

SANTA CLARA

C A L I F O R N I A

FILED

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

August 31, 2011



Mayor

Jamie L. Matthews

Council Members

- Lisa M. Gillmor
- Will Kennedy
- Patrick Kolstad
- Patricia Mahan
- Jamie McLeod
- Kevin Moore

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

Dear Judge Loftus:

Per California Penal Code sections 933(c) and 933.05, please find below the City of Santa Clara's responses to the findings and recommendations found in the 2010-2011 Santa Clara County Civil Grand Jury Report, "*Rehiring of Pensioners: Bad Policy, Good Business or Both?*"

**Finding 1:**

**In spite of public opinion, there are situations that warrant rehiring pensioners and often it makes good business sense to do so. All managers interviewed follow existing procedures, which allow rehiring of pensioners.**

**City Response to Finding 1:**

The City agrees with the finding.

**Recommendation 1:**

**If the County or the City/Town of Campbell, Los Gatos, Monte Sereno, Morgan Hill, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, Sunnyvale desire to end the practice of rehiring pensioners, they should make that official by means of a policy decision.**

**City Response to Recommendation 1:**

The recommendation will not be implemented because it is not warranted.

If the City of Santa Clara (City) desires to end the practice of rehiring pensioners, the City Manager would make that decision official. However, the City believes that hiring of retired employees can be cost efficient, providing the City the opportunity to continue to utilize the expertise and the employees' years of experience working with the City on a part-time, limited basis.

Having the option to rehire pensioners in an “As Needed” or “Temporary Status” is an invaluable resource. The City has access to a resource with specialized direct skills and/or the institutional knowledge to “hit the ground running” when specific and or critical situations arise. The retired employee is limited to a maximum of 960 hours per year that they can work. In this case, the worker is receiving their retirement income from CalPERS, and an hourly rate of pay from the agency for whom they work with no benefits. It is important to note that the agency is not paying additional retirement benefits to this former employee nor is the agency contributing to the retirement income that the annuitant currently receives. Rehiring pensioners has been fiscally prudent for the City.

Generally, a retired person is rehired because of that person’s extensive knowledge and ability to work on significant issues that face the agency. Because of their local knowledge and experience, the employee is able to work more efficiently and at a lower cost than someone else who is taking on the job for the first time.

**Finding 2:**

**For over six years, the City of Santa Clara has filled a previously 24/7 type of management job with a part-time employee. Clearly, the job is not a temporary or limited-time-urgent-needs position and six years is more than sufficient time to find a replacement.**

**City Response to Finding 2:**

The City agrees with finding.

**Recommendation 2:**

**The City of Santa Clara should consider consolidating with another agency’s fire services and eliminate the part-time fire chief position or fill the position with a permanent part-time employee.**

**City Response to Recommendation 2:**

The recommendation will not be implemented because it is not warranted or is not reasonable.

The City of Santa Clara (City) does not support the recommendation of consolidating with another agency’s fire services and eliminate the part-time fire chief position or fill the position with a permanent part-time employee.

The City has determined that it needs a full-time Fire Chief. The Fire Chief is a critical key classification to the City’s executive team. The position has an essential leadership role to the City of Santa Clara’s Fire Department as well as contributes to the public safety and citywide emergency response leadership for the City. Also, due to the size

and complexity of the City with a significant business and industrial base, as well as its own Electric, Water and Sewer Utilities, the need for a full-time Fire Chief is determined to be appropriate. Planning for a competitive process was initiated in December, 2010; and the process should be completed in October, 2011.

The City acknowledges the need to fill the Fire Chief vacancy. The City of Santa Clara attempted to recruit and fill the position of Fire Chief soon after the retirement of the full-time Fire Chief. That specific recruitment was not successful.

The City was fortunate to have a retired Fire Chief that had the in-depth subject matter, expertise and institutional knowledge of the City. These strengths along with a strong staff afforded the City the ability to staff a temporary part-time Fire Chief to a critical position.

The temporary assignment allowed for growth to both internal and external future Fire Chief candidates to both realize additional experience and leadership skills to qualify and compete for this critical key position.

The City began discussions to begin a new Fire Chief recruitment at the end of calendar year 2010. The position has been opened as a competitive process and the selection of a new Fire Chief is underway with an anticipated conclusion in October, 2011.

**Finding 3:**

**The fifteen towns and cities – Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Morgan Hill, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, Sunnyvale-and the County may be inadvertently creating a demand to rehire pensioners because the public sector retirement age is relatively young at 50 (police and fire) or 55 (administrative positions).**

**City Response to Finding 3:**

The City agrees with finding.

**Recommendation 3:**

**The fifteen towns and cities – Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Morgan Hill, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, Sunnyvale- and the County should continue to pursue a higher retirement age with its public sector unions and associations.**

**City Response to Recommendation 3:**


The recommendation has not yet been implemented, but may be implemented in the future.


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The City of Santa Clara's City Manager has been given City Council approval to discuss with Bargaining Units the possibility of implementing a two-tier pension plan for new employees with CalPERS. These discussions are underway with nine (9) of ten (10) employee bargaining groups. These discussions include review of options such as different retirement benefit age and calculating retirement wages based on average of last three years and other options that may be available.

If there are any questions in regards to the City's response to the Grand Jury's findings and recommendations, please contact City Manager Jennifer Sparacino at (408) 615-2210. Thank you for the opportunity to comment on the report.

Sincerely,

  
Jamie L. Matthews  
Mayor

  
Jennifer Sparacino  
City Manager

JLM:JS:yfg

cc: City Council  
Phil Kleinheinz, Fire Chief  
Elizabeth Brown, Director of Human Resources