



CITY OF MILPITAS
OFFICE OF MAYOR JOSE S. ESTEVES

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
PHONE: 408-586-3029, FAX: 408-586-3056, www.ci.milpitas.ca.gov

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

September 6, 2012

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

Dear Judge Loftus:

The City of Milpitas is in receipt of your June 13, 2012 letter referencing the 2011-2012 Santa Clara County Civil Grand Jury Final Report, **An Analysis of Pension and Other Post Employment Benefits (OPEB)**.

This letter serves as our response to the Grand Jury's report, per § 933(c) of the California Penal Code, which requires the governing body of any agency or department which has been the subject of a Grand Jury report to respond to the Presiding Judge of the Superior Court on the findings and recommendations of the Grand Jury.

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:

- The City of Milpitas agrees with Finding 1.
- Recommendation 1 has been implemented. The City of Milpitas adopted two-tier pension plans for both miscellaneous employees and public safety employees on October 9, 2011 and March 6, 2012, respectively. The new tier extends the retirement age and reduces the benefit level. All new hires will be brought in under second tier pension plan of either 3% at 55 for public safety employees or 2% at 60 for miscellaneous employees.

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.

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.

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:

- The City of Milpitas agrees with Finding 2 that further changes are needed to address today's unfunded liability.
- Recommendation 2A does not apply to the City of Milpitas.
- Recommendation 2B has been implemented. The City of Milpitas adopted two-tier pension plans for both miscellaneous employees and public safety employees on October 9, 2011 and March 6, 2012, respectively.
- Recommendation 2C has been partially implemented. The City of Milpitas adopted two-tier pension plans that increase retirement age from 2.7% at 55 to 2% at 60 for miscellaneous employees and from 3% at 50 to 3% at 55 for Public Safety employees. Furthermore, the City of Milpitas has negotiated through MOUs or Side Letters with some employee groups to require employees to contribute a certain percentage of their salaries toward City's share of the pension costs, in addition to the employees' maximum share. The two-tier pension plans that were recommended by the Grand Jury to increase employee contributions and adopt pension caps have not been implemented nor offered by CalPERS. The City of Milpitas may consider this alternative when it is implemented by CalPERS.

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:

- The City of Milpitas agrees with Finding 3, especially with regards to retroactive benefit enhancements made in early 2000s.
- The City of Milpitas will not implement Recommendation 3 because further analysis is needed and there is no guarantee that unfunded liability will not increase despite monies deposited in an irrevocable trust.

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.

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:

- The City of Milpitas agrees with Finding 4, especially with regards to retroactive benefit enhancements.
- Recommendation 4A has been implemented. The City of Milpitas employees have been paying the maximum employee contribution rate for years. The Miscellaneous employees pay 8% and public safety employees pay 9%.
- Recommendation 4B has been implemented. The City of Milpitas has negotiated through MOUs or Side Letters with some employee groups to require employees to contribute a certain percentage of their salaries toward City's share of the pension costs, in addition to the employees' maximum share. Employees' contributions range from 7% to 15.4%.

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:

- The City of Milpitas agrees with Finding 5.
- The City of Milpitas has implemented Recommendation 5. The City of Milpitas began making contributions to an irrevocable trust for retirees' medical benefits since FY 2007-08 and has been funding the full Annual Required Contribution (ARC) every year. The City of Milpitas unfunded liability has been reduced from \$36.3 million as of July 2007 to \$29.7 million as of June 2011.

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 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:

- Finding 6 and Recommendation 6 does not apply to City of Milpitas.

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:

- The City of Milpitas agrees with Finding 7.
- The City of Milpitas will not implement Recommendation 7. The City needs further analysis with regards to employees' compensation package and the City's ability to attract quality employees for key positions.

Should you have any questions or concerns regarding our response, please feel free to call Thomas C. Williams, Milpitas City Manager, at (408) 586-3050.

Sincerely,



José S. Esteves
Mayor
City of Milpitas

c: City Council
City Manager Thomas C. Williams