

September 23, 2013

HAND DELIVERED

The Honorable Brian C. Walsh
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

Re: Grand Jury Report

Dear Judge Walsh:

Pursuant to California Penal Code section 933, et seq., please accept the City's response to the 2012-2013 Santa Clara County Civil Grand Jury Report, "The State of Public Safety Disability Retirement Rates in the County." The City's response approved by the Mayor and the City Council is enclosed for your review.

Please feel free to contact me if you have any questions. Thank you for your consideration.

Very truly yours,


RICHARD DOYLE
City Attorney

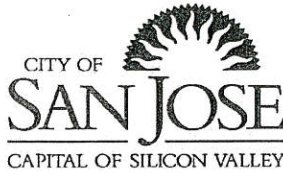
RD:SH
Enclosures

cc: Mayor Chuck Reed
Debra Figone, City Manager
Alex Gurza, Deputy City Manager

FILED

SEP 23 2013

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



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: September 5, 2013

Approved

Date

9/6/13

SUBJECT: SANTA CLARA COUNTY CIVIL GRAND JURY REPORT – THE STATE OF PUBLIC SAFETY DISABILITY RETIREMENT RATES IN THE COUNTY

RECOMMENDATION

It is recommended that the Mayor and City Council approve this response to the 2012-2013 Santa Clara County Civil Grand Jury Report entitled “The State of Public Safety Disability Retirement Rates in the County.”

OUTCOME

Approval of this report will satisfy the requirements of Penal Code Section 933(c), which requires the City Council to respond to Civil Grand Jury reports to the presiding judge of the Superior Court.

BACKGROUND

Grand Jury Report

The Santa Clara County Civil Grand Jury conducted an analysis of the job-related disabilities retirements in the 12 agencies in Santa Clara County that have Public Safety Employees. As such, the Grand Jury provided the City with its final report, including findings and recommendations, entitled “The State of Public Safety Disability Retirement Rates in the County.” (Please see the attachment.) The Grand Jury report followed a 2011 City of San Jose

Auditor report entitled, *Disability Retirements: A Program in Need of Reform*. The City of San Jose Auditor's report had concluded that there were a high number of disability retirements among sworn personnel and the factors leading to those high numbers needed to be addressed in the City of San Jose. The Grand Jury notes that the City of San Jose brought to light the need for sworn disability retirement reform that San Jose included in Measure B. The Grand Jury decided to focus its investigation on the disability rates of the other agencies in the County and sought to understand the processes the agencies use to grant a "job-related" disability.

The report contains seven (7) findings with applicable recommendations to several cities (Gilroy, Los Altos, Morgan Hill and Palo Alto) in Santa Clara County; however, there are no specific recommendations for the City of San Jose. The City has responded to each of those findings and recommendations in accordance with California Penal Code Section 933.05, which states that the responding person or entity shall indicate one of the following with respect to each finding and recommendation:

Finding:

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons thereafter.

Recommendation:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

The summary of the report indicates that over the past five years 27% all of retirements granted have been "job-related" disability applications in the agencies. The Grand Jury report concluded that "low IDR rates are good and entities should be assessing whether factors within their control can reduce their rates to the lowest rate possible."

GRAND JURY FINDINGS, RECOMMENDATIONS AND CITY'S RESPONSE

Grand Jury Finding 1

Averaged over the past five years, the City of Gilroy has the second highest IDR

City Response to Finding 1

The City takes no position on this finding in that it addresses an issue specific to another agency.

Grand Jury Recommendation 1A

The City of Gilroy should identify what factors influence its IDR Rate

City Response to Recommendation 1A

The recommendation will not be implemented because it addresses an issue specific to another agency.

Grand Jury Recommendation 1B

The City of Gilroy should implement a plan to lower its IDR rate.

City Response to Recommendation 1B

The recommendation will not be implemented because it addresses an issue specific to another agency.

Grand Jury Finding 2

Averaged over the past five years, the City of Los Altos has the highest police department-only IDR rate of 19%.

City Response to Finding 2

The City takes no position on this finding in that it addresses an issue specific to another agency.

Grand Jury Recommendation 2A

The City of Los Altos should identify what factors influence its IDR rate.

City Response to Recommendation 2B

The recommendation will not be implemented because it addresses an issue specific to another agency.

Grand Jury Recommendation 2B

The City of Los Altos should implement a plan to lower its IDR rate.

City Response to Recommendation 2C

The recommendation will not be implemented because it addresses an issue specific to another agency.

Grand Jury Finding 3

The City of Morgan Hill did not provide the Grand Jury the number of police department service and disability retirements for the past 5 years.

City Response to Finding 3

The City takes no position on this finding in that it addresses an issue specific to another agency.

Grand Jury Recommendation 3A

The City of Morgan Hill should obtain its police department retirement records and determine the IDR rate for the past 5 years.

City Response to Recommendation 3A

The recommendation will not be implemented because it addresses an issue specific to another agency.

Grand Jury Recommendation 3B

The City of Morgan Hill should continue to retain its police department records,

City Response to Recommendation 3B

The recommendation will not be implemented because it addresses an issue specific to another agency.

Grand Jury Recommendation 3C

The City of Morgan Hill should compare its IDR rate to the IDR rates of the other police department-only entities in the county, as provided in this report.

City Response to Recommendation 3C

The recommendation will not be implemented because it addresses an issue specific to another agency.

Grand Jury Finding 4

Average of the past five years, the City of Palo Alto has the highest IDR rate in the county at 51%

City Response to Finding 4

The City takes no position on this finding in that it addresses an issue specific to another agency.

Grand Jury Recommendation 4A

The City of Palo Alto should identify what factors other than its high percentage of firefighters influence its IDR rate.

City Response to Recommendation 4A

The recommendation will not be implemented because it addresses an issue specific to another agency.

Grand Jury Recommendation 4B

The City of Palo Alto should implement a plan to lower its IDR rate.

HONORABLE MAYOR AND CITY COUNCIL

September 5, 2013

Subject: Response to the Civil Grand Jury Report Entitled "THE STATE OF PUBLIC SAFETY DISABILITY RETIREMENT RATES IN THE COUNTY"

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City Response to Recommendation 5

The recommendation will not be implemented because it addresses an issue specific to another agency.

PUBLIC OUTREACH/INTEREST

By the very nature of the Grand Jury's report and its release, public outreach requirements have been met. Additionally, upon approval of this memorandum by Council, the City Attorney will submit the memorandum to the presiding judge of the Superior Court, as required under Penal Code Section 933(c).

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

CEQA

Not a project, File No.PP10-069(a) (Staff Reports/Assessments/Annual Reports/Information Memos. City Manager's Office)



Alex Gurza
Deputy City Manager

For additional information on this report, contact Alex Gurza, Deputy City Manager, at 535-8150.

Attachment