



City of Gilroy

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AL PINHEIRO
MAYOR

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

Honorable Jamie Jacobs-May
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

Dear Judge Jacobs-May:

Thank you for the opportunity to review the 2009-2010 Santa Clara County Civil Grand Jury's Report regarding **Cities Must Rein In Unsustainable Employee Costs** dated May 26, 2010. I am writing to you on behalf of the Gilroy City Council. This will serve as the City of Gilroy's formal response to the May 26, 2010 report. The City Council has reviewed this letter and has authorized that it be sent at their meeting of July 19, 2010. 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 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 has the lowest total compensation of all of the cities in Santa Clara County. This was the case in 2000-2001 and remains the case in 2009-2010.
- Gilroy has the lowest percentage of General Fund for overall employee cost when compared to other selected full service cities in Santa Clara County.
- At the time of the data collection, Gilroy's safety retirement costs were amongst the highest in the County, however, with the approval of the new agreement with Local 2805, the City's cost for fire safety retirement will move to the lower end of the county-wide comparison and the new agreement also includes a two-tier retirement plan for new hires which is expected to reduce retirement expenses in the long-term.
- Non-safety employee retirement costs are the second lowest in the county.
- Gilroy's OPEB costs are amongst the lowest in the country at .02% of salary.
- Gilroy does not cash out sick leave upon separation, but rather has an incentive to report sick time at time of retirement allowing the employee to earn up to one year of additional service credit based upon the number of sick leave hours on the books at the time of retirement.

- Gilroy has developed a regional approach to comparability of salaries looking at agencies to the north, south, east and west of Gilroy when evaluating survey data. Gilroy has resisted the “Santa Clara County” comparison circle opting for a more realistic group of comparators from where Gilroy employees live and are recruited.
- Gilroy has consolidated services with other agencies as follows:
 - A pilot program for shared Battalion/Division Chief services is currently in place with Santa Clara County Fire Department and Cal Fire.
 - Environmental Program services are being provided to Gilroy under contract with the City of Morgan Hill.
 - Gilroy’s library services are provided by the Santa Clara County Library System.
 - Gilroy has collaborated with many private sector recreation providers for the provision of cost-effective recreation programs and services for the Gilroy community.
 - Gilroy has outsources a variety of services in an effort to achieve savings and provide quality services: landscaping services, janitorial services, street sweeping services, tree trimming services, and trash collection services.
 - Gilroy and Morgan Hill jointly operate the South County Regional Wastewater Authority (SCRWA) and contract for operation with a private company.

Finding 1 - The costs of total compensation for employees has grown substantially in the past decade and now threaten the cities’ fiscal stability.

City Response: *Agree.*

Recommendation 1 – All of the cities in the County need to implement measures that will control employee costs. As a starting point, each city should determine the percentage of savings required from the total compensation package to reach budget stability, and provide choices of wages and benefits in collective bargaining sessions for the unions to choose to achieve that percentage goal.

City Response: *Wages are a mandatory subject of bargaining pursuant to collective bargaining laws. The Gilroy City Council has implemented the savings approach noted above relative to the negotiations process. Concession agreements that achieved the Council’s fiscal goal were implemented for FY 10, and with some employee groups for FY 11. Negotiations that are currently underway are following this approach as well.*

Finding 2 – Salary and wage increases do not reflect change in economic conditions; e.g. even with minimal inflation, yearly COLAs are granted with little bearing on the actual increase in cost of living or market conditions.

City Response: *Agree in part. Historically, the bargaining process included negotiated increases that were not simply tied to economic indices, but rather sought to incorporate Gilroy specific needs in attracting and retaining employees. More recently, however, wages have been frozen or reduced in order to reduce future expenditures.*

Recommendation 2 – Cities should not increase salaries and wages that are not supported by planned revenue increases. Cities should tie COLA increases to clear indicators and retain the ability to adjust or withhold based on current economic data.

City Response: Wages are a mandatory subject of bargaining pursuant to collective bargaining laws. The recommendation has been implemented. Currently, wage increases are not being provided to employees given the current economic data. Further, the City has requested employee groups with closed contracts to return to the bargaining table for purposes of achieving concessions. Employee groups with scheduled increases have been willing to return to the bargaining table and have given up future wage increases to assist the City in balancing the budget and to avoid further employee layoffs and service reductions.

