits.	Not Implemented	Not Implemented
4.C	The Stadium Authority Board should direct staff to require that Manco provide a written report on matters related to off-site parking operations at their quarterly meetings, requiring that baseline information be provided in a specific format.	Not Implemented	Not Implemented

# UNSPORTSMANLIKE CONDUCT

## APPENDIX C: ADMONITION AND CENSURE POLICY



**City of  
Santa Clara**  
The Center of What's Possible

City of Santa Clara Council Policy Manual

### ADMONITION AND CENSURE POLICY

#### PURPOSE

This policy applies only to the Mayor and City Council members for improper conduct that may result in admonition or censure.

#### POLICY

It is the policy of the City Council that all of its members shall abide by federal and state law, City ordinances, and City policies, including the Code of Ethics and Values.

Violations of such law or policy tends to injure the good name of the City and to undermine the effectiveness of the City Council as a whole.

Depending on the circumstances of alleged violations of law or policy, the Council may initiate an investigation of the allegations prior to the filing of a request for any of the actions described in this policy.

# UNSPORTSMANLIKE CONDUCT

Nothing in this policy shall preclude individual Council Members from making public statements regarding such alleged conduct.

At any point during any of the processes described in this policy, the Council may refer the matter, as appropriate, to the Santa Clara County District Attorney for investigation. Following such a referral, the Council may proceed with any actions it chooses to undertake under the provisions of this policy. While the Council has broad discretion in deciding actions it may choose to take in response to violations of law or policy, this policy provides definitions and procedures related to two types of action: admonition and censure.

## Admonition

An admonition may typically be directed to all members of the City Council, reminding them that a particular type of behavior is in violation of law or City policy, and that, if it occurs or is found to have occurred, could make a member subject to censure. An admonition may be issued in response to a particular alleged action or actions, although it would not necessarily have to be triggered by such allegations. An admonition may be issued by the City Council prior to any findings of fact regarding allegations, and because it is a warning or reminder, would not necessarily require an investigation or separate hearings to determine whether the allegation is true. An admonition may also be treated as taking action to criticize a council member's conduct. The right to criticize is protected by the First Amendment, and may be done individually, or as a whole by motion.

## Censure

Censure is an official reprimand or condemnation made by City Council in response to specified conduct by one of its own members. Censure is disciplinary in nature, and requires the formal adoption of a resolution setting forth the council member's alleged violations of law and/or policies. Censure may require an investigation, and must protect the due process rights of the council member. Censure carries no fine or suspension of the rights of the council member as an elected official but a censure is a punitive action that serves as a punishment for wrongdoing.



# UNSPORTSMANLIKE CONDUCT

## PROCEDURE

### Informal Admonition

An individual Council Member can make an admonition at any Council meeting during the Public Presentations or Reports of Members and Special Committees portion of the meeting.

### Censure

The Council may request a formal censure action be placed on a Council agenda. The City Clerk shall provide notice of the possible censure to the Councilmember who is the subject of the action. The notice shall contain the specific charges on which the proposed censure is based and the date and time that the matter will be heard. Upon hearing the testimony, the Council may take action by resolution setting forth its findings and stating the terms of the censure.

City Council-approved policy dated 5/15/2018

Reference:

Adopted May 2018 P&P 047 Page 2 of 2

## APPENDIX D: THE BROWN ACT

(Excerpted from “The Brown Act - Open Meetings for Legislative Bodies”)

### Serial Meetings

The issue of serial meetings stands at the vortex of two significant public policies: first, the constitutional right of citizens to address grievances and communicate with their elected representatives; and second, the Act’s policy favoring public deliberation by multi-member boards, commissions and councils. The purpose of the serial meeting prohibition is not to prevent citizens from communicating with their elected representatives, but rather to prevent public bodies from circumventing the requirement for open and public deliberation of issues.

The Act expressly prohibits serial meetings that are conducted through direct communications, personal intermediaries or technological devices for the purpose of developing a concurrence as to action to be taken. (§ 54952.2(b); *Stockton Newspapers, Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95, 103.) This provision raises two questions: first, what is a serial meeting for purposes of this definition; and second, what does it mean to develop a concurrence as to action to be taken.

Typically, a serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body’s members. For example, a chain of communications involving contact from member A to member B who then communicates with member C would constitute a serial meeting in the case of a five-person body. Similarly, when a person acts as the hub of a wheel (member A) and communicates individually with the various spokes (members B and C), a serial meeting has occurred. In addition, a serial meeting occurs when intermediaries for board members have a meeting to discuss issues. For example, when a representative of member A meets with representatives of members B and C to discuss an agenda item, the members have conducted a serial meeting through their representatives as intermediaries. The statutory definition also applies to situations in which technological devices are used to connect people at the same time who are in different locations (but see the discussion below concerning the exception for teleconference meetings).

