



Colusa County Civil Grand Jury
PO Box 715
Colusa, CA 95932
Phone (530) 458-0431

June 26, 2024

Mayor Daniel Vaca
City of Colusa
425 Webster Street
Colusa, CA 95932

Re: Enclosed Report: 2023-2024 Colusa County Grand Jury Final Report – Report #1 City of Colusa.

Dear Mayor Vaca,

On behalf of the 2023-2024 Colusa County Grand Jury, I am providing to you the following report or portions thereof:

2023-2024 Colusa County Grand Jury Final Report – Report #1 City of Colusa

The report will be released to the public on **June 28, 2024**. This report is being provided to you in advance of its general release pursuant to Penal Code section 933.05, subdivision (f), which provides:

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.

It is very important that you comply with this confidentiality requirement.

The Penal Code also prescribes the obligations of a governing board or elected county official with regard to responding to the grand jury's findings and recommendations. Specifically, if the report contains one or more recommendations directed to you as an elected county official, or to the governing board of which you are a member, you must respond to those recommendations and to the supporting findings, as directed in the report.

The time within which to respond is prescribed by subdivision (c) of Penal Code section 933, which states in relevant part:

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. **All such comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury.**

The Penal Code also prescribes the content of your responses. Subdivisions (a) through (c) of Penal Code section 933.05 state:

- (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:
 - (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 time frame for implementation.**
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, **and a time frame 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 time frame 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 department head and the board of supervisors shall respond if requested by the grand jury, but the response to the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making 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.

Please be aware that your responses will be a matter of public record and widely read by both community members and local media. Therefore, it is important that your responses be as clear and specific as possible. A response that is vague, does not provide a clear explanation of any action that has or will be taken, or that does not include a specific time frame for implementation, is neither helpful nor legally sufficient. Furthermore, if a response does not comply with the applicable provisions of the California Penal Code, you may be directed by the presiding judge to provide an amended response.

Please send your response addressed to the Honorable Elizabeth Ufkes Olivera, Presiding Judge, Colusa Superior Court, 532 Oak Street Colusa, CA 95932, with a copy to the Grand Jury, within the time period provided in subdivision (c) of Penal Code section 933 (see above).

Thank you for your cooperation in providing a meaningful and timely response.

Sincerely,

A handwritten signature in blue ink that reads "Kevin Spesert". The signature is written in a cursive style with a large initial "K" and a long horizontal stroke at the end.

Kevin Spesert
Foreperson, 2023-2024 Colusa County Grand Jury

CITY OF COLUSA

SUMMARY

Under its statutory authority, the Colusa County Grand Jury (Grand Jury) conducted an investigation to review the City of Colusa's actions and progress in implementing the findings and recommendations of the 2021-2022 Grand Jury Report titled "Misuse of Public Funds and Multiple Code and Violations for City of Colusa". The focus of this investigation was not to reopen the 2021-2022 investigation, but rather review the actions that the City of Colusa has taken to date to implement the recommendations that were identified in the 2021-2022 report. The Grand Jury specifically investigated the City of Colusa's progress in developing new policies, or updating existing policies, to address the concerns raised in the 2021-2022 Grand Jury Report.

The Grand Jury found that the City of Colusa has generally made progress in addressing the concerns identified by the 2021-2022 Grand Jury. However, through a review of the public record, and based on interviews with City administration and staff, the Grand Jury has concluded that the City of Colusa has not updated its Purchasing Policy as it had represented in its response to the 2021-2022 Grand Jury Report.

BACKGROUND

The 2021-2022 Colusa County Grand Jury published an investigative report titled "Misuse of Public Funds and Multiple Code and Violations for City of Colusa" on June 24, 2022. The report was in response to multiple written public complaints regarding the City of Colusa sponsored events in the summer of 2021. The report identified several instances of misuse of public funds, violations of state and local event permitting regulations, and violations of several City of Colusa policies and procedures. As a result of the report, the City of Colusa committed to addressing the issues identified in the report, including updating existing policies and developing new policies and procedures to remediate the issues identified by the 2021-2022 Grand Jury.

