



TOWN OF LOS GATOS

OFFICE OF THE TOWN MANAGER
(408) 354-6832
Manager@LosGatosCA.gov

CIVIC CENTER
110 E. MAIN STREET
LOS GATOS, CA 95030

Date: January 18, 2017

VIA: First Class Mail

Ms. Tamara L. Davis
Deputy Manager, Jury Services
Superior Court of Santa Clara County
191 North First Street
San Jose, CA 95113

RECEIVED

JAN 23 2017

CIVIL GRAND JURY

RE: Santa Clara County Civil Grand Jury Request Letter, December 21, 2016

Dear Ms. Davis:

On behalf of the Town of Los Gatos Town Council, I am providing this formal response to the Santa Clara County Civil Grand Jury's letter dated December 21, 2016 requesting additional information regarding the Town's actions relative to the Grand Jury's 2011-12 Pension and Other Post-Employment Benefits (OPEB) Report. This response was authorized in a public Town Council meeting on January 17, 2017.

In 2012, the Town agreed with all of the findings that pertained to Los Gatos and had implemented five of the eight recommendations relevant to Los Gatos. In 2017, the Town continues to agree to these pertinent findings and the Town has now implemented seven of the nine recommendations. One recommendation will be considered in future labor negotiations (Recommendation 4B) and another recommendation will not be implemented because it is cost prohibitive (Recommendation 7). The Town's actions since 2012 demonstrate concurrence with the Civil Grand Jury and the Town's ongoing commitment to fiscal responsibility for pension and OPEB obligations.

Should you have any questions regarding the enclosed document, please feel free to contact me at LPrevetti@LosGatosCA.gov or 408-354-6832.

Sincerely,

LAUREL PREVETTI
Town Manager

Attachment: 2017 response to the Santa Clara County Civil Grand Jury



2011-12 CIVIL GRAND JURY FINDING 1: Public sector employees are eligible for retirement at least 10 years earlier that is common for private sector employees.

The Town of Los Gatos has agreed with this finding.

2011-12 Civil Grand Jury Recommendation 1: The Cities should adopt pension plans to extend the retirement age beyond current retirement plan ages.

2011-12 Town of Los Gatos response: Los Gatos has implemented for miscellaneous (non-sworn) employees and intends to engage in negotiations for sworn when the current union agreement expires.

2016-17 Town of Los Gatos additional response: The California Public Employees' Pension Reform Act of 2013 (PEPRA), which was enacted after the Civil Grand Jury findings and recommendations, significantly modified pension benefits by increasing the retirement age, reducing pension formulas, applying and income cap, increasing required employee contribution, and placing a number of other restrictions that will serve to reduce future cost. The Town of Los Gatos has made modifications in compliance with PEPRA for non-sworn and sworn employees.

2011-12 CIVIL GRAND JURY FINDING 2: Campbell, Gilroy, Los Altos Hills, Los Gatos, Milpitas and Palo alto have adopted second tier plans that offer reduced benefits, which help reduce costs, but further changes are needed to address today's unfunded liability. Santa Clara County and the cities of Cupertino, Los Altos, Monte Sereno, Morgan Hill, Mountain View, San Jose, Santa Clara, Saratoga and Sunnyvale have not adopted second tier plans

The Town of Los Gatos has agreed with this finding.

2011-12 Civil Grand Jury Recommendation 2A: Santa Clara County and the cities of Cupertino, Los Altos, Monte Sereno, Morgan Hill, Mountain View, San Jose, Santa Clara, Saratoga and Sunnyvale should work to implement second tier plans

2011-12 Town of Los Gatos response: This recommendation is not applicable to the Town of Los Gatos.

2011-12 Civil Grand Jury Recommendation 2B: For Gilroy, Los Gatos, Milpitas and Palo Alto, which have not implemented second tier plans for MISC and Public Safety second tier plans should be implemented for both plans.