Once serial communications are found to exist, it must be determined whether the communications were used to develop a concurrence as to action to be taken. If the serial communications were not used to develop a concurrence as to action to be taken, the serial communications do not constitute a meeting and the Act is not applicable. In construing these terms, one should be mindful of the ultimate purposes of the Act -- to provide the public with an opportunity to monitor and participate in the decision-making processes of boards and commissions. As such, substantive conversations among members concerning an agenda item prior to a public meeting probably would be viewed as contributing to the development of a concurrence as to the ultimate action to be taken. Conversations which advance or clarify a member’s understanding of an issue, or facilitate an agreement or compromise among members,

# UNSPORTSMANLIKE CONDUCT

or advance the ultimate resolution of an issue, are all examples of communications which contribute to the development of a concurrence as to action to be taken by the legislative body. Accordingly, with respect to items that have been placed on an agenda or that are likely to be placed upon an agenda, members of legislative bodies should avoid serial communications of a substantive nature concerning such items.

Problems arise when systematic communications begin to occur which involve members of the board acquiring substantive information for an upcoming meeting or engaging in debate, discussion, lobbying or any other aspect of the deliberative process either among themselves or with staff. For example, executive officers may wish to brief their members on policy decisions and background events concerning proposed agenda items. This office believes that a court could determine that such communications violate the Act, because such discussions are part of the deliberative process. If these communications are permitted to occur in private, a large part of the process by which members reach their decisions may have occurred outside the public eye. Under these circumstances, the public would be able only to witness a shorthand version of the deliberative process, and its ability to monitor and contribute to the decision-making process would be curtailed. Therefore, we recommend that when the executive director is faced with this situation, he or she prepare a memorandum outlining the issues for all of the members of the board as well as the public. In this way, the serial meeting violation may be avoided and everyone will have the benefit of reacting to the same information.

However, this office does not think that the prohibition against serial meetings would prevent an executive officer from planning upcoming meetings by discussing times, dates, and placement of matters on the agenda. It also appears that an executive officer may receive spontaneous input from any of the board members with respect to these or other matters so long as a quorum is not involved.

The express language of the statute concerning serial meetings largely codifies case law developed by the courts and the opinions issued by this office in the past. In *Frazer v. Dixon Unified School District* (1993) 18 Cal.App.4th 781, 796-798, the court concluded that the Act applies equally to the deliberations of a body and its decision to take action. If a collective commitment were a necessary component of every meeting, the body could conduct most or all of its deliberation behind closed doors so long as the body did not actually reach agreement prior to consideration in public session. Accordingly, the court concluded that the collective acquisition of information constituted a meeting. The court cited briefing sessions as examples of deliberative meetings which are subject to the Act's requirements, and contrasted these sessions with activities that fall outside the purview of the Act, such as the passive receipt of an individual's mail or the solitary review of a memorandum by an individual board member.

In *Stockton Newspapers, Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95, 105, the court concluded that a series of individual telephone calls between the agency attorney and the members of the body constituted a meeting. In that case, the attorney individually polled the members of the body for their approval on a real estate transaction. The court concluded that even though the meeting was conducted in a serial fashion, it nevertheless was a meeting for the purposes of the Act. (See also, 65 Ops.Cal.Atty.Gen. 63, 66 (1982); 63 Ops.Cal.Atty.Gen. 820, 828-829 (1980).)





