

Who Is Running Parlier?

Fresno County Grand Jury Report No. 3

October 2020

SUMMARY

The purpose of any Grand Jury investigation is to encourage a government entity (in this case, the Parlier City Council) to become more efficient, transparent, and effective by bringing to light deficiencies, real or perceived, seen through objective eyes.

Governing efficiently and effectively demands, among other things, the development and maintenance of policies and procedures for administrative operations, budget and finance, filling unexpected vacancies on the Council by appointment or calling a special election, and hiring qualified management personnel. An investigation by the 2019-2020 Fresno County Civil Grand Jury found that the Parlier City Council has not met those demands.

The Grand Jury concluded that there are a number of action steps the Parlier City Council and city administrative staff should take as soon as possible to correct deficiencies.

A citizen's complaint received by the Grand Jury alleged that the Parlier City Council has failed to provide policies and procedures, such as a travel policy. In the complaint, additional allegations were made that elected officials of the City of Parlier overstepped their boundaries in local elections; questionable travel reimbursement occurred by city officials; failure to implement sound employment practices, including leaving critical management positions unfilled; and co-mingling of the Parlier City Council's responsibilities with the day-to-day management of Parlier.

BACKGROUND

According to the Fresno Council of Governments, Parlier ("the City") is a community of some 15,000 citizens, 97.5% of whom are Hispanic. 83% of its citizens 5 years of age and older speak a language other than English at home. Less than half of its citizens over age 25 have completed high school. The median income is \$36,161. Approximately 31% of the citizens live below the poverty level.¹

The City has many positive programs to benefit its citizens, including a low-cost day care center and a homeowners assistance program, which provides deferred down-payment assistance for

¹ <https://www.fresnocog.org/profile/city-of-parlier/>

low-income borrowers. The City is developing Heritage Park for the enjoyment of its citizens. Voters recently approved a tax initiative to help fund public safety.

METHODOLOGY

The Grand Jury interviewed numerous people with firsthand knowledge about Parlier's governance and who could provide supporting documentation.

The Grand Jury reviewed the following documents:²

1. The City's Personnel Policy Manual
2. Various receipts and documents regarding travel
3. Contracts with special management services
4. City Council meeting agendas, attachments, and meeting minutes dating from October 18, 2018, to March 2020.

The Grand Jury conducted internet research regarding:

1. Travel policies of comparable cities in California
2. California Government Code
3. California Penal Code
4. Parlier Municipal Code: www.library.municode.com/parlier/codes/code_of_ordinance
5. City of Parlier website: parlier.ca.us

DISCUSSION

1. Personnel Policy and corresponding Procedure Manual

The City has a Personnel Policy Manual that was approved in January 2003. Pursuant to City Council meeting agenda documents, within the past year and a half, the City Council reviewed the Manual and provided some updates to the 2003 edition. Witnesses told the Grand Jury there were updates but did not provide any specific information regarding the updates.

² The Grand Jury requested and witnesses agreed to provide other documents which were pertinent to our investigation. However, to date, many of those documents have not been provided.

2. Governance

Parlier is a general law city, governed by the City Council and operating under the City Council-City Manager (Council-Manager) form of government. Under this type of government structure, the origins and roles of each are distinct: Council members are elected by their respective districts and the Mayor is elected at large. Council members make policy and are responsive to citizens' needs and wishes. The City Council appoints (hires) a City Manager to carry out policy and ensure that the entire community is being served. The City Manager hires the department heads, including a Finance Director and Police Chief as part of the management team.³

Under the Council-Manager form of government, the City Council oversees the general administration, makes policy and sets the budget. (National League of Cities⁴.) The traditional powers and duties of the Mayor in this form of government are primarily symbolic as head of the city and first among equals on the city council. A mayor's influence, rather than power, drives a city's policy agenda.⁵ The duties of mayor in this type of government are representing the city on state, national and international levels, participating as a member of the city council in the oversight of daily operations and in the enforcement of laws and ordinances.⁶

The five-member Parlier City Council is currently operating with one open seat for District 3. According to witnesses, the former City Council member for that district did not attend City Council meetings for a number of months. Parlier Municipal Ordinance Code 2.04.100 establishes that a City Council seat is "forfeited" when a member refuses to attend 4 consecutive meetings when the member is neither sick or out of town.⁷ California Government Code section 36513 states that if a council member is absent without permission from regular meetings for 60 consecutive days from the last attended meeting, the council seat becomes vacant.