2011-12 Town of Los Gatos response: *Los Gatos has implemented for miscellaneous (non-sworn) employees and intends to engage in negotiations for sworn when the current union agreement expires.*

2016-17 Town of Los Gatos additional response: *With the PEPRAs effective January 1, 2013, a third tier formula was implemented for miscellaneous employees and a second tier formula for safety employees hired after January 1, 2013.*

2011-12 Civil Grand Jury Recommendation 2C: **All Cities' new tier plans should close the unfunded liability burden they have pushed to future generations. The new tier should include raising the retirement age, increasing employee contributions, and adopting pension plans caps that ensure pensions do not exceed salary at retirement.**

2011-12 Town of Los Gatos response: *Regarding retirement age, see the response to Recommendation 1. Regarding increasing employee contributions, see the response to Recommendations 4A and 4B. Regarding pension caps, Los Gatos does not have authority to change the pension caps established by CalPERS. However, Los Gatos is open to consideration once CalPERS provides the option.*

2016-17 Town of Los Gatos additional response regarding retirement age, employee contribution, and contribution cap: *The second-tier pension plan for non-sworn employees changed the pension formula for new hires after September 15, 2012 from 2.5% at age 55 (Employee Contribution 8%) to 2% at age 60 (Employee Contribution 7%). The third-tier pension plan was implemented as a result of the passage of PEPRAs which provides 2% at age 62 (Employee Contribution 6.75 %) for "new" non-sworn employees hired after January 1, 2013 who have not previously worked in a public pension system. The new tier for safety employees changed the pension formula for "new" employees from 3% at age 50 (Employee Contribution 9%) to 2.7% at age 57 (Employee Contribution 12.25%) effective January 1, 2013.*

As the Town has reported before, the Town of Los Gatos does not have authority to change the pension caps established by CalPERS and the Town considers any options provided by CalPERS. PEPRAs implemented a pension cap on all new employees which is adjusted annually by the change in the consumer price index.

In addition, the Town has also paid off the CalPERS safety (sworn) pool side fund liability of \$4.5 million in FY 2014/15, which reduces the required contribution rate.

Finally, the Town Council established a CalPERS Reserve in June 2016 to mitigate the Town's unfunded pension liabilities. As part of the June action, the Council funded the CalPERS Reserve up to \$2.5 million from available FY 2014/15 year end savings with an additional annual payment of \$300,000 if available at future year-end savings.

2011-12 CIVIL GRAND JURY FINDING 3: Retroactive benefit enhancements were enacted by cities using overly optimistic ROI and actuarial assumptions without adequate funding in place to pay for them.

The Town of Los Gatos has agreed with this finding.

2011-12 Civil Grand Jury Recommendation 3: The cities should adopt policies that do not permit Benefit enhancements unless sufficient monies are deposited, such as an irrevocable trust, concurrent with enacting then enhancement, to prevent an increase in unfunded liability.

2011-12 Town of Los Gatos response: Los Gatos has not implemented this recommendation yet but staff will make this recommendation for Council adoption prior to the end of FY 2012/13.

2016-17 Town of Los Gatos additional response: While the Town has not adopted a specific policy, the Town has implemented this Recommendation by not offering any benefit enhancements since the 2011-12 response.

2011-12 CIVIL GRAND JURY FINDING 4: The Cities are making overly generous contribution toward the cost of providing Benefits.

The Town of Los Gatos has agreed with this finding.

2011-12 Civil Grand Jury Recommendation 4A: The Cities should require all employees to pay the maximum employee contribution rate of a given plan.

2011-12 Town of Los Gatos response: Los Gatos implemented this recommendation.