# UNSPORTSMANLIKE CONDUCT

Jan Calendar			
Date	Time	Subject	Attendees
7/18/2022	8:00 PM	Robert Haugh, Field Seats, Training Camp Permit, Fireworks	Rahul Chandan, Registered Lobbyist, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Larry Mackler, Registered Lobbyist, Compliance Manager, San Francisco 49ers
7/19/2022	4:30 PM	Council and Authorities Concurrent Meeting and Stadium Authority Meeting	Public Meeting
7/19/2022	8:00 PM	Post Audit of 2019 College Football Playoff Public Safety Costs, Naming Rights, Leasing, James Rosen	Rahul Chandan, Registered Lobbyist, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Larry Mackler, Registered Lobbyist, Compliance Manager, San Francisco 49ers
8/07/2022	8:00 PM	DBL and Ticket Prices, Naming Rights, Senior Youth Fees, Logo Fees, Noise Mitigation, Public Safety, Fire, Stadium Entry	Public Meeting
8/21/2022	4:30 PM	Council and Authorities Concurrent Meeting and Stadium Authority Meeting	Public Meeting
8/22/2022	3:30 PM	Meeting Santa Clara Stadium Authority	Rahul Chandan
8/22/2022	8:00 PM	Field Seats, DBL, Stadium Noise, James Rosen	Public Meeting
8/23/2022	4:30 PM	Council and Authorities Concurrent Meeting and Stadium Authority Meeting	Public Meeting
1/6/2022	4:00 PM	Colony tickets and revenues, Public Safety Costs, Stadium Noise, James Rosen	Emily Matthews, Registered Lobbyist, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackler, Registered Lobbyist, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, San Francisco 49ers; Diana Torres, Manager of External Engagement, SF 49ers
8/6/2022	8:00 PM	Special Meeting of City Council - Commission Assignments	Public Meeting
8/10/2022	4:30 PM	Special Meeting City Council	Public Meeting
8/30/2022	8:00 PM	COCA / 49ers	Emily Matthews, Rajan, Jas, Chandan, Rahul, Mackler, Larry, Kevin Park, Anthony Becker, Josh Stephens, Diana Torres
8/24/2022	4:00 PM	Council and Authorities Concurrent Meeting and Stadium Authority Meeting	Public Meeting
8/23/2022	8:00 PM	COCA / 49ers	Emily Matthews, Rajan, Jas, Chandan, Rahul, Mackler, Larry, Kevin Park, Anthony Becker, Josh Stephens, Diana Torres
8/17/2022	8:00 PM	Special Meeting City Council	Public Meeting
8/16/2022	4:30 PM	Special Meeting City Council	Public Meeting
8/10/2022	4:00 PM	Council and Authorities Concurrent Meeting	Public Meeting
8/8/2022	8:00 PM	COCA / 49ers	Emily Matthews, Rajan, Jas, Chandan, Rahul, Mackler, Larry, Kevin Park, Anthony Becker, Josh Stephens, Diana Torres
8/2/2022	8:00 PM	COCA / 49ers	Emily Matthews, Rajan, Jas, Chandan, Rahul, Mackler, Larry, Kevin Park, Anthony Becker, Josh Stephens, Diana Torres
4/28/2022	10:00 PM	Special Council Meeting	Public Meeting
4/26/2022	8:00 PM	DBL for Field Seats, FPA	Veronica, Registered Lobbyist, Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Larry Mackler, Registered Lobbyist, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, SF 49ers; Diana Torres, Manager of External Engagement, SF 49ers
4/19/2022	4:00 PM	Council and Authorities Concurrent Meeting	Public Meeting
4/18/2022	8:00 PM	DBL for Field Seats, FPA, FPPG rules on tour	Rahul Chandan, Registered Lobbyist, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Jas Rajan, Registered Lobbyist, Senior Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Emily Matthews, Registered Lobbyist, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackler, Registered Lobbyist, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, SF 49ers; Diana Torres, Manager of External Engagement, SF 49ers
4/12/2022	8:00 PM	Kenn Lee reviewing tickets, James Rosen, Leif's Sign, Field DBL, 2022 concert schedule, DBL sales processing, Public Safety Costs, ERM June	Rahul Chandan, Registered Lobbyist, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Jas Rajan, Registered Lobbyist, Senior Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Emily Matthews, Registered Lobbyist, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackler, Registered Lobbyist, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, SF 49ers; Diana Torres, Manager of External Engagement, SF 49ers
4/11/2022	8:00 PM	Kenn Lee reviewing tickets, James Rosen, Leif's Sign, Field DBL, 2022 concert schedule, DBL sales processing, Public Safety Costs, ERM June	Rahul Chandan, Registered Lobbyist, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Jas Rajan, Registered Lobbyist, Senior Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Emily Matthews, Registered Lobbyist, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackler, Registered Lobbyist, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, SF 49ers; Diana Torres, Manager of External Engagement, SF 49ers
3/29/2022	8:00 PM	Special Council Meeting	Public Meeting
3/22/2022	7:30 PM	Council and Authorities Concurrent Meeting and Stadium Authority Meeting	Public Meeting
3/21/2022	8:00 PM	Desk Trial, James Rosen, Field Seats, COCA Budget, Landmark Security Extension, FPA Swap, Practice System	Rahul Chandan, Registered Lobbyist, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Jas Rajan, Registered Lobbyist, Senior Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Emily Matthews, Registered Lobbyist, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackler, Registered Lobbyist, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, SF 49ers; Diana Torres, Manager of External Engagement, SF 49ers; Molly Rosta, Budget Planner, Field and Park; Dave Davis, Technology Manager, Field and Park
3/18/2022	1:00 PM	Special Council/COCA Meeting	Public Meeting
3/14/2022	6:00 PM	Sublet Contracts, Josh Roseny	Rahul Chandan, Registered Lobbyist, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Jas Rajan, Registered Lobbyist, Senior Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Emily Matthews, Registered Lobbyist, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackler, Registered Lobbyist, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, SF 49ers; Diana Torres, Manager of External Engagement, SF 49ers; Alex Acosta, Finance, SF 49ers
3/9/2022	4:00 PM	Special Closed Session Council Meeting	Public Meeting
3/8/2022	4:00 PM	Council and Authorities Concurrent Meeting	Public Meeting
3/7/2022	8:00 PM	FY2022-23 budget, Noise Monitoring, Landmark Security, DBL Contracts	Rahul Chandan, Registered Lobbyist, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Jas Rajan, Registered Lobbyist, Senior Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Emily Matthews, Registered Lobbyist, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackler, Registered Lobbyist, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, SF 49ers; Diana Torres, Manager of External Engagement, SF 49ers; Alex Acosta, Finance, SF 49ers
3/1/2022	8:00 PM	Special Council Meeting	Public Meeting
2/18/2022	7:30 PM	Council and Authorities Concurrent Meeting and Stadium Authority Meeting	Public Meeting