A review of the City Council meeting minutes available at the City of Parlier website for the year 2019 show that the former representative for District 3 last attended a City Council meeting in August 2019. Sometime after August 2019, the published agendas for the City Council regular and special meetings did not include the name of the District 3 representative. The City Council meeting minutes dated August 15, 2019 (attached to the September 5, 2019, City Council meeting agenda), indicate, in the Council comments section, that the announcement of the resignation of the District 3 representative was made.⁸ The agenda for the January 22, 2020, special meeting of the City Council includes an item to vote on a resolution which stated that the

³ parlier.ca.us/City-Council

⁴ www.nlc.org/Forms-of-Municipal-Government

⁵ <https://www.com/mayor-career-information-1669473>

⁶ https://ballotpedia.org/Mayor-council_government

⁷ https://library.municode.com/ca/parlier/codes/code_of_ordinances

⁸ parlier.ca.us/agendas

District 3 representative tendered an oral resignation in October 2019 and has not attended a City Council meeting since then.⁹

California Government Code section 36512 requires the City Council to either: 1) fill the vacancy by appointment; or 2) call a special election within 60 days from the commencement of a Council vacancy. It is unclear when the District 3 council position was vacated. The position may have been vacated by the resignation of the former representative as early as August 2019 as announced and recorded in the August 15, 2019 meeting minutes or at the latest by January 2020 as the vacancy was declared by the City Council's January 22, 2020 Resolution. Despite the statutory requirement for the City Council to act within sixty days, witnesses reported that there were no known plans to fill the open seat by either appointment or special election. Rather the City Council, despite the proposed resolution to fill the vacancy by appointment, chose to wait for the next regular election in November 2020 for this seat to be filled. Neither witnesses nor City Council meeting minutes offered information as to why one-quarter of the City's residents have been, and continue to be, unrepresented since August 2019.

In addition to the vacancy on the City Council, two critical management positions in the City are vacant: City Manager and Finance Director.

The duties of the City Manager are generally to be "the 'administrative head' of the government of the city under the direction and control of the city council." (City of Parlier Municipal Code section 2.10.40) Additionally, the City Manager has specific duties including, but not limited to, authority over employees, appointments and removals, reorganization of offices, preparing the budget, keeping the City Council advised as to financial condition and needs. (*Ibid.*) "[T]he term 'city manager' shall include the term 'city administrator' and all powers, duties and functions assigned to or dischargeable by the city administrator are assigned to and shall be discharged by the city manager." (City of Parlier Municipal Code section 2.10.090) While the City Manager has the powers, duties, and functions of a City Administrator, those powers, duties, and functions do not encompass all of the responsibilities of a City Manager. Without a City Manager in a City Council-City Manager form of government, the key component of the City's administration is missing - there is no administrative head of the government.

Parlier has had four different City Managers since 2014. According to witnesses and City Council meeting minutes, the City Manager position has been vacant since early 2019. According to witnesses, no efforts have been made to fill the vacancy.

According to the City Council meeting agenda of August 15, 2019, and as evidenced by a signed contract, the City Council amended its contract with a consultant to remove its duties as grant writer and to add that the consultant perform the duties of the "City/Community Development

⁹ The Grand Jury was unable to locate any published minutes approving this resolution.

Administrator.” While the Professional Services Consulting Agreement authorized by the City Council and signed by all parties on August 21, 2019, lists the duties of the City/Community Development Administrator (City Administrator), they are vague. As witnesses were not clear on the exact duties of the City Administrator, it appears the duties of the City Administrator have not been clearly established or defined. Despite its requests, the Grand Jury has not received a copy of a job description or position summary.

Multiple witnesses stated that a qualified Finance Director is critical to the day to day operation of the City. A Finance Director guides the City’s revenue and expense activities and ensures the City operates within its means. The City has not had a qualified Finance Director since 2018. In February 2019, the City Council entered into a contract with an outside accounting firm “to provide technical assistance services including Financial Controller and internal audit.” According to multiple witnesses, this firm did not perform the duties for which it was contracted. The City Council also contracted with an individual to update the finances and close the books to enable audits to occur. Multiple witnesses also stated that the lack of a Finance Director has resulted in fragmented operations and no budget preparation or budget activities with the citizens. In addition, witnesses acknowledged that no current City employee has the knowledge or skill set to close the City’s books for their fiscal year or perform audit preparations.