Finding 3 – Step increases are arbitrary and do not adequately represent an employee’s added value to a city. Combined with COLAs, new employees’ wages increase quickly and are not necessarily reflective of improved knowledge and skills.

City Response: Agree in part and disagree in part. In Gilroy, step increases are specifically tied to the employee’s performance appraisal, which does include evaluation of knowledge and skills related to the job. Employees may be denied a step increase if the work performance is not meeting standards. It is agreed, however, that when COLAs are being provided to all employees, new employee wages can increase quickly if the new employee is also eligible for a merit step increase in the same year.

Recommendation 3 – Cities should negotiate step progressions from the current three and a half years to seven years. Employees should not receive COLA increases while in step progression.

City Response: Changes to the step system may be a subject of future negotiations with each labor group as an item that is a mandatory subject of bargaining pursuant to the Meyers-Milias-Brown Act.

Finding 4 – Medical insurance costs for active employees are growing year after year at rates that exceed most cities’ revenue growth, while the employee contribution to medical care is minimal.

City Response: Agree in part and disagree in part. Several years ago the Gilroy City Council set a priority of securing and implementing caps on health care costs and negotiated contribution caps with all employee groups. The caps help to control the City’s costs for health care and allow the city to budget and plan for agreed upon benefits. As a result, the employee’s share of health care premiums has increased and the majority of employees pay a portion of the monthly premiums for medical/dental insurance. In addition, Gilroy has a program that allows an employee to waive medical insurance if the employee is enrolled in another plan. The employee can receive a lesser cash payment in lieu of the more expensive medical insurance coverage, which results in substantial budgetary savings for the agency. Last, Gilroy is a member of the Public Employees Medical and Hospital Care Act (PEMHCA) program offered through CalPERS. The purchasing power of this large group has allowed Gilroy to access competitive rates that likely would have been much higher if Gilroy was an independent plan.

Recommendation 4 – Cities should negotiate that employees assume some of these increased costs for their medical benefits. To contain medical costs cities should consider the following:

- A. Split monthly premiums between the city and the employee and increase the employee’s share, if already cost splitting, and remove any employee caps.
- B. Establish reasonable co-pays for doctors’ visits, prescription drugs, and in-patient and out-patient hospital care.
- C. Prohibit an employee from being covered by both city-provided medical benefits and as a dependent of another city employee.
- D. Reduce cash in-lieu payments.
- E. Introduce a new lower premium, high deductible medical plan.

City Response: Changes to health care benefits are a mandatory subject of bargaining under collective bargaining law. Gilroy has already implemented a majority of this recommendation. Currently, monthly premiums are shared between the city and the employee without a cap on the employees’ costs if the premium increase exceeds the increase to the city contribution. Currently, co-pays are in place for doctor visits, prescriptions, in-patient care, and out-patient care. Employees cannot be enrolled in more than one medical insurance plan. Further, employees who are a dependent on another outside health plan can waive medical insurance coverage through the city in exchange for a cash in-lieu benefit equal to the employee only contribution. This results in substantial savings to the city. Currently, PEMHCA does not provide a high deductible health plan option though this may be an option for consideration in the future.

Finding 5 – Pension formula changes instituted in the past decade, stock market losses, the aging “baby boomer” work force, and the growing unfunded pension and OPEB liability all contribute to making retiree pension and health care costs the most problematic and unsustainable expense the cities are facing. The city contribution to pension plans and OPEBs far exceeds the employee contribution.

City Response: Agree in part and disagree in part. Gilroy agrees that pension costs, generally, are rising to an unsustainable level and are straining the fiscal health of our city. Current costs as well as future rate increases are problematic thus making pension plan cost reductions a top priority for the Gilroy City Council. The city and Gilroy firefighters association recently reached agreement on a two-tier pension plan as well as a shift in the employer paid member contributions with the firefighters now paying the full 9% employee contribution. Non-safety employees have paid the full employee contribution since 2002. Gilroy’s OPEB costs, however, are one of the lowest in the county and have been set at a minimal level. The retiree contribution for health care far exceeds the contribution from the city.

Recommendation 5a – Cities should:

1. Renegotiate and make provisions for increasing the employees’ contributions for current pension plans.
2. Renegotiate to stop paying the employees’ contribution amount to pension plans.
3. Renegotiate to implement a contribution amount for employees to OPEB; this contribution should provide for a reasonable split of costs between a city and the employee for retiree medical and dental benefits.