At its August 2, 2022 meeting, the Colusa City Council considered the adoption of a letter of response to the 2021-2022 Grand Jury's findings. Based on concerns expressed by members of the City Council and members of public as to the adequacy of the proposed response, the City Council established an Ad Hoc Committee to develop a revised response letter for City Council consideration. At its August 16, 2022 meeting, the Colusa City Council considered the adoption of the revised letter of response developed by the Ad Hoc Committee. This revised letter of response was approved unanimously by the City Council.

METHODOLOGY

Information for this investigation was sources from the following:

- 2021-2022 Grand Jury Report
- City of Colusa Letter of Response to 2021-2022 Grand Jury Report

- City of Colusa City Council Meeting Agendas, Staff Reports and Meeting Minutes
- City of Colusa Policy and Procedures Documents
- Interviews with City Administration and Staff
- California Grand Jurors Association (<https://cqja.org/>)
- Colusa County Grand Jury Procedures Manual

DISCUSSION

In the City of Colusa’s letter of response to the 2021-2022 Grand Jury Report approved by the City Council on August 16, 2022, the City acknowledge numerous violations of City policies and committed to update these polices to address the issues raised by the 2021-2022 Grand Jury. As part of these commitments, the City agreed to develop policies and protocols for city sponsored events, updating the credit card use policy, and updating the City’s Purchasing Policy.

During the course of its investigation, the Grand Jury has confirmed that the City of Colusa has developed and implemented a policy associated with the planning, permitting, and expenditure of public funds for City sponsored events and has made updates to its credit card use policy to address the concerns that were raised by the 2021-2022 Grand Jury.

However, during the course of its investigation, the Grand Jury concluded after a thorough review of the public record and by interviews conducted with city administrators and staff that the City of Colusa did not make updates to its existing Purchasing Policy as it had represented in its letter of response to the 2021-2022 Grand Jury Report.

In its August 16, 2022 response letter, the City of Colusa stated in its response to Grand Jury Finding Number 5 that it acknowledged that the City had violated its Purchasing Policy by making large monetary purchases related to the 2021 City sponsored summer events without attempting to get at least three (3) competitive quotes for qualified items or utilizing local business first. The response further stated that the City’s Purchasing Policy had been amended on November 2, 2021.

At its November 2, 2021 meeting, the Colusa City Council Agenda included an item to consider updating the City’s Purchasing Policy. The staff report associated with the agenda item was submitted by the City Manager. The staff report noted that the City of Colusa last amended its Purchasing Policy on April 17, 2012. The report further noted that the City Manager did not see a need to change the current policy, but the City Council could consider changing dollar amounts to reflect current costs and how to purchase items with the new digital age.

Meeting minutes from the November 2, 2021 meeting note that the City Manager asked the council if it had any changes to the Purchasing Policy but do not indicate if the Council Members made any suggested changes or additions. The meeting minutes also note that the City Attorney recommended adding detailed bid specifications and the City Manager recommended adding Requests for Qualifications, but the meeting minutes do not indicate if these additions were made to the Purchasing Policy or considered by the city council. The meeting minutes further state that there were no public comments and that there was no council action needed.

Additionally, the Grand Jury reviewed the City Council meeting agendas and meeting minutes - from November 2, 2021 to the present - and concluded that there has not been any action taken by the City of Colusa to update its existing Purchasing Policy as of the date of this report. Based on this review of the public record, the Grand Jury has concluded that the City of Colusa did not make updates to its existing Purchasing Policy as it had represented in its letter of response to the 2021-2022 Grand Jury Report.

In the course of its investigation, the Grand Jury conducted several interviews with City of Colusa administrators and staff regarding its progress in implementing the findings and recommendations of the 2021-2022 Grand Jury Report. These interviews confirmed that the City has made general progress in addressing some of the concerns, however they also confirmed that the City has not made updates to its existing Purchasing Policy as it represented in its letter of response to the 2021-2022 Grand Jury Report.