# UNSPORTSMANLIKE CONDUCT

## Jain Calendar Continued

2/14/2022	5:00 PM	Cyber Security, City Budget, RFA	Rahul Chandra, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Jas Sajjan, Senior Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Emily Matthews, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackel, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, SF 49ers; Diana Torres, Manager of External Engagement, SF 49ers
2/19/2022	5:30 PM	Topics: Neighborhood Stadium Relations Committee, Climate Change, politics	Rahul Chandra, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Larry Mackel, Compliance Manager, San Francisco 49ers
2/27/2022	6:00 PM	Golf Course Litigation, Golf Play, May 18 concert, 2022 redistricting and election laws, RFA	Rahul Chandra, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Jas Sajjan, Senior Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Emily Matthews, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackel, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, SF 49ers; Diana Torres, Manager of External Engagement, SF 49ers
3/1/2022	4:00 PM	Special City Council Meeting	Public Meeting
3/1/2022	6:00 PM	Deanna's Lady Home, Levi's Stadium Tours, Golf Play concert, 49ers TV ratings, Parties	Rahul Chandra, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Jas Sajjan, Senior Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Emily Matthews, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackel, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, SF 49ers; Diana Torres, Manager of External Engagement, SF 49ers
3/15/2022	4:30 PM	Council and Authorities Consent Meeting and Stadium Authority Meeting	Public Meeting
3/24/2022	4:00 PM	Golf Course, Deanna's Home, Rained fill dirt, Creek Trail	Rahul Chandra, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Jas Sajjan, Senior Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Emily Matthews, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackel, Compliance Manager, San Francisco 49ers; Josh Stephens, Manager of Communications and Public Affairs, SF 49ers; Diana Torres, Manager of External Engagement, SF 49ers
3/11/2022	1:30 PM	Council and Authorities Consent Meeting	Public Meeting
3/18/2022	6:00 PM	OGCA 49ers Topics: OGCA Expenses, YDP Parking, Concerts, Battered Payments law	Rahul Chandra, Vice President (VP) of Public Affairs and Strategic Communications, San Francisco 49ers; Jas Sajjan, Senior Manager of Public Affairs & Strategic Communications, San Francisco 49ers; Emily Matthews, Manager of Communications and Public Affairs, San Francisco 49ers; Larry Mackel, Compliance Manager, San Francisco 49ers
3/22/2022	5:00 PM	49er Football Game Operations Tour	Rahul Chandra, Vice President (VP) of Public Affairs and Strategic Communications; Jas Sajjan, Senior Manager of Public Affairs & Strategic Communications; Larry Mackel, Compliance Manager; Emily Matthews, Manager of Communications and Public Affairs; Hope Javali, Chief Strategy Officer; and Jim Marciano among others

## Chahal Calendar

Date	Time	Subject	Attendees
7/8/2021	5:30 PM	Council and Authorities Consent Meeting	Public Meeting
7/12/2021	4:30 PM	Council and Authorities Consent Meeting and Stadium Authority Meeting	Public Meeting
6/8/2022	5:30 PM	Special Meeting of the Council	Public Meeting
6/8/2022	3:30 PM	Concert update and misc stadium operations	Emily Matthews, Karen Hanley, Chandra, Rahul, Mackel, Larry, Josh Stephens, Diana Torres
6/23/2022	5:00 PM	Special Meeting City Council	Public Meeting
6/21/2022	4:30 PM	Council and Authorities Consent Meeting and Special Meeting Santa Clara Stadium Authority	Public Meeting
6/23/2022	3:30 PM	Stadium events update and other misc stadium operations	Emily Matthews, Karen Hanley, Josh Stephens, Diana Torres
6/14/2022	4:45 PM	Special Meeting City Council	Public Meeting
6/17/2022	5:00 PM	Special Meeting City Council	Public Meeting
6/17/2022	4:30 PM	Special Meeting City Council	Public Meeting
4/6/2022	3:30 PM	OGCA 49ers	Emily Matthews, Karen Hanley, Sajjan, Jas, Chandra, Rahul, Mackel, Larry, Josh Stephens, Diana Torres
4/19/2022	4:00 PM	Council and Authorities Consent Meeting	Public Meeting
4/20/2022	3:30 PM	OGCA 49ers	Emily Matthews, Karen Hanley, Sajjan, Jas, Chandra, Rahul, Mackel, Larry, Josh Stephens, Diana Torres
4/29/2022	11:30 PM	Special Council Meeting	Public Meeting
3/1/2022	5:00 PM	Special Council Meeting	Public Meeting
3/2/2022	5:30 PM	OGCA 49ers	Emily Matthews, Karen Hanley, Sajjan, Jas, Chandra, Rahul, Mackel, Larry, Josh Stephens, Diana Torres
3/8/2022	4:00 PM	Council and Authorities Consent Meeting	Public Meeting
3/9/2022	4:00 PM	Special Council Meeting	Public Meeting
3/14/2022	4:00 PM	OGCA 49ers, Budget and misc stadium operations	Emily Matthews, Sajjan, Jas, Chandra, Rahul, Josh Stephens, Diana Torres, Hope, Ayesha, Mackel, Larry, Viree Singh
3/15/2022	1:30 PM	Special Council/OGCA Meeting	Public Meeting
3/23/2022	7:30 PM	Council and Authorities Consent Meeting and Stadium Authority Meeting	Public Meeting
3/23/2022	3:30 PM	OGCA 49ers, Creek Trail, Budget, concert and other misc stadium operations issues	Emily Matthews, Karen Hanley, Sajjan, Jas, Chandra, Rahul, Mackel, Larry, Josh Stephens, Diana Torres
3/29/2022	5:00 PM	Special Council Meeting	Public Meeting
3/12/2022	4:00 PM	Special City Council Meeting	Public Meeting
2/9/2022	5:30 PM	Concert update and misc stadium operations items	Emily Matthews, Karen Hanley, Raj Chahal, Sajjan, Jas, Chandra, Rahul, Mackel, Larry, Josh Stephens, Diana Torres
2/16/2022	5:00 PM	Cyber incident update, concert update and misc stadium operations items	Emily Matthews, Karen Hanley, Raj Chahal, Sajjan, Jas, Chandra, Rahul, Mackel, Larry, Josh Stephens, Diana Torres
2/15/2022	4:00 PM	Joint Meeting of the Council and Authorities Consent and Stadium Authority	Public Meeting
2/14/2022	5:00 PM	Special City Council Meeting	Public Meeting
1/19/2022	3:30 PM	Concert update, Parking and other misc stadium operations items	Emily Matthews, Karen Hanley, Sajjan, Jas, Chandra, Rahul, Mackel, Larry, Josh Stephens, Diana Torres
1/26/2022	3:30 PM	Site Visit, Stadium Tour history and other misc stadium operations items	Emily Matthews, Karen Hanley, Sajjan, Jas, Chandra, Rahul, Mackel, Larry, Josh Stephens, Diana Torres