3. Hiring practices of the City

The complainant raised a question of whether nepotism and family friendships influenced the hiring process within the City. Multiple witnesses acknowledged there are several staff positions which are filled by family or friends of the City Council members. The Parlier Municipal Code allows for family members to be hired to work for the City so long as the relative does not directly supervise them or the supervision does not pose a risk to the effective operation of the department. (Parlier Municipal Code section 4.01.080(A).) The Municipal Code is silent regarding the issue of hiring friends of the City Council. The Grand Jury determined those members of the staff who are family and friends of the City Council members are either not supervised by their relative or friend or are not directly employed by the City.

A second question was raised in the complaint as to whether the City Mayor was acting as City Manager. The June 6, 2019, City Council meeting agenda included an item on the consent calendar to authorize the Mayor to be paid the standard per diem (\$110.00)¹⁰ “for operating City business.” The minutes of the June 6, 2019, meeting indicate the motion to authorize standard

¹⁰ The Grand Jury did not inquire as to how this per diem rate was determined or the authorized use of the per diem rate. A review of the City’s expenditures indicates that the mayor and city council members receive \$110.00 for each day they act in their official capacities, including attendance at city council meetings. The Grand Jury was told by witnesses that the mayor and city council members are expected to use the per diem to pay for meals, transportation, and incidentals when traveling on City business rather than have those expenses reimbursed.

pay of the \$110.00 per diem to the mayor was passed. The Grand Jury was told that members of the City Council were reluctant to authorize the Mayor's participation in operating City business unless specific limitations were defined with the help of the City Attorney. According to these same witnesses, a document was prepared which delineated the limited scope of the Mayor's daily involvement in the City's operations. However, when this document was requested by the Grand Jury, it was not provided and its existence was denied. We received conflicting testimony from various witnesses regarding the level of the Mayor's involvement in the day-to-day operation of the City.

As previously stated, in August 2019, a consultant firm was contracted to "oversee all departments in the city and keep the council apprised on all city business."¹¹ Under the contract, the consultant was not given any authority to hire or fire department heads or other employees; to enforce all laws and ordinances of the City; to prepare and submit the proposed annual budget; to investigate complaints against the City - all of which are powers given to a City Manager under Parlier Municipal Ordinance Code 2.10.040. Despite hiring the consultant, the City of Parlier continued to be billed as recently as March 2020 for the Mayor's involvement in operating City business. The scope of the Mayor's involvement in "operating City business" was never defined for the Grand Jury.

4. Election Procedures and Campaign Practices

The complainant alleged that City officials utilized City funds for campaign purposes. The Grand Jury's investigation did not discover any facts to suggest there was inappropriate use of the City's funds in recent election campaigns.

5. Travel Policy

Section 4 of the City's 2003 edition of the Personnel Policies for Parlier City Employees (Personnel Policy Manual) includes a subsection entitled "City Authorized Travel Policy" (page 22) and directs the employee to contact a department head for further information. The Grand Jury heard testimony from several witnesses about travel reimbursements but, until after the Grand Jury inquiry no written policy was in the Personnel Policy Manual to support this practice.

According to witnesses, if elected or non-elected City officials are required to travel outside of the City to conduct City business, the City provides reimbursement for the transportation and lodging. The elected official is paid the standard per diem of \$110.00 she/he would normally receive for conducting City business to be used for meals and incidentals. (The Grand Jury did not inquire as to reimbursement for meals and incidentals for non-elected officials.) Presently, family and associates can travel with elected officials on City business, but it is unclear to the

¹¹ See Professional Services Consulting Agreement executed on August 21, 2019.

Grand Jury who is authorized to make travel plans and reservations. Traditionally, the City's personnel make reservations and the City initially pays for the transportation and hotel for all persons traveling, including spouses or significant others of the traveling elected official. The elected official then reimburses the City for the spouse or significant other's transportation costs. The elected official does not reimburse the City for any part of the lodging for the spouse or significant other.

During the course of the Grand Jury's investigation, the City Council approved and passed Resolution No. 2020-09 adopting the above travel procedures as the City's formal travel policy.¹² The Grand Jury appreciates the City Council's attempt to enact a travel policy, however, this policy does not resolve concerns of potential misuse and/or misappropriation of the City's funds.

California Government Code sections 53232.2 and 53232.3 provide guidance on the issues of traveling for official business. These Government Code sections provide that expenses incurred by members of a legislative body, including City Council members, for certain meetings, conferences, etc., should be reimbursed to the member upon presentation of an expense report within a reasonable time after the event. Other comparable cities in California have travel policies wherein the city makes and pays for the transportation and lodging for the city official without any provision for a spouse or significant other.

