



CITY MANAGER

CITY HALL

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FILED

OCT 18 2012

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY D. ALDYCKI

OCTOBER 5, 2012

The Honorable Richard J. Loftus, Jr.
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

Honorable Judge Loftus:

The following is the City of Cupertino's response to the 2011-2012 Santa Clara County Civil Grand Jury Final report responding to An Analysis of Pension and Other Post Employment Benefits.

If you have any further questions, please contact me or Carol Atwood at (408) 777-3220.

Sincerely,

A handwritten signature in black ink, appearing to read "David Brandt".

David Brandt
City Manager

**ANALYSIS OF PENSION/OTHER POST EMPLOYMENT BENEFITS
FINDINGS AND RECOMMENDATIONS
CITY OF CUPERTINO
September 4, 2012**

FINDING 1

Public sector employees are eligible for retirement at least 10 years earlier than is common for private sector employees.

Recommendation 1:

The Cities should adopt pension plans to extend the retirement age beyond current retirement plan ages.

City Response 1:

The City concurs with this recommendation and is currently in negotiations to provide a 2% at 60 plan for all new employees with an effective date of January 1, 2013.

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 future 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.

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.

City Response 2A:

The City concurs with this recommendation and is currently in negotiations to provide a 2% at 60 Plan for all new employees with an effective date of January 1, 2013.

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.

City Response 2B: Not Applicable

Recommendation 2C

All Cities' new tier of 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 caps that ensure pensions do not exceed salary at retirement.

City Response 2C:

Cupertino concurs with this recommendation and is currently negotiating a two-tier plan that will raise the retirement age and utilize a three-year averaging in calculating future payouts. We have not yet addressed increasing employee contributions or adopting pension plan caps.

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.

Recommendation 3

The Cities should adopt policies that do not permit Benefit enhancements unless sufficient monies are deposited, such as in an irrevocable trust, concurrent with enacting the enhancement, to prevent an increase in unfunded liability.

City Response 3:

The City concurs with the recommendation and agrees that benefit enhancement policies should not be adopted unless sufficient monies are available to pay for the additional costs. The City has a Fiscal Strategic Plan Committee that ensures that benefit increases can be absorbed within the short term and long term budget projections.

FINDING 4

The Cities are making an overly generous contribution toward the cost of providing Benefits.

Recommendation 4A

The Cities should require all employees to pay the maximum employee contribution rate of a given plan.

City Response 4A

The City concurs with this recommendation and will consider including this in future negotiations.

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.

City Response 4B:

The City concurs with this recommendation and will consider including this in future negotiations.

FINDING 5

The Cities are not fully funding OPEB benefits as evidenced by large unfunded liabilities and small funded ratios.

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.

City Response 5:

The City concurs with the recommendation and has prepaid our OPEB obligations in the past. In Fiscal Year 12/13, City Council authorized the City Manager to pre-fund our entire OPEB obligations as a long-term financial strategy.

FINDING 6

The City of San Jose permits the transfer of pension trust fund money, when ROI exceeds expectations, to the SRBR, despite the fact that the pension trust funds are underfunded.

Recommendation 6

The City of San Jose should eliminate the SRBR program or amend the SRBR program to prevent withdrawal of pension trust money whenever the pension-funded ratio is less than 100%.

City Response 6: Not applicable

FINDING 7

The Cities' defined benefit pension plan costs are volatile. Defined contribution plan costs are predictable and therefore more manageable by the Cities.

Recommendation 7

The Cities should transition from defined benefit plans to defined contribution plans as the new tier plans are implemented.

City Response 7:

The City concurs with the recommendation and will consider including this in future negotiations.