# UNSPORTSMANLIKE CONDUCT

Hardy Calendar			
Date	Time	Subject	Attendees
7/8/2022	8:30 PM	Council and Authorities Concurrent Meeting	Public Meeting
7/12/2022	4:30 PM	Council and Authorities Concurrent Meeting and Stadium Authority Meeting	Public Meeting
8/22/2022	3:30 PM	RIFA announcement, Gold Play Concert advert, & Announcement of international soccer game at stadium soon	Emily Mathews, Raj Chahal, Diane Torres & Josh Stephens
8/24/2022	4:30 PM	Council and Authorities Concurrent Meeting and Special Meeting Santa Clara Stadium Authority	Public Meeting
8/29/2022	8:00 PM	Special Meeting City Council	Public Meeting
8/18/2022	1:30 PM	Announcement of RIFA city choices for 2026	Many elected, press, stadium employees and others
6/18/2022	1:30 PM	Community Day - assembled hearing kits to be distributed by the Santa Clara School Foundation	Anthony Becker and many other stadium employees
6/9/2022	3:30 PM	SOCA II 48ers	Emily Mathews, Karen Hardy, Raj Chahal, Sajjan, Jas Chandnor, Rahul Mackel, Larry, Josh Stephens, Diana Torres
6/7/2022	4:00 PM	Council and Authorities Concurrent Meeting and Stadium Authority Meeting	Public Meeting
6/6/2022	8:30 PM	Special Meeting Council and Authorities Concurrent Meeting	Public Meeting
6/24/2022	3:30 PM	SOCA II 48ers	Emily Mathews, Raj Chahal, Sajjan, Jas Chandnor, Rahul Mackel, Larry, Josh Stephens, Diana Torres
6/17/2022	8:00 PM	Special Meeting City Council	Public Meeting
6/18/2022	4:48 PM	Special Meeting City Council	Public Meeting
6/13/2022	2:15 AM	Press Conference for Gold Play Concert	Many members of the press, Anthony Becker, Rahul Chahal, Emily Mathews, Josh Stephens, Jas Sajjan
6/13/2022	4:00 PM	Council and Authorities Concurrent Meeting	Public Meeting
6/4/2022	11:15 AM	Promotion for Goldplay Concert	Josh Stephens
4/28/2022	12:30 PM	Special Council Meeting	Public Meeting
2/23/2022	3:30 PM	Day in remains concerns	Sajjan, Jas Mackel, Larry, Josh Stephens - others
4/18/2022	4:00 PM	Council and Authorities Concurrent Meeting	Public Meeting
4/8/2022	4:00 PM	SOCA II 48ers	Raj Chahal, Rahul Chandnor, Jiers
3/29/2022	8:00 PM	Special Council Meeting	Public Meeting
3/22/2022	7:30 PM	Council and Authorities Concurrent Meeting and Stadium Authority Meeting	Public Meeting
3/18/2022	1:30 PM	Special Council and Authorities Concurrent Meeting and Stadium Authority Meeting	Public Meeting
3/14/2022	4:00 PM	Stadium budget and signage	Rahul Chandnor, Jas Sajjan, Diana Torres, Josh Stephens, Larry McNeil, Jier Nelson & Raj Chahal
3/9/2022	4:00 PM	Special Council Meeting	Public Meeting
3/8/2022	4:00 PM	Council and Authorities Concurrent Meeting	Public Meeting
3/2/2022	3:30 PM	RIFA update, concert update	Rahul Chandnor, Jas Sajjan, Diana Torres, Josh Stephens & Raj Chahal
3/1/2022	8:00 PM	Special Council Meeting	Public Meeting
2/24/2022	8:00 PM	Special City Council Meeting	Public Meeting
2/16/2022	3:30 PM	Data breach, RIFA, Concerts	Rahul Chandnor, Larry Mackel, Emily Mathews, Josh Stephens, Raj Chahal, Diana Torres, Jas Sajjan
2/9/2022	3:30 PM	Readout from policy setting session, city travel policy	Rahul Chandnor, Jas Sajjan, Diana Torres, Josh Stephens & Raj Chahal
2/2/2022	3:30 PM	RIFA timelines, concert schedules	Rahul Chandnor, Emily Mathews, Larry Mackel, Jas Sajjan, Diana Torres, Josh Stephens
2/1/2022	4:00 PM	Special City Council Meeting	Public Meeting
1/27/2022	12:05 PM	Concert update info	Rahul Chandnor
1/26/2022	3:30 PM	Public optics of city issues, creek bed concerns, hope for a super bowl bid	Joseph Stephens, Jas Sajjan, Emily Mathews, Larry Mackel, Raj Chahal, Rahul Chandnor
1/26/2022	4:30 PM	Council and Authorities Concurrent Meeting and Stadium Authority Meeting	Public Meeting
1/19/2022	3:30 PM	RIFA bid, water realities, Governor Hill, concerts, YSP parking & related issues	Jas Sajjan, Emily Mathews, Larry Mackel, Raj Chahal, Rahul Chandnor
1/11/2022	8:00 PM	Council and Authorities Concurrent Meeting	Public Meeting



