



City of Gilroy

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Al Pinheiro
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FILED

AUG 24 2012

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

August 7, 2012

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

Dear Judge Loftus:

Thank you for the opportunity to review the 2011-2012 Santa Clara County Civil Grand Jury's (CGJ) Report regarding *An Analysis of Pension and Other Post Employment Benefits* dated June 13, 2012. This will serve as the City of Gilroy's formal response to the June 13, 2012 report. The City of Gilroy shares the Grand Jury's concerns and has already implemented some of its recommendations. The Gilroy City Council is also committed to continuing to review ways to appropriately reduce employee costs in the future; as we work to ensure that the public gets the maximum value for their tax dollar.

The following are a few points to note in evaluating the data for Gilroy included in the report:

- Gilroy safety retirement costs will go down over time as the City now has a two-tier retirement plan for new hires
- Gilroy's OPEB unfunded liability is the lowest in the County

CGJ Finding 1 – Public sector employees are eligible for retirement at least 10 years earlier than is common for private sector employees.

City Response: *Agree.*

CGJ Recommendation 1 – The Cities should adopt pension plans to extend the retirement age beyond current retirement plan ages.

City Response: *The City has adopted two-tier plans for public safety, which either extends the retirement age or reduces the benefit level. For instance the benefit level reduction to 2% at age 50 for Police also served to extend the years of service required to equal the previous benefit level earned under the 3% at age 50 benefit. The Police employees with the new formula reach a maximum of 90% of final compensation with 34 years of service. Similarly, the retirement benefit level reduction to 2% at age 55 for Fire also serves to extend the years of service required to achieve a benefit level equivalent to the previous plan. Fire employees with the new formula reach a maximum of 80% of final compensation with 40 years of service.*

CGJ 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.

City Response: *Agree.*

CGJ 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: *Changes to the pension benefits may be a subject of future negotiations with MISC as this is an item that is a mandatory subject of bargaining pursuant to the Meyers-Milias-Brown Act.*

CGJ 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 plan caps that ensure pensions do not exceed salary at retirement.

City Response: *Police and Fire employees are now required to pay the full 9% employee contribution. Additional changes to the pension benefits may be a subject of future negotiations with bargaining units as this is an item that is a mandatory subject of bargaining pursuant to the Meyers-Milias-Brown Act. The City of Gilroy understands that the State Legislature is working on pension changes that may impact the City.*

CGJ 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.

City Response: *Agree; however, decisions were previously made based on the best information that was available at the time. Contribution rates have increased due to the market crash and great recession that could not have been predicted.*

CGJ 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: *The City will take this recommendation into consideration for any future benefit changes.*

CGJ Finding 4 – The Cities are making an overly generous contribution toward the cost of providing Benefits.

City Response: *The City of Gilroy cannot respond on behalf of other cities. Gilroy has reduced the contributions paid to PERS by requiring that safety and non-safety employees pay their full employee contribution rate.*

CGJ Recommendation 4A – The Cities should require all employees to pay the maximum employee contribution rate of a given plan.

City Response: *Gilroy already requires all employees to pay the maximum employee contribution rate.*

CGJ 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: *Changes to the pension benefits may be a subject of future negotiations as this is an item that is a mandatory subject of bargaining pursuant to the Meyers-Milias-Brown Act.*

CGJ Finding 5 – The Cities are not fully funding OPEB benefits as evidenced by large unfunded liabilities and small funded ratios.

City Response: *Agree that many cities are not fully funding OPEB benefits; however, the City of Gilroy has less costly plans than other agencies, with the lowest unfunded liability and longest vesting period in the County. The City's retention/recognition incentive benefit program is a defined benefit and has a fixed benefit period.*

CGJ 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: *Gilroy has previously studied OPEB costs to ensure proper evaluation of funding options with each budget and audit cycle. The City will continue to take this recommendation into consideration during its budget process.*

CGJ Finding 7 – The Cities' defined benefit pension plan costs are volatile. Defined contribution plan costs are predictable and therefore more manageable by the Cities.

City Response: *The City agrees that as a result of the worldwide economic downturn, pension costs were volatile for the past few years, but also notes that the volatility has begun to ease.*

CGJ Recommendation 7 – The Cities should transition from defined benefit plans to defined contribution plans as the new tier plans are implemented.

City Response: *Changes to the pension benefits may be a subject of future negotiations as this is an item that is a mandatory subject of bargaining pursuant to the Meyers-Milias-Brown Act.*

Please feel free to contact me or Gilroy City Administrator Thomas J. Haglund if you seek additional information or have any questions regarding this response to the CGJ report.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al Pinheiro', followed by a horizontal line extending to the right.

Al Pinheiro
Mayor

Cc: Members of the City Council
Thomas J. Haglund, City Administrator
LeeAnn McPhillips, Human Resources Director
Christina Turner, Finance Director