During the interviews that the Grand Jury conducted, several of the interviewees expressed concerns about the implementation of the City's current Purchasing Policy. These interviewees identified confusion among city staff regarding the requirements of the policy, inconsistencies in the implementation of the Purchasing Policy, lack of transparency in reporting purchases, and concerns regarding the general management and oversight of the process to ensure compliance with City's adopted policy. The information the Grand Jury received from the interviewees who expressed these concerns was consistent across all of the interviews.

In light of the issues identified in the 2021-2022 Grand Jury report regarding the Purchasing Policy - and through the investigation and interviews conducted by the current Grand Jury - the Grand Jury has concluded that the City of Colusa should make a thorough review of its current Purchasing Policy and make all necessary and appropriate revisions to ensure that the expenditure of public funds for City purposes is conducted in a professional and transparent manner.

Further, the Grand Jury has concluded that once the City makes the necessary and appropriate revisions to the Purchasing Policy, the City should conduct a training program for city staff responsible for the expenditure of public funds, department heads who approve the expenditure of public funds, newly hired employees, and other appropriate staff to ensure that the protocols and requirements of the Purchasing Policy are consistently implemented.

During the course of the investigation, the Grand Jury was not able to find the contact information for some city administrators from the City of Colusa's public website. The Grand Jury specifically noted that the contact information for the elected City Treasurer and the City Attorney were not available on the City's website. The Grand Jury concluded that, as an elected official, the City Treasurer's contact information should be available to the public and that the City Attorney's contact information should be included on the City Website.

FINDINGS

- F1. The Grand Jury finds that the City of Colusa has made good progress in the development and implementation of policies associated with the planning and permitting of City sponsored events and has made updates to its credit card use policy.

- F2. The Grand Jury finds that the City of Colusa did not make updates to its existing Purchasing Policy as it had represented in its letter of response to the 2021-2022 Grand Jury Report.
- F3. The Grand Jury finds that there exists confusion and a lack of general understanding among City of Colusa administrators and staff regarding the applicability and requirements established in the City's current Purchasing Policy.
- F4. The Grand Jury finds that some city administrators and staff have identified issues and concerns with the City's implementation of the existing Purchasing Policy.
- F5. The Grand Jury finds that the City of Colusa website should include the contact information for the elected City Treasurer and City Attorney.

RECOMMENDATIONS

- R1. The Grand Jury recommends that the City of Colusa conduct a thorough review of the existing Purchasing Policy and make all necessary and appropriate revisions to address the deficiencies identified by the 2021-2022 Grand Jury Report and to make any appropriate updates to ensure the City's Purchasing Policy is consistent and reflects current regulations, ordinances, and policies by December 31, 2024.
- R2. The Grand Jury recommends that the City of Colusa develop a training program for elected officials, city administrators and staff who are responsible for the expenditure of public money that is consistent with the City's Purchasing Policy. This training should be held on an annual basis.
- R3. The Grand Jury recommends that all City of Colusa administrators and staff responsible for the expenditure of public money attest in writing that they have received Purchasing Policy training and understand their duties and obligations as established in the Purchasing Policy.
- R4. The Grand Jury recommends that the City of Colusa establish an Ad Hoc Committee of the City Council that includes two (2) City Council members and the elected City Treasurer to provide general oversight of the City's Purchasing Policy and the expenditure of public money - including a regular review of expenditures to ensure consistency with the City's adopted policy. The Ad Hoc Committee should report out to the full City Council and the community at a regularly scheduled meeting of the City Council on a quarterly basis highlighting the Ad Hoc Committee's activities.
- R5. The Grand Jury recommends that the City of Colusa website include the contact information for elected City Treasurer and the City Attorney.

REQUEST FOR RESPONSES

The following responses are required pursuant to Penal Code §933 and §933.05:

From the following individuals and governing bodies:

City of Colusa:

- o Finding F1 – F5

- o Recommendations R1 – R5

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

This report on the City of Colusa is issued by the full 2023-2024 Grand Jury. No Grand Jurors recused themselves from the investigation.