# UNSPORTSMANLIKE CONDUCT

## APPENDIX F: LATE CONTRIBUTION REPORT FORM 497s

### Late Contribution Report

Type or print in ink.  
Amounts may be rounded to whole dollars.

<b>NAME OF FILER</b> DeBartolo Corporation & Affiliated Entities, Including the Ferry Niners Football Company LLC.		<b>LATE CONTRIBUTION REPORT</b> <b>CALIFORNIA FORM 497</b> For Official Use Only	
<b>AREA CODE/PHONE NUMBER</b> 482240	<b>ID NUMBER (if applicable)</b> MD-LCR113M	<b>Date of This Filing</b> 09/02/2022	<b>Date Stamp</b> Page 1 of 6
<b>STREET ADDRESS</b> CITY: Salina Clara STATE: CA ZIP CODE: 95054		<b>Report No.</b> <input type="checkbox"/> Amendment to Report No. (explain below)	<b>No. of Pages</b> 6

### Late Contribution(s) Received

DATE RECEIVED	FULL NAME, MAILING ADDRESS AND ZIP CODE OF CONTRIBUTOR (if committee, also enter ID number)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL ENTER OCCUPATION AND EMPLOYER (if self-employed, enter name of business)	AMOUNT RECEIVED
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		

\*Contributor Codes

IND - Individual  
 COM - Recipient Committee (other than PTY or SCC)  
 OTH - Other  
 PTY - Political Party  
 SCC - Small Contributor Committee

Reason for Amendment:

## Late Contribution Report

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Amounts may be rounded to whole dollars.

<b>NAME OF FILER</b> DeBartolo Corporation & Affiliated Entities, including the Forty Niners Football Company LLC.		<b>DATE OF THIS FILING</b> 09/02/2022		<b>DATE STAMP</b> Page 2 of 6	
<b>AREA CODE/PHONE NUMBER</b> 488240		<b>REPORT NO.</b> MO-LCR113M		<b>DATE OF ELECTION (IF APPLICABLE)</b> 11/08/2022	
<b>STREET ADDRESS</b>		<input type="checkbox"/> Amendment to Report No. _____ <small>(explain below)</small>		<b>AMOUNT OF CONTRIBUTION</b>	
<b>CITY</b> Santa Clara		<b>NO. OF PAGES</b> 6		<b>CANDIDATE AND OFFICE MEASURE AND JURISDICTION</b>	
<b>STATE</b> CA		<b>ZIP CODE</b> 95054		<b>DATE OF ELECTION (IF APPLICABLE)</b>	

LATE CONTRIBUTION REPORT

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## Late Contribution(s) Made

DATE MADE	FULL NAME, MAILING ADDRESS AND ZIP CODE OF RECIPIENT (IF COMMITTEE, ALSO ENTER ID. NUMBER)	CANDIDATE AND OFFICE MEASURE AND JURISDICTION	AMOUNT OF CONTRIBUTION	DATE OF ELECTION (IF APPLICABLE)
09/01/2022	Santa Clara Community Leaders Supporting Anthony Becker for Mayor 2022 Santa Clara, CA 95054 ID# Pending	Anthony Becker Mayor Jurisdiction: Other City of Santa Clara	\$325,725.00	11/08/2022
09/01/2022	Santa Clara Community Leaders Supporting Anthony Becker for Mayor 2022 Santa Clara, CA 95054 ID# Pending	Anthony Becker Mayor Jurisdiction: Other City of Santa Clara	\$1,992.00	11/08/2022
09/01/2022	Santa Clara Community Leaders Supporting Anthony Becker for Mayor 2022 Santa Clara, CA 95054 ID# Pending	Anthony Becker Mayor Jurisdiction: Other City of Santa Clara	\$2,500.00	11/08/2022
09/01/2022	Santa Clara Community Leaders Supporting Anthony Becker for Mayor 2022 Santa Clara, CA 95054 ID# Pending	Anthony Becker Mayor Jurisdiction: Other City of Santa Clara	\$9,098.00	11/08/2022

Reason for Amendment:

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Amounts may be rounded to whole dollars.