2016-17 Town of Los Gatos additional response: *CalPERS sets the required employee contribution cap according to the employee retirement tier. The Town of Los Gatos requires all the employees to pay the entire required contribution for CalPERS.*

2011-12 Civil Grand Jury Recommendation 4B: **The Cities should require employees to pay some portion of the Past Service Cost associated with the unfunded liability, in proportion to the Benefits being offered.**

2011-12 Town of Los Gatos response: *Further analysis is required to understand the impacts. The analysis will be conducted prior to the end of FY 2012/13.*

2016-17 Town of Los Gatos additional response: *The California Public Employees' Pension Reform Act of 2013 allows for employers like the Town of Los Gatos to negotiate employee contributions during the bargaining process for past service cost associated with the unfunded actuarial accrued liability (UAAL). This is available to the Town as part of its ongoing labor negotiations with all collective bargaining units. Any modified contribution could only be implemented with current, active employees. Employees who have retired from Los Gatos or separated from Los Gatos with eligible service credit would not be subject to any new negotiated contribution rate. This not included in current employee contracts and it may be negotiated in future labor agreements.*

2011-12 CIVIL GRAND JURY FINDING 5: **The Cities are not fully funding OPEB benefits as evidenced by large unfunded liabilities and small funded ratios.**

The Town of Los Gatos has agreed with this finding.

2011-12 Civil Grand Jury Recommendation 5: **The Cities should immediately work toward implementing policy changes and adopting measures aimed at making full OPEB ARC payments as soon as possible.**

2011-12 Town of Los Gatos response: *Los Gatos has implemented this recommendation and currently has a long-term plan in place.*

2016-17 Town of Los Gatos additional response: *The Town's current retiree healthcare unfunded obligation has decreased from \$14.5 million (June 30, 2013) to \$12.7 million (June 30, 2015). In FY 15/16, the Town payments to its retirees and the pre-funding of the Other Post Employment Benefit (OPEB) trust exceeded the actuarially required contribution levels updated by the Town actuaries in*

August 2016. To help reduce costs related to OPEB benefits, the Town successfully negotiated an agreement that employees retiring after February 1, 2016 are reimbursed to a maximum amount of benefit matching "Kaiser North" Employee or Employee plus One, once Medicare eligible age is reached. It is estimated that this cap on reimbursement will achieve approximately \$200,000 in savings per year in actuarially required contribution to the OPEB trust account. Assuming current funding levels and similar returns on investment, the Town's OPEB obligation is expected to continue to decrease in future years.

2011-12 CIVIL GRAND JURY FINDING 6: The City of San Jose should eliminate the SRBR program to prevent withdrawal of pension trust money whenever the pension-funded ratio is less than 100%.

This finding is not applicable to the Town of Los Gatos

2011-12 Civil Grand Jury Recommendation 6: The City of San Jose should eliminate the SRBR program to prevent withdrawal of pension trust money whenever the pension-funded ratio is less than 100%.

2011-12 Town of Los Gatos response: This recommendation is not applicable to the Town of Los Gatos.

2011-12 CIVIL GRAND JURY FINDING 7: The Cities' defined benefit pension plan costs are volatile. Defined contribution plans costs are predictable and therefore more manageable by the Cities.

The Town of Los Gatos has agreed with this finding.

2011-12 Civil Grand Jury Recommendation 7: The Cities should transition from defined benefit (DB) plans to defined contribution (DC) plans as the new tier plans are implemented.

2011-12 Town of Los Gatos response: Los Gatos does not have authority to change the CalPERS DB plan to a DC plan. However, should CalPERS implement this recommendation; Los Gatos will conduct further analysis.

2016-17 Town of Los Gatos additional response: The Town of Los Gatos does not have authority to change the CalPERS defined benefit plan to defined contribution plan within the existing contract with CalPERS. To implement this recommendation would require the Town to terminate its existing contract with

RESPONSE TO THE SANTA CLARA CIVIL GRAND JURY'S REQUEST DATED DECEMBER 21, 2016
FOR ADDITIONAL INFORMATION REGARDING THE TOWN'S ACTIONS RELATIVE THE GRAND
JURY'S 2011-12 PENSION AND OTHER POST-EMPLOYMENT BENEFITS (OPEB) REPORTS
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CalPERS. The current cost estimate of the plan termination is approximately \$217,000,000 which is not a realistic financial option at this time. The Town does not intend to implement this recommendation.