There were at least two recent trips, to Mexico and Washington D.C., in which costs of the trips were approved by the City Council either without a proposed budget for the trip or after the trip was taken and paid for by personal credit cards. In December 2018, the then City Manager and the Mayor, along with their significant other/spouse, went to Mexico to attend the inauguration of the president of Mexico. The former City Manager put travel expenses on his personal credit card and then presented his bill, along with receipts, to the City Council for approval and reimbursement upon their return. In May 2019, the Mayor, a member of the City Council, and the then City Manager, along with their spouses and significant others, attended the One Voice conference in Washington, D.C. According to witnesses, city employees made, and paid via the City's credit card, the flight and hotel reservations for all parties, including the spouses and significant others. The Grand Jury requested documents to confirm that the spouse's and significant others' expenses were reimbursed back to the City but those documents were not provided.

6. Financial Issues

Witnesses observed that the lack of a staff Finance Director has had a negative impact on the City.

¹² See, REGULAR Agenda 3.5.20, pp. 57-62

- The City in recent years has operated at a consistent financial deficit.
- There have been no budget workshops or public hearings regarding a City budget. In fact, there has been no meaningful budget, only a 2018-2019 budget that was rolled over from the previous fiscal year.
- The annual external audits for 2017-2018 and 2018-2019 were delayed until 2020 because the books were not current or closed for those fiscal years on a timely basis.

The absence of a Finance Director to oversee the day-to-day financial operation of the City, track investments and housing assistance grants, prepare the budget, etc., is not a sustainable circumstance.

FINDINGS

In light of the above, the Fresno County Grand Jury, in their investigation of matters concerning the City of Parlier, have established ten findings and from them derived six recommendations. We believe that the implementation of the recommendations will foster a better perceived role of Parlier's city government and take a major step in assuaging the perception that its government only works for a few individuals and not for the general good of its citizenry.

- F1. The City's Personnel Policy Manual is current, except for the travel policy.
- F2. The City Council lacks representation from District 3.
- F3. It is unclear when the vacancy of the seat for District 3 occurred and, therefore, it is difficult to determine whether the City Council acted within the time frame of Government Code section 36512 to fill the vacancy by either appointment or setting a special election.
- F4. The City's lack of a City Manager conflicts with its adopted form of government.
- F5. The lack of a Finance Director has had a negative impact on the City's ability to properly prepare a budget and monitor its deficit.
- F6. There does not appear to be any abuse in the employment of family and friends at the City.
- F7. The Mayor is being paid a per diem of \$110.00 to be involved in the operation of City business.

- F8. The current travel policy as stated in City Council Resolution No. 2020-09 is not sufficient to avoid the perception of potential malfeasance by elected and non-elected officials and is not in alignment with California Government Code sections on travel reimbursement for City Council members.
- F9. The City has not prepared a budget or entertained community input on a budget in two years.
- F10. The City operates at a deficit.

RECOMMENDATIONS

- R1. The City Council order the distribution of the updated Personnel Policy Manual containing the travel policy approved by the City Council in Resolution No. 2020-09 to all personnel and publish the Manual on the City of Parlier's website for the public's perusal within two months of the publication of this report [F1].
- R2. The City Council educate itself regarding its responsibilities under Government Code section 36512 regarding filling vacancies on the City Council within two months of the publication of this report. [F3]
- R3. The City Council initiate the hiring process to fill the position of City Manager within two months of the publication of this report. [F4]
- R4. The City Council contract with a qualified certified public accountant to act as interim Finance Director until a City Manager can hire a qualified permanent Finance Director within two months of the publication of this report. [F5]
- R5. The City Council develop a travel policy consistent with Government Code sections 53232.2 and 53232.3 for members of the City Council and to develop a similar policy for unelected city officials within two months of the publication of this report. [F8]
- R6. The City Council develop and utilize a meaningful annual budget process, including, among other things, public budget hearings, within six months of the publication of this report. [F9 and F10]

REQUEST FOR RESPONSE

Pursuant to California Penal Code, section 933.05, the Fresno County Grand Jury requests responses to each of the specific findings and recommendations. It is required that responses from elected officials are due within 60 days of the receipt of this report and 90 days for others. The Fresno Grand Jury requests responses as follows:

- Parlier City Council respond to all recommendations.

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 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.