<b>NAME OF FILER</b> DeBartolo Corporation & Affiliated Entities, Including the Forty Niners Football Company LLC.		<b>DATE OF THIS FILING</b> 09/02/2022		<b>DATE STAMP</b> Page 3 of 6	
<b>AREA CODE/PHONE NUMBER</b> 482240	<b>I.D. NUMBER (if applicable)</b> 482240	<b>REPORT NO.</b> MO-LCRL13M			
<b>STREET ADDRESS</b>		<input type="checkbox"/> <b>Amendment to Report No.</b>			
<b>CITY</b> Santa Clara	<b>STATE</b> CA	<b>No. of Pages</b> 6			
	<b>ZIP CODE</b> 95054				

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DATE MADE	FULL NAME, MAILING ADDRESS AND ZIP CODE OF RECIPIENT (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CANDIDATE AND OFFICE MEASURE AND JURISDICTION	AMOUNT OF CONTRIBUTION	DATE OF ELECTION (IF APPLICABLE)
09/01/2022	Santa Clara Community Leaders Supporting Anthony Becker for Mayor 2022 Santa Clara, CA 95054	Anthony Becker Mayor Jurisdiction: Other City of Santa Clara	\$19,250.00	11/08/2022
09/01/2022	ID# Pending			
09/01/2022	Santa Clara Community Leaders Supporting Anthony Becker for Mayor 2022 Santa Clara, CA 95054	Anthony Becker Mayor Jurisdiction: Other City of Santa Clara	\$1,992.00	11/08/2022
09/02/2022	ID# Pending			
09/02/2022	Santa Clara Community Leaders Supporting Anthony Becker for Mayor 2022 Santa Clara, CA 95054	Anthony Becker Mayor Jurisdiction: Other City of Santa Clara	\$8,000.00	11/08/2022
09/01/2022	ID# Pending			
09/01/2022	Santa Clara Neighbors Supporting Kuren Hardy for City Council District 3 2022 Santa Clara, CA 95054	Kuren Hardy City Council Member District 3 Jurisdiction: Other City of Santa Clara	\$180,475.00	11/08/2022
	ID# Pending			

Reason for Amendment:

FPPC Form 497 (June 01)  
FPPC Toll-Free Helpline: 866/ASK-FPPC

# UNSPORTSMANLIKE CONDUCT

## Late Contribution Report

Type or print in ink.  
Amounts may be rounded to whole dollars.

<b>NAME OF FILER</b> DeBarolo Corporation & Affiliated Entities, Including the Forty Niners Football Company LLC.		<b>Date of This Filing</b> 09/02/2022		<b>Date Stamp</b>	
<b>AREA CODE/PHONE NUMBER</b>		<b>Report No.</b> MO-LCK113M		<b>Page 4 of 6</b>	
<b>STREET ADDRESS</b>		<input type="checkbox"/> <b>Amendment to Report No.</b> <small>(explain below)</small>			
<b>CITY</b> Santa Clara		<b>STATE</b> CA		<b>No. of Pages</b> 6	
<b>I.D. NUMBER</b> (if applicable) 488240		<b>ZIP CODE</b> 95054			

LATE CONTRIBUTION REPORT  
**CALIFORNIA FORM 497**  
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## Late Contribution(s) Made

DATE MADE	FULL NAME, MAILING ADDRESS AND ZIP CODE OF RECIPIENT (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CANDIDATE AND OFFICE OR MEASURE AND JURISDICTION	AMOUNT OF CONTRIBUTION	DATE OF ELECTION (IF APPLICABLE)
09/01/2022	Santa Clara Neighbors Supporting Karen Hardy for City Council District 3 2022 Santa Clara, CA 95054 ID# Pending	Karen Hardy City Council Member District 3 Jurisdiction: Other City of Santa Clara	\$1,992.00	11/08/2022
09/01/2022	Santa Clara Neighbors Supporting Karen Hardy for City Council District 3 2022 Santa Clara, CA 95054 ID# Pending	Karen Hardy City Council Member District 3 Jurisdiction: Other City of Santa Clara	\$2,500.00	11/08/2022
09/01/2022	Santa Clara Neighbors Supporting Karen Hardy for City Council District 3 2022 Santa Clara, CA 95054 ID# Pending	Karen Hardy City Council Member District 3 Jurisdiction: Other City of Santa Clara	\$3,411.75	11/08/2022
09/01/2022	Santa Clara Neighbors Supporting Karen Hardy for City Council District 3 2022 Santa Clara, CA 95054 ID# Pending	Karen Hardy City Council Member District 3 Jurisdiction: Other City of Santa Clara	\$1,992.00	11/08/2022

Reason for Amendment:

FPPC Form 497 (June/01)  
FPPC Toll-Free Helpline: 866/ASK-FPPC

# UNSPORTSMANLIKE CONDUCT

## Late Contribution Report

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<b>NAME OF FILER</b> DeBartolo Copernation & Affiliated Entities, Including the Forty Niners Football Company LLC.		<b>LATE CONTRIBUTION REPORT</b> CALIFORNIA FORM <b>497</b> For Official Use Only	
<b>AREA CODE/PHONE NUMBER</b> 485240	<b>I.D. NUMBER (if applicable)</b> MO-LCR113M	<b>Date of This Filing</b> 09/02/2022	<b>Date Stamp</b> Page 5 of 6
<b>STREET ADDRESS</b>		<b>Report No.</b>	Page 5 of 6
<b>CITY</b> Santa Clara	<b>STATE</b> CA	<input type="checkbox"/> <b>Amendment to Report No.</b> (explain below)	No. of Pages <u>6</u>

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DATE MADE	FULL NAME, MAILING ADDRESS AND ZIP CODE OF RECIPIENT (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CANDIDATE AND OFFICE MEASURE AND JURISDICTION	AMOUNT OF CONTRIBUTION	DATE OF ELECTION (IF APPLICABLE)
09/01/2022	Santa Clara Neighbors Supporting Raj Chahal for City Council District 2 2022 Santa Clara, CA 95054	Raj Chahal City Council Member District 2 Jurisdiction: Other City of Santa Clara	\$180,475.00	11/08/2022
09/01/2022	ID# Pending Santa Clara Neighbors Supporting Raj Chahal for City Council District 2 2022 Santa Clara, CA 95054	Raj Chahal City Council Member District 2 Jurisdiction: Other City of Santa Clara	\$1,992.00	11/08/2022
09/01/2022	ID# Pending Santa Clara Neighbors Supporting Raj Chahal for City Council District 2 2022 Santa Clara, CA 95054	Raj Chahal City Council Member District 2 Jurisdiction: Other City of Santa Clara	\$2,500.00	11/08/2022
09/01/2022	ID# Pending Santa Clara Neighbors Supporting Raj Chahal for City Council District 2 2022 Santa Clara, CA 95054	Raj Chahal City Council Member District 2 Jurisdiction: Other City of Santa Clara	\$3,411.75	11/08/2022

Reason for Amendment:

# UNSPORTSMANLIKE CONDUCT

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<b>NAME OF FILER</b> DeBarolo Corporation & Affiliated Entities, including the Forty Niners Football Company LLC.		<b>Date of This Filing</b> 09/02/2022		<b>Date Stamp</b>	
<b>AREA CODE/PHONE NUMBER</b> I.D. NUMBER (if applicable) 485240		<b>Report No.</b> MO-LCR113M		Page 6 of 6	
<b>STREET ADDRESS</b>		<input type="checkbox"/> Amendment to Report No. (explain below)			
<b>CITY</b> Santa Clara		<b>STATE</b> CA		<b>No. of Pages</b> 6	
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LATE CONTRIBUTION REPORT  
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09/01/2022	Santa Clara Neighbors Supporting Raj Chahal for City Council District 2 2022 Santa Clara, CA 95054	Raj Chahal City Council Member District 2 Jurisdiction: Other City of Santa Clara	\$1,992.00	11/08/2022
	ID# Pending			

Reason for Amendment:

# UNSPORTSMANLIKE CONDUCT

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Numerous interviews were conducted between June 8, 2022 and September 22, 2022.

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# UNSPORTSMANLIKE CONDUCT

This report was **ADOPTED** by the County of Santa Clara 2022 Civil Grand Jury on this 10<sup>th</sup> day of October, 2022.



---

Mr. James Renalds  
Foreperson

## California Statutes Annotated - 2018

West's Annotated California Codes

Penal Code (Refs & Annos)

Part 2. Of Criminal Procedure (Refs & Annos)

Title 4. Grand Jury Proceedings (Refs & Annos)

Chapter 3. Powers and Duties of Grand Jury (Refs & Annos)

Article 2. Investigation of County, City, and District Affairs (Refs & Annos)

West's Ann.Cal.Penal Code § 933.05

§ 933.05. Responses to findings

### Currentness

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall

respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

#### Credits

(Added by Stats.1996, c. 1170 (S.B.1457), § 1. Amended by Stats.1997, c. 443 (A.B.829), § 5.)

#### HISTORICAL AND STATUTORY NOTES

##### 2008 Main Volume

Stats.1997, c. 443 (A.B.829), in subs. (a) and (b), in the introductory paragraphs, substituted “(b)” for “(c)”; in subd. (b)(3), substituted “head” for “director”; in subd. (c), inserted “agency or” throughout; inserted subd. (e), relating to investigations and meetings with the grand jury; and, in subd. (f), substituted “presiding” for “supervising”.

#### CROSS REFERENCES

Grand jury defined, see [Penal Code § 888](#).

Words and phrases, “county”, see [Penal Code § 691](#).

#### RESEARCH REFERENCES

##### Encyclopedias

[Cal. Jur. 3d Criminal Law: Pretrial Proceedings § 716](#), Recommendations and Reporting.

[Cal. Jur. 3d Criminal Law: Pretrial Proceedings § 717](#), Responses to Findings.

##### Treatises and Practice Aids

[Witkin, California Criminal Law 4th Introduction to Criminal Procedure § 43](#), Reports.

West's Ann. Cal. Penal Code § 933.05, CA PENAL § 933.05

Current with all 2017 Reg.Sess. laws.

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