City Response: *Changes to pension/retirement benefits are a mandatory subject of bargaining under collective bargaining law. Gilroy has made it a priority to reduce pension costs and will continue implementation efforts subject to applicable statutes governing collective bargaining. As noted above, the non-safety employees currently pay the full employee contribution to CalPERS. Further, as noted in the report, the non-safety employer rate for pension benefits is the second lowest in the County. The city recently reached an agreement the Gilroy firefighters association to discontinue the city payment of the 9% employee contribution to CalPERS shifting this cost to the employees. Negotiations are currently underway with the Gilroy police officers association and pension costs are under discussion. As stated above, the City of Gilroy's OPEB costs are minimal. The minimum employer contribution for health benefits is provided and the Recognition/Retention Program provides for a post employment benefit of up to \$300 per month until age 65 if the employee reaches the established tenure and retires from the City of Gilroy pursuant to the retention policy guidelines. Gilroy does not have any other OPEB benefits for retirees.*

Recommendation 5b – Cities should thoroughly investigate reverting to prior pension formulas that were less costly.

City Response: *Changes to pension/retirement benefits are a mandatory subject of bargaining under collective bargaining law. The Gilroy Council has made the reduction of pension costs a top priority and has endorsed the Santa Clara County City Managers Association statement of principles calling for addressing two-tier retirement in new labor contracts. The City and Gilroy firefighters association recently reached agreement on a two-tier plan with new hires falling under the 2% at 55 program. Negotiations with the Gilroy police officers association are currently underway and pension plans are a topic of discussion.*

Recommendation 5c – To provide a meaningful, long-term solution, the cities should negotiate agreements to:

- 1) Institute a two-tier system for pension and retiree health care for new hires.
- 2) Increase the retirement age from 50 or 55 to 60 or 65.
- 3) Calculate pensions on the last three to five years of salary.
- 4) Replace current post-employment health care plans with health savings plans.

City Response: *Changes to pension/retirement benefits are a mandatory subject of bargaining under collective bargaining law. As noted above, reducing pension costs is a priority for the Gilroy City Council. A two-tier system was recently agreed upon with the Gilroy firefighters association. This will remain a top priority with other labor groups as contracts come open for negotiations. The agreement with the Gilroy firefighters association shifts the pension plan from the single highest year to the highest three years for all new hires. The City has the lowest possible employer contribution toward retiree health care allowed under the PEMCHA plan resulting in the bulk of retiree health care premium costs being the responsibility of the retiree.*

Finding 6 – Public sector employees are granted a generous number of holidays, personal days, vacation days and sick leave annually. Rules and limits on accrual vary by city and union, but vacation days and sick leave can be accumulated and converted to cash or calculated into the pension benefit within those limits.

City Response: *Agree.*

Recommendation 6a – Cities should renegotiate with the bargaining units to 1) reduce vacation time; 2) reduce the number of holidays and/or personal days; 3) cap sick leave and eliminate the practice of converting accumulated sick leave to cash or adding into their years of service for inclusion in their retirement benefit.

City Response: *Vacation, holiday, and personal leave time reduction may be a subject of future bargaining with labor groups as a mandatory subject of bargaining under the Meyers Miliias Brown Act. For FY 10 and FY11 the city and Gilroy firefighters association have reached agreement to eliminate 24 hours of annual personal leave time. In Gilroy, sick leave cannot be cashed out. The conversion of sick leave for up to one year of service time with the CalPERS pension plan is a benefit that has been negotiated with labor groups. While this may be a future subject of negotiations, the benefit provides an incentive for employees to judiciously use sick leave accruals, which can result in savings to the city as well as increased productivity.*

Recommendation 6b – Cities should negotiate to substitute paid days off for unpaid days instead of imposing furloughs. For example, reduce paid holidays to major holidays only, consistent with private industry; and convert minor holidays to unpaid. Therefore, the public is not impacted by fewer services caused by furloughs, and the city saves the employee cost.

City Response: *Changes to holidays and leave time benefits are a mandatory subject of bargaining under collective bargaining law. Currently, Gilroy observes 10 major holidays that are fairly consistent with private industry. Gilroy is one of two agencies in Santa Clara County with the lowest number of holidays. This recommendation could be explored by the city during future bargaining on the issue.*

Finding 7 – Cities traditionally determine their compensation packages by surveying the wages and benefits of other public sector employees in the same geographic area. There is major resistance to comparing themselves or mirroring trends with the private sector. This has allowed wages and benefits to become artificially high and out of sync with market trends.

City Response: *Agree in part, disagree in part. The City agrees that the public sector predominately compares to other public sector jurisdictions with the same or similar job classifications. However, the City of Gilroy does not compare to all Santa Clara County Cities, nor does it establish its comparison cities based on geography alone. Other factors such as population, socio-economic status, budget size, and similar services are key components of identifying a comparable jurisdiction. Gilroy's process eliminated most Santa Clara County cities from inclusion in its comparison model. The Grand Jury's suggestion to include appropriate private sector comparisons can be explored during successive negotiations with bargaining units conducted in accordance with state law.*

Recommendation 7a – Cities should research competitive hiring practices and alter the approach to determine fair wages and benefits for each city by using public and private sector data.

City Response: *Changes to wage and benefit packages are a mandatory subject of bargaining under collective bargaining law. The City of Gilroy is willing to consider use of private sector employment data, if available, for purposes of comparing similarly situated job classifications.*

Recommendation 7b – Cities should renegotiate salaries and wages using valid market comparisons and not only the current wage index. Cities should utilize more market-oriented compensation practices so that salaries can adjust as competition for labor changes. Cities should reduce entry-level compensation for positions for which there are many qualified applicants.

City Response: *Changes to wage and benefit packages are a mandatory subject of bargaining under collective bargaining law. The City agrees with this recommendation and this recommendation could be explored by the city during future bargaining on the issue.*

Finding 8 – All cities perform certain core functions to run smoothly and provide services to their residents. To reduce employee costs and streamline operations, the cities are in various stages of contracting services to private industry or partnering with other cities, special districts, or the County to deliver services.

City Response: *Agree.*

Recommendation 8a – Cities should explore outsourcing some functions and services to private industry. Cities should discuss the prospect with cities that are successfully doing this to determine best practices and areas for success. Cities should develop contracts with measurable objectives, performance goals, and timelines.

City Response: *Gilroy has implemented contracting with the private sector in several areas, including, but not limited to: landscaping, street sweeping, tree trimming, janitorial services, claims administration, legal services, and trash collection, waste water treatment plant. Gilroy's contract for services provides a template to establish performance goals and timelines as well as measurable objectives. Gilroy will continue to explore cost-effective opportunities for privatization. Contracting out work currently performed by bargaining unit employees is subject to impact bargaining pursuant to collective bargaining laws. Further, in some situations, the actual decision to contract out may also be a mandatory subject of bargaining pursuant to case law (see Rialto Police Benefit Association v. City of Rialto).*

Recommendation 8b – Cities should create partnerships with other cities, special districts, and/or the County for services such as payroll, human resources, animal control, police and fire. Cities should investigate sharing the cost of new information technology systems.

City Response: *The City presently operates partnerships with other cities and special districts and continues to explore viable options that will further streamline appropriate to the City's service needs. Like contracting out, shifting work to another entity when the work is currently performed by bargaining unit employees is subject to impact bargaining pursuant to collective bargaining laws.*

Further, in some situations, the actual decision to contract out may also be a mandatory subject of bargaining pursuant to case law (see Rialto Police Benefit Association v. City of Rialto).

Finding 9 – Cities can gain operational efficiencies and effectiveness with lower employee costs by making sure they are staffed with the correct numbers of people in the appropriate job classifications in all departments and work groups.

City Response: *Agree.*

Recommendation 9 – Cities should analyze the functions performed by all job classifications and make adjustments in the work force. Consolidate functions within the same group or a similar group. Reassign appropriate work to lower paid job classifications. Eliminate unnecessary functions.

City Response: *Gilroy has always strived to be an efficient and effectively staffed organization. Changes to staffing receive careful review and consideration and are included in the budget process. Further as vacancies in staffing arise, careful consideration of the vacant position is completed before refilling the position and any changes to the job classification are pursued. In May of 2008, the city eliminated 23 vacant positions as a cost saving measure. Further, in January of 2009, 48 positions were eliminated most of which were filled resulting in layoffs. Reductions occurred in all departments and at all levels of the organization. This significant organizational staffing reduction has necessitated the consolidation of duties, elimination of unnecessary work, and regular pursuit of efficiencies in an effort to maintain quality services to the public. Layoffs and substantive job changes are subject to impact bargaining pursuant to collective bargaining laws.*

Finding 11 – In many cities, the contract negotiation process is completed by placing the negotiated collective bargaining agreement on the consent calendar for approval, which is acted on quickly at the start of council meetings by a single motion vote of the council.

City Response: *Disagree. The Gilroy City Council gives careful review and consideration of all new labor agreements and they are placed on the agenda as a new business item. Public comment time is provided for each item as well as council discussion before any motions are made by council members.*

Recommendation 11 – Cities should consider holding well-publicized public hearings about the cities' goals of negotiations before negotiations begin, and again at the end of negotiations to report to the citizens what changes have been made in contracts.

City Response: *The Gilroy City Council has held various discussions at annual goal setting sessions on topic related to negotiations such as salary costs, pension costs, and contracting out. Council goal setting sessions are well publicized and open to the public. Further, during contract negotiations, the Gilroy Council posts all closed session meetings on the agenda and allows for public comment prior to each closed session meeting. As noted above, once an agreement is reached, the agenda item is placed on the agenda in the new business section allowing for full public access, public comment, and council review and discussion prior to any motions. In addition, it is not uncommon for the Council to issue a*

press release to advise the public via the media as to the agreements that have been reached with labor.

Finding 12 – Current contracts were negotiated in good faith by representatives of the cities and the bargaining units; they were approved by the City Councils. Promises made to employees were made by elected officials, past and present. Responsibility for formulating and approving solutions to restore the cities' financial stability resides squarely with our elected officials. The economic downturn has placed additional pressure on the situation.

City Response: *Agree.*

Recommendation 12a – City council members and mayors should become better informed about the fiscal realities in their cities, long-term costs and commitments, and be cognizant of potential issues in labor agreements.

City Response: *The Gilroy council has become well versed in the labor contracts associated with each labor group. Further, detailed costing sheets are provided to the Council by staff regarding items under discussion in an effort to ensure that the council is making well-informed decisions. The council and staff will continue to pursue this education and sharing of information for all future negotiations.*

Recommendation 12b – City councils and mayors should direct city administrators to (re)negotiate collective bargaining agreements that reverse the escalation of employee costs through concessions, cost sharing, and a second tier for new employees.

City Response: *This is underway in Gilroy and the recent agreement with the Gilroy firefighters association is a good example. The Gilroy firefighters came to the bargaining table with a closed contract and a new agreement has resulted in various salary and benefit concessions, cost sharing for retirement, and a new two-tier retirement plan for new hires. In addition, the Gilroy AFSCME organization also came to the bargaining table with a closed contract giving up future negotiated increases and proving cost saving concessions. All employees in Gilroy, including the Gilroy City Council, provided concessions in the 10% range for FY 10.*

Recommendation 12c – City councils and mayors should meet with the bargaining units to clearly outline the cities' financial health and show how employee costs are impacting the budget.

City Response: *This has occurred in Gilroy with the recent budget deficit, position reductions, and concession bargaining sessions that have taken place. The mayor met with each bargaining unit explaining the need to reduce expenditures and work as a team in ensuring a balanced budget. The Gilroy council has clearly communicated the city's fiscal situation to the labor groups as a precursor to negotiating concessions with each of the labor groups. In addition, the City Administrator and Finance Director have pro-actively met with labor groups to provide budget information. This sharing of budget information will continue going forward.*

Recommendation 12d – City councils and mayors should inform citizens of their plans for controlling unsustainable employee costs and remove politics from the equation.

City Response: The Gilroy council has utilized the public meeting forum and the local press to communicate to the citizens of Gilroy their priority of reducing employee costs. As noted above, the Council holds annual goal setting sessions and employee salary and benefits costs have been a topic of past meetings. The Gilroy council will continue to make this a priority and will continue to keep the public informed of their plans for controlling these and other costs.

Additionally, the City would like to bring to your attention the following factual inaccuracies contained in the Grand Jury's report:

- On page 13, table 7 of the report it should be noted that Gilroy observes 10 holidays and non-exempt safety employees receive holiday pay in lieu of holiday time off.
- On page 13, table 7 of the report it should be noted that personal leave varies by labor unit.

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 SCCCGJ report.

Sincerely,



Al Pinheiro
